

**Executive and Legislature  
at Local Level**

**Structure and Interrelation in Countries of  
South-East Europe**

**A 02 - 04728**

**Friedrich Ebert Stiftung  
Zagreb office  
Zagreb 2002**



**Publisher:**

Friedrich Ebert Stiftung  
Zagreb office  
Medveščak 10  
Zagreb

**Printing house:**

Smjerokaz 2000.

Zagreb, December 2002

**CIP Katalogizacija u publikaciji**

**Nacionalna i sveučilišna knjižnica - Zagreb**

UDK 352(4-12): 342.51/.52>(082)

342.51/.52(4-12):352>(082)

EXECUTIVE and legislature at local level : structure  
and interrelation in countries of South-East Europe. -  
Zagreb :

Friedrich Ebert Stiftung, Zagreb office, 2002.

Bibliografija uz pojedine radove.

ISBN 953-7043-03-7

I. Lokalna uprava -- Jugoistočna Europa

II. Lokalna samouprava -- Jugoistočna Europa

421209182



*This activity is funded by the German  
Government within its contribution to the  
Stability Pact for South Eastern Europe*

**Contents**

Rüdiger Pintar	
<b>Foreword</b> .....	5
Ilija Todorovski	
<b>Structure and Relations between Executive and Legislative Bodies at Local Level in Macedonia</b> .....	7
Lucica Matei	
<b>Specific Issues of the Structure and Relations between Executive and Legislature at Local Level in Romania</b> .....	22
Mariana Cernicova	
<b>Transition and Local Democracy in Romania: Adapting Legislation for Better Local Government</b> .....	37
Stevan Lilić	
<b>The Rule of Law, Administrative Reform and Local Self-Government</b> .....	42
Zlata Ploštajner	
<b>Political Management Arrangements of Local Government in Slovenia</b> .....	60
Mirko Pejanović	
<b>Legislative and Executive Powers in the System of Local Self-Government in Bosnia-Herzegovina</b> .....	72
Nora Ananieva	
<b>Municipality Council and Mayor: the Two Sides of the Local Self-Government "Coin"</b> .....	80
Nora Teller	
<b>Conflicts between Legislature and Executive at Local Level in Hungary</b> .....	89
Greta Augustinović-Pavičić	
<b>Structure and Relationship of Legislative and Executive Powers in the Units of Local and Regional Self-Government in Croatia</b> .....	99
Nataša Kličković	
<b>Structure and Relation between Executive and Legislature at Local Level: Workshop Summary</b> .....	113
<b>Authors</b> .....	133

## Foreword

The Zagreb office of Friedrich Ebert Stiftung (FES) continued its activities in the frame of the regional project of FES "Local Self-Government and Decentralization in South-East Europe" with another workshop in Sarajevo/Bosnia and Herzegovina in October 2002. The topic of this expert workshop dealt with the structure and interrelation between executive and legislature at local level in countries of South-East Europe. The results are presented in this publication. The relation between legislature and executive had been proposed by the expert group as one of the important issues at local level to be discussed in the regional context.

Competences and responsibilities of the legislative and the executive body at local level are defined by local government acts of municipalities and communities. In principle there are two basic models: legislature and executive are in one hand or both bodies are separated. In most cases, particularly in larger units, the two functions are given to separate bodies, whereas the organisational structure and the relationship between them depend on the models, which are applied by the state. As the models differ from country to country, and sometimes even within one country, we find correspondingly different consequences and problems in practice. The legal structure of a community defines for example, whether the legislative or the executive body has a predominant position or whether there exists a balanced state between the two bodies. It gives also an indication, whether the formal structure fosters cooperation or whether it is rather designed to produce conflicts. In cases of conflicts the existence of mechanisms for conflict resolution becomes an important question.

The presentation of papers and the discussion during the workshop on examples from South-East Europe reflects this variety and raises a number of issues concerning the quality of the relationship between legislature and executive. However, the discussion among the experts focussed not only on these questions of formal models, but covered the issue of the influence of political parties above the local level as well. This kind of political influence was regarded in many cases as a disturbing factor in local activities. In order to come to a more structured comparison of the relation between legislature and executive at local level in the countries observed, we asked the expert group to fill in a short questionnaire covering different aspects of the situation in their home countries. The results are presented in the tables and interpretations in the workshop summary at the end of this publication.

The project on "Local Self-Government and Decentralization in South-East Europe" itself started in early 2001, when Friedrich Ebert Stiftung initiated in the context of the Stability Pact for South-East Europe and in co-operation with national institutions a regional project to analyse the situation and the reforms of self-government and decentralization in the countries of the region. The project covers the following countries: Albania, Bosnia and Herzegovina, Bulgaria, Macedonia, Croatia, Serbia, Slovenia, Romania, and Hungary. Based on the analysis and the discussion of experts on different experiences in implementing reform steps, and the preparation and distribution of publications resulting from different workshops, the project aims at the

stimulation of public discussion with policy makers, researchers, and experts at national and local level.

The first regional workshop with experts on local self-government and decentralization was organised in Zagreb in April 2001. Friedrich Ebert Stiftung Zagreb has published the results of this workshop, including ten country studies'. The contributions and discussion during this first workshop led to the identification and selection of priority areas to be tackled in the course of the project. According to these priorities a series of workshops was started. The second workshop followed end of June 2001 on financing local self-government as one of the top priority areas in local government'. Cross border cooperation was identified as a further important issue, which led to the third activity end of July the same year<sup>10</sup>. With regard to the participation of citizens in decisions relevant to their local situation, the fourth workshop took place in Sarajevo end of September 2001'. Decentralizing government was the topic of the fifth discussion round of our expert group in March 2002 organised in cooperation with the Urban Planning Institute in Ljubljana'. Finally, problems of minorities at local level were discussed at the sixth workshop in Belgrade in May of the same year and subsequently published<sup>11</sup>.

Zagreb, November 2002

Rüdiger Pintar  
Head of the Regional Office Zagreb  
Friedrich Ebert Stiftung

Ilija Todorovski

## Structure and Relation between Executive and Legislative Bodies at Local Level in Macedonia

### 1. Introduction

The contemporary local government is based upon three pillars - considerable number of competencies, financial autonomy, and autonomous and effective local bodies. Their structure and mutual relations are the subject of analysis in the ensuing text.

At the very beginning we must give some additional information. The existing system of local government in the Republic of Macedonia is undergoing some changes. They were initiated by passing the new Local Government Act in January 2002. But since it is a basic act, initiating changes both in other more specific laws and municipal statutes, which take from six months to several years to get properly introduced, in practice there still exists the Local Government Act of 1995. The empirical research concerning the topic, conducted in the year 2000, reflects the structure and relations of the latter.

According to the Local Government Act passed in 1995 local governments are in charge of maintaining, developing, financing and sometimes employing staff for:

- a) local infrastructure
- b) local public transport
- c) municipal secondary vocational schools
- d) adoption of a general urban plan after the approval of the state urban authorities
- e) adoption of detailed urban plan and preparation of urban documentation for the inhabited areas on the territory of the municipality after the approval of the state urban authorities

The general conclusion is that the local government competencies in local service delivery are very narrow, to which can be added the question of very restrictive local financing, which is the highest obstacle towards the effective local government in the Republic of Macedonia at present.

The local bodies have a very difficult task to handle these problems in order to provide prosperity in their municipalities. Their tasks, constitution and functional relations are presented below.

<sup>10</sup> "Local Self-Government and Decentralization in South-East Europe. Proceedings of the Workshop held in Zagreb, 6<sup>th</sup> April 2001", Friedrich Ebert Stiftung, Zagreb 2001

<sup>11</sup> "Financing Local Self-Government. Case Studies from Germany, Slovenia and Croatia", Friedrich Ebert Stiftung, Zagreb 2001

<sup>12</sup> "The Interreg Model. Practical Experience in Cross Border Co-Operation", Friedrich Ebert Stiftung, Friedrich Ebert Stiftung, Zagreb 2001

<sup>13</sup> "Citizens Participation in Local Self-Government. Experiences of South-East European Countries", Friedrich Ebert Stiftung, Zagreb 2001

<sup>14</sup> "Decentralizing Government. Problems and Reform Prospects in South-East Europe", Friedrich Ebert Stiftung, Zagreb 2002

<sup>15</sup> "National Minorities in South-East-Europe. Legal and Social Status at Local Level", Friedrich Ebert Stiftung, Zagreb 2002

## 2. The structure of local bodies<sup>1</sup>

### 2.1. The representative body: Municipal Council

The Council is the legislative body of the local government unit. The Council shall:

- adopt the Statute of the municipality and Rules of Procedure of the Council
- adopt the budget and the annual balance of accounts
- adopt working programmes and plans in conformity with law
- make decisions implementing the local government competencies
- establish public services, public institutions and public enterprises and supervise their work in conformity with law
- appoint and dismiss managers of the public services, institutions and enterprises established by itself, on proposal of the Mayor
- establish municipal administrative organs
- establish inspections for issues within the competence of the local government unit
- determine sanctions applicable when municipal regulation is violated
- supervise the work of the municipal organs it has established
- establish Commission for appointment and dismissal of municipal administrative officers
- appoint and relieve of duty its President and secretary;
- carry out other work determined by law.

The Council is also entitled to use public goods and exploit natural resources within its territory when law entrusts such commitment.

The Council works in sessions, which are convened by the President and must be attended by a majority of the total number of councillors.

The Council makes decisions by a majority vote of the councillors attending unless it is determined otherwise by law and the Statute. The Statute, Rules of Procedure, budget and balance of accounts are adopted by a majority vote of the total number of councillors.

The sessions of the Council are open to the public.

The Council can be dissolved if the majority of the councillors decide so. The Council will be dissolved by the Government of the Republic of Macedonia if:

- a) It cannot convene a session for a period longer than six months or two sessions for a period of a year;
- b) It fails to pass the budget within six months of the year to which the budget refers;
- c) It passes an act that endangers the sovereignty and territorial integrity of the Republic of Macedonia.

The members of the councils or the councillors have the right and duty both to attend and participate at their council and commissions' meetings. They have the right to pursue initiatives, proposals, and set questions to the Mayor.

<sup>1</sup> According to the *Local Government Act of 1995*. The changes in the local government legislation that took place in 2002 are presented in the last chapter of this paper.

A councillor cannot be held to have committed a criminal offense or be detained owing to the views he/she has expressed or to the way he/she has voted in the Council.

The office of the councillors is unpaid. Of course, the expenditures incurred in order to attend meetings are reimbursed.

The mandate of a councillor will be terminated in case of death, resignation, and conviction for criminal charges; as well in case of sickness for more than a year or absence from meetings for more than six months without justification.

#### 3.1.1. The internal structure of the legislative body: commissions

Committees or commissions are mainly established in order to discuss issues of drafts of various acts and resolutions and present them to the Council.

The Council elects members of the committees.

#### 3.1.2. The President of the Council

The President is a councillor. He/she can be nominated by a special Nomination Commission of the Council, which is elected by the Council right after the verification of the mandates of the councillors. This President will be elected with a majority vote of the total number of councillors.

The President shall:

- summon and lead the sessions of the council
- take care of the organization and work of the council
- sign the decisions and other enactment passed by the council.

### 3.2. Executive bodies

#### 3.2.1. Mayor

Mayor is the representative and executive organ in the local government unit.

The Mayor shall:

- represent the local government unit
- take care of and secure the implementation of the decisions of the council
- take care of the implementation of the work entrusted to the local government unit by the central authorities
- propose to the council adoption of decisions and other general acts within its competence
- publish the acts and decisions passed by the Council of the local government unit in the municipal official gazette
- issue individual acts if specially entitled to do so in conformity with law and the Statute of the local government unit
- manage the municipal administration
- manage the municipal property in conformity with law and the Statute of the local government unit
- appoint and dismiss the main architect (in urban municipalities)
- appoint and dismiss the heads of the municipal administrative departments
- appoint and dismiss members of the Town (City) Council for Architecture

- hire and dismiss the officers in the municipal administration after acquiring the opinion of a special commission of the local council
- carry out other work determined by law and by the statute of the local government unit.

The Mayor is obliged to call the Council's attention to an act or decision, which is not in compliance with the Constitution or particular law. The Council will be obliged to review that act or decision within 15 days. If the Council fails to conform that act with the Constitution or laws, then the Mayor is obliged to inform the Government of the Republic of Macedonia about that.

A vote of no confidence may be initiated by at least 20 % of the total number of voters and will be adopted by a majority vote (51 %) of all voters in the local government unit. The Mayoral office will be terminated in case of his/her resignation, death, and disease longer than a year, absence longer than six months without a justifiable reason or conviction for criminal charges.

It is the Government of the Republic of Macedonia, which will establish the reason for the Mayor's termination and take his/her mandate out. The next step of the Government is to inform the National Assembly about it in order that the latter issues a decision on new mayoral elections in the respective municipality.

### 3.2.2. Local (municipal) administration

The municipal administration consists of inspectorates, offices, etc. Its responsibilities include:

- preparation of drafts of the acts, which are to be passed either by the Council or the Mayor of the local government unit
- carrying out expert and other work for the Council and Mayor
- issuing individual administrative acts
- following and analyzing the situation in specific fields and giving initiatives and proposals either to the Council or to the Mayor
- carrying out other work entrusted by the Council and the Mayor of the local government unit
- performance of some technical administrative activities.

### 3.2.3. Main architect of the city (town)

The main architect shall:

- undertake initiative for changing and filling in of the detailed urban plans
- undertake initiative to design urban and architectonic-urban plans
- give expert opinion on the detailed urban plans and urban and architectonic-urban projects
- suggest the way designing of the architectonic projects in order to preserve the ambient values of particular town areas or objects
- give consent referring to the architectonic projects of great importance for the town (city)

- propose supplementary regulation and norms in the field of architecture
- undertake initiative for revitalization of particular town (city) areas
- take care to preserve the cultural and architectonic inheritance of the town and pay special attention to its well-shaped architectural style, etc.

The main town (city) architect will be appointed and dismissed by the Mayor. His/her mandate lasts four years. Two architectural bodies can help the town (city) architect in his work these are the Town (City) Council for Architecture and the Office of the Main Town (City) Architect. The former is composed of distinguished architects and other professionals. The managing role in both institutions is assigned to the Main Town (City) Architect. The members of these bodies are proposed by the Main Town (City) Architect, but appointed by the Mayor.

The rural municipalities do not have a main architect of the city (town) and consequently his/her assisting bodies - Town (City) Council for Architecture and the Office of the Main Town (City) Architect.

## 3. Elections to local bodies

Every citizen of the Republic of Macedonia upon reaching 18 years of age acquires the right to vote. This right is equal, universal and direct, and is exercised in free elections by secret ballot. Besides, a citizen must be a permanent resident in a particular municipality where he/she votes.

Councillors or members of the local councils and mayors are elected by popular vote. The number of the councillors in the municipalities depends on the size of their population and is determined by law, more precisely by the *Local Government Act*.

**Table 1: Size of Councils**

Number of residents in the municipality	Number of councillors
Less than 10,000	13
10,000 - 30,000	17
30,000 - 50,000	19
50,000 - 100,000	23
More than 100,000	25

The only exception of this rule is the Council of the City of Skopje, which consists of 39 members - 25 elected directly by the citizens and 14 delegated by the seven Councils of the municipalities (two of each) covering the area of the City of Skopje. Both the proportional and majority electoral systems are applied at local elections. The councillors are elected by proportional voting, according to the D'Hondt method. The citizens do not vote for particular candidates, but lists.

The nomination procedure and legal conditions for Mayors are identical to those regarding the councillors. It means the mayoral candidates must be both Macedonian citizens and permanent residents in the municipalities where they are nominated; also

they must be nominees of officially registered political parties or groups of at least 200 citizens.

In this case, the Majority Electoral System will be applied. The majority of the votes of the citizens elect a mayor.

#### 4. Relations between executive and legislative bodies

A preliminary question set here is whether the legislative body is too big or too small to function properly. The number of councillors was determined by the Local Government Act (1995) ranging from 13 to 25, and only the City of Skopje could have 39, being the community of seven municipalities. When we measure the size of the councils, we should expect that it correspond to fulfillment of at least two objectives. First, as it is stated in the law, it should correspond to the number of inhabitants; the bigger population the more representatives there are in the Council. Second, to represent all specific settlements that in reality are part of local communities. It means that all villages or neighbourhoods of larger towns or cities should be represented in the Council by at least one representative. The size of the Macedonian local government councils corresponds to the first objective, and often, but not always to the second, that it should encompass representatives of all specific settlements - villages or neighbourhoods as parts of the larger urban areas. However, there is a problem now in the structure of local councils, since some of the municipalities cover a town and many villages around it but the population of the urban area is bigger resulting in more urban representatives in the municipal council. It affects the development of rural areas because the majority of urban representatives, using investments for urban purposes, can easily reject the proposed rural projects.

Now we shall focus on the analysis of relations between legislative and executive body.

Traditionally, the executive bodies have more initiative than the legislative ones. This is shown in Table 2.

**Table 2: Initiatives launched by Mayors<sup>2</sup>**

Initiatives launched by Mayors	0	< 20%	20-40%	50%	50-70%	> 70%	100%
Number of municipalities	1	-	2	1	3	3	3

The Table 2 shows that in 9 out of 13 analyzed municipalities, the Mayors had more initiative, launching over 50% of the total number of initiatives for resolution of local problems. The Councils (or councillors) were more active in three of 13 municipalities in the process of initiation. Neighbourhoods, enterprises, citizens, NGOs and other stakeholders had initiative to some lesser degree.

The next is to find whether the co-operation between the executive and legislative bodies, i.e. mayors and councils exists. According to the empirical data the answer is

positive. The co-operation appears in all stages of the problem resolution. First, it can be seen in the stage of initiating. The common practice is both the mayors and councillors to initiate solution of problems either solely or by collective initiative from other stakeholders in the municipalities, since ordinary citizens or groups of them, non-governmental organizations, enterprises, etc. can give initiatives which can be officially articulated through mayors or councillors. The Table 3 shows that in most cases the initiatives launched by the mayors have been accepted. In comparison to this the mayors have more often rejected the initiatives of the councillors, but in most cases they have been accepted. (See Table 4). Generally, in both directions, prevails the co-operative attitude.

**Table 3: How often Mayors' Initiatives Have Been Disapproved by Councillors**

Frequency	Responses (in %)
Often	4.16
Seldom	29.12
Never	66.72
Total	100.00

**Table 4: How often Councillors' Initiatives Have Been Disapproved by Mayors**

Frequency	Responses (in %)
Often	10.52
Seldom	42.08
Never	47.40
Total	100.00

Next is the stage of the decision-making in which only the council is involved and the mayor has no legal tools to put some obstacles to it, like veto. The third phase is the practical implementation of the decisions made, which is the task of the mayor as an executive organ, but only if the Council is entitled to exert control over it. The Table 5 shows that mayors have asked some help by the councillors, although not very often according to the distribution of the responses where the modalities indicating intensive cooperation, like "always" or "often" are not prevailing, more precisely they can be met in only 28.6 % of the responses, the others indicating non-intensive co-operation prevails ("from time to time", "several times"). It is very significant that the co-operation has extended to all possible fields of activities in local problem resolution. The most common sort of help the mayors have required by the councillors has been information and consultations that can be met in 63.7 % of the responses. In addition, professional help has been often asked and help in addressing and urging the state organs to do something for the benefit of particular municipalities. This is very important for the Macedonian local government system, because substantial financial support for some, especially the poor rural municipalities is provided by some state

<sup>2</sup> This and the following tables represent data collected within the project "Functioning of the Local Government System" conducted by the Institute for Sociological, Political and Juridical Research in 2000.

agencies, and all municipalities depend in everyday functioning on information provided and licenses issued by state organs (ministries). The administrative procedures of the latter are usually slow or sometimes inconsistent, the information or licenses can be obtained more often by informal contacts, therefore the mayors need and receive the help of particular councillors (see Table 6). On the other hand blockades by the councillors over the activities of the mayors do not prevail as it can be seen in the Table 7.

**Table 5: How often the Mayors have asked help from councillors in local problems resolution**

Frequency modalities	Responses (in %)
Always	5.8
Often	22.8
From time to time	34.2
Several times (seldom)	25.6
Never	11.6

**Table 6: Kinds of help the Mayors have required**

	Of his party	Other party	Council	Total
Financial	2.4	0.8	1.6	4.7
Information	11.8	3.9	13.4	29.1
Consultations	15.0	4.7	15.0	34.6
Practical help for project	0.0	0.0	2.4	2.4
Intervention to central government	5.5	1.6	2.4	9.4
Nominating persons for committees	0.0	0.0	0.8	0.8
Professional	7.1	3.2	7.9	18.1
Vote for decision	0.0	0.0	0.8	0.8
Total	41.7	14.2	44.1	100.0

**Table 7: Blockades set to Mayors' initiatives (according to statements of mayors, councillors and legal advisers)**

	By Mayor's parties	By other parties	By the Councils
Yes, there have been	7.2	28.9	5.6
No, there have not been	92.8	72.1	94.4
Total	100.0	100.0	100.0

In the conclusion we should emphasize two points - first, that within this system a co-operation exists, and second, this co-operation is not very intensive or optimal. The

possible motive for such a co-operation lies both in practical circumstances and in the specific solutions of the Macedonian local government make-up. More particularly, there is a separation of power where the executive body is more involved in some, and the legislative body in other stages of problem resolution process. This imposes the first reason or motive for co-operation between the Mayor and the Council. Namely, the mayor through this co-operation has the opportunity to get the opinion of the councillors on particular acts, or their readiness to pass them. Second, the mayors, especially in the minor municipalities have not funds to hire professional consultants on local issues; therefore they must contact councillors for help in this respect. The third reason lies in the fact that the municipalities are dependent on central authorities in many ways. They receive financial support through several funds for underdeveloped areas, for local roads and water pipes and sewerage systems. They acquire various licenses from the state authorities. Therefore co-operation is needed to get more when requiring something from central authorities. However, there are some circumstances restricting the volume and range of co-operation making it suboptimal. We shall mention the following:

First, the councillors or the mayors in some of the municipalities can have some motivational or professional shortcomings that can represent serious obstacles to a high level of co-operation. This can be illustrated by the attitudes of mayors or councillors concerning the professionalism of the other body, presented in the following tables:

**Table 8: Mayors' Assessment of the Councils**

Positive attitudes	Number of responses	Negative attitudes	Number of responses
Full of initiative	2	Lack of initiative	2
Co-operative	4	Lack of co-operation	1
Efficient	3	Lack of efficiency	2
Generally effective	1	Without opposition as a correction	1
Total	10	Total	6

**Table 9: Reasons for the Mayors' Negative Attitudes about the Councillors**

Reasons	Number of responses
Councillors lack of proficiency	3
Councillors lack of motivation	3
Councillors are strongly influenced by their parties	5
Total	13



**Table 10: Councillors' Assessment of the Mayors**

Councillors' attitudes about their Mayors	Responses (in %)
Positive (full of initiative, efficient, etc.)	68.3
Negative (inefficient, non-cooperative, etc.)	31.7
Total	100.0

**Table 11: Reasons for the Councillors' Negative Attitudes about the Mayors**

Reasons	Number of responses
Mayors lack of proficiency	5
Mayors lack of motivation	3
Mayors are strongly influenced by their parties	11
Total	19

Second, the influence of the political parties over the local bodies can be negatively reflected in the level of co-operation between the local bodies in the Macedonian political environment. The political parties play a very important role in the political processes both at national and local level. That is evident in all stages of the political process. The parties play an extremely important role in choosing candidates both for mayors and councillors. Without their support, as individuals few of them would be able to win the elections. The parties are those who bring the reputation to the candidates as it can be seen from the tables below:

**Table 12: The most important reasons for the citizens to give their votes for municipal councillors at last local elections (Poll with about 1000 respondents)**

Reasons	Responses (in %)
1. Trust in the national leadership of the party nominating municipal councillor	38.65
2. Acceptance of the programme of the party nominating municipal councillor	24.69
3. Trust in the local leadership of the party nominating municipal councillor	3.13
4. Trust in the personality of the candidate for councillor	6.04
5. Some other reason	7.91
6. Without opinion	6.56
7. He/she did not vote	13.02
Total	100.00

**Table 13: The most important reasons for the citizens to vote for Mayors at last local elections (Poll with about 1000 respondents)**

Reasons	Responses (in %)
1. Trust in the national leadership of the party nominating Mayor	39.69
2. Acceptance of the programme of the party nominating Mayor	17.92
3. Trust in the local leadership of the party nominating Mayor	3.96
4. Trust in the personality of the candidate for Mayor	10.62
5. Acceptance of the programme of the candidate Mayor	4.06
6. Some other reason	3.96
7. Without opinion	5.83
8. He/she did not vote	13.96
Total	100.00

As it can be seen the citizens usually vote for parties, and not for particular candidates, especially in the case of the councillors where only 6.04% of the respondents stated that in the electoral campaign they had mostly respected the personality of the candidate in contrast to 38.65 % of the respondents who had given their votes to a particular candidate showing trust in the party leadership who had nominated him and 24.69% of the respondents who had mostly approved of the programmes of the parties where the candidates belonged to. (See Table 12). Some difference, but not crucial appeared in the motives when citizens voted for mayors. In 10.62% of the responses the most respect was given to the personality of the mayoral candidate, and in 4.06% of the responses the programme of the mayoral candidate in contrast to 39.69 % of the respondents who had given their votes to a particular candidate for showing trust in the party leadership who had nominated him and 17.92 % of the respondents who had mostly respected the programmes of the parties the candidates belonged to (see Table 13). Party influence can be felt during the practical activities of both mayors and councillors. The Table 6 shows that the mayors usually ask much more often for help the councillors who belong to his own party. Another indicator to this are the blockades set to the mayors where it is evident from the Table 7 that the councillors of other parties have set much more blockades to some initiatives or proposals launched by the mayors.

The question whether the legislative body (Council) has good channels and opportunities to exert control over task performance of the executive body cannot be answered so easily. To some extent the legislative body is in a position to exert some control. It refers to the initiatives of the mayors, since most of them, according to law, are submitted to the Councils which pass provisions and make other decisions dealing with local government issues. For instance it is the Mayor usually drafting some local documents and annual budgets that are passed by the Council. Once more, it is the Mayor proposing general managers or directors at public service companies that are appointed by the Council. By passing or non-passing the former acts or accepting or rejecting of appointments, the Council is in a position to control the activities of the

mayors in their municipalities. However, in the process of implementation of various acts passed by the Council, there are no big opportunities to control the work of the Mayors. More precisely, the Mayors have the opportunity to dispose with the municipal assets or money, and there are no provisions in the Local Government Act (passed in 1995) stipulating such a control. Furthermore, there is no provision in the same law stipulating how the Mayor will be sanctioned if he refuses to implement the acts or decisions passed by the Council, bearing in mind that mayor can be revoked only if 1/5 of the total electorate raises the question of voting confidence. This provision clearly states that the Council has no right to require confidence vote for Mayor whenever it feels like it. On the other hand, there is not a single provision in the former act that gives some opportunity to the Mayor to undertake some measures against the Council, which fails to act effectively for any reason (either intentionally or as a lack of professional capacity). These are cases where the mutual control could not be exerted to the disadvantage of local government. In that respect we have some evidence showing that the lack of control can be seen on both sides - in some cases there are some blockades of the Mayor's activities by preventing of some acts passing and on the other hand, much more widespread, is the lack of control over the Mayor during executing acts passed by the Council and especially those concerning spending the local money.

**Table 14: Can the Mayors be controlled (according to statements of councillors and legal advisers)**

Modalities	Responses (in %)
Yes, they can	52.5
No, they can not	47.5
Total	100.0

## 5. Conclusion

The initial dilemma outlined here was whether the separation of powers provides better quality of functioning or too big independence of some of the bodies and consequently the lack of cooperation. The answer is probably not simple since there are many arguments pro and contra. On one hand, the separation of powers enables both the executive and legislative to be relatively autonomous in their scope of competencies - the Council when passing acts, the Mayors when implementing them, providing that both can be active in the stage of initiation. The autonomy sometimes can be abused, since it is known that there is not a perfect control mechanism even in the most developed and stable political systems; certainly the control mechanisms in less developed systems are characterized by more serious flaws especially in cases when this autonomy is fostered by the electoral mechanisms, i.e. when both the executive and legislative bodies are elected by the local electorate, when none of them owe its status to the other. The functional interdependence and mutual interests in the

processes of problem resolution provides higher activity of both bodies; at the same time the responsibility and professional results that are clearer and more visible in situation when the powers are separated and this is another incentive to both bodies to be more active in order to gain the next elections or avoid criticisms of their work during their mandate. The next argument comes from the fact that both bodies are more open to local stakeholders in resolution of local problems. More precisely, both citizens and NGOs and enterprises can try to involve the Mayor in resolution of their problems if the attempt to do it through the councillors fails. The system provides the instruments of communication between local stakeholders and both local bodies - executive and legislative bodies. The empirical research brings some evidence to that respect. It keeps both bodies more mobile in comparison to such an organization with a unity of powers where for instance the executive is elected by the representative body and is quite known that the executive will not risk its position to act against the will of the council. The last major argument is that the separation of powers model raises the level of transparency since none of the bodies is willing to hide the failures in local policy before the electorate if it finds that the other body can be blamed. However, there still remains the lack of control on the side of the Mayors in execution of the local decisions, but the general opinion is that this separation provides better quality of functioning.

In spite of our positive consideration of the effectiveness of this particular local government system component, the local government system as a whole in the Republic of Macedonia does not function effectively. It is based on the analyses of the local government functioning that show that the success of the municipalities in performance of their tasks can be estimated as weak, it means that in spite of some progress in construction and maintenance of their infrastructure networks, many problems have remained unsolved. In addition, there is negative opinion of the majority of citizens of the work and results of work of these bodies. Therefore, the question raised here is whether the disfunctions of the overall local government system and the systemic solutions concerning the setting of relations between the local government authorities are caused by whether there are some alternatives. The answer brings some portion of uncertainty but anyway we are more inclined to give some priority to the existing setting. It comes both from the practice and theory that have already been elaborated. Thus, the local failures can be found in the restrictive financing, in narrow range of competencies and local dependence on many licenses by central authorities. It can result from the lack of proficiency especially on the side of the Mayors as indicated above. It can also be caused by the lack of motivation, both among councillors and Mayors, or lack of political culture where the real opportunities for development seem not to be familiar to the representatives of the local bodies. Definitely, some disfunctions are caused by party or ethnic affiliation that sometimes is counterproductive to the common local interests. Therefore the solutions towards improvement of local government functioning can be basically searched in these directions and not in radical changes of the system of tasks and duties of local authorities based on separation of powers.

The new Local Government Act (passed in January 2002) introduces some changes in that respect. According to this act, the Council's rights are extended in the field of control of local executive dealing first, by its right to adopt the reports budget execution that implies the duty of the Mayor to submit such reports to the Councils; second it is the prerogative of the Council to decide on the modes of use of the municipal assets, and third it decides about the modes of auditing or financial control of the municipal budget, certainly in conformity with law. Unfortunately, the recent legal changes have not left a room to explore their effects on the relationship between local executive and legislative bodies. We believe that they will produce better efficiency of the local government system since they introduce better control over Mayors' activities. Anyway, some other changes in this respect are possible, such as:

- a) **Introducing the right of both Mayor and Council to initiate early or premature elections in cases of blockage of the local government.** We mentioned before that there is no a mechanism to sanction the Mayor when he/she does not implement the decisions of the Council. On the other hand there is no a mechanism to make the Council pass some decisions, in such a way ignoring the initiatives coming from Mayor. In both cases the system is blocked and the solution could lie in the right of either body to initiate early elections by which the former bodies will be dissolved and the citizens will decide to whom they will give confidence in the ensuing period.
- b) **Introducing council - manager structure with city manager and Mayor.** Bearing in mind that Mayor, as chief executive, has a lot of problems coming both from lack of funds for local purposes and huge dependence from the central laws and bureaucracy, perhaps some advantages can be found in division of functions between Mayor and manager, where the Mayor will remain a political body within the system conceiving and carrying out local policies and performing the duty of political representation or communication, and the manager will help him in practical activities such as fund raising and execution of other decisions made by the Council.

## References

- Adrian, C.R. (1975), *Governing Urban America - Structure, Politics, and Administration*. New York, Toronto, London. McGraw Hill Book Company
- Ananieva, N. (2002), *The Municipal Council and the Mayor - the Two Sides of the Local Self-Government "Coin"*. Paper presented at the Friedrich Ebert Stiftung Seminar "Structure and Relation between Executive and Legislature at Local Level" held in Sarajevo
- Clark, T.N. (1978), *Community Structure and Decision Making: Comparative Analyses*. San Francisco. Chandler Publishing Company
- Heywood, A. (1997), *Politics*. London. Macmillan Press
- Plotajner, Z. (2002), *Local Government Political Management Arrangements in Slovenia*. Paper presented at the Friedrich Ebert Stiftung Seminar "Structure and Relation between Executive and Legislature at Local Level" held in Sarajevo
- Todorovski, I. (2001), *Functional Aspects of Management at Local Government Level*, in: *Macedonian Management Review*. Skopje, GTZ

## Legislation

- Constitution of the Republic of Macedonia, published in the *Macedonian Official Gazette*, 52/1991, articles 114 - 117
- Amendments IV - XVIII to the Constitution of the Republic of Macedonia, *Macedonian Official Gazette*, 91/2001
- Local Government Act, *Macedonian Official Gazette*, 52/1995
- Local Government Act, *Macedonian Official Gazette*, 5/2002
- Law on Local Elections, *Macedonian Official Gazette*, 46/1996
- Law on Territorial Division of the Republic of Macedonia and Demarcation of the Municipal Boundaries, *Macedonian Official Gazette*, 49/1996
- Law on the City of Skopje, *Macedonian Official Gazette*, 49/1996
- Law on the Voters' Lists and Voter's Identity Card, *Macedonian Official Gazette*, 49/1996
- Budget Law, *Macedonian Official Gazette*, 79/1993
- Law on Communal Activities, *Macedonian Official Gazette*, 45/1997
- Law on Incentives for Development of Economically Underdeveloped Areas, *Macedonian Official Gazette*, 2/1994

## Specific Issues of the Structure and Relations between Executive and Legislature at Local Level in Romania

### Introduction

The overview of relations between Executive and Legislature at local level in Romania that we are trying to formulate, emphasises the principles of public administration reform:

- Principle of separating political functions from the administrative ones
- Principle of building civil service career, a professional and neutral one
- Principle of defining clearly the roles, responsibilities and relations between the institutions
- Principle of subsidiarity
- Principle of decisional local autonomy
- Principle of transparency of governance
- Principle of simplification the procedures and normative documents
- Principle of respect for the citizen.

Priorities of public administration reform include:

1. Improving the system of management and organisation, the information system at the level of the working body of the Government.
2. Strengthening the capacity of decision-making at governmental level.
3. Reconsidering the place and role of the coordinating bodies in this field by modernising the procedures and working means and communication.
4. Instituting a professional and neutral public service, with efficient connections between the political and administrative level, rationalising and modernising the current structures, building a central unit for human resource.
5. Operationalising the new created structures.
6. Revising the tasks of the ministries and governmental agencies as bodies nominated to elaborate sectoral policies.
7. Continuing the process of decentralisation and strengthening local autonomy.
8. Ensuring a genuine local autonomy by improving the legislation framework, harmonisation with European Community legislation, with the provisions of European Charter of Local Autonomy, Framework Convention for Protection of National Minorities, European Charter of Regional and Minority Languages, Framework Convention for Cross-border Cooperation of Communities or Territorial Authorities,
9. Defining the public and private net worth of the state and territorial-administrative units.
10. Modernising public finance management at central and local level.

11. Increasing the degree of transparency for the public and creating a partnership relation with the civil society.

### Separation of competencies

The concept of administration has many meanings in theory and practice. Thus, administration means: "the main content of the activity of Executive of the state, system of public authorities that achieve the executive power; managing economic agents or social-cultural institutions; a department in productive units or social-cultural institutions that do not achieve a productive activity. Consequently, we may define three main meanings: activity, structure or organisation, institution.

In the broad sense, "administration" represents one of the most useful human activities aimed to meet social requirements. Administration represents an old social fact that derives from the emergence of a specialised apparatus. This social fact will be designed to achieve an ensemble of representations that offer it's meaning. Administration exists because it is able to follow, to assign administrative phenomena and to submit them to a specific regime.

The complex process of administration is in each aspect of social life, where administration as activity represents a rational action, which efficiently use human, material and financial resources, aimed to obtain maximum results with minimum efforts.

Administration as structure is approached from organisational perspective. Organisation, as human organised community, which is situated at the overlap or reunion of social, economic or political systems. We may even speak about a phenomenon of organisation, supported by theories: theory of systems and cybernetics, theory of contingency and environment and theory of cognitive capacity.

The principles of public administration, according to Law on local public administration no. 215/2001, art 2(1) are the following:

- Local autonomy
- Decentralising civil services of local interest
- Electing local government authorities
- Legality
- Consulting the citizens on local problems of special interest.

**Local autonomy** shall be understood as administrative and financial autonomy, it refers to organisation, operation, competencies and obligations, as well as to resources management, resources that, according to law, belong to commune, city or county<sup>1</sup>. It represents the effective right and capability of local government authorities to solve and manage, according to law, in their own name and under their own accountability, an important part of public affairs, in the interest of local communities, that they represent.

Local government is exercised without influencing Romania's national unitary state character.

<sup>1</sup> According to Art. 4 (2) of Law on local public administration no. 215/2001

**Local community** means the total number of citizens in a territorial-administrative unit.

As stipulated in the Law on local public administration no. 215/2001, communes, cities and counties represent legal persons of public law, with full capability. They hold assets and have the right to take initiatives in all areas, except those explicitly defined as the competency of other public authorities, under the terms of law.

Central public administration authorities do not intervene in the areas that are not under their exclusive competency, except when the objectives cannot be attained by local government authorities, due to dimensions or effects that might be produced.

In communes, cities and municipalities, according to Article 21 (1) of the Law on local public administration no. 215/2001, public administration authorities, by which we achieve local autonomy, are as follows:

- Local councils, as deliberative authorities;
- Mayors, as executive authorities.

Both local councils and mayors are elected under the conditions stipulated by law.

Local councils and mayors are operating as autonomous administrative authorities and they manage public affairs in the respective territorial-administrative unit.

County councils and local councils are elected by list suffrage, while the mayors are elected by uninominal suffrage.

Proposals for candidates for councillors and mayors are submitted in electoral districts. For electing mayors, the electoral district is the same as the one for local councils. Political parties and alliances submit candidatures. Independent candidatures may also be submitted.

Consequently, **local council** is a collegial authority of local government, elected in order to manage the problems of local interest of the commune, city or municipality.

## Local legislature

### Procedure for constituting the local council

According to legislation, within 20 days since the election date, the session for setting up the local council will take place. The prefect issues an order to call all the elected councillors to the meeting for setting up the local council.

The session is legally constituted if at least two thirds of the number of elected councillors attend it. In case this majority cannot be ensured, after 3 days a new session will be organised. In this respect, the prefect will issue a new order for calling them. If in the second convening the session cannot be legally constituted, a new convening shall be issued after another three days.

If even in the third convening at least two thirds of councillors are not present, the prefect will dispose to check the reasons of non-motivated absences. If their absences are not solid, determined by: illness, that needed hospitalisation; visits abroad for business; events of *force majeure*: for instance floods or other catastrophes; death in the family or other similar situations, the prefect will issue a new order, declaring vacant the seats of the elected councillors who were absent inexcusably the previous 3 sessions.

### Procedure for completing the vacancies

Before issuing his order, the prefect will check if there are some other deputies on the lists of candidates, submitted by political parties, political alliances or electoral alliances. In affirmative case, the deputies will be called.

If there are no deputies on the lists of candidates of the respective parties, or they refuse to attend the session, the prefect will order the organisation of elections in order to complete the vacancies. The elections will be organised under the conditions of Law no. 70/1991 concerning local elections, republished, with further changes and completions, in no more than 30 days since the date of issuing the order.

The prefect or his/her representative opens the session, and he/she invites the oldest councillor, and two of his assistants to lead the meeting. The youngest councillors will be nominated as assistants of chairman.

The secretary of the territorial-administrative unit submits the files of the elected councillors and their deputies, as received from the electoral district to chairman and his assistants.

If the elected mayor has also been candidate for councillor and has obtained the mandate, his/her file will be accompanied by the written option for one function. The councillors declared admitted will elect by free vote a validating commission, comprising 3-5 local councillors. The number of commission members is established by free vote, on chairman's proposal. The commission is elected for the whole period of the mandate.

If the mayor, whose mandate was validated, was also elected councillor and he/she opts for being mayor or if the councillors holding incompatible functions opt to renounce the councillor function in written form, then the file of deputy, respectively deputies on the same list, will be examined.

After validation of mandates by at least two thirds of the number of councillors set up according to law, the oath will be taken.

The councillors that refuse to take the oath are considered resigned, which is recorded in the minutes of the session. In this case, the mandate of the first deputy on the list of political party, political alliance or respective electoral alliance will be submitted for validation, if the political parties and alliances confirm in written form that the respective councillor is in their party.

### Tasks of the chairman of the council session

As soon as the local council is legally constituted, the chairman of the session will be elected. The election is based on free vote of majority of councillors. The duration for mandate of session chairman is less than 3 months. The same councillor may be elected as chairman of session no more than 2 times during the duration of a mandate. The mandates cannot be consecutive.

The chairman of session has the following main assignments:

- a) to lead the sessions of the local council;
- b) to submit to councillors' vote the draft decisions, to ensure the counting of votes, to announce the result, to specify the pro votes, the counter votes and the abstentions;

- c) to sign the decisions adopted by local council, even he/she has voted against them, as well as the minutes;
- d) to maintain the order and to observe the regulation of sessions development;
- e) to submit to the vote of councillors any issue under the council competency;
- f) to apply, if necessary, the sanctions stipulated by the statute of the local council or to propose to the council the application of such sanctions.

The chairman of the session fulfils any other tasks stipulated by law, by the current framework regulation or other tasks given by local council.

The local council deliberates upon the interests specific for local community and it decides, under the terms of law, about the modality to achieve them, without the intervention of public administration authorities of the county or other authorities.

The local councils, as resulted from the elections, are accountable exclusively for managing these interests.

The political accountability is only electoral, as the local councils are entrusted with the competency specific for local government, in order to decide upon administrative problems solving in local communities. The autonomy of these collegial authorities refers to their self-organisation, under all aspects. They receive requests and information from local environment and adopt decisions concerning local public affairs administration.

Concerning the election of local councils and mayors, it is necessary to underline that Romanian legislation adopted the solution which requires election by **direct vote of both authorities** of local government.

Under the conditions that the legitimacy of local council and mayor is the same, and the formula for indirect election of mayor is not accepted, it is natural that the legislature establishes the relations between the two authorities.

In this context, Law on local public administration no. 215/2001 stipulates that **the local council is deliberative body, and the mayor is executive body**. The quality of mayor to be the executive body derives both from the fact that he is responsible of ensuring the execution of the local council decisions and he is responsible of achieving and applying the directives concerning law application and other normative acts in local communities.

#### Tasks of local councils

Concerning the competencies of the two authorities, the Law on local public administration no. 215/2001 is consistent with the principle that local counties may **decide in any affair of local interest**, except those given to the competency of public authorities by law.

Beyond this general rule stipulated by the Law on local public administration, the legislature specified some tasks exclusively for the local autonomy that cannot be transmitted to other public administration authorities.

Consequently, law stipulates for local councils the right to elect deputy mayors, to approve the statute of commune or town and the Regulation of operation of the council, on the basis of directive norms issued by the Government. According to local autonomy principle, law stipulates that the deliberative authority of commune or town

ensures self-management by means of budget, human resource management, management of public and private domain of commune or town<sup>2</sup>.

Local council carries out budget management for local public affairs, namely approves **local budget**, correlating the revenues with expenditures, depending on current possibilities. Consequently, each local council establishes the dimensions of services and their structure, number of employees and their statute, depending on complexity of administrative tasks and available financial possibilities.

Both public affairs solving and ensuring a higher level of budgetary revenues depend on how local council acts in the area of assets administration for commune or town. In this respect, local councils are holders of right to administer public domain and private domain of commune or town. They manage local public services by means of institutions and companies (autonomous companies and trading companies) of local interest, set up by their own decisions and they exercise also control on activities, under the terms of law.

In order to obtain new financial sources for local budgets, councils of communes and towns have the right to associate themselves with other local councils, as well as with companies in Romania or abroad, aimed to achieve some works of common interest.

The tasks of local council will be correlated with the legal directives concerning the tasks of mayor, who exercises the rights and ensures to fulfil the obligations of commune or town, as legal person.

Beyond the economic and financial functions in administrating local public affairs, councils of communes and towns are accountable for monitoring the rules of market economy in territorial-administrative units, ensuring freedom of trade and loyal competition, being involved, equally, in ensuring public order and fundamental rights and freedoms of citizens.

Local councils, expressing the quality of local communities to be legal persons of public law, **exercise** at the same time, public authority within boundaries of their territorial-administrative units.

#### Local executive

##### Mayor's tasks

The mayor's tasks derive from his status as the state representative in a territorial-administrative unit, where he/she is elected. The mayor ensures the compliance with fundamental rights, freedoms of citizens, provisions of Constitution, laws and other normative acts issued by state authorities. At the same time, the mayor has the function of an officer for civil status and manages the services for civil status and tutelary authority<sup>3</sup>.

As a **state representative** in the commune or town where he/she was elected, the mayor fulfils tasks concerning census, organisation and carrying out of the elections, informing the citizens about laws.

<sup>2</sup> The tasks of local councils are stipulated in Article 38 of the Law on local public administration no. 215/2001.

<sup>3</sup> See Art. 69 (1) of the Law on local public administration no. 215/2001.

The mayor may require, also through prefect, under the terms of law, the support of the heads of decentralised public services of ministries and other central bodies in the territorial-administrative units, unless he cannot manage these tasks with his own specialists.

When he acts as executive authority of local government, the mayor has to ensure the execution of local council's decisions. At the same time, the mayor is obliged by law to submit proposals to local council concerning the organisation of local referendum, local regulations on urbanism and territorial planning, the draft of the statute for staff, number of employees and their wages. As executive authority, the mayor is appointed by law to exercise specific assignments concerning local budget, public order, sanitation, public roads and traffic, management of local public services and administration of commune or town's assets, prevention and limitation of effects of some exceptional situations<sup>4</sup>.

Taking into account how they are formed, the two authorities are constituted through citizens' direct suffrage, offering them legitimacy (both authorities belong to public administration). Consequently, there are relations of cooperation and control by delegation; both local council has competencies of control on mayor, and the mayor also on local councils due to his competencies, as he plays a double role of local administrative authority, and at the same time agent of the state (control of legality and right to appeal to the prefect).

Thus, according to Art. 61(2), the mayor participates in the sessions of local council and he has the right to express his point of view on all debated issues. The result for validating the mayor's election is presented in the session that sets up the local council and the mayor takes his oath in front of the local council.

Local council, on mayor's proposal, approves the organisational chart, number of employees in the city hall, as well as the Regulation of organisation and operation, establishing the staff competencies and tasks, under the terms of law.

At the same time, the local council appoints the deputy mayors from among the councillors, who take over some of the mayor's tasks by means of delegation.

According to Art. 40 in Law 215/2001, local council will be convoked on mayor's calling. The mayor may propose draft decisions and may refuse to execute the decisions adopted by council if he/she does not consider them legal. Concerning the specialised commissions of local council, the mayor may propose their structure.

According to Art. 52(2), the mayor is obliged to transmit to councillors, on their request the information necessary to fulfil his mandate, within 20 days.

The mayor submits information concerning the execution of local council decisions, annually or whenever necessary in front of the local council.

The local council approves the organisational chart, the functions, number of employees, and regulation of organisation and operation of its specialised body.

The councillors may submit questions to mayor, deputy mayor and secretary of territorial-administrative unit, as well as to heads of departments of their own body or subordinated services and units, requesting information on unknown facts. Answers will be provided immediately or at the next session of the council.

<sup>4</sup> See Art. 69 (1) of Law on local public administration no. 215/2001, concerning mayor's tasks.

Interpellation refers to a request for providing explanations on known facts. The person who has been addressed should answer in written form, until the next session or verbal at the next session according to requirements.

Councillors may require information necessary to exert their mandate, and the respective department, office or unit is obliged to provide them before deadline. Information may be required and communicated in written form or verbal. Any citizen has the right to submit complaints to local council. The complaints are recorded in a special register, analysed and solved according to legal regulations.

### **Is the executive body directly controlled by legislature?**

As mentioned above, both authorities are constituted by direct election, but law provides mechanisms for mutual control, aimed to ensure balance of the two powers. However, it is appreciated that local council is pre-eminent related to mayor.

By direct election of mayor, it was aimed to ensure balance between the two authorities, but this sometimes creates institutional blockage and lack of communication, especially for the situations when majority of council members and mayor represent different political parties.

The local councils elect the deputy mayor(s) from their members. The election is based on secret vote.

The groups of councillors, the councillors or the mayor propose candidates for deputy mayor(s). After registering the candidatures, the vote ballots are completed during a break.

The duration of deputy mayor's mandate equals the duration of mandate of local council. If the mandate of local council ceases before the normal duration of 4 years, the deputy mayor's mandate ceases without any other formality.

### **Tasks of specialised commissions of local council**

After being set up, local council establishes and organises specialised commissions for its main areas of activity.

Local council, depending on the specific activity of each territorial-administrative unit, establishes the areas of activity for specialised commissions, their name, and number of members that will be always odd.

Only councillors may be members of specialised commissions. The commissions work with majority quorum and take decisions with majority vote.

Commission may invite specialists to participate at its sessions, from its own body or outside, especially from its subordinated units. Those councillors that submitted proposals for the works of that session have the right to participate.

Usually, the sessions of the specialised commission are public. The commission may decide to invite other interested persons or representatives of media at its debates.

Commission may decide that some sessions or debates for some issues on agenda should take place without the presence of the public.

Local council establishes the number of seats for each group of councillors or independent councillors in each specialised commission, depending on their percentage in the council.

Each group of councillors nominates members for each commission and the council nominates the independent councillors, taking into account their background, education and area of activity.

Depending on the number of members in council, one councillor may participate in 1-3 commissions, out of which one is the basic commission.

Each specialised commission elects a chairman and a secretary, by free suffrage of majority.

The specialised commissions have the following main assignments:

- a) to analyse the draft decisions of local council
- b) to assess some issues for notification
- c) to draw up notifications on draft decisions and analysed problems and to submit them to local council.

The specialised commissions achieve other tasks stipulated in regulation of organisation and operation of council or tasks given by decisions of local council.

The chairman of the specialised commission has the following key tasks:

- a) to ensure an adequate representation of commission in front of local council and the other commissions
- b) to call members for sessions
- c) to manage the sessions
- d) to propose to other interested persons to attend the session, if necessary
- e) to participate in the sessions of other commissions that examine problems important for his commission
- f) to support the notifications of his commission in the sessions of the council
- g) to announce the result of votes, based on data communicated by secretary.

The chairman of commission achieves any tasks related to activity of commission, stipulated by law, regulation of organisation and operation of council or established by local council.

The secretary of commission carries out the following main assignments:

- a) to call the members of commission, to keep the evidence of presence at the sessions
- b) to count the votes and to inform the chairman about the necessary quorum in order to adopt each decision, as well as to inform about the result of vote
- c) to draw up the minutes, notifications etc.

The secretary of commission carries out any other tasks provided by regulations of organisation and operation of the council or tasks established by commission or chairman.

The chairman convokes the sessions at least 3 days before it is scheduled.

The commission approves the agenda on chairman's proposal. Any member of commission may include other issues on agenda.

Participation of commission members is compulsory.

The sessions of the specialised commissions are held usually before the sessions of the council, and the agenda comprises issues or draft decisions that need notifications.

In order to debate the draft decisions or other issues, the chairman will appoint a councillor that will make a brief presentation of the subject on the agenda, unless the initiator presents it.

The vote is usually public. Under certain situation, the commission may decide a secret vote, establishing also the modality of expression.

The secretary draws up the minutes of the works of the session, minutes that is signed by chairman and secretary of commission.

The chairman may agree with the consultation of minutes by other interested persons, excepting the minutes of sessions held behind closed doors.

If after the debates in the session of the local council, there are key changes in the contents of the draft decision, the chairman may decide to send the draft to the respective specialised commission or department that has drawn up the notification, respectively the draft.

The activity of specialised commissions may be checked in the inspection decided by local council, on request of at least two thirds of the number of councillors.

The local council may decide the organisation of specific commissions in order to analyse and debate further councillors' proposal or mayor's proposal. The structure of these commissions, the objectives and themes of their activity, the duration and their mandate will be established by a decision of local council. These commissions will submit their reports to local council, within the deadline established by the latter. The report will comprise, if necessary, concrete proposals in order to improve the activity within the area under analysis. The operations within the framework of the procedure for setting up these special commissions, their number and name, number of members, structure are established by decision of local council.

The mayor will take the oath if the procedure for validating his mandate has been concluded. In this context, the judge appointed by president of Court that validated the mandate shall present the decision of validation in front of the council. The mayor participates in the sessions of the council and he has the right to express his point of view on all problems on agenda. The mayor's point of view is written compulsorily in the minutes of the session.

The secretary of commune, town, municipality or territorial-administrative sub-division of municipality participates, compulsorily, in the sessions of the council.

The secretary shall have the following tasks related to the sessions of local council:

- a) to ensure the convening of the local council, on mayor's request or at least one third of councillors' request
- b) to ensure that the secretarial work is carried out
- c) to keep the evidence of councillors' participation at sessions
- d) to count the votes and to write the result of votes, submitting it to the chairman
- e) to inform the chairman on necessary quorum in order to adopt each decision of local council
- f) to ensure to draw up the minutes for each session
- g) to draw up the documentation of each session



- h) to ensure that the councillors defined by provisions of Art. 47 align. (1) In Law on local public administration no. 215/2001 do not participate in deliberation and adoption of decisions of local council. He/she informs the chairman on such situations and presents the sanctions provided under the terms of law
- i) to present his point of view in front of local council concerning the legality of some draft decisions or other measures; if necessary, he/she refuses to counter sign the decisions that he/she considers to be illegal
- j) to countersign the decisions of local council considered to be legal, under the terms of law and the current regulation
- k) to propose to the mayor the inclusion of certain issues into the draft agenda of the ordinary sessions of local council
- l) to provide consultancy to the members of the council and specialised support in activity development, including drawing up the draft decisions etc. The own body of the local council has similar obligations.

The agenda of the sessions of local council comprises draft decisions, reports of the specialised commissions, reports or information of the heads of subordinated units or under the council's authority, the period of time dedicated to political statements, questions, interpellations, complaints or other problems under debate. The agenda is specified in the invitation transmitted to all councillors and inhabitants by means of media or any other form of advertisement.

The draft agenda is drawn up on mayor's proposal, councillors' proposal, secretary's proposal, and specialised commission's proposal or on citizens' request. The draft agenda is submitted for council's approval.

The draft decisions and the other problems to be deliberated will be introduced on agenda only accompanied by notice of the specialised commissions and the report of the respective department from the own body of the local council. The report of the respective department will be drawn up and it will be submitted to secretary of the territorial-administrative unit, before taking the notice from the specialised commission. The councillors are obliged to be present at the works of the council and to register their presence in the secretary's evidence.

The right to take initiatives for draft decisions belongs to mayor or councillors. The draft decisions will be accompanied by explanation of reasons and they will be drawn up according to legislative-technical norms. In this respect, the secretary of territorial-administrative unit and specialists of the own body of council shall grant support and technical assistance.

The draft decisions will be introduced on agenda, specifying the title and initiator.

The draft decisions will be presented to councillors, inviting them to make amendments, mentioning the commission that will give the notices.

The draft decisions and other materials will be transmitted for debate and notification to specialised commissions of local council, as well as to respective departments of its own body, in order to elaborate the report.

The mayor and the secretary assign the respective commissions and departments. Once the specialised commission has examined the draft or the proposal, it draws up the notification that specifies either its adoption or rejection. The initiator of a project

or proposal may withdraw or cancel it in any moment. The councillors' vote is individual and it may be free or secret. The local council decides on the basis of session chairman's proposal the modality for voting, except when law or regulation establishes such a modality. The decisions and other proposals are adopted by majority vote of current councillors, except when law or regulations stipulate otherwise.

### **The permanent working bodies of local council**

Aiming at efficient organisation of local council works, as well as effective management of other aspects in its activity, the local council will organise its own permanent working body, comprising 1-3 persons, out of which one should have legal education.

The permanent working body shall be organised according to its own organisational chart, with own functions, approved by local council further the proposal of chairman of session.

The staff shall be employed after an exam or contest, organised under the terms of law.

The commission of exam is constituted by decision of local council.

The wages for the staff in the permanent body shall be according to Emergency Ordinance of Government no. 24/2000 concerning basic salaries system.

If it is not possible to hire a specialist with legal training, the local council may decide to protect its interests by means of an elected specialist, and the expenses shall be supported by the local budget.

The jobs in the permanent working body of the local council are not included in the maximum number of jobs stipulated by Government Ordinance no. 80/2001 on establishing grids for expenses for public authorities and institutions.

The staff of permanent working body of local council are exempted of provisions of Law no. 188/1999 on Statute of civil servants.

The staff of permanent body collaborates with the secretary of territorial-administrative unit in order to prepare the sessions of the council, to ensure the documentation and information provided to councillors, to draw up and disseminate the documents of the session and any other materials.

Each of the two authorities has its own specialised body, their structure being approved by local council, on mayor's proposal.

The local council creates public institutions, trading companies and public services of local interest; monitors, controls and analyses their activity; provides norms of organisation and operation for the institutions and public services of local interest under the terms of law; appoints and dismisses, under the terms of law, the heads of public services of local interest, as well as the heads of public institutions subordinated; exercises disciplinary sanctions against the appointed persons, under the terms of law. Communication between the two authorities is ensured by mayor's participations at the sessions of the local council and periodical information to the council.

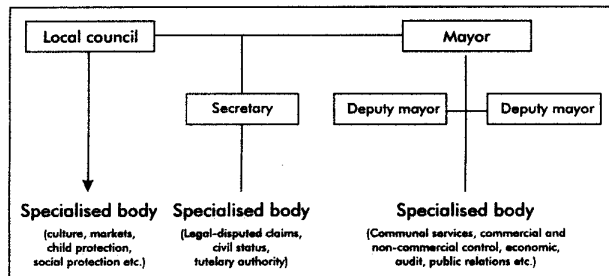
### **Secretary of territorial-administrative unit**

The two authorities ensure communication as the mayor participates in the sessions of the local council and presents regular information to the council.

The secretary of a territorial-administrative unit plays an important role in communication, as he/she is subordinated both to mayor and local council. Thus, each commune, town, territorial-administrative subdivision of municipality has a secretary with salary supported by local budget. The secretary of commune, town and territorial-administrative subdivision of municipality is managerial civil servant, with higher education in law or administrative science.

The secretary has the following key tasks, under the terms of law:

- to participate in the sessions of the local council
- to co-ordinate the legal departments and activities, to ensure the operation of departments of civil status, tutelary authority, and social assistance in the specialised own body of local council
- to notify the draft decisions of local council, being accountable for their legality, to countersign the decisions that he considers to be legal
- to notify the mayor's provisions from the legality point of view
- to follow up the correspondence, in order to be solved in due time
- to ensure the achievement of convoking procedures for local council and the secretarial activity
- to prepare the papers that will be debated by local council
- to ensure communication with authorities, institutions and interested persons for the documents issued by local council or mayor, within no more than 10 days, under the terms of law
- to ensure the dissemination of decisions and normative provisions to public
- to issue copies for any document from the archive of local council, except the classified ones, under the terms of law
- to certify signatures and to confirm the authenticity of copies with the original documents, under the terms of law.



### The role of political parties

Although as above-mentioned, each authority has a key role, well determined and specific tasks, the situations of balance are really rare in practice: there is sub-

ordination of mayor related to local council, or most of the times there is subordination towards the mayor, especially at commune level.

The relations between the two authorities are powerfully linked to the informal aspect of collaboration, how the mayor succeeds to convince local council to support his projects. In Romania there are a lot of situations proving that the mayors succeed to get support from local councils, sometimes due to inadequate training of local councillors.

When the mayor and majority of councillors belong to different political parties, on theoretical level there are no discrepancies, as they should act first of all as representatives of inhabitants in the territorial-administrative unit; however, practice demonstrates that similar situations may lead to blockages, such as the mayor's refusal to apply the decisions of local council, to contest them in front of the Administrative Disputed Claims Court. At the same time, the council may contest the mayor's decisions in the Administrative Disputed Claims Court. If they are contested, these documents (decisions of council and mayor's provisions) are suspended, reaching a situation when any administrative document adopted cannot be applied.

### Is the legislature too big or too small to function properly?

The number of members of each local council is established according to prefect's order, depending on the population of commune or town, reported by National Commission for Statistics<sup>3</sup>, respectively National Institute of Statistics and Economic Studies<sup>4</sup> on 1 January of current year and if necessary on 1 July of the year preceding the elections, as follows:

Number of citizens in commune or town before 2001	Number of councillors	Number of citizens in commune or town after 2001	Number of councillors
Up to 3.000	11	Up to 1.500	9
3.001 - 5.000	13	1.501 - 3.000	11
5.001 - 7.000	15	3.001 - 5.000	13
7.001 - 10.000	17	5.001 - 10.000	15
10.001 - 20.000	19	10.001 - 20.000	17
20.001 - 50.000	21	20.001 - 50.000	19
50.001 - 100.000	23	50.001 - 100.000	21
100.001 - 200.000	25	100.001 - 200.000	23
200.001 - 400.000	31	200.001 - 400.000	27
Over 400.000	35	Over 400.000	31

<sup>3</sup> According to Law no. 69/1991 on local public administration, law changed by Law no. 215/2001 of local public administration.

<sup>4</sup> Law no. 215/1991 (valid).

General Council of Bucharest Municipality comprises 55 councillors.

Compared to former regulation, Law 69/1991, the number of local councillors has been reduced, but we find problems in practice due to the fact that there are still too many members, especially since the sessions of local council are legally constituted only if majority of councillors are present.

Consequently, we appreciate that the new law on local public administration (adopted in 2001) is better, more explicit, more focused in defining the tasks of institutions and relations.

Public management and civil servant's performance, productivity and quality of public service, flexibility and responsiveness to challenges of changes in administration, autonomy and decentralising, the reduced costs of reform represent only a part of the characteristics and requirements of Western European administration.

Better solutions could be found in models of public administration of developed countries, with a long democratic tradition. Thus:

- the mayor could be elected directly by citizens, on the list with the deputy mayor and compulsory, by law, the list of councillors of the mayor's party should have half plus one of the seats in the council
- the mayor, elected directly by citizens, could appoint deputy mayors from among the councillors, in order to delegate them tasks, and at the same time to revoke them anytime
- the mayor could be elected directly by citizens, the deputy mayors should be nominated by council, but by a majority guaranteed under law, favourable for mayor, and the executive technical functions could be managed by the city manager
- the mayor could be elected by local council, but should have only functions to represent the local community, and should not have executive functions.

## Bibliography

- I. Alexandru, L. Matei, *Public services*, Economica Publishing House, Bucharest, 2000  
Lucia Matei, Ani Matei, *Acquis Communautaire and Public Administration*, Economica Publishing House, Bucharest, 2000  
Lucia Matei, Ion Popescu, Dragoș Dinca, *Public Administration Institutions*, Economica Publishing House, Bucharest, 2002  
*The Training of public administration on acquis communautaires*, Economica Publishing House, Bucharest, 2002  
Constitution of Romania, 1991  
Law no. 70/1991 on Local Elections  
Law no. 199/1997 on ratifying European Charter of Local Autonomy  
Law no. 215/2001 on Local Public Administration

Mariana Cernicova

## Transition and Local Democracy in Romania: Adapting Legislation for Better Local Government

The Romanian Government announced, in October 2002, the imminence of the "dawn of transition", opening the door for stable, consolidated democracy. The end of transition would mean putting a stop to brisk changes, legislative mist and constant amendments to already adopted laws. In administration, this would terminate the major processes of defining local authorities. However, the good news comes a little bit too soon: Romania undergoes a large debate on amending the Fundamental Law. When this task is completed, the transition will really come to an end, not regretted by anyone, since, though it is a fascinating process, it is tiring and difficult to keep under control. Transition brought along a large range of changes. Yet, the present paper will concentrate exclusively on the issues related to local public administration, with a special emphasis on the search for better arrangements, capable to establish a modern, European, democratic local government.

### 1. Historical background

The first collective administrative bodies in Romania date from the 19<sup>th</sup> century, having 4 members in Muntenia (1831) and 3 in Moldova (1832), as stipulated in the Organic Regulations for cities, while in the rural area the local authority comprised a committee made of 6 villagers, the priest and the landowner. The first law on local public administration dates from 1864 (L-394), establishing the local council, directly elected by the population from the given administrative unit (village, city) and mayor. In the large cities, the king of the country appointed the mayor, while the local council could decide on the name of the vice-mayor.

The 20<sup>th</sup> century brings along major changes, due to the general evolution of administration, but also to the unification of the country. Thus, in 1929, the local council was directly elected and, in its turn, it elected the mayor and vice-mayor. Also the law clearly defines the council as a deliberative body and the mayor (plus the delegation of the council) as the executive.

The communist regime brings along new distributions of roles. After the Constitution of 1948, the Law 17/1949 creates the popular councils as local state authorities and executive committees as executive powers. After the Constitution of 1952, the popular councils had deputies, which elected the executive committees, composed of president, vice-presidents and members. Starting with the 1970's, a return to the title of mayor for the main representative of the state on the local level is encountered. The mayor was, at the same time, the president of the executive committee of the local council. The essence of the Romanian communist local administration resides in the

fact that local service providers had a double subordination: horizontally, towards the popular council, and vertically, with respect to the corresponding national bodies. This rather brief historical survey brings us to the Romanian Revolution of December 1989, when all communist arrangements were dismantled and the new authorities set forth the necessity for democratic rule. The first step, in the Decree 2/December 27<sup>th</sup> 1989, was to abolish the popular councils and to replace them with the territorial councils of the Nation Salvation Front (NSF), as local authorities, subordinated to the Council of NSF. It contained important ideas such as political pluralism, dissolution of political monopoly of power, putting an end to ruining villages (a topic which stirred much attention from the West, since small municipalities were dissolved arbitrarily by the Communist authorities in 1989), giving up the centralized, authoritarian type of rule. Yet, such an arrangement lacked clarity, so NSF issued a new regulation, Decree 8/January 7<sup>th</sup> 1990. Concerning the organization and functioning of state administration. This document stipulated that mayoralties (*primarii*) were established as local organs of state administration. Counties, the Capital, cities and villages had such mayoralties, made up of a mayor and a vice-mayor. Bucharest had 2 vice-mayors, a secretary and 3 to 7 members. These authorities were to answer to the territorial councils of NSF and to the Government. And yet, a month later, a new change occurred, due to the opening of territorial councils to the new established political parties. The Decree No. 81/1990 created the legal frame for the Provisional National Unity Council, where NSF had 50% and other parties the rest. Such an arrangement was to be found on local level also. This period of confusion ended with the general elections in May 1990. The new Parliament (also, a Constitutional Assembly) adopted the Law No. 5/July 20<sup>th</sup> 1990, which dissolved the territorial councils and let solely prefects, on the county level and mayors, on the local level, as administrative bodies, appointed by the central government. For more than one year and a half, the governmental nominees were the only administrative bodies acting in Romania. Meanwhile, the Constitutional Assembly searched for a proper model, to combine the Romanian tradition with requirements for European, modern provisions. Thus, the legal framework for democratic local authorities has been set up by the Constitution in 1991, with the ample chapter V entitled **Public Administration**, describing central specialized bodies and local authorities. The main principles of democratic administration are clearly encoded in the Fundamental Law: local autonomy and decentralization of public services. Several comments should be made at this point: the new local authorities (local government, described as being formed of mayor and local council) are not subordinated to a county or state authority. The county level authority embodied by the county council is a partner, a co-coordinator, but not a hierarchical super-structure. What does subordination mean? Possibilities to: organize the activity of the subordinate bodies, the right to instruct the subordinate, the possibility of control, the possibility to cancel acts and the possibility for disciplinary sanctions. However, some mechanisms of control are retained on the part of national authorities, through the prefect's office, the prefect being the representative of the central government at the county level. The prefect is in charge of legal supervisions of the administrative action and may, in extreme cases, suspend mayors or their acts.

Detailed provisions concerning the local authorities were included in the Law on Public Administration No. 69/1991, which came into force after the first local elections in February 1992.

The original version of Law 69 gave the local councillors the right to elect county councillors, a provision dropped in 1996. Also, it contained insufficient details concerning, for example, the role of the vice-mayor, the equilibrium between the deliberative/legislative role of the local councils and the executive role of the mayor, provisions concerning financial support for exercising autonomy and public property, owned by the local authority. However, the law described a large range of areas where the local administration is relevant, established incompatibilities between the position of a local elected representative and other activities (such as prefect, member of the government, councillor simultaneously in two or more local councils or public servant), included provisions concerning the conflict of interest. It is also important to notice that the mayor, though bearing a leading role, is not presiding the council. The council meetings are presided by a president of the meeting, selected by the councillors according to an agreed pattern (rotation principle). Amendments brought to the law for the 1996 legislative cycle clarified some of the criticized elements in the law, for instance the vice-mayor, though elected by the councillors from their own body, terminated his mandate as a councillor and stuck with the executive. Also, prerogatives concerning budget arrangements and property managing were added to the law.

## 2. The leap forward

Yet, the strive for better local government was not over. So much so that a completely new law on local public administration was drafted in April 2001, under the number 215. It is considered and presented as a major leap forward. For one matter, it responded to an almost 10 year pressure from the ethnic minorities concerning the use of languages, other than the official one, in public administration. Second, it gave larger provisions concerning the extent of local autonomy, rights to initiate development projects of local or regional significance, inclusion of village representatives in the local council, when all the elected persons belong to the commune and the village did not obtain a councillor, details on local budgeting and property rights. Also, it proposed a significant reduction of the number of councillors, coming into force with the elections of 2004.

## 3. Towards better local government

Throughout the 12-13 years of transition, the Romanian society made efforts to improve the quality of local government, to ensure democracy and to practice the autonomy and decentralization encoded in the legislation. Constant improvement of the dimension of local government was included in electoral programs of political competitors, in governmental strategies, in programs of NGOs and in public debates. Three main sources of changes can be traced: reform carried out by the Government

and Parliament, in the general framework of improving democratic standards, pressures of local bodies themselves or of political actors (parties/organizations) and international models.

The first category may be illustrated by the first national symposium „Constitutionalism and legality in local and county administration”, in 1994, where representatives from 37 counties (mayors, councillors, experts, teachers) openly asked for new legislation such as the law on public service (for the technical apparatus of the administration, and with a clear-cut division between the political representatives and the public servants), law on public and private property of the municipalities, clearer provisions concerning the functioning of vice-mayors, the rules for public services, twinning procedures, distribution of competences among local and county level bodies, larger autonomy in drafting the internal organization of the administration (personnel). The pressure coming from authorities themselves is stronger due to the establishment of an Association of Mayors, as a response to international obligations (presence in the Congress of Local and Regional Authorities of Europe), but also for stronger leverage with the national Parliament and government. The latest requests of this association (June 2002) concern a desire for lifting the legal provisions which keep the technical apparatus of a city-hall at a unified (restrictive) number of personnel, more freedom in managing the public and private property of the village or town, larger consultations when new legislation, with impact on the local level is drafted, more financial support for the newly acquired attributions etc.

The national **Strategy of reform in public administration** adopted by the new Government (in 2001) acknowledge the fact that local government accountability can be measured only when the autonomy to act is ample, there are clear objectives of the governance and there is a possibility to measure the results. Since until recently a large share of the responsibility for local development was in the hands of central authorities, special measures are envisaged in order to improve the quality of local democracy and governance. For the first time, the principle of subsidiarity is openly stated in an official document, alongside with transparency of decision/making, separation of political and administrative roles, decisional autonomy, respect for the citizen and pre-eminence of interest for efficiency and quality of services offered to the citizens. Among the objectives (also part of accession negotiations with the European Union), the government lists: restructuring the public local and central authorities, changing fundamentally the relationship between the citizen and administration, further decentralization and enhancing local administrative and financial autonomy, limiting bureaucracy, better professional standards for public servants, harmonization with EU legislation.

In terms of political pressure, apart from the one strongly exercised by associations of local authorities, political parties and organizations constantly asked for detailed provisions and reforms. Thus, for instance, the liberal party is pressing for a total withdrawal of the state authority from local affairs, proposing an administrative code accordingly. The Hungarian minority, on the other hand, largely represented in the Parliament, constantly brought up the language issue and special provisions for

minority representation on the local level, being the champion of autonomy discourses. The main amendments, accepted, finally, in the provisions describing local government concern: the possibility to use the native tongue in council meetings where the minority is sufficiently represented, the right for the local population to use the minority language in communicating with local authorities, the right of the minority to be informed in its' language about local council proceedings, if the minority represents at least 20% of the total population of the municipality.

Finally, the international model of the Council of Europe and, lately, of the European Union bring along higher standards for local government. Thus, the most recent monitoring delegation of CLRAE (2001) credit is given to Romanian authorities for the improvements of the legislative frame (Law 215, the law on local finances etc.), but critical remarks persisted in what can be labeled as „political migration of the mayors”, lack of sufficient financial freedom for local governments, lack of clarity regarding the procedures to suspend a mayor or a councillor during the mandate, problems concerning the big municipalities (especially the Capital) and their relation with the central government. Yet, the general overview is more than praising, concerning the sure path of the reform in this area. Also, the recently adopted **Code of conduct for local and regional representatives** (1999) establishes common rules for European administrations/governments, with strict descriptions of how to ensure better, more transparent, more efficient and accountable administrations, to eliminate bureaucracy and corruption, to prevent abusing power and to keep the strong division between civil servants and politicians.

The most profound changes in the substance of local administration are yet to come, due to the desire of Romania to be an EU member by the year 2007. For this objective, and due to an already on-going debate on the constitutional reform, Romania will have to adapt juridical, economically and politically to EU criteria. Thus, EU directives and legal provisions concerning public services must be implemented. Pre-accession funds prepare local governments for enlargement, but a long way is still to be covered. Politically, the principles of consultation, right to elect and be elected, subsidiary and accountability are to be implemented.

## The Rule of Law, Administrative Reform and Local Self-Government<sup>1</sup>

### 1. The rule of law

The principle of the *Rule of Law* and the concept of the *Legal State* are paramount moral and legal values that are incorporated in the very foundation of the Western, and particularly European civilization<sup>1</sup>. In respect to administrative reform and local self-government their significance is essential for implementing the notion of *legality* of government decisions, as without the framework of the rule of law and the legal state, no modern political, legal and local government system can be conceived<sup>2</sup>.

Originating in the mid-19<sup>th</sup> century, the concept of the *Rechtsstaat* rests on a *normativistic legal model* of regulating social relations. According to this model, general legal norms (formalized in general legal acts, e.g. statutes, laws, regulations, etc.) prescribe the rules of social behavior. General legal norms are subsequently decomposed into concrete legal provisions contained in individual legal acts (e.g. administrative decisions, judicial rulings, etc.) that directly affect the behavior of individuals and other legal entities. The main feature of the normativistic model is that the legitimacy of legal action (including the legitimacy of legislative, judicial, administrative and local self-government decisions), *derives* from the *legality* of the legal acts. In other words, a legal decision (i.e. legal act) is legitimate by virtue of its legality. This model in its initial form, however, today can not be implemented without peril to the idea of fundamental human freedoms and rights and the concept of political pluralism and democracy - one needs only to have in mind any racist or other totalitarian regime that rests on so-called "law and order". As consequence, the values of the *Rechtsstaat* concept today can only be seen as a *precondition* of democratic political and legal systems<sup>3</sup>.

As opposed to this formal concept of legality, modern concepts of legal legitimacy base their fundamental principles on the *idea of the rule of law and human rights*<sup>4</sup>. The legality of government and administrative action, therefore, does not *ipso facto* include the legitimacy of these actions. In order to achieve legitimacy, government bodies, courts, administrative and para-statal agencies, as well, local self-government must also achieve *in concreto* legitimacy of each action they undertake or decision they render. This is done through various instruments and mechanisms of parliamentary, judicial and administrative control (e.g. parliamentary debate, hearings, judicial review, ombudsman interventions, etc.). Consequently, modern concepts of legal legitimacy, based on the idea of the rule of law and human rights derive from the premise that a governmental and local authority action is legitimate not only by virtue of the status of the subject or legality of the procedure, but also by *virtue of substantial democratic values incorporated in these actions and decisions*<sup>5</sup>.

### 2. Public services

The rule of law and the modern concept of the legal state based on substantial democratic legitimacy and human rights are particularly reflected within the framework of government *administrative action*. Traditional political theories define administrative action as an *administrative function*. Administrative function is further defined as one of the legal functions of the state, as a normativistic modality of "state law" (*Staatsrecht*). According to these concepts, the administrative function, and respectfully, the activity of local self-government, is a specific, legally regulated, function of state power that features the formulation of individual compulsory orders and commands and is authorized to perform acts of politically and legally permitted repression<sup>6</sup>. This traditional concept of *state law*, modified by the Marxist definition of the role of state and law "after the proletarian revolution" has widely circulated in all Central and Eastern-European countries under communism, particularly under the influence of the Soviet legal theory<sup>7</sup>.

On the other hand, the concept of the administration and local self-government as a *public service* originated at the turn of the last century in conditions of social, cultural and economic development of highly industrialized nations of Western Europe. Administrative and local self-government activity is now perceived, not as a function of state political power, but as a complex system of *public services*, i.e. activities focused on development, democracy, and general welfare of society and the quality of

<sup>1</sup> The original version of this paper was published in: Mijat Damjanović (editor) "Lokalna demokratija". Beograd, 2001 and was supplemented by the report presented at the International Conference on *Local Self-Government and Decentralization - Relations Between the Executive and Legislative at the Local Level*, organized by the Friedrich Ebert Stiftung (Regionalbüro Zagreb), Sarajevo, October 24-25, 2002.

<sup>2</sup> Lord Lloyd of Hampstead, M.D.A. Freedman, *Lloyd's Introduction to Jurisprudence*, Stevens Carswell, London/Toronto, 1985.

<sup>3</sup> Alexander Blankenagel, Denis Galligan, Stevan Lilić, Sanford Levison, Andras Sajo, *Law, Public Administration and Social Change*, CEU Summer University, Budapest, 1997 (course material).

<sup>4</sup> See: *Temelji moderne demokratije - Izbor deklaracija i povelja o ljudskim pravima*, 1215-1989, Beograd, 1989.

<sup>5</sup> See: Stevan Lilić, Petar Kunić, Predrag Dimitrijević, Milan Marković, *Upravno pravo*, Beograd, 1999.

<sup>6</sup> Allan Rosas, Jan Helgesen, Donna Gornien, *Human Rights In a Changing East-West Perspective*, Printer Publishers, London/New York, 1990.

<sup>7</sup> Serge Alain Meschierakoff, *The Vagaries of Administrative Legitimacy*, International Review of Administrative Science, vol. 56, no. 2, 1990, p. 309.

<sup>8</sup> See: Georg Jellinek, *Allgemeine Staatslehre*, 1914.

<sup>9</sup> See: Hugh Collins, *Marxism and Law*, Oxford, 1982; J. Stalin, *Foundations of Leninism* (1924), London, 1940.

individual life<sup>9</sup>. This lead to the concept that the real meaning of administrative activity is not to *order* obedience, but on the contrary, to *render* public services.

Public services are activities that play a "vital" role in the everyday life and work of individuals (e.g. education, medical care, etc.) and society as a whole (e.g. transportation, communication, etc.)<sup>10</sup>. According to this model, in conditions of developed social structures and functions, central government and local administration undergoes a substantial transformation, as administrative activity no longer represent only a (legal) *instrument of government*. Administrative activity is now a product of a complex *public administrative* and local self-government system charged with providing *public services* and undertaking action aimed at securing social welfare, quality of life for its citizens, as well as cultural development and economic progress in general<sup>11</sup>.

Western European integration and transition processes in Central and Eastern-European post-communist countries can not be interpreted only as compulsory responses to economic and technological competition and pressures. Integration in Europe is also the result of autonomous development patterns of both the economic and political systems in this region<sup>12</sup>. The developed countries in Europe have achieved the level of democratic, social, and economic, human rights and technological development that set them within the general framework of modern post-industrial and information societies<sup>13</sup>.

Another result of the transition process is the consequent de-centralization and de-concentration of centralized government administrative systems into organizational and functional forms of a higher order<sup>14</sup>. This is due to the fact that increased complexity, and particularly the "informatization" of society, have practically rendered centralized directing, management and control of social processes obsolete, as the traditional government structure is inflexible and inefficient to adapt to the dynamics of the changing environment. To achieve substantial integration of legal and political systems that are compatible with tendencies in the developed European countries, hierarchical models must be substituted by new forms of organizational, functional, technological, human resource and financial integration patterns that enable multiple communication, not only with the internal governmental sub-systems, but with other external - international, political, economic and legal systems, as well<sup>15</sup>.

<sup>9</sup> See: Stevan Lilić, Dejan Milenković, *Javne službe u jugoslovenskom pravu*. Pravni fakultet u Beogradu, 1999.

<sup>10</sup> See: Leon Diguil, *Les transformations de droit public*, Paris, 1913.

<sup>11</sup> Daniel Bell, *The Coming of The Post-Industrial Society*, Basic Books, New York, 1973.

<sup>12</sup> Randal Baker, Julie Bivin Raadschelders, *Reshaping the Old Order - The European Community, The United States and the New Century*, *International Review of Administrative Sciences*, Volume 56, No. 2, June 1990.

<sup>13</sup> Stevan Lilić, *Information Technology and Public Administration in Yugoslavia - The Citizen's Influence*, Information Age, London, Vol. 12, No. 1, 1990.

<sup>14</sup> See: Dwight Waldo, *The Administrative State: Centralization vs. Decentralization*, New York, 1948.

<sup>15</sup> Eugen Pusić, *Upravni sistemi - I*, GZH, Zagreb, 1985, p. 308.

Administrative reform and reorganization of existing administrative systems in post-communist European countries must move in the direction of strengthening democratic control over state administration, increasing its accountability to democratic elected bodies, de-centralizing and de-concentrating the central governmental structures while maintaining the administrative system under the strict principles of legality, the rule of law and human rights protection<sup>16</sup>.

However, the need to modernize the administrative systems of post-communist countries in Europe goes much beyond subjecting it to provisions of legal documents: "The challenge with which public administration is faced in Central and Eastern-Europe is to redefine even its role in society, or, more concretely, its relations with politics, the economy and civil community. It is, therefore, worthwhile to recall that the dynamics of administrative transformation are intimately linked to changes in the political, legal, social and economic environment in which public institutions operate and on whose material and immaterial inputs they crucially depend. Legitimacy, authority, legality, acceptance and finance are amongst the most important resources required for effective administrative activity and they cannot be generated by the public administration itself. Accordingly, the outcome of politics aimed at public sector reform is decisively shaped albeit predetermined, by political, legal, social and economic developments"<sup>17</sup>.

Modern concepts of the administrative system rest on models of the administration as a complex and dynamic system of human inter-action<sup>18</sup>. In this model the administration is projected as a complex and dynamic "relatively closed" system of structures and procedures within itself, as well as an "open system" that communicates with other systems (e.g. the political and economic system) active in the social environment surrounding it. As a system of human inter-action that derives from the fact that individuals in society achieve their interests either through mutual co-operation, or through mutual conflict, the main social function of the administrative system, actively integrated into various patterns and forms of human behavior, is to regulate social processes. As realization of individual or group interests can either be achieved by compromise or by domination, the function of social regulation of an administrative system plays a essential role in *neutralizing contingency* illegitimate social behavior or conflict<sup>19</sup>. Administrative activity is thus perceived, not as a function of state power, but as an activity focused on the realization of the welfare of society and individual quality of life. In these new conditions of developed social structures and functions, the administration and local government undergo a substantial transformation: no longer does administrative activity represent a specific legal instrument of government and subordination. It is, rather, an activity which is the out-put and product of a complex organizational and value system

<sup>16</sup> Istvan Pogany (Ed), *Human Rights in Eastern Europe*, Edward Elgar, Brookfield, Vermont, 1995.

<sup>17</sup> See: Joachim Jens Hesse (Ed), *Administrative Transformation in Central and Eastern Europe: Towards Public Sector Reform in Post-Communist Societies*, Blackwell Publishers, Oxford, 1993, p. 38.

<sup>18</sup> Eugen Pusić, *Upravni sistemi I*, Zagreb, 1985, p. 9-11.

<sup>19</sup> See: Niklas Luhmann, *Soziale Systeme. Grundriss einer allgemeinen Theorie*, Suhrkamp, Frankfurt am Main, 1984.

charged with providing *public services* and undertaking action aimed at securing the welfare of its citizens, as well as progress of society<sup>20</sup>.

On the other hand, post-communist countries in Europe still on levels of mid and late industrial development, as well as those in early stages of high technology developments, will doubtlessly need to consider present European integration tendencies, not only in respect to their general social and economic development strategies, but also in regard to their administrative and local self-government systems as well. Within this dynamic social and economic environment, the recognition of the need of the administrative and local self-government systems of European post-communist countries to adapt to integration processes is prerequisite for the active participation, co-operation and integration of these systems into European integration processes. In this context, administrative and local government legislative reforms and administrative system compatibility of the Central and South-Eastern European post-communist countries with the West European integration processes should be the basis of future transformation of the respective administrative, local government systems, and their organizational and functional development towards business-oriented public administration<sup>21</sup>.

Comparatively speaking<sup>22</sup>, the transformation of central and local administrative systems should also be aimed at undertaking functional and organizational<sup>23</sup>, as well as technological<sup>24</sup> and personnel<sup>25</sup> reforms that are in line with achieving higher standards of administrative efficiency and human rights protection, particularly in regard to the issues of privacy<sup>26</sup> and data protection<sup>27</sup>, and service-rendering standards of economic and business management<sup>28</sup>.

A specific question to be addressed in the context of administrative system and local self-government reform is the issue of the efficiency of administrative systems. Generally speaking, the more there are technological factors present in administrative

systems, the higher the level of the efficiency of the system. Nevertheless, particularly in countries that are experiencing political and social "turbulence", an opposite tendency in the development of administrative systems can be detected. Times of crisis generate a tendency of extensive "administrating", primarily due to the general inefficiency of the social and economic system. Inefficiency gives rise to the need of more authority, but authority itself does not resolve the problem. This model, logically, requires an authoritative administrative system, as authoritative administrative decisions can only be implemented by means of political pressure and repression. Consequently, authoritative administrative systems cannot substantiate and resolve economic and social turbulence by mere "authoritative administrative efficiency". Such situations, particularly receiving active political support, can easily become the main obstacle for general social, economic and administrative reform.

### 3. Local self-government

Local self-government reform and reorganization of existing local self-government systems in post-communist European countries must move in the direction of strengthening democratic control over state administration, increasing its accountability to democratic elected bodies, de-centralizing and de-concentrating the central government structures while maintaining the local self-government system under the strict application of the rule of law<sup>29</sup>.

The need to modernize the local self-government systems of post-communist countries in Europe goes much beyond subjecting it to provisions of legal documents. The dynamics of local self-government transformation are closely linked to changes in the political, legal, social and economic environment in which public institutions operate and on whose material and immaterial inputs they crucially depend.

The countries of South-Eastern Europe are currently undergoing fundamental changes affecting the very foundations of their social, political and economic life and legal order. Although the extent of the transformation processes so far differ considerably from country to country, it is possible to identify a number of common features. These features, *inter alia*, include: a) the transition from one-party rule (in which the leading role of the communist party was dominant in all sections of society) to multi-party parliamentary systems with accountable governments; b) the abandoning of "democratic centralism" as the basic organizational principle, in favor of far-reaching de-centralization and de-concentration of the decision-making authority; c) the separation of the political from the economic system, and d) the implementation of economic reforms focused on privatization and de-nationalization, as a means of depriving the state of its enormous economic competence and legal possession of property.

Due to the need of efficient regulation of social, economic and technological processes, modern local self-government shows a general tendency towards

<sup>20</sup> David Rosenbloom, *Public Administration and Law*, New York/Basel, 1982.

<sup>21</sup> Stevan Lilić, *European Integration. Administrative Legislation Reform and Administrative System Compatibility* (Report), International Institute of Administration Sciences, International Conference: "Administrative Implication of Regional Economic Integration", Madrid, November 1990.

<sup>22</sup> Gerard Timsit, *Administrations ET des états: étude comparée*, Presses Universitaires de France, Paris, 1987.

<sup>23</sup> James Emery (Ed), *Organizational Planning and Control Systems - Theory and Technology*, Columbia University, Collier-Macmillan Limited, London, 1969.

<sup>24</sup> Jean-Paul Baquiast, *Nouvelles Technologies ET Reforme Administrative*, *Revue Française d'Administration Publique*, No. 37, Paris, 1986.

<sup>25</sup> Heinrich Reinemann, *Organization and Information Management, in New Technologies and Management - Training The Public Service For Information Management*, IIAS, Brussels, 1987.

<sup>26</sup> James Michael, *Privacy and Human Rights: An International and Comparative Study with Special References to Developed Information Technology*, Dartmouth, UNESCO Publishing, Hampshire, 1994.

<sup>27</sup> Colin Bennett, *Regulating Privacy: Data Protection and Public Policy in Europe and the United States*, Cornell University Press, Ithaca/London, 1992.

<sup>28</sup> Stevan Lilić, *The General Context of Business-Oriented Public Administration in Post-Communist Transition*, Introductory report delivered at the International Seminar on Business-Oriented Public Administration, Law School, University of Montenegro, Podgorica, March 2000.

<sup>29</sup> See: Stevan Lilić, *Lokalna samouprava u Srbiji i Crnoj Gori*, *Lokalna samouprava*, br. 1, Niš, 1997, pp. 68-75.



substituting traditional authoritative instruments of local government power with higher forms of achieving social regulation both at the micro- and macro-social level. It can be said that administrative repression today is a feature of underdeveloped social and economic systems and leads to the phenomena of "vicious bureaucratic circles" (once applied, repression leads to more repression, which agitates the problem even more, then more repression is applied, and so on). Thus, the development of modern local self-government is less and less oriented toward the use of power and force, as there is objectively less possibility of compulsory social regulation. Thus, the more there are technological factors present in local self-government, the higher the level of the efficiency.

In this context, today there can be no legal state and democracy without developed local self-government. The right of local self-government at the same time is the duty of the central government. The central government must guarantee the right to local government, which in turn produces the duty of the central government to create conditions for the functioning of local community as a whole<sup>30</sup>. On the other hand there is the duty of the local community to efficiently satisfy the needs of the local community and secure continuous quality of the local (communal) public services that are in the interest of the end-users<sup>31</sup>.

It is the fundamental nature of local authority to fulfill needs of people that inhabit a certain (local) area. Formally, local government is accomplished by citizens in areas that are defined in the constitution, laws and the statutes of the municipalities or cities<sup>32</sup>. According to the *European Charter of Local Self-Government* (1985), local government incorporates the right and ability of local authorities, within the limits prescribed by law, to regulate and manage certain segments of public affairs on the basis of its responsibility and in the interest of its inhabitants<sup>33</sup>. Having this in mind, local self-government can be defined as a function that is carried out and exercised by the citizens in a local area (e.g. the municipalities and in the cities)<sup>34</sup>.

The term "local self-government" is wider than the term "local government". Local self-government also means that there exists a certain degree of autonomy of non-central bodies that perform designated administrative and other tasks<sup>35</sup>.

In establishing the governmental organizational structure, centralization and de-centralization represent two significant binding principles<sup>36</sup>. The principles of

centralization and de-centralization, however, should not be viewed as two opposite and contradicting forms of establishing an organizational structure and integration<sup>37</sup>. In contemporary organizations there are many elements of centralization, but also many elements of de-centralization. Centralization and de-centralization as basic organizational principles should not be seen as alternatives that cancel each other, but should be seen as optimal combinations. Thus, instead of the dilemma whether to establish a centralized or de-centralized organization, it is better to ask which elements of the organization should be centralization (*what to centralize?*), and which elements should be de-centralization (*what to de-centralize?*)<sup>38</sup>.

#### 4. Relations between executive and legislature at local level in Serbia

Significant changes in our present political and constitutional system are reflected in the status of municipalities. According to the previous concept based on the principles of the so-called "communal system", the municipalities were the "basic socio-political communities" (and the presumption of all competence was designated to this level). However, with political and constitutional changes in the 1990-1992 periods in Serbia, the status of the municipalities has changed completely<sup>39</sup>, and the local communities have lost their previous importance and competence. The local communities in Serbia only represented territorial units and entities that depend on the ministries of the central government. The situation became more serious after the adoption of the 1999 Law of Local Self-Government by the so-called "Red-Black" political coalition (i.e. Milošević and Šešelj), as this law totally eliminated even the slightest hint of local government and autonomy, and "opened more questions than it solved".

However, with the profound political change of October 2000 the country has embarked on a road of substantial democratic economic and political reforms that include the urgent need to adopt a new local self-government law. In a new approach to this challenge, a prominent non-governmental organization - the *Public Administration and Local Self-Government (PALGO) Center* elaborated *Model Law on Local Self-Government*<sup>40</sup>. The Model Law was then opened to expert and public debate, and subsequently, with minor amendments, accepted as the official *Draft Law on Local Self-Government* of the Serbian Government which, with certain modifications, was adopted by the Serbian national Parliament on February 26, 2002 and published in the *Official Gazette of the Republic of Serbia* no. 9/02.

<sup>30</sup> Milorad Žižić, *Država i pravo između centralizacije i decentralizacije*, *Lokalna samouprava*, Niš, br. 4-5, 1999, pp.244-247.

<sup>31</sup> Pavle Dimitrijević, *Organizacija i metod rada javne uprave*, Beograd, 1959, pp. 179-186; Eugen Pusić, *Nauka o upravi*, Zagreb, 1973, pp. 145-148, etc.

<sup>32</sup> Stevan Lilić, Petar Kunić, Predrag Dimitrijević, Milan Marković, *Upravno pravo*, Beograd, 1999, pp. 65-68.

<sup>33</sup> The *Draft Model of the Local Self-government Law*, which is included in the Annex of this paper, was elaborated by the PALGO Center, Belgrade, in 2001. Members of the expert team were: Prof. Mijat Damjanović, Slobodan Vučić, Prof. Stevan Lilić, Prof. Božidar Raičević, Milan Vlatković, Ass. Prof. Snežana Đorđević and Dejan Mileković, M.A.

<sup>34</sup> See: Slobodan Blagojević, *Lokalna samouprava u teoriji, komparativnom iskustvu i praksi*, *Lokalna samouprava*, Niš, br. 2, 1997, pp. 13-24.

<sup>35</sup> See: Stevan Lilić, *Lokalna samouprava u Srbiji i Crnoj Gori - normativni aspekti*, *Lokalna samouprava*, Niš, br. 4-5, 1999, pp. 128-138.

<sup>36</sup> See: Ranko Mujić, *Evropska povelja o lokalnoj samoupravi i naša lokalna samouprava*, *Lokalna samouprava*, Niš, br. 2, 1997, pp. 24-29.

<sup>37</sup> Evropska povelja o lokalnoj samoupravi i naša lokalna samouprava, Concil of Europe, Strasbourg, 1985, *Lokalna samouprava*, br. 1, Niš, 1997, p. 146.

<sup>38</sup> Stevan Lilić, Petar Kunić, Predrag Dimitrijević, Milan Marković, *Upravno pravo*, Savremena administracija, Beograd, 1999, pp.65-68, 231-237.

<sup>39</sup> Eugen Pusić, *Upravni sistemi - I*, GZRH, Zagreb, 1985, p. 308.

<sup>40</sup> See: Eugen Pusić, *Centralizacija i decentralizacija*, Zagreb, 1956.

In particular regard to the relations between the executive and representative (legislative) powers at the local level, the Model Law on Local Self-government introduced several innovations. As expressed in the Notes on the Model Law: "Instead of the present complex, non-functional and inefficient assembly system of unified power in the local community, the introduction of a specific system of power distribution is proposed. This system would comprise, on the one hand, the assembly of the municipality or city and the city of Belgrade, as a representative organ of citizens (art. 36-48, 73)<sup>41</sup> and the president of the municipality that is mayor, as the chief of executive power (art. 49-53)<sup>42</sup> and local administration (art. 54 - 69), on the other hand."

The Model Law also provides for the existence of as new institution called the "council". As expressed in the Notes on the Model Law: "The Council for the development and advancement of local self-government would also seek to protect and promote local self-government and democratic control of citizens over the local government. This council may be formed by the assembly of the municipality or city (art. 154)"<sup>43</sup>.

The Model Law was put on public debate and circulated among the local communities where numerous round tables and discussions were held. In addition, the Model Law, together with relevant accompanying material was published in a major Serbian weekly magazine<sup>44</sup>, thus opening the project not only to expert, but general public scrutiny, as well.

However, when accepted by the Serbian Government and finally passed by the Serbian National Parliament in February of 2002, most of the solutions of the Model Law were accepted in a modified version. Most significantly, the adopted Law

accepted the Local Assembly (Art. 26-39) more or less in accordance with the Model Law, but in regard to the executive organ adopted the "president of the municipality" (instead of the mayor). In addition, significant changes were made in regard to the "council" which was transformed from the "council for the development and protection of the local self-government", to the "municipal council". This council and its competencies are defined in the following way: "The municipal council is an organ which harmonizes the realization of the functions of the president of the municipality and the municipal assembly and exercises supervisory functions over the municipal administration. The municipal council consists of up to 11 members, which on the proposal of the president of the municipality are elected by the municipal assembly, by majority vote of the total number of the assembly members, for a period of four years. The deputy president of the municipality is member of the council by virtue of office. A member of the council may be dismissed in the same procedure in which elected, on the proposal of the president of the municipality or at least one third of the members of the assembly. If the proposal of the president of the municipality is rejected twice for the same council member, the municipal assembly may elect a council member without this proposal. (Art. 43, Law on Local Self-Government). The municipal council: 1) verifies the proposal of the municipal budget; 2) has supervisory authority over the municipal administration, annuls or cancels the decisions of the municipal administration which are not in compliance with law, statute or other general act or decision rendered by the municipal assembly; 3) decides in administrative procedure in the second instance regarding the rights and duties of citizens, companies and corporations and other organizations vested with primary municipal authority; 4) assists the president of the municipality in other affairs of his/her competence." (Art. 44, Law on Local Self-Government).

Summarizing, it may be concluded that this manner of introducing legislation has three vital features: a) the Model Law was "produced" without a single "cent" (dinar) of the taxpayers money; b) the Model Law was compiled by experts according to the highest European and international standards and "presented" to the relevant governmental structures to accept and/or modify according to the current politics and functional needs and c) the project succeeded in the sense that the Local Self-Government Law was adopted by the National Parliament (and even a separate Ministry for Local Self-government established), which speaks in favour of the contribution to public interests and policy of this approach, i.e. the cooperation of non-governmental organizations and ministries, regarding legislative initiatives in countries in democratic transition.

<sup>41</sup> The assembly of the municipality is a representative organ, which performs the fundamental functions of local government, established by the constitution, law and the statute of the unit of local self-government. The assembly of the municipality shall consist of one house, and be comprised of representatives, elected by the citizens in direct elections, by secret ballot and in accordance with the law and the municipal statute (Model Law, Art. 36)

<sup>42</sup> The president of the municipality (alternative: mayor) shall perform the executive function in the municipality. The president of the municipality (alternative: mayor) shall be elected for a period of four years, by direct and secret vote. Alternative: the municipal statute may determine that the president of the municipality (alternative: mayor) shall be elected by the municipal assembly. The president of the municipality (alternative: mayor) may not be a representative. (Model Law, Art. 49) Note: The election of the president of the municipality (alternative: mayor) requires changes in the law on elections.

<sup>43</sup> The assembly of a municipality may form a council for the development and protection of local self-government (henceforth: Council) for the realization of the democratic influence of citizens on the advancement of local self-government and the control of the work of local government organs. Members of the Council shall be chosen from among citizens and professionals active in spheres significant for local self-government. The Council has the right to submit proposals to the assembly of the unit of local self-government (ULG) aimed at improving local self-government and the protection of the constitutionally and legally established rights and duties of ULGs. The assembly, the president of the municipality (alternative: mayor), local administration and public services in the ULG are obliged to declare their position on the proposals of the Council. The statute of a ULG and the ruling on the formation of the Council shall establish the rights and duties, the composition and the manner of election and work of the Council (Art. 154, Model Law).

<sup>44</sup> *Zakon o lokalnoj samoupravi*, supplement to the weekly magazine *Vreme*, Belgrade, September 2001.

**ANNEX**  
**LAW ON LOCAL SELF-GOVERNMENT**  
**(DRAFT VERSION, BELGRADE, February 2001)**

**III THE ORGANS OF UNITS OF LOCAL GOVERNMENT**

**The Municipality**

**Article 35**

The organs of the municipality are: the assembly of the municipality, the president of the municipality (alternative: mayor) and the municipal administration.

**The Assembly of the Municipality**

**Article 36**

The assembly of the municipality is a representative organ which performs the fundamental functions of local government, established by the constitution, law and the statute of the ULG. The assembly of the municipality shall consist of one house, and be comprised of representatives, elected by the citizens in direct elections, by secret ballot and in accordance with the law and the municipal statute.

**Article 37**

The number of representatives shall be established by the statute in such a manner that in municipalities with up to 40,000 citizens 19 representatives shall be elected, and for each further 5,000 (alternatively: 7,000) citizens another representative.

**Article 38**

Representatives shall be elected for a period of four years. Representatives represent citizens, but in the assembly of the municipality they decide according to their personal convictions.

**Article 39**

The assembly of the municipality, in accordance with the law, shall:

1. adopt a municipal statute and rules of order for the assembly;
2. adopt a budget and the annual financial statement of the municipal budget;
3. adopt a program and plan for municipal development and certain activities, in accordance with the law;
4. adopt an urban planning strategy for the municipality and regulate the utilization of building land;
5. adopt regulations and other general rulings;
6. call municipal referenda and referenda in part of the municipal territory, declare an opinion on the proposals contained in citizens' initiatives and determine the proposal of a decision on voluntary financial contributions;
7. found municipal organs, communal and other public enterprises, institutions, organizations and services determined by the municipal statute and supervise their work;
8. appoint and dismiss an executive and supervisory board, appoint and dismiss the directors of the communal and other enterprises, institutions, organizations and

services founded by the municipality, and give consent to their statutes in accordance with the Law on Public Enterprises;

9. appoint and dismiss the secretary of the municipal assembly;
10. determine the level of municipal administrative charges and other charges, in accordance with the law;
11. determine the charges for the utilization of building land;
12. issue stocks and bonds;
13. adopt a ruling on public loans taken by the municipality
14. regulate working hours in hotel and catering businesses, and retail and trades facilities;
15. give opinions on the Republic and regional area planning;
16. give opinions on the laws which regulate the issues of interest to local self-government;
17. perform other activities in the jurisdiction of the municipality, determined by the law and the statute.

**Article 40**

The decisions of the municipal assembly shall be binding provided the session is attended by a majority of the total number of representatives. Decisions that receive a majority of votes from the representatives present shall be adopted, unless determined otherwise by the law or the statute.

When adopting the statute of the municipality, a two-third majority of the total number of representatives is required.

**Article 41**

A session of the municipal assembly shall be convened when needed, but at least once every three months.

The president of the municipality (alternative: mayor) is obliged to convene a session of the municipal assembly following the proposal of one third of representatives or the proposal of a certain number of local sub-units, determined by the statute, and that no later than 15 days from the day the proposal is submitted.

**Article 42**

The sessions of the municipal assembly are public.

The municipal assembly may decide not to have a public assembly session for security reasons and other reasons determined by the law and the statute.

**Article 43**

The assembly of the municipality may decide to constitute permanent or temporary working groups (board, commissions, councils). Permanent and temporary working groups shall be constituted following the assembly's decision.

Citizens who are not representatives may also join working groups, but a minimum two thirds of the composition of working bodies shall be representatives.

**Article 44**

Criminal charges may not be brought against a representative, nor may he be detained or punished for an opinion declared or a vote cast in the assembly of the municipality.

#### **Article 45**

The assembly of the municipality shall have a chairman.

The chairman shall organize the work of the municipal assembly, convene and preside over its sessions and perform other duties determined by the law and the municipal statute.

#### **Article 46**

The chairman of the assembly shall have a deputy to replace him in case of his absence or when he is prevented from performing his duty.

The deputy to the chairman of the assembly shall be elected and dismissed in the same manner as the chairman of the assembly.

#### **Article 47**

The assembly of the municipality shall have a secretary to manage administrative affairs connected with the work of the assembly.

The secretary of the assembly shall be appointed following the proposal of the municipal assembly chairman for a period of four years and may not be re-appointed.

The municipal assembly may dismiss the secretary before the expiry of the mandate, following the proposal of the assembly chairman.

#### **Article 48**

The manner of preparation, conducting and work of a session of the municipal assembly and other issues connected with the work of the assembly shall be regulated by its rules of order.

#### **The President of the Municipality (alternative: Mayor)**

#### **Article 49**

The president of the municipality (alternative: mayor) shall perform the executive function in the municipality.

The president of the municipality (alternative: mayor) shall be elected for a period of four years, by direct and secret vote.

Alternative: the municipal statute may determine that the president of the municipality (alternative: mayor) shall be elected by the municipal assembly.

The president of the municipality (alternative: mayor) may not be a representative.

#### **Article 50**

The president of the municipality (alternative: mayor) shall:

1. represent and advocate the interests of the municipality;
2. Oversee the implementation of the decisions and other rulings adopted by the municipal assembly, that is provide for their implementation;
3. propose regulations and other general rulings to be adopted by the assembly, as well as the manner in which issues on which the municipal assembly is to decide are addressed;
4. proclaim and announce the regulations and other general rulings adopted by the assembly;
5. oversee and be responsible for the performance of duties entrusted from the rights and duties of the Republic;
6. direct and coordinate the work of the municipal organs;
7. decide in administrative proceedings of the second level on the rights and duties of citizens, enterprises, institutions and other organizations within the primary jurisdiction of the municipality;

8. oversee the work of the municipal administration, annul or abolish rulings of the municipal administration which are not in accordance with the law, statute or other general rulings or decisions adopted by the municipality;
9. appoint a head of the municipal administration or the secretary of the secretariat;
10. give instructions for the implementation of the budget;
11. make the rulings for which he is authorized by law, the statute or the decision of the municipality;
12. perform other duties established by the statute and other municipal rulings.

#### **Article 51**

The president of the municipality (alternative: mayor) shall be obliged to point out the incompatibility of a regulation or some other general ruling with the constitution and law to the municipal assembly.

The municipal assembly shall be obliged to reconsider and vote on the disputed regulation or other general ruling within 30 days.

#### **Article 52**

The president of the municipality (alternative: mayor) shall be held accountable for his work to the citizens of the municipality and the municipal assembly.

The president of the municipality (alternative: mayor) shall be held accountable to the assembly for the execution of its decisions and other general rulings.

The president of the municipality (alternative: mayor) shall be held accountable to the government regarding entrusted duties.

The president of the municipality (alternative: mayor) who is elected by the assembly shall be held accountable for his work to the assembly.

#### **Article 53**

The mandate of the president of the municipality (alternative: mayor) for which he was elected may cease before its expiry when he submits his resignation, is sentenced for a criminal offence to an unconditional term of imprisonment or for some other punishable offence which makes him undeserving of the function of municipal president.

Reasons from point 1 of this article shall be stated by the municipal assembly.

The president of the municipality (alternative: mayor) may be recalled before the expiry of the mandate for which he was elected.

When the municipal assembly or at least 10% of citizens with suffrage decide that the president of the municipality (alternative: mayor) has violated the constitution, law and statute, they will initiate the recall procedure, providing that two thirds of the total number of representatives declare in favor of it.

The government of the Republic of Serbia may start a recall procedure for a municipal president (alternative: mayor) in the municipal assembly, if the government decides that duties entrusted have not been performed in accordance with the law. The municipal assembly shall decide on the government's proposal for recall in accordance with point 4 of this article.

The recall of the president of the municipality (alternative: mayor) shall be decided on by direct and secret vote cast by voters. The president of the municipality (alternative: mayor) shall be recalled if a majority of the total number of voters vote in favor of the recall.

If the president of the municipality (alternative: mayor) is elected by the municipal assembly, it shall appoint or recall him by secret vote, by the majority of votes of the total number of representatives in the municipal assembly.

## **Municipal Administration**

### **Article 54**

The municipal administration shall:

1. prepare drafts of regulations and other rulings to be adopted by the municipal assembly and the president of the municipality (alternative: mayor);
2. implement regulations and other rulings adopted by the municipal assembly and the president of the municipality (alternative: mayor);
3. decide in administrative proceedings of the first level on the rights and duties of citizens, enterprises, institutions and other organizations form within the primary jurisdiction of the municipality;
4. provide administrative supervision over the implementation of the regulations and other general rulings adopted by the municipal assembly;
5. implement Republic laws and other regulations the implementation of which is entrusted to the municipality;
6. decide in offence proceedings in accordance with the law;
7. perform professional and other duties established by the municipal assembly and the president of the municipality (alternative: mayor).

### **Article 55**

The municipal administration shall be formed as a single organ, but a number of organs of municipal administration may also be formed in municipalities with a population of over 50,000 citizens.

### **Article 56**

When the municipal administration is organized as a single organ, it shall be directed by the head of the administration.

### **Article 57**

When the municipal administration is organized as a number of organs, secretariats shall be set up.

The work of a secretariat is managed by the secretary.

Within a secretariat, internal organizational units (departments, sections, services, administrations, inspections, offices and similar) may be formed for the performance of kindred tasks.

### **Article 58**

The head of the municipal administration shall be appointed by the president of the municipality (alternative: mayor).

The secretary of a secretariat shall be appointed by the president of the municipality (alternative: mayor).

The managers of organizational units shall be appointed by the administrator or the secretary of the secretariat.

### **Article 59**

The head of the municipal administration shall be accountable for his work and the work of the municipal administration to the president of the municipality (alternative: mayor), in accordance with the municipal statute and the decision of the municipal assembly on the organization of the municipal administration.

The secretary of the secretariat shall be accountable for his work and the work of the secretariat to the president of the municipality (alternative: mayor), in accordance with the statute and the decision on the organization of the municipal administration.

The president of the municipality (alternative: mayor) may recall the head of the municipal administration, a secretary of a secretariat if he decides that he has performed his function illegally and incorrectly.

### **Article 60**

In the composition of the municipal administration there shall be a municipal architect-in-chief who shall:

1. coordinate the work of the municipal or city organs concerning urban planning, the utilization of urban building land and arranging public areas;
2. launch initiatives for the alteration and amendment of the detailed urban plan, as well as the design of urban plans;
3. give instructions for the drafting of architectural plans aimed at the protection of architectural values and preservation of the character of certain parts of the town and facilities;
4. give consent to (alternative: an opinion on) architectural plans of great significance for the municipality or city and perform other tasks established by the ruling on the organization of the municipal administration.

### **Article 61**

The architect-in-chief shall be appointed and dismissed by the president of the municipality (alternative: mayor).

### **Article 62**

In a ULG the statute may envisage the introduction of a municipal or city manager.

The conditions and manner of engagement of such a manager shall be determined by contract between the municipal (city) assembly and the municipal (city) manager.

### **Article 63**

The manager shall, among other duties, in particular:

1. launch projects which encourage economic development, the satisfaction of citizens' needs and increase municipal property;
2. encourage entrepreneurial initiatives and the creation of private-public arrangements and partnerships;
3. encourage and coordinate investments and the attraction of capital;
4. propose correction of regulations which hinder business initiatives;

### **Article 64**

A ruling on the organization of the municipal administration shall be passed by the municipal assembly following the proposal of the municipal president (alternative: mayor).

The ruling on the internal organization and systematization of the municipal administration shall be passed by the head of the administration or the secretary of the secretariat and confirmed by the president of the municipality (alternative: mayor).

### **Article 65**

In undertaking administrative supervision the municipal administration, may:

1. rule to implement measures and actions and determine the time period needed;

2. impose mandatory penalties;
3. submit a report to the competent authority on criminal acts or economic offences committed and submit a request for the institution of offence proceedings;
4. issue temporary orders or prohibitions;
5. inform another organ if there is reason for measures to be taken, for which that organ is responsible;
1. take other measures for which it is authorized by law, regulation or a general ruling.

For the performance of the duties of administrative supervision described in paragraph 1 of this article, a municipal inspectorate may be formed.

Authorizations and organization for the performance of duties described in Paragraph 1 of this law shall be further regulated by the municipal assembly.

#### **Article 66**

In proceedings before the municipal administration deciding on the rights and duties in the legal interests of citizens and legal entities, the regulations on general administrative proceedings shall be applied.

A complaint against the ruling of the municipal administration, which decides on the rights and duties of citizens and legal entities from the primary jurisdiction, shall be submitted to the president of the municipality (alternative: mayor).

#### **Article 67**

The president of the municipality (alternative: mayor) shall rule on the conflict of competencies between the municipal administration and other organizations and institutions which perform public authorizations, as well as between the municipal organs.

The head of the municipal administration shall rule on conflicts of jurisdiction between organizational units of the municipal administration.

The secretary of the secretariat shall rule on conflicts of jurisdiction between internal organizational units of the secretariat.

#### **Article 68**

The duties of the municipal administration related to the exercise of the rights, obligations and legal interests of citizens and legal entities may be performed by persons with the prescribed qualifications, who have passed the professional exam for work in the organs of state administration, and when determined so by a regulation, have adequate working experience.

#### **Article 69**

The exemption from service of the head of the municipal administration, and of the secretary of the secretariat shall be decided upon by the president of the municipality (alternative: mayor).

The exemption from service of an office-holder in the municipal administration shall be decided upon by the head of the municipal administration.

The exemption from service of an office-holder in the secretariat shall be decided upon by the secretary of the secretariat.

#### **Article 70**

In nationally mixed municipalities a council for inter-ethnic relations shall be formed and be made up of representatives from all national communities.

The council shall work for the realization, protection and promotion of national equality, in accordance with the law and statute.

The council shall inform the assembly of its positions and proposals, and the assembly is then obliged to declare its position on these.

The jurisdiction, composition and manner of work of a council for inter-ethnic relations shall be regulated by the decision of the municipal assembly, in accordance with the statute.

### **The City and the City of Belgrade**

#### **Article 71**

The organs of a city and the city of Belgrade are the city assembly, the mayor, the city administration and other organs established by the statute of the city and the city of Belgrade.

#### **Article 72**

The organs of the city and the city of Belgrade shall perform the affairs envisaged by this law for the municipal organs, as well as other duties established by law and the statute of the city and the city of Belgrade.

#### **Article 73**

The city assembly shall comprise representatives whose number shall be established by the city statute, but the number may not be lower than 65 nor higher than 75.

The assembly of the city of Belgrade shall comprise representatives whose number shall be determined by the statute of the city of Belgrade, but the number may not be lower than 85 nor higher than 110.

#### **Article 74**

The mayor shall perform the executive function in the city and the city of Belgrade.

#### **Article 75**

The provisions of this law relating to the municipality shall also apply to the city, except when established otherwise by this law.

## Political Management Arrangements of Local Government in Slovenia

### Introduction

After political and economic changes at the beginning of the 1990s Slovenia has found itself in a situation to rethink local government arrangements. The reform started in 1993 when the new law on local self-government was enacted. The implementation of the new law really started in 1994, when new municipalities were established. Since then, local government in Slovenia has been faced with major new challenges. Rising public expectations and strong pressures from local communities for a greater say in decision-making are putting new demands on state for decentralization of tasks and resources and on municipal councils and mayors to perform according to the expectation.

At the beginning the debate about reform of local self-government system was mainly concerned with the division of tasks between the central and local government, however later the question of political management arrangements was also addressed. When reaching decision about this issue deeper knowledge about different models that exist could benefit Slovenia.

The study of political management arrangements in other countries can help to inform national deliberations on how to make local government as democratically accountable and effective as possible. Alternative political management models for local government are practiced in different countries and it can be valuable to understand their strengths and weaknesses. There is no one ready-made solution, but by examining the arrangements of local authorities in other countries, we can deepen our understanding and thinking about our own local government arrangements. Although scanning local democratic structures in other countries cannot identify a blueprint for political management arrangements, consideration of alternatives can usefully inform the debate.

The 192 unitary local authorities created in Slovenia in the 1990s presently use a particular form of political management - a council-mayor system. Given that local communities differ, it is difficult to see why local authorities should not be allowed to choose from a wider range of representative and organizational forms. Indeed it can be argued that radically new models are desirable if local authorities are to become effective leaders of their communities, contribute to democratic renewal and sustain an influential voice at the national level and elsewhere.

In this paper various political management options are presented in the belief that this can stimulate a wider debate about alternatives approaches to political management at local level.

### Local government political arrangements

Due to the novelty of a present system of local government, Slovenia is still evaluating it and searching for improvements or better solutions. Within this process foreign experience can help. It should be possible to combine the best of existing practice with ideas from abroad. The same can be said for other countries. There is great diversity in approaches to local authority leadership and management in different countries and there is diversity within various models. Based on Hambleton<sup>1</sup> following models can be distinguished:

1. The council structure
2. The mayor-council structure
  - a) With strong mayor
  - b) With strong council
3. The council-manager structure
  - a) With a top manager
  - b) With a top manager and mayor
4. The council-cabinet (commission) structure.

### The council structure

The United Kingdom model of local government can serve as an example. The council is the most powerful local body made up of a certain number of councillors. They are elected on a ward basis. Since the council can form different committees, councillors are usually serving on several committees as well as on the council as a whole. Most councillors are members of a political party and many important policy decisions are first decided within the party groups, rather than in the committees. However, some of the councillors stand as independent, although party affiliation is prevailing. The chairs of the committees usually form a central policy-committee. This is the most powerful committee since it gives overall direction to the work of the council and considers the most important and sensitive issues. The council has the legal authority to take decisions, but it delegates many decisions to the committees. However, the delegation of authority goes even further. Committees, which are made up of elected councillors, can delegate power of decision-making to administrators, who are selected on merit (there are very few political appointments within administration). The main role of public servants is to give professional and impartial advice to the councillors and to take responsibility for managing the services. The chief executive, who is the most senior officer, has line management responsibility for the officers.

The mayor or the provost who is elected indirectly usually chairs the council meetings, however, the political power of a mayor is rather small. In comparison to elected mayors in some other countries the provost tends to be less visible as a political

<sup>1</sup> See Hambleton, R. (1998). Local Government Political Management Arrangements: An International Perspective. Bristol: The Scottish Office Central Research Unit.

figure, has less legitimacy in also less power and formal authority. The mayor is often not even the most important politician within the council. It is the political leader of the majority party group on the council (if there is one) who is the most powerful and influential. When there is no clear majority in the council they often lack a clear political leader, too.

### ***The mayor-council structure***

The mayor-council form of local government is a popular form of government in many countries, although closer analysis reveals important differences in practical arrangements. A starting point for analysis can be the division of power between the council and the mayor. In some case the council prevails while in others the mayor, who is usually directly elected, has more power. However, it should be mentioned, that there is no sharp line between the strong-mayor and strong-council options but rather there is a continuum.

#### **The mayor-council structure with a strong mayor**

Within these arrangements the mayor has substantial executive powers as compared to those of the council. In effect, the mayor serves as the directly elected chief executive and, as a result, is highly visible. The mayor has a budget initiative since (s)he prepares the budget. S(he) is also in charge of the city administration and has the power to appoint chief officers. Together with the council the mayor shares the legislative function: the mayor can propose legislation and also can under certain condition to veto legislation passed by the council.

On the other side, the council function as the main legislator responsible for developing policy and passing the budget. It also has important control function being responsible for overseeing and reviewing the performance of the mayor and administration. The council can sometimes also retain executive responsibility in specified areas, like certain administrative appointments. It can require regular reports from the mayor about any issues and can also through a system of committees examine different issues in detail and scrutinize decisions made by the mayor and administration.

Since the mayor acts as a chief executive local administration is closely tied to a mayor and the lines of authority for all or most departments of local government lead to the mayor's office. Especially chief officers, who are appointed by the mayor, know that they can be replaced if the mayor loses an election. However, in many countries local administration is less vulnerable to political changes since it is protected by civil service regulation, what make the replacement of any civil servant much more complicated. They may not be removable by the mayor unless it can be demonstrated that they are failing to perform their duties.

#### **The mayor-council structure with strong council**

Within this model the mayor is still directly elected but he has less power than in the previous model. Often the mayor does not share a legislative power since he has no

veto power on acts passed by the council. Mayor's budgetary powers are also limited since the mayor is not authorized to make a budget proposal; rather the mayor is responsible only for budget execution. On the other side, the council usually shares executive powers with a right to appoint chief administrators. Thus, authority is much more dispersed and power is divided between the council, mayor and often administration so decision-making is less centralized. But the formal center of power is usually the council having both legislative and administrative responsibilities since it passes budget and local legislation, creates policies and programs, appoints staff and oversees the performance of administration more closely.

A study of this form in the USA (where it is known as the weak-mayor system) concluded:

"The weakness of these mayors stems from (1) their limited powers to appoint staff, some of whom are directly elected, some appointed by the council, and some appointed (or removed) by the mayor but only with the concurrence of the council; and (2) their inability to develop the budget as an executive proposal that reflects overall policy".<sup>2</sup>

New Zealand can serve as an example also. Local authorities in New Zealand have a directly elected mayor, but mayor's formal power is rather weak. Mayor's importance and influence is based on her/his political aura and ability to earn respect, co-operation and compliance with her/his policy preferences. The directly elected mayor does, however, have an electoral mandate and legitimacy within local community for realization of the political program the mayor had campaigned for which enables the mayor to steer events in certain direction. How successful the mayor is depends much more on his/her political skills rather than on formalized relationships, which do not really make the mayor an important political player.

### ***The council (commission)-manager structure***

The council-manager form of government spread out of the United States. In the United States it was an answer to shortcomings of a spoil system, which ended with highly politicized administration unable to perform its tasks professionally and successfully. The council (commission)-manager form of local government is based upon a politics/administration dichotomy, vesting an appointed professional city manager with great administrative power and responsibility for implementation of local policies and work of local administration. City managers have developed their own professional association, code of behavior, etc.

It should be mentioned that the council-manager structure is based upon unity of power, since there is no separation of powers between a political executive and a legislative body. It is the council, which performs both functions and is in the nexus of political power. While its legislative power is untouched, its executive powers are shared with a manager who has a right of appointment and overseeing of administration. However, this structure of political arrangements at local level has been

<sup>2</sup> Svava J.H. (1990). *Official leadership in the city: Patterns of conflict and collaboration*. Oxford: Oxford University Press.



criticized for a lack of political leadership. During the last few decades a new institution has been introduced into the model the mayor. It is the mayor who should fill the vacuum and provide certain type of political leadership to local manager and local administration as well as to the local community as such.

#### **The council-manager structure with a city (municipal) manager**

Within this system the elected council appoints a top manager for a certain period of time (normally five years). This manager is a professional and as a city manager directly in charge of administration. In some ways the top manager resembles the managing director of a private company who is in charge to manage the company on behalf of owners. City manager has authority to appoint all officers with little or no reference to the politicians, so great power is concentrated in the hands of an officer. Still, city manager has to be politically sensitive to the council and implement council's expressed will, if (s) he wants to be reelected for next period. If (s) he is not aware of the local political situation as reflected in the council and not willing to fulfill council's directions (s) he will not last long. However, the council-manager form can create a leadership gap, since it is only by chance that within the council a political leader of the community develops. On the other side top managers, because they are not elected, cannot provide political leadership. They lack the legal basis or political authority for performing such a role and this factor has triggered improvements to the council-manager structure with an introduction of a mayor in many American local authorities (see next model) and elsewhere.

#### **The council-manager structure with a city manager and a mayor**

During the last decades, many council-manager cities in the United States have modified their structures and introduced a directly elected mayor who should give a political lead to the work of the top manager. Today about two thirds of the council-manager cities already have directly elected mayors<sup>3</sup>.

Within this system the mayor has not any important formal competencies. Rather, the mayor tends to act as facilitator of mutual interactions between different parts of the system. Mayor's main focus is on improving interaction among different parts of the system and on providing political leadership within local community and local administration. In a fragmented system of local governance such a role of the mayor can be invaluable. As a directly elected political leader the mayor's political directions has high visibility and legitimacy which can be used to influence the behavior of other players within the system.

#### **The cabinet-council structure**

In the cabinet-council structure is based on a separation of powers. It is a kind of a parliamentary system at local level. The cabinet acts as a political executive, and the

<sup>3</sup> Protasel, G.J. (1989). Abandonments of the council-manager plan in: H.G. Frederickson (ed): *Ideal and practice in council-manager government*. Washington DC: International City Management Association.

council, which develops and monitors policy and holds the cabinet accountable as a legislative body. The cabinet is usually indirectly elected by the councillors among themselves (or in some cases with outside members also) and has the power to appoint chief officers within local administration. The council (or sometimes called assembly) delegates executive power to the cabinet. As with the model in central government individual members of the cabinet have delegated areas of responsibility and the attendant decision taking powers, but the whole cabinet decides the broader strategy. Where there is a majority party in the council, the cabinet would often be composed of members of a single party only. The council can require regular reports from the cabinet and can also have a system of committees to examine policy issues and if needed to scrutinize decisions of the cabinet and local administration.

In summary, we can conclude that the diversity in approaches to local authority management found in other countries is informing. This diversity can help countries to challenge the constraints of the past and present. There are radically different ways of doing things and these deserve to be examined and considered. Different models can be used as an input to the dialogical process, but it should be clear that none of them could serve as a blueprint.

#### **Local context of political management arrangements in Slovenia**

Slovene local political management arrangements are result of political choices made during the preparation of the reform of local self-government and general characteristics of political system in Slovenia. Slovenia decided for council-mayor system, combination of proportional, and majority voting system.

#### **Local government elections**

Slovenia decided for clear separation of powers at local level, separation of the representative roles of councillors and the executive role of the mayor what is reflected also in the mode of local elections. This separation of power is strengthened through direct elections of both, the council and the mayor. Direct elections of the mayor gives the executive high political legitimacy and enable the mayor to develop his/her own political program quite independently of the council.

Local government elections<sup>4</sup> are held every four years; therefore, all representatives are elected for a four-year term of office. The council appoints the municipal election commission, which is responsible for all the tasks related to elections (approving candidates, polling stations, election boards, election results, legality, etc.). The municipalities cover the costs of elections.

The number of council members is defined by the municipality itself but must be within a legal framework of 7 to 45 members, depending on the population of the municipality. They are elected by proportional or majority system from candidates' list of political parties, political coalitions and independent candidates. The majority

<sup>4</sup> The Law on local elections, passed in 1993, regulates them.

system applies for the election of small council (up to 12 members), while proportional system applies for the councils with more than 12 members. If the municipality is ethnically mixed, members of the Italian, Hungarian in since this year also Roman minority elects their own representatives according to the majority system. The members of minorities have two votes (as for national elections), one they cast for general elections and one for their own community representative(s).

The mayor is also elected for four years by direct suffrage. They can be candidates of political parties or independent candidates with enough support from voters (by petition or voters assemblies). If none of the candidates win the majority at the first round, the two candidates with the best results run for second round.

### ***Division of powers at local level***

The arrangement of the division of powers between the branches of government at the local level should aim at making local government as responsive and democratically accountable to the communities they serve and as effective and efficient as possible. For the council it is important to provide conditions that enable it to carry out successfully its policy development role, the representative role and the scrutiny and supervision role. On the other side, the mayor is responsible for the implementation side of government and needs adequate resources to perform according to expectations of policy-makers and local people. As a directly elected political head of community it is expected that (s) he will perform a political leadership role. This role is even more important within a local political system based on proportional voting system, where co-ordination and co-operation among different political options is of utmost importance.

### **Municipal council**

Municipal council, as a representative body, takes the basic decisions falling within the jurisdiction of the municipality. It passes general acts, approves the municipal budget and supervises the mayor and municipal administration to ensure implementation of council decisions. The municipal council can form committees, which are its advisory working bodies. Among these are the following: a commission for mandate issues, elections and appointments; a supervisory board, which monitors all financial operations involving the use of municipal resources; a board for the protection of consumers of public goods and other permanent and occasional committees and commissions. Based on the proposal of the mayor, the council appoints deputy mayor(s) choosing among the members of the council, the secretary of the municipal administration (chief administrator) and senior administrative staff. After being elected a deputy mayor, one loses one's deputy seat and is replaced by a following member from the same party list.

### **Mayor**

The mayor who is the legal representative of the municipality runs the municipalities. The mayor is responsible for city administration, for proposal of annual budget and

preparation of other acts within the jurisdiction of council. The mayor is also responsible for ensuring the respect of legality. For this purpose, the mayor is entitled to prevent the adoption of municipal acts by the council considered unconstitutional or illegal. In such a case, the mayor will issue a warning to the council. If the latter does not conform to this warning, the mayor will request judicial appraisal of the conformity of the act in question with the Constitution.

On the basis of the Act on the Organization and Field of Operation of the Municipal Administration, the mayor determines the structure of the municipal administration. As the mayor is also the head of the administration with the right to employ and appoint municipal administrative staff (higher levels with the consent of the council, lower level by himself) there are many possibilities for patronage and political appointments, which may frustrate the establishment of an unbiased professional local administration. On the other side, many smaller municipalities cannot employ the necessary number of professionals because they lack sufficient financial resources.

### **Local administration and the head of the administration**

According to the law, the mayor is the head of local administration, which is granted with professional autonomy in performing its administrative tasks. However, the mayor often delegates this responsibility to the municipal secretary and authorizes her/him for decisions concerning administration. The municipal secretary is a municipal civil servant, responsible for the management of local administrative staff. The council appoints secretary at the proposal of the mayor, to whom (s) he is responsible.

At the local level in Slovenia, there are three categories of municipal staff: senior administrative staff, administrative staff and technical staff. The legal status and employment conditions of municipal staff are regulated by the Law on Employment and the Law on Salary Ratios in Public Institutions, State Bodies and Local Community Bodies, the Decree on Common Grounds for the Internal Organization and System of Jobs in Administrative Bodies, the Decree on the Quotients for Determining Basic Salary and Allowances for Employees in the Services of the Government and in Administrative Bodies and the Regulations on the Promotion of State Administration Personnel.

Slovenia has 192 municipalities as basic units of local self-government. While they have similar political institutions (mayors, councils), they differ quite a lot in the field of municipal administration and services. Larger municipalities have their administration organized into departments and public enterprises for service provision. On the other side, smaller municipalities can afford only one or two professionals who are then responsible for whole array of municipal functions.

For certain services municipalities can give a concession (primary health-care, child-care, etc.) or make a contract with private sector. Different NGO can also participate in provision of certain services with the financial support from the municipal budget (care for elderly, disabled, etc.).

### Other factors influencing local context

In considering alternative political management arrangements in local government it is useful to consider the local context, which is determined by such factors as diversity in local government, possibility and readiness for innovation, the limitations of current practice, and the support for change<sup>5</sup>.

#### Diversity in Slovene local government

Political management in Slovene local government is fairly uniform. This relative uniformity in management arrangements contrasts with the extraordinary diversity of the localities councils actually governs. This diversity is immediately apparent from a glance at the basic statistics and a map of the areas (see table 1 and map 1).

First, the population of the municipalities varies dramatically - from 2710,000 for the City of Ljubljana and 115,000 for Maribor to 400 for Osilnica. Additional five municipalities have a population between 30,000 and 60,000, 10 between 20,000 and 30,000 and 36 between 10,000 and 20,000. On the other side six municipalities have less than 1,000 of population and 18 between 1,000 and 2,000.

**Table 1: Municipalities by population, 1999**

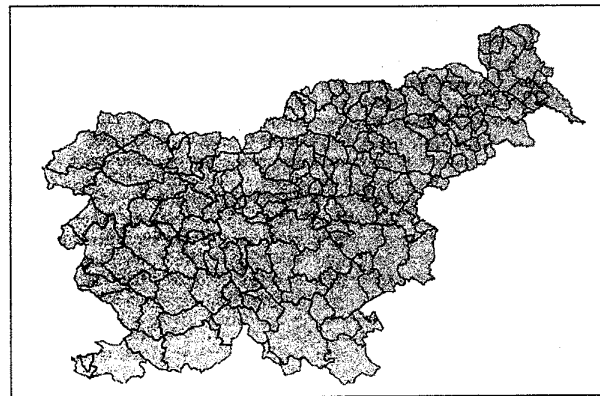
Population	Number of Municipalities	% Of total Municipalities
0 - 1,000	6	3.1
1,000 - 2,000	18	9.4
2,000 - 5,000	71	37.0
5,000 - 10,000	43	22.4
10,000 - 20,000	36	18.8
20,000 - 30,000	10	5.2
30,000 - 40,000	2	1.0
40,000 - 50,000	3	1.6
50,000 - 100,000	1	0.5
100,000 +	2	1.0
Total	192	100.0

Second, the geographical areas of the territories also vary enormously, ranging from seven km<sup>2</sup> for the smallest one (Odranci) to over 538 km<sup>2</sup> for the biggest (Kočevje) with an average size of 137 km<sup>2</sup>.

Third, the representative ratios (the number of people per councillor) of the municipalities also vary. The number of councillors has to be in accordance with the law (from 45 for municipalities with the biggest population to 7 for smaller municipalities). The average representative ratio in Slovenia is now one councillor to

every 604 people or one councillor per 502 voters. This figure conceals marked variations. Thus, a councillor in Ljubljana is expected to represent 5872 people or 4874 voters, while a councillor in Hodoš is representing 53 people or 44 voters. Thus, one councillor in Ljubljana is representing more than ten times as many people or voters as a councillor in Hodoš.

**Map 1: Municipalities by size, 1999**



Fourth, not surprisingly given the above there is marked variation in the size of council. At one extreme are small municipalities with seven councillors like Osilnica (representing a population of approximately 400 people) whilst at the other extreme is Ljubljana with 45 councillors (representing a population of 270,000 of people). Clearly there are models of management, which, whilst they would work well with a group of seven councillors, would not necessarily be suitable with a group of 45 and the opposite. For example, within bigger councils certain specialization of policy areas reflected through the committee membership can facilitate the work of the council, but it is much less applicable to the work of smaller councils.

#### Innovation in Slovene local government

One of the areas the councils can show their readiness for innovation is through the committee structures they develop. They can form committees according to their needs, and committees can meet as often as they want. In Slovenia, members of committees are not necessarily only councillors, but respected representatives from the public, too. According to the law, councillors have to represent at least half of the

<sup>5</sup> See Hambleton, R. (footnote 1).

committee's members. The question related to committee structure is how much of additional burden can councillors sustain since they perform their public duties voluntarily. They do get small reimbursement for participation on council's meetings, however they have to balance their engagement with their professional life. Many councillors especially in smaller councils are becoming frustrated with the committee system being members of few, feeling they are wasting time in long drawn out discussions focusing on detailed issues which are not really enhancing the performance of the council. However, there is no detailed study on this issue.

The other area for innovation can be public participation. There have been no real efforts to rethink the role of the council and councillors from a point of view of greater public participation in decision-making process. However, some municipalities have taken an innovative approach and developed new forms of public participation, especially in the area of development and spatial planning. They formed development and planning boards composed of representatives of the public and local economy so that they actively participate in planning processes from the very beginning.

The last one to mention is of internal structuring and decentralization of the municipality, which is the domain of the council. If the council agrees and citizens accept it through referendum or town meetings the municipalities can be divided into smaller communities (local, village or ward communities), which are creatures of the municipality. Since internal decentralization is left to municipalities and their councils, the practice varies quite a lot. For example, some municipalities like Radovljica decided for high level of decentralization and created local communities, which have the status of legal persons and high degree of autonomy in relation to local issues. On the other side, Ljubljana is highly centralized, having quarters with very low level of autonomy.

#### The limitations of current practice

The performance of councils and mayors varies and it may therefore be dangerous to generalize about the limitations of current practice. However, the following are some of the main criticisms of current practice.

- **An internal focus.** In many town halls there is a coalition of parties formed within the council to provide for majority. Councillors spend an inordinate amount of time ensuring that decisions are agreed in party group and/or coalition. This overemphasis on internal politics can distance the local councillors from the communities they serve and can lead to a false understanding of what are the key issues facing the council.
- **Lack of clarity about responsibilities.** It is often difficult to establish who is responsible for which decisions. Councillors, for example, are unable to dismiss an obstructive mayor, since he is elected by direct vote. The same is true for the mayor. The mayor has to work with the existing council and cannot affect its composition. Councillors cannot dismiss an obstructive official either; they must wait on a decision of a mayor. Also they have very limited resources available to support their work, since they have on a disposal only professional support of local administration which is not always really willing to perform this task, especially when councillor's demand is in a disagreement

with mayor's. If the council or the mayor fails to deliver according to the promises whose fault is it? When responsibility is spread it is difficult to see how members and officers can be properly held to account.

- **Decisions behind closed doors.** Councillors have often been rightly critical of the secretive decision-making found in local interest groups connected with the mayor or/and local administration. People are also becoming more sensitive to this issue, and media are taking their part in making such a behavior public. However, in many councils important debates and decisions are also often out of sight - they take place in a party or coalition group meetings. The debate the public sees in a council or committee is often a stilted defense of a pre-determined position where there is no room to make adjustments if an opposition member raises a genuine concern, which has been overlooked.

#### Conclusions

In the past, there were many tensions between mayors and councils, especially if the mayor was from an alternative political party from that of the majority of the council. In some extreme cases, the normal functioning of the municipality would be frozen with no co-operation between the two parties. To resolve the tensions and provide for better co-operation in these circumstances, the law on local self-government has been changed. Now, the mayor directs council meetings, but (s) he is not the member of the council.

Due to the strict separation of council and mayor, none can recall the other. However, the parliament can dissolve the municipal council in some extreme cases and call for early elections (not enacting the municipal budget for two consecutive years, not achieving a quorum after being called at least three times within a half a year period, or violating the law and failing to correct the violations when called to its attention). From the point of view of effective local self-government many questions still need to be addressed. One is the size and consequently the number of Slovene municipalities (now Slovenia had 193, since one new was established this year) and the regionalization of Slovenia<sup>a</sup>. The other is the structuring of local and regional political and administrative arrangements if local and regional governments are to fulfil their tasks and live up to expectations and needs of citizens. Allowing for experimentation and greater diversity would probably be beneficial if basic principles are respected.

<sup>a</sup> Ribičič, C. (1994). *Centralizem v opor Slovenijo*. Ljubljana: ČZP Enotnost.

## Legislative and Executive Powers in the System of Local Self-Government in Bosnia-Herzegovina

Bosnia-Herzegovina is one of the states in South-Eastern Europe where several social processes are under way at the same time. One of the processes includes the post-war reconstruction. That means, indeed, that Bosnia-Herzegovina is in post-Dayton times renewing its economic and social structure as well as regaining confidence among the three nations of Bosnia-Herzegovina: the Bosnian, Serbian and Croatian people.

The second social process involves the consolidation of peace and establishment of democratic institutions, which will be done with the commitment and help of the international community. This process is determined as the inner integration of the State of Bosnia Herzegovina and as the integration of the state of the Bosnia and Herzegovina within the European Council and the European Union.

The third social process is the process of post-communist transition. That means the forming of private property, market economy and political pluralism.

The main social processes, initiated in Bosnia-Herzegovina on the basis of the Dayton Peace Agreement, are developing under very contradictory social situations and circumstances. The country of Bosnia-Herzegovina was left during the war destructions without economic grounds of sustainable development. It is going to take some time to reach the level of employment and social income of pre-war times (year of 1990). The general economic poverty is the first characteristic of the society of Bosnia-Herzegovina. It is estimated that more than 50 % of the population in Bosnia-Herzegovina is in need of some aspect of social benefit. Apart from economic poverty, in Bosnia-Herzegovina, there is the burning issue of return of the refugees and displaced persons. It is well known fact, that during the war in Bosnia-Herzegovina (1992-1995) there were about two million citizens expelled or displaced, which is almost half of the pre-war population of Bosnia-Herzegovina. During the seven post-Dayton years, almost one million citizens (about 900.000) returned to their pre-war homes. That is, indeed, only half of the fled population. The return of refugees would be more successful if the economic reforms were happening at faster rate and were more fully accomplished. The reconstruction of Bosnia-Herzegovina in the past seven years was directed towards the building of the infrastructure and the privatization of state-owned companies. Unemployment of young people is the biggest problem in Bosnia-Herzegovina.

The process of peace consolidation is under way with the dominant role of the NATO forces, as peace forces, and the civil administration of the High Representative of the International Community over the whole implementation project of the Dayton Peace Agreement. Within that process, the establishment of democratic institutions has definitely prominent position. Local self-government is one of the main pillars for

democratization of the society in Bosnia-Herzegovina. The reached level of organization and development of local self-government in Bosnia-Herzegovina, that is in both entities: Republic Srpska and the Federation of Bosnia-Herzegovina, was an important condition for the admission into the European Council in 2001.

Self-government in local communities in Bosnia-Herzegovina has a long tradition. In Austro-Hungarian times there were within Bosnia-Herzegovina about 3.000 municipalities as units of local self-government. At that time - that was the end of the nineteenth and the beginning of the twentieth century - local self-government was especially developed in the cities. During the twentieth century and, in fact, in times of the kingdom of Yugoslavia and the Socialist Yugoslav Federation, there were numerous territorial and organizational transformations of both the number of municipalities and their legal position. Since 1963, when the reform on territorial organization of municipalities was realized, Bosnia-Herzegovina has had 109 municipalities. This structure was based on a concept according to which the municipality is a bigger territorial unit and with characteristics of a socio-political community. Such territorial organization, consisting of 109 municipalities, Bosnia-Herzegovina had until becoming independent and achieving international recognition in 1992. This organization did not change essentially even in war times (1992-1995). Certain changes occurred when the entity lines of demarcation, according to the Dayton Peace Agreement, were drawn. On these grounds there were more than 30 new units of local self-government.

Bosnia-Herzegovina has, in post Dayton times, altogether 164 municipalities.

The question has to be raised: what is the constitutional position of the municipality in post-Dayton times?

The Constitution of Bosnia-Herzegovina, as constituent part of the Dayton Peace Agreement, does not contain guidelines, which would refer to the basis of the system of local self-government. In democratic European countries the citizens' right to local self-government is determined and guaranteed by the State's Constitution. That was omitted in the Constitution of Bosnia-Herzegovina, because the Constitution emerged in a particular procedure of reaching the Dayton Peace Agreement. The Constitution of Bosnia-Herzegovina defines the entities and their administrative arrangements, which in fact refers also to the territorial organization of the municipalities as units of local self-government.

The basis and organization of the system of local self-government in Bosnia-Herzegovina is regulated by the Constitutions of the entities and their laws. The subject is that the Constitution of the Republic Srpska and the Constitution of the Federation of Bosnia-Herzegovina define the basis of the citizens' rights to local self-government and the basic institutions of local self-government. In the Republic Srpska, and also in the Federation of Bosnia-Herzegovina, the basic unit of local self-government is the municipality. All municipalities have an identical constitutional and legal position. There is no difference in the constitutional and legal powers of the municipalities, which are situated in city or rural settlements. So there prevails the monotype organization of units of local self-government. Apart from the municipalities as basic units of local self-government, there also exist cities with the

status of a unit of local self-government. These are the cities: Sarajevo as capital of Bosnia-Herzegovina and the Federation of Bosnia-Herzegovina and Mostar within the Federation of Bosnia-Herzegovina and Banja Luka, the capital of Republic Srpska and the Serbian part of Sarajevo in the Republic Srpska.

The municipality is defined in the constitutional and legal sense as territorial unit of local self-government where the citizens of one or more settlements create the conditions for life and work, for social development and participation in executing public activities in the local community. These are all the social contents within which the citizens show and satisfy their needs and interests at their place of living. The place of living is a settlement or several connected settlements that make up the local community.

The citizens' interests and needs in the local community have their almost universal, social content. These are the necessities of accommodation, necessities of planning the settlement and also the necessities to work and earn income, the necessity for the building of communal infrastructure and communal services.

There are also all these necessities within the sphere of schooling and education, culture and sports, medical and social security, protection of the human environment and the common safety of citizens.

The citizens manifest all these needs in their own interest and form of the local self-governments within the institutional structure. There are two ways of realizing the citizens' interests in the structure of local self-government. The first one is by directly demonstrating the interests by way of free election of the assembly members to the municipal assembly in the Federation of Bosnia-Herzegovina and members to the municipal assembly in the Republic Srpska, respectively. Apart from this way of directly realizing the interests, there are also other ways like the following: decision making through local citizens' meetings in the local settlements and referendum.

The second way of manifesting the citizens' interests is effected by way of the municipal assembly, by the mediation of whom, they decide within the elected mandate on all questions from the self-government sphere of activity of the municipality.

The municipal assembly, as the expression of the citizens' political will, has a dominant influence on the election of the municipal mayor in the Federation of Bosnia-Herzegovina. In the Republic Srpska, according to the law on local self-government, the citizens elect the mayor at the general, secret and direct elections. As to his basic authorities, the municipal mayor has in both the Federation of Bosnia-Herzegovina and in the Republic Srpska the role of an executive body in the institutional structure of local self-government. The municipal mayor has the authorities to select and authorities concerning the work of the municipal professional bodies. Thus, the municipal mayor is defined as the executive function within the structure of the local authority. According to that, the local authority in the municipality as a unit of local self-government has its two segments: legislative and executive.

The legislative power appears in the form of the municipal assembly, the second, the executive power appears in the form of the municipal mayor and bodies that he manages.

## *Competences of the legislature*

The legislative power in the system of local self-government in Bosnia-Herzegovina is with the municipal assembly. The political power of this legislative body in the decision-making process as to matters from the self-government scope of activity of municipalities accrues from the free will of citizens, which is expressed through general elections. During the election campaign, the political parties execute public promotion of their program projects dealing with the solution of problems concerning the citizens' life and development in their local communities.

The confidence given by the citizens at the election enables the governing party or party coalition to realize in the municipal assembly the programs offered during the election campaign.

The municipal assembly in the Federation of Bosnia-Herzegovina and the municipal assembly in the Republic Srpska have the role of a municipal parliament. In this body, political power of the citizens is situated. That means, at the same time, that the municipal assembly has the competence regulated by the laws on local self-government and competence regulated by the statutes of the municipality to decide on public affairs in the local community. The political form of local community is the municipality as unit of local self-government. The body where the political decisions are adopted is the municipal assembly.

The municipal assemblies decide on the questions, which refer to the economic, social, political and cultural life of the citizens in the municipality. The first group of questions on which they decide in the municipal assembly refers to constituting the structures of local power. It is in fact the municipal assembly that adopts the statutes of the municipality and the decision on the organization of the municipal administration services. On the grounds of the statutory authorities, the municipal assembly adopts the decisions, conclusions, guidelines and recommendations and in this way it normatively regulates the rights and duties of the executive-administrative and other structures in the system of local self-government. In a broader context, the constitutive matters include also the decisions and acts of the municipal assembly where the communal public institutions are founded to the satisfaction of the citizens' necessities. It is the building and maintenance of communal infrastructure, organization and work of social activities like schooling, health-care, culture, social security, sports. There is also the competence of providing public water, electricity and other energy sources.

The field of planning construction grounds, planning of towns and public surfaces is a special issue.

The second group of questions concerning the competence of legislative power in the municipality refers to the sphere of economic and urban development as well as development of social activities. As a subject of political power, the municipal assembly adopts the plans on economic, social and urban development. In fact, it is the municipal assembly that adopts the plans of economic development while previously preparing technical services or even scientific and research institutions. In these plans

the activities of economic subjects are projected, but also the developing activities in the field of social affairs.

The use and urbanization of space is regulated by adopting spatial, urban and regulative plans as well as by founding establishments and other institutions, which manage the citizens' real property and care about house building.

The municipal assembly has the competence to choose the bearer of the executive function within the structure of local authorities. All elections and appointments to leading places in the municipal bodies of administration as well as to communal public institutions are confirmed by the decision of the municipal assembly.

The municipal assembly has a special competence within the sphere of political control over the work of municipal administration bodies and the municipal mayor. The power to control accrues from the position of the municipal assembly to regard and adopt the reports on the work of the municipal mayor. On that ground, the municipal assembly can, when finding out that the development policy set forth is not being executed, initiate a procedure of vote of no confidence to the municipal mayor. By that, the position and mandate of the municipal mayor always depends on the political will of the municipal assembly members. The most important thing within the competence of the legislative power is the fact that this power, as power of the municipal assembly, is the subject that creates policy of development of the municipality in the field of economy, culture and social security.

### *Competences of the executive*

According to the changes that were established by the laws on local self-government in the entities of Bosnia-Herzegovina, in post-war times, the role of the executive power is with the municipal mayor. The municipal mayor exchanged the former model of executive power in the municipality, which had three segments: executive committee (as collective body), municipal bodies of administration and president of the municipal assembly. It is about the fact that the president of the assembly had certain executive roles by coordinating the subjects of local government and by representing the local community.

The primary competences of the municipal mayor are: proposition of the policy of development, appointment of bearers of work and leading roles within the municipal administration; representation of the municipality and their interests; accountability for the work of the municipal administration; informing the municipal assembly and public on the work of the municipal mayor.

The position and power of the executive power is concentrated in the institution of the municipal mayor. His power accrues from the contents of the competence as well as from the way of his election. It comes within the competence of the municipal mayor to propose the municipal policy. All preconditions for establishing the municipal policy are in the possession of the municipal mayor: information services and material basis, which is fixed by the municipal budget. Apart from that, the municipal mayor disposes of all controls of power, which are personified in the bodies of municipal administration and communal public institutions.

The municipal mayor has the political power to propose the municipal policy, thanks to the circumstance of being elected by the citizens which is the election model in the Republic Srpska - or to being elected by the municipal assembly which is the election model in the Federation of Bosnia-Herzegovina.

In the system of local self-government in post-Dayton times, the municipal mayor is the powerful bearer of the executive power. His power is dominant in the structure of local government and in the municipalities of Bosnia-Herzegovina.

The municipal mayor possesses the most important competences for the functioning of the local government. He is a political manager coming into existence. The function of management taken out by the municipal mayor unifies in itself the management of economic activities, political activities, development activities of communal institutions and activities concerning satisfying the citizens' needs at their place of living: schooling, health care, traffic, supplies, social security, culture, protection of human environment, house building, urban planning and other.

### *The interrelation between legislature and executive*

Given the fact that the citizens' will concerning the election of the municipal assembly is established at the polls, that will gives legitimacy and political power to the elected municipal assembly members to decide during their mandate of four years on citizens' interests and necessities. Partial survey polls show that the majority of the municipal assembly members do not actively participate in the process of deciding and adopting decisions within the municipal assembly. Minor groups among the members of the municipal assembly do participate actively in the preparation and adoption of decisions by the municipal assembly. That is, as a rule, the group of municipal assembly members who lead the parliamentary group committees of the political parties. They are the exponents of the political parties' will. The process of adopting decisions in the municipal assemblies shows that during the mandate of an elected municipal assembly a dominant influence on the adoption of decisions is effected by the leaders of the political parties and the presidents of the parliamentary groups of the municipal assembly members. After the election campaign, the municipal assembly members stop the communication with the citizens, their associations and meetings in the local communities. There does no longer exist a permanent communication of the municipal assembly members and committee members respectively, with the citizens in one or more towns. Due to such a relationship of the elected municipal assembly members the municipal committee members towards the citizens and their role in realizing their citizens' initiative, the municipal assemblies do not have in their praxis the social power which would be adequate to the interests and will of the citizens. Missing is the articulation of interests and citizens' initiatives in order to solve the questions concerning development of economic undertaking, employment of young people, house building, a higher quality of communal and service activities and the realization of human rights in connection with the return of refugees. In their methods of work and programming of questions to be decided upon by the municipal assembly, the elected municipal assembly members dominantly rely on the

information and propositions of the municipal mayor and the municipal administration. Missing is the openness towards the possibility to present the discussions and decisions during the work of the municipal assembly by the media.

In the function of the legislative power the municipal assembly - from the viewpoint of realizing the citizens' interests and encouraging of citizens' initiatives - remains oriented towards the political parties. The leaderships of the political parties and the executive structure of power are becoming the main prop to the municipal assembly members in the preparation for deciding.

The weakening of the municipal assembly's influence on the content of the municipal policy is also attributed to the change of position of the municipal assembly president. According to the offices on the work of the municipal assemblies, the assembly has its chairman. This leading role in the municipal assembly is performed nonprofessional. The execution of the chairman role is boiled down to the coordination of the work done by the party parliamentary groups in preparing the assembly sittings. The president of the municipal assembly in the Federation of Bosnia-Herzegovina and the president of the municipal assembly in the Republic Srpska respectively do not have a role in the representation of the municipality. That role is given to the municipal mayor. The communication with the interest structures and media of the chairman of the municipal assembly is boiled down to the framework, which arises from the fact of presiding the assembly sitting. The chairman of the municipal assembly has become the first among equally elected municipal assembly members.

However, the fact is, that the president of the municipal assembly is not the primary public political personality in the local community. That priority is with the municipal mayor. In that context, the legislative power in the municipality - from the viewpoint of the power - has a secondary position with respect to the executive power. Such relationship between legislative and executive powers accrues from the fact that municipal mayor has the real power. That power arises first of all from the position where the municipal mayor initiates, prepares and proposes the determination of the municipal policy. In the creation of this role the municipal mayor has the power, for he professionally fulfils his function, he manages the municipal assets and the administrative establishments and since he is the primary personality in public relations in the local community. The municipal mayor possesses also the material-financial power. He manages the means of the municipal budget. And not only this. The municipal mayor manages the municipal assets: business spaces, public surfaces, building plots. The partition of the plot, that is the location for the building of houses and business buildings is a special monopoly, which belongs to the municipal mayor. The position of the municipal mayor, his authorities and the dominant role in the creation of the municipal policy attributes him the role of the main subject of the executive power in local self-government. But also something more: the municipal mayor is the primary bearer of the execution of municipal policy in all fields of social life in the local community.

The municipal mayor is also the bearer of the most important political accountability for the situation of development of the local community, for the quality of living of the citizens at their place of living. As to the given position and the way of executing his

authorities in creating the municipal policy, the municipal mayor is a modern political manager. In his widespread activities there fall all social and economic citizens' interests which by way of the municipal policy become concrete development projects for employment, building of communal infrastructure, house building, better health care, better education of the children, protection of human environment.

The relationships between the municipal assembly and the municipal mayor can be promoted and on that ground the domination of the executive power over the legislative structure of power can be reduced.

Something similar may be ensured under the precondition that the municipal assemblies strengthen their role in the execution of political control over the work of the municipal mayor. The reports of the municipal mayor on the implementation of the fixed policy are a chance to vote confidence or no confidence to the municipal mayor.

It happened only in an irrelevant number of municipalities in Bosnia-Herzegovina in post-Dayton times, that the municipal assembly members instituted proceedings and relieved the municipal mayor. Only the OHR, that is the High Representative of the International Community relieved the municipal mayors in several municipalities for destructive implementation of the Dayton Peace Agreement regarding the return of refugees.



## Municipal Council and Mayor - the Two Sides of the Local Self-Government «Coin»

### 1. Background

The problems concerning the nature and the range of the instruments used by municipal councils and mayors to act and interact are closely connected with the real role of local self-government, i.e. with the degree at which democracy is developed on local level - the level, which is closest to the needs, the interests, and the participation of the citizens. On the other hand, the effective functioning of this level of democracy is indicative of the degree of decentralization of power - an imperative for the development of a modern democratic state, which is being slowly and painfully established in the new democracies.

- a) Historically local self-government follows the stages of the development of Bulgarian constitutionalism. The principle of self-government of municipalities was proclaimed in Article 3 of the first Bulgarian Constitution after the liberation from Turkish yoke in 1879. However, the first government act providing for municipal town and village authorities represents a deviation from the proclaimed principle. The state anti-constitutional coup d'état (1881), alongside with other impacts, brought about the substitution of local self-government with appointed by the central authorities mayors and other officials in the district and regional centers.

The first Bulgarian law legally backed up this tendency on local bodies of government in 1882. According to the provisions of this law, the mayor's office was proclaimed the supreme body of the municipality and the mayor, who represented at the same time both the central government and the interests of the municipality. The monarch appointed mayors of town municipalities and the Minister of Home Affairs appointed their deputies and mayors of village municipalities.

The municipal council was an elected collective body with wide authorities concerning the budget of the municipality, the municipal property, the town and/or village development and the economic activities of the municipality. Its decisions entered into force in a term of 30 days in case they had not been delayed or reversed by the regional governor. In the course of the further development of the local government bodies on the grounds of the first, so-called Timovo Constitution, the relations between mayors and municipal councils, as well as the distribution of competences between them, underwent continuous changes. However, the strong dependence of mayors on the central government administration remained a lasting tendency. After the military coup d'état on May 19, 1934, local authorities became an integral part of the

unified state administration - mayors were appointed by the Minister of Home Affairs and were general representatives of central power.

Under the action of the two socialist constitutions (1947 and 1971) elected people's councils were established as local bodies of the state power, and later (after amendment of the legislation) - as bodies of people's self-government as well. The administrative and territorial division of the country underwent numerous changes and this resulted in changes of the system of municipal councils as people's councils were elected at all levels and the competences were distributed among them in various ways. The general tendency was to develop the councils as bodies of the united state power. This development was also achieved via the election of executive committees and in fact these executive bodies (a type of "Collective mayors") dominated the people's councils because of their greater power, wider scope of activities and party power.

- b) Theoretically, decentralization and the development of local self-government form a new vertical line of power devolution, which could only conventionally serve as an analogy with the relations between the legislative and executive power. And this is not only because in compliance with the Constitution of the Republic of Bulgaria, legislative power is only in the competence of the National Assembly, but also because of the fact that mayors, although defined as bodies of the executive power, are elected alongside with the municipal councils and for the same term of time directly by the population of all municipalities (total number 262) and all towns and villages of population over 500.

In this respect, as far as the source of power is concerned, both structures (municipal council and mayor) can be considered as bodies of local self-government. The analogy with the division of legislative and executive power is applicable only with respect to the functional specialization: the municipal council defines the rules and the mayor organizes their practical application. Functional specialization requires the differentiation of independent spheres of activities of the heads of the divided powers and each of them is provided with a framework of positive authorities in order to perform his/her responsibilities.

The principle of division of powers also presupposes a specific type of relations characterized to a significant extent by coordination, interaction, prevention and settlement of possible conflicts. In the system of self-government these relations depend to a lesser extent on the precision of legislative provisions than on the political configuration. Considering this, it might be worth mentioning a more recent development - an expanded doctrine of the division of powers, which includes the so-called administrative power. The essence of this development is the separation of the policies of the administration, the exclusion of administration from the sphere of politics. This would result in the organization and the performance of administrative activities according to criteria based on professionalism, unbiased attitudes

and competence, and it would be aimed at better service to public interests. On local level this could contribute to better services offered to the population without turning the citizens into hostages of political parties and subsequent confrontation.

- c) According to the constitutional provisions, local self-government is bound with the unitaristic system of the state. The Constitution does not use the notion "local authority" and explicitly excludes the creation of "autonomous territorial formations".

The municipality is the basic administrative and territorial entity where local self-government is realized (Article 136 of the Constitution). The same constitutional text specifies that the citizens of the country participate in the government of the municipality via the elected bodies, which they elected themselves, as well as via direct participation in referenda and general assemblies of the population. A certain controversy exists between the plural number used in the text - "bodies of self-government" of the municipality and the provision of Article 138 which defines as "bodies of self-government" only the municipal council elected by the population of the respective municipality for a term of four years and according to the provisions of a law. The mayor is defined only as a "body of the executive power in the municipality" (Article 139, paragraph 1). He/she is elected by the population (according to the acting legislation) for a term of four years and according to the provisions of a law.

The constitutional frame for direct election of municipal mayors adopted by the current legislation, establishes in fact two bodies of self-government of the municipality elected by the population for the same term at the same elections. At the same time the Constitution provides for subordination. Mayors are expected to comply their activities with the law, as well as with the acts of the municipal councils and the decisions of the population (Article 139, paragraph 2). The specified right of the central state bodies of authority and their representatives in Article 194 of the Constitution to exercise "control over the lawfulness of local-government acts" in the specified by the law cases, obviously envisages the acts of municipal councils, as well as acts of mayors. At the same time Article 145 provides the municipal councils with the possibility to contest in court acts and activities, which violate their rights.

In compliance with the provisions of the Constitution, which regulate the competences of the Constitutional Court, this new institution in the country can also be addressed by the municipal councils in cases of unlawful interpretation of their rights on the part of the central power institutions. This possibility has not been exploited so far mainly due to preference to the defense in court. This preference is motivated by the fact that the competences of local self-government bodies are defined in the Constitution only in general terms and they are further developed and specified in various laws.

## **2. The municipal council and the mayor - specialization of competences**

The specialization of the competences and the functions of the municipal council and the mayor, apart from the same source of power, is the most solid ground for an analogy with the relations between legislative and executive power. This concerns both the contents and the form of competences.

### **Municipal council**

The municipal council competences are developed in the Law on Self-government and Local Administration. The adopted legislative approach binds the specialization of competences with the text of Article 11, which defines the right of the citizens and the elected bodies of local self-government to make decisions on issues concerning: municipal property, enterprises, finance, taxes and fees, structure and development of the territory, of the towns and the villages in it, education, health care, culture, communal activities, social welfare, environment protection and rational exploitation of natural resources of municipal significance, maintenance and preservation of cultural, historic and architectural monuments, development of sports, leisure activities and tourism on municipal level.

In addition to its internal organization and structuring (election and release of the chairman of the municipal council, establishment of standing and provisional committees and election of the members of these committees), which are specified in an adopted by the municipal council regulations concerning the organization and the activities of the municipal council and the municipal administration, a municipal council has a wide range of competences, which are grouped as follows:

#### **1. Financial economic and budgetary:**

- Adopts the annual budget of the municipality, exercises control over and approves the report on its implementation;
- Defines the rates of local taxes and fees within limits specified in a law;
- Makes decisions to acquire, maintain and dispose of municipal property;
- Makes decisions to establish, transform and close municipal companies;
- Makes decisions to use bank credits, to grant interest free credits and to emit bonds in compliance with the provisions of the law;
- Makes decisions to establish and/or terminate municipal foundations and manages donated property.

#### **2. Social, economic and regional development:**

- Develops, adopts and implements strategies, programmes and plans for the development of the municipality;
- Makes decisions to design and endorse development plans for the whole territory of the municipality or specific areas;
- Defines the requirements to the activities of physical and legal persons

on the territory of the municipality with respect to the environmental, historic, social and other specifics of the towns and the villages including the engineering and social infrastructure.

- Makes proposal for administrative and territorial changes concerning the territory and the boundaries of the municipality.

### 3. Administrative:

- Sets up the structure of the municipal administration, as well as allocates the funds for staff costs from the municipal budget;
- Appoints and releases deputy mayors at the proposal of the mayor of the municipality, as well regional mayors in the capital town of Sofia and the other towns of regional division;
- Defines the salaries of the mayors on the basis of acting legislation;
- Creates districts and mayoralties in compliance with the law;
- Makes decisions on referenda and general assemblies of the population with respect of issues within its competences.

In addition to the above-mentioned three groups, the specifics of the competences of a municipal council are outlined by two general texts of the law. So, Article 20 of the Law on Local Self-government and Local Administration contain the following provision: "The municipal council defines the policies concerning the structuring and the development of the municipality with respect to the activities specified in Article 11, as well as other activities provided for by a law." According to Article 21 paragraph 2, the municipal council "also performs other tasks of local significance, which are not of the exclusive competence of other authorities."

As it has become clear, the municipal council is the empowered institution defining the policies included in the range of local self-government competencies. This, on the other hand, presupposes the format of the acts - strategies, programmes, plans, decisions on priority issues concerning the development of the municipality and the work of the municipal administration.

### Mayor

The competences of the mayor of the municipality are derived from the nature of the office as "a body of the executive power in the municipality" (Article 139, paragraph 1 of the Constitution), as well as from the constitutional imperative that his/her work and activities should be also in compliance with acts of the municipal council. The division of power on municipal level is also underlined by the text of the law, according to which the mayor of a municipality attends and takes part in the sessions of the municipal council with the right to advisory powers.

The adoption of the legal principle mayors to be elected directly by the majority of the population of a constituency was motivated by the will for radical changes of the inherited ineffective system of local self-government, as well as by the search for guarantees for an effective stability of the local elected bodies.

The outlined in the fifteen points of Article 44, paragraph 1 of the Law on Self-government and Local Administration competences of the mayor is entirely in the

domain of executive state activities. The mayor of a municipality is responsible for the executive functions of the municipality, directs and coordinates the work of the specialized executive bodies, appoints and releases the heads and the officers of the municipal administration, he is also responsible for the public order issuing written orders to this effect, which are mandatory for the chiefs of the respective police departments, etc.

The executive nature of mayors' competences is most clearly expresses in his responsibilities:

- To organize the implementation of the municipal budget and the long-term programmes;
- To organize the realization of the decisions of the municipal council and to report to the council to this effect;
- To organize the performance of the tasks required by the law. The acts of the President of the Republic of Bulgaria and the Council of Ministers;
- To perform functions delegated to him by the central state institutions in the cases specified by the law;

In execution of his powers the mayor of a municipality issues orders. The municipal council can reverse acts of the mayor performed in violation of its decisions under Article 21.

Two aspects represent interest both as legal issues and as a summary of the practices:

1. The mayor appoints for an indefinite term a person with higher educational degree (this requirement is not valid for the mayor) on the position of "secretary of the municipality" who is responsible for all functions of the municipal administration. It is a curious fact that the law defines the competences of the secretary of a municipality in a text preceding the text specifying the competences of the mayor. In spite of the clearly defined dependence of the secretary of a municipality on the mayor, in practice this fact could lead to a form of "diarchy" in local administration. This is much more significant when we have in mind that he is assisted in performing his function by the municipal administration.
2. Not only by force of the direct election, but also due to the nature of a great number of his competences, the mayor of a municipality is the official representative of a municipality before the state institutions, the legal and physical persons, he establishes and maintains contacts with the various political parties, non-governmental organizations and movements, as well as with bodies of local self-government in the country and abroad.

Mainly their mayors in the National Association of the Bulgarian Municipalities represent municipalities. And this Association, which works very actively both in the country and in the European structures, is in continuous contact with the central state institutions as far as the legal priorities, the budget and the regional policies of the government are concerned. The legal ban on the election of mayors of municipalities, regions and mayoralties on leading positions of political parties can be considered as a

significant guarantee of their unbiased work in the interest of the municipality and in defense of the interests of the whole population. This fact outlines the most significant problem of self-government in the context of the principle of division of powers.

### ***3. Prevention and settlement of conflicts between the municipal council and the mayor of a municipality***

The principle of division of powers cannot be reduced to specialization of the functions, the less so - to hierarchic subordination. The National Assembly creates the legal backgrounds and elects the government, but it cannot reverse its acts. The work of the government is entirely regulated by the law, but its compliance with the legislation is subject to judicial control.

Even only this comparison of the action of the principle of division of powers on central and on local level can reveal the conventionality of the analogy. As if on local level the legislative solutions, rather than the constitutional, are aimed at the opposite direction - the principle of the unity of power on the basis of subordination. As it becomes clear from the relations between the government and the parliament even the provided for in the Constitution option the mayor to be elected by the municipal council should not be considered as an option of approximation to this principle. For that reason a number of legislative solutions provoke so many question if we keep in mind the fact that the two bodies of local self-government are elected directly by the population.

The word goes about the acts, as well as about the competences of both institutions of local self-government.

- (a) The municipal council can reverse the acts of the mayor, which are controversial to its decisions under Article 21 of the Law on Local Self-government and Local Administration. On his part the mayor can contest a decision of the municipal council in violation, when he considers it harms the interests of the municipality, or that it is in violation of the law. This contest has the force of deferment and the municipal council at a second reading can endorse it by the vote of more than fifty percent of the councilors. In that case the mayor is obliged to follow the decision or he can address the court in the cases when he considers it as a violation of the law. In general it could be maintained that although the deterrence is bilateral, it is not balanced: in the first case it is absolute, in the second - conditional.
- (b) The term of the municipal council is four years and it cannot be terminated under any circumstances ahead of term. Except for the period prior to the adoption of the new Constitution (1990 - 1991), when local self-government was performed via agreed among all major political parties multi-party and appointed by the Council of Ministers "provisional administrations", all municipal councils and mayors have been elected for the term of four years. Three regular local elections have been held so far

A procedure for self-dissolution of the municipal council is also not provided for. This is motivated most of all by the stability of self-government. The settlement of a number of cases of drastic reduction of the number of population in smaller size municipalities, mostly in areas of multi-ethnic population along the border, which were depopulated due to the emigration waves, only proved this argument. The municipal councils were reduced in number and finished their terms.

Unlike the stable provision concerning the term of municipal councils, the term of a mayor can be terminated at the presence of specified by the law circumstances. Certain arguments do not provoke objections: when a resignation is filed with the municipal council, when a court sentence comes into force as a punishment for a premeditated crime of general nature, in case of death, in case of administrative and territorial changes or change of permanent address.

During the period of transition the option of a referendum on the mayor's range of competences was also experimented (on a decision of the municipal council). However, even after the expressed negative evaluation of the mayor's work, it did not yield results due to the unsettled legally status of this democratic form.

This is not the case of Article 42, paragraph 1, and item 2 - "in cases of continuous incapacity or systematic failure to perform the function for a period over six months - following a decision of the municipal council." Initially the law required this decision to be supported by simple majority. It was only after heated parliamentary and public debate in 2000 that the acting provision was adopted - "a majority of over two-thirds of the total number of councilors."

This legislative solution (to a greater extent in the first case, and to a lesser extent in the second) has turned the system of local self-government into an arena of permanent political battles. What was considered favourable for the intensification of local democracy effectiveness, i.e. "co-existence" between a mayor representing one political force and a council majority representing another, as well as a greater variety of political and public representation in comparison to the parliamentary configuration has turned into a calamity with very grave consequences: suspended mayors expecting justice to be done in court - sometimes during the whole term of their office, municipal councils torn apart into hostile factions, ineffective functioning of the municipal administration, etc. After the law was amended in 1999, which resulted in drastic reductions of the number of councilors (down to 11 in municipalities of population less than 5 000 and 61 in the Sofia municipality), 'better prospects' were created in the political environment to defend corporative interests. To achieve changes of the political correlation of the represented in the municipal council political forces became cheaper when one has to "buy" only two or three votes.

The last elections (1999) produced a great number of politically versicoloured municipal councils. The municipal councils of convincing majority of any of the political forces were less. To achieve majority today also requires coalitions and combinations, sometimes ad hoc, in order to achieve specific goals. On the other hand,

independent candidates nominated by public initiative committees and supported by a political force were elected as mayors in many municipalities. In practice this means a more favourable environment for dialogue, compromise and better defense of common interests, however, if we consider the acting legislation, this also means a greater number of combinations aimed at the destabilization of the mayor's office. To this we should add the circumstance that the appointed by the government regional governors have the right to suspend unlawful acts of the respective municipal council and take them to the regional court, as well as the right to reverse unlawful acts of the mayor of the municipality, which the mayor can contest in court. This control over the acts can be considered well grounded in case the government to start a fight against "unhandy" bodies of local self-government does not use it. Because every attempt in this direction is a sad reminiscence of the rejected with the democratic constitution and legislation concept of the local self-government as a translator of central power policies, as a link of the unified centralized bureaucratic system.

#### **4. Conclusion**

The constitutional and legislative basis for the changes of the municipal power paradigm change linked directly the development of local authorities with the right of the citizens to self-government. The direct election of the two institutions - the municipal council (via proportional electoral system) and the mayor (via majority electoral system) works in this direction. At the presence of natural and grounded division of competences between the two sides of the "coin" self-government, as well as the necessary provisions for their interrelations, in that number the inevitable conflicts in the process of self-governing, the will of the electorate should also be decisive for the stability of the term of both institutions. Applying this approach we could expect that the energy of the representatives of the various political forces participating in the system of self-government will be directed to a greater extent towards a policy of seeking the common will and the common interests of the people. A new law on elections is being debated at present and its main objective is to further reform of local self-government. However, as long as every law is a political act, the threat exists that the legislative solutions may reflect the interests of the ruling party.

Nóra Teller

## **Conflicts between Legislature and Executive at Local Level in Hungary**

### ***1. Introduction: Challenges of local decision-making in Hungary as a post-communist country***

At the beginning of the process of transition in 1990, with the new Act on Local Governments, the local authorities have, as major achievement, gained a lot of rights and duties. With directly elected councils (legislature) and mayors (executive), the local power division was also fulfilled (Bennett, 1997: 6pp.). In compliance with the philosophy of the established democratic system in Hungary, the local governments have since then been seen as best spots of handling the needs and problems of the citizens, keeping with the subsidiary concept of the European Community.

The new changes, that in many respects created independence for the local bodies, also gave rise to a lot of problems. From the mid nineties, the means and tools, more often the financial sources provided to the new local governments to enable them to carry out the assigned duties, were often perceived as insufficient for managing the locally defined tasks.

In many settlements, especially in the small ones, these were the officials of the former political system who took over the leadership after the first free elections, and in some cases were not able to reconcile with the new responsibilities. In other settlements, the heads of the newly elected bodies could not manage the challenges that a recently introduced system always has to face. By the time the competencies and the tools were set up accordingly, many conflicts and clashes were brought as scandals in the news, and the legitimacy of local governments had to be strengthened from time to time. The first decisions, though, had to be arrived at very soon; in 1991 the first local budgets were set up. This has been since then one of the most neuralgic points of the functioning of local governments.

When talking about the transition countries, the role of the public servants in the current local governments' work has often been pointed out. As for the system of councils (in other words, that of soviets) they preferred to give employment to less competent but rather reliable employees, so that the necessary and most vital professional knowledge of the new local body was lacking. The footsteps of this early situation were handled with a policy that ordered the public servants to get through a public administration exam that confirms that they meet all demands of fulfilling the

duties appearing during the functioning of a municipality'. As for now, all the particular employees of the local governments have had to fulfill this requirement.

The new conditions, such as the nearly 3000 local governments with an evident independence, compared to the former system of the 1300 soviets with only executive rights, which meant that the local level competencies were given to local agents of the current territorial units; furthermore, the delegated missions compared to the decentralized execution of the state policy (Szegváry, 2002: 140), caused a new set of circumstances, to which all the local governments had to adopt their inadequate previous experiences they learnt during the previous regime. Own responsibilities were formulated and the state, on one hand, turned out from the actual work of the local bodies, parallel to fixing the central budget resources and allowing the setting of own further revenues of the local governments. On the other hand, the central government, year in and year out, cut the settlements, in the meantime making their increasing tasks more and more expensive.

While talking about the Hungarian local government system, one must always take into consideration that the frames of both the duties and tasks and of freedoms of the local governments is defined by the law and only decisions in addition and at the same time in accordance with these belong to the competencies of the local governments. According to public servants' most common opinion, there are restrictions, that occur because of the shortage of the sources at disposal and there are tasks that cannot be implemented because of the same reasons. This also results in an ambiguous role of the local bodies that both are supposed to answer the needs of the local population, and correspond to the law regulations of the state itself. This sensitive balance causes grave challenges in the decision-making system of the local governments even nowadays.

## **2. Local government's legislation ties to the national legal system**

The Act on Local Governments coming into force in 1990 and modified in 1994 set up all the rules for the functioning of the local bodies and is escorted by the Act on the Election of Local Representatives and Mayors Elections, a modified act of 1994 regulating the local government election system.

The Act on Local Governments defines the bodies of the local governments and their tasks, giving the freedom of granting most of the rights of each body to other municipal actors. This means that the local government has to introduce the so-called statute, the institutional and operational regulations to ensure the predictability of the legislature and the executive bodies, as specified in the law. Again, the law builds the frame for a regulation that has to be met locally.

Parallel to the local governments, state administrative bodies have their territorial representatives, according to respective functions. This means, "since 1990, Hungarian

<sup>1</sup> Studies of the World Bank on Transition Countries often stress that the incompetence of the administration can hinder the work of the municipalities. Most common comments are that the central state should devolve the administrative staff along with the devolution of the duties, or that the municipalities should freely hire staff by making own incentives. (See also *World Development Report 1999/2000*: 122).

public administration consists of two main frameworks. The first includes central government bodies and their organs at the local and territorial levels that are subordinate to the state administration. The second type of structure is the system of local self-government, based on the principles of decentralization and autonomy" (Temesi, 2000:348).

The Ministry of the Interior places a function in the core of the local government, namely the notary<sup>2</sup> of the municipality who is actually one person, the head of the office, appointed by the assembly. The notary is the head of the executive body and an advisor concerning the legality of the decisions and regulations of the local government. The notary also takes the responsibility for the legal carrying out of the assignments that have to be financed from the local budgets. This means that the state administrative body in the municipality supervises the local governments from a legal point of view and thus ensures their "embedding" into the state law system.

If the functioning of the local government violates the law, this is the Constitutional Court of Hungary that initiates the review of the relevant act or decree. In this case the Constitutional Court abolishes those decrees that local governments have not changed despite the notice of the head of the office.

The State Audit Office who controls the utilization and accounting of the budgetary contribution or any centrally allocated resources at the same time provides the financial supervision of the local self-governments.

## **3. Bodies of the local government, their roles and competencies**

The Hungarian local governmental system functions on the basis of different actors. In order to understand the possible conflicts between them, it is necessary to overview their characteristics.

The referred bodies are the mayor, the body of the representatives, the commissions of the assembly, the citizens and professionals contributing to the work of the commissions, the notary or head of the office, and the municipal office as executive organ. These bodies have different roles and responsibilities and their competencies vary a lot. This part of the paper gives an insight into the main characteristics of the listed bodies.

### **3.1. The Body of Representatives**

The body of representatives, also referred to as assembly, is the most important organ of the local government, (see also: Temesi 2000).

Procedures of electing the representatives are regulated by the Act on the Election of Local Representatives and Mayors, enacted in 1994. The election of the representatives depend on the size of the settlement. Municipalities with 10,000 or less inhabitants may elect 3 to 13 representatives depending on the size of the population, and each citizen may vote directly for as many candidates as mandates in the assembly<sup>3</sup>.

<sup>2</sup> Part 3 of the paper will broaden the characterization of the notary's role.

<sup>3</sup> Members of the county assembly are also elected directly.

In case the settlement has more than 10,000 inhabitants, the election system is in large measure different from the election system in smaller villages, since here a certain proportion of the representatives are elected directly and others receive the mandates from the party list. Law fixes the total number of representatives.

The duties of the representatives is defined both in the Act on Local Governments enacted in 1990, and in the local government's statute. The most important aspect of their work is to represent the voter's will and interest whilst taking into consideration not only the specific group of voters but the entire settlement's interests. The representative has to establish and maintain contacts with the citizens and the civil society, and his active contribution to the local government's work is especially desirable. In case a representative would not fulfill his duties, the mayor or the assembly may call him to perform according to the effective regulations.

The guarantees of the body's functioning are set in the Act on Local Governments; its details are defined in the local statute. After the elections, the mayor convokes the body of representatives where the statute is established. The main rule of the functioning is that the body of representatives holds its sittings according to the need, mostly depending on the fact, which duties of the assembly have been delegated to other local bodies. The minimum number of yearly sessions is 6. The assembly has to be called if a quarter of the representatives initiates it or a commission of the assembly demands it. The mayor invites the representatives to the session; the session itself is lead by him. The sessions must be public, except for some specific cases such as sessions concerning personal and administrative matters or business matters of the municipality. The body of representatives is quorate if at least half of the representatives - including the mayor - are present.

The resolutions of the body of representatives are either so called decisions or decrees. The resolutions - with a few exceptions - are made by open ballot. Usually, decrees require a majority of the votes; there are also some that must be decided on with qualified majority<sup>4</sup>. In case the mayor considers a decision conflicting the interests of the settlement or of the municipality, he may take the initiative in rehearing the specific issue on another occasion.

The representatives are allowed to present interpellations and inquire further information on matters to be decided on in the assembly.

The assembly of the local government is the core of the functioning of local democracy. Considering that more than 50% of the Hungarian settlements have less than 13 representatives in the assembly, certain interest groups may have more representatives than most inhabitants are ready to support. This can lead to conflicts between the representatives and the citizens. This issue is going to be referred to in section 4 of the paper.

<sup>4</sup> Majority of the votes means the half of the votes of the present representatives during a session. Qualified majority means that more than half of the number of representatives of the local government vote for an issue.

### 3.2. The Mayor

The mayor is the highest official of the local government. Since 1994, he has been elected directly<sup>5</sup>. This electoral system states that he should be a politician of the whole municipality and less of political parties. In settlements with more than 3000 inhabitants, the mayor is only allowed to work full time. He has to represent the body of representatives; besides, he is the employer of the deputy mayor or mayors, the notary and the heads of the municipally owned institutions, e.g. schools and health care services (see also: Kuztosne, 1998: 101 pp.).

For non friction work, it is required that more than a half of the representatives of the assembly support the mayor.

The mayor's role in the local government's decision making is a vital one: he organizes and synchronizes the work of the assembly's commissions; furthermore he introduces the agenda of the assembly. This agenda is based on the commissions' preparatory work and it is the mayor who has to counter-sign the commissions' recommendations so that they can be placed on the agenda. In case the assembly votes through a decision or a decree, it is also in this case the mayor who launches the realization of the matter and instructs the municipality through the head of the office (the notary) to do so.

### 3.3. Commissions of the Assembly

The Commissions of the Assembly are the actual decision preparatory bodies of the local governments.

There are several commissions that must always be established in a local government, such as the budget commission in settlements with over 2000 inhabitants, the harmonizing commission on county level and the commission dealing with the local minorities<sup>6</sup>. Setting up further commissions is up to the decision of the assembly.

The members of the commissions are elected. Once a commission is set up, its members may define their own internal statute and also invite independent experts from non-governmental organizations to argue the respective issues.

Coordination between the commissions is the mayor's responsibility, and of course the interest of all actors. Thus, before a proposal is introduced to the assembly, the commissions have to negotiate on the matters that would affect the functioning of the municipality, such as financial questions or organizational matters.

The sessions of the commissions are commonly public, since this is also one of the points of contact with the citizens.

The proposal of the commissions regularly has an extensive structure: in order to facilitate the decision making process of the assembly, it contains the starting-point of the certain policy that should be introduced (such as unemployment or economic development needs), the results of the investigation that were carried out in order to get a deeper insight into the background of the incurred situation, the changes that have to be achieved, the tools that must be applied and also the proposed changes of certain current decrees. Such a proposal may have the length of 15 or more pages, which requires a lot of reading from the representatives. Therefore the local statutes

<sup>5</sup> In contrast with the previous practice of the municipalities with more than 10000 inhabitants that elected the mayor in the assembly.

<sup>6</sup> In case there are minorities in the settlement.

often define the latest date such proposals have to be distributed before the session of the assembly. However, there have always been cases, when this procedure is not complied with; therefore the assembly evades the discussion of the proposal and only puts it to vote.

### 3.4. Head of the Office - The Notary

As referred to in section 2, the notary plays also a significant role both in the decision making process and in the execution of the matters upon which the assembly has decided.

The assembly appoints the notary through an open competition. Law sets up the necessary qualifications of the notary.

In administrative issues the assembly has no influence on the notary. Above this, since the functioning of the municipality is both the responsibility of the mayor and of the notary, as head of the office, it is evident, that their cooperation is vital for the effective work on local level. The notary may also be invited to the sessions of the assembly and of the commissions.

The notary has to check the legality of the proposed new regulations on local level, and if he notices any friction with the effective rules, he has to inform the commissions or the assembly. If, despite the warning, the assembly does not initiate changes, the notary has to notify the Constitutional Court in order to abandon the respective decree. Furthermore, if a decree or decision meets all defined requirements, the notary as head of the office has to instruct the relevant municipality offices and departments to execute the decisions of the assembly. In case there are expenditures connected to the realization of the issue, the notary has to control, whether there are sufficient resources available in the local budget to fulfill the payments to the potential contractors. His signature approves that the municipality is solvent.

### 3.5. The Municipality

The municipality is an organ of the assembly, it decides upon all relevant details about the office, such as duties, responsibilities of the departments, delegate's tasks. The office itself has only preparatory and administrative tasks.

The municipality's purposes can be divided into two main groups: administrative matters and local governmental issues. In the latter, the body of representatives is the decision holder and the municipality prepares the background evaluations for the decisions, which are later on going to be carried out by it, too.

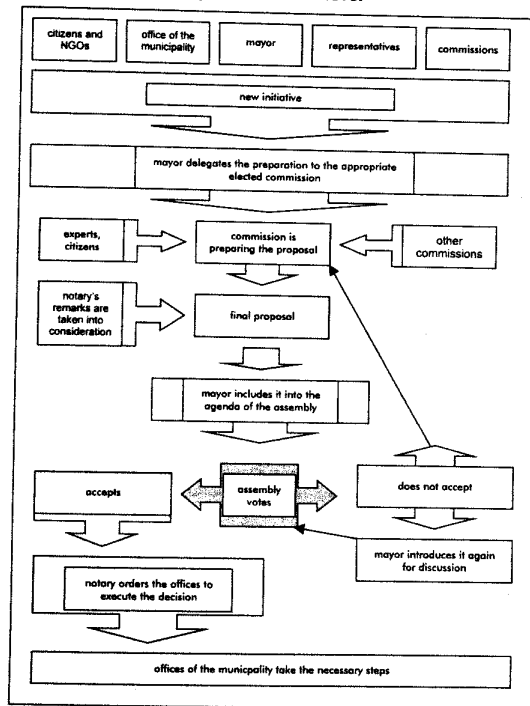
The responsible body for the administrative matters is the notary, who may delegate his signatory right to departments of the office. The notary is in one person the head of the office, which is the employer of the administrative staff; he guarantees the professional level and legality of work.

We must remark, that in Hungary, most citizens appraise the local government's functioning upon the municipality's work, therefore the organization of the business hours is a considerable issue. In recent years, the structuring and venue of the office work with the clients have changed a lot.

## 4. Role of the bodies in the decision-making and implementation process

In order to follow the decision making process, the relevant bodies of the local government have been shortly introduced. As for the detailed steps, a simplified illustration of the legislating steps and executive duties can be depicted. The following figure also lists the bodies' alternatives in the legislature process.

1. Figure: Decision making process on local level





This figure is visualizing the decision making process on local level. It can be seen that the "destiny" of a local initiative can change course on many stages. The assembly is making the decision after a long process, and is only acting as legislative body within voting. Its commissions' proposals have to correspond to the state administration's (notary's) remarks and also have to have the support of the mayor who guarantees that the proposal is set on the agenda of the assembly session or at least of more than half of the representatives who are able to modify the agenda of the session.

In case there is a state regulation that has to be implemented by the local level, the assembly has to meet a decision and change or establish appropriate decrees. However, the execution of the decision can face some challenges at the office level: lack of financial resources or professional knowledge can hinder the implementation of law. In this case the conflict between the legislative body and the executive organ is always present; the decree of the assembly cannot be executed.

This phenomenon puts the question of the effectiveness of local decision-making. A short outlook of this problem is given in the next section of the paper.

### 5. Effectiveness of local decision-making

When talking about the effectiveness of legislation in Central and Eastern Europe, it is considered to be a notorious issue (Verheijen, 2002: 48). Two aspects have to be taken into consideration; first, the legal effectiveness, which means the appropriate behavior of the respective actors, second, the social effectiveness, which means the realization of the processes aimed at the introduction of new regulations (the further part of this section is based on Visegrády, Cziboly, 1999: 152).

We must also remark that the competencies of the local decision making always depends on the contents of the central legislation, since only those issues can be regulated on local level, that have not already been defined in details by any state acts.

There is an immense difference in the legislation potential of the different settlements in Hungary. Certain issues may gain a great public support in one city, although citizens of another city would not even notice similar new regulation. The financial situation of a settlement would also influence the topics of the local decision making to a great extent: in a settlement with no animal farming the local government would never even pass a decree on driving out animals. On the other hand, not only the topics but also the possibilities of the implementation of a local decision would determine the legislature's ground. Low budgets would only allow low social assistance. In the recent year an additional aspect became obvious: not only the realization of local incentives can be hindered by low financial resources, but also the fulfillment of a state order to establish local decrees on local development and construction that have to be prepared with an extraordinary expensive professional support.

The measures of effectiveness of local decision-making are not easy to be defined. An additional indicator for the achievements of the legislature and executive could be the currency of the respective regulation among the addressed citizens. The municipalities are not obliged to set forth the local government's decision-making processes, only the decrees. It has also not been set which organs are to be used for this

purpose. This means that public participation in the local authority's life - depending on the size of the settlement - is trifling.

Concerning the execution of the local decisions it is somewhat common, that the delegation of the tasks is not effective and accurate. In some settlements the local government would not delegate any tasks to the mayor or to the commissions, therefore, the representatives are overloaded and can hardly fulfill their task of thorough examination, thus, the proposing body predominates over the legislative body.

### 6. Conclusion

After introducing the position of the local government's legislation capabilities in Hungary, the local government's bodies were briefly characterized. Their role in the context of the decision making process was emphasized and the separate steps of the implementation of local incentives was reflected. Major problems were pointed out regarding the ambiguity and complexity of roles, besides; experiences connected to the effectiveness of local decision-making were introduced.

To sum up, a final remark has to be added to the above. There is a fragile balance in the decision-making system of the local governments between implementing the state orders and own initiatives. On one hand, the representative body wants to use the competencies the law provides, on the other it is bound from many respects, last but not least by the - presumed - support of the voters. Therefore the assembly as legislative body has to meet many demands: the representatives must show themselves responding to the needs of the citizens, act legally and legislate in the nearly vast forest of laws, and, as most important issue, find the way for effective legislation in the sense of implementing the regulations through the executive body and achieving social, financial and cultural aims in the settlement, also according to the policy of the party that supports them.

### References

- Basta, Lidija R.: *Decentralization - Key Issues, Major Trends and Future Developments*. In: Swiss Agency for Development Cooperation, p. 28-43.  
[http://www.ciesin.org/decentralization/English/General/sdc\\_Keyissues.html](http://www.ciesin.org/decentralization/English/General/sdc_Keyissues.html)
- Bennett, Robert J.: *Local Government in Post Socialist Cities*, OSI 1997, and Budapest
- Kuszónne, Nyitrai Edit: *A helyi önkormányzatok és pénzügyeik (Local Self-Governments and their Finances)*, Consulting 1998, Budapest
- Szegváry, Péter: *Methods and Techniques of Managing Decentralization Reforms in Hungary*. In: *Decentralization and Public Administration Reform. Mastering Decentralization and Public Administration Reforms in Central and Eastern Europe*, OSI/LGI 2002, Budapest, p. 137-162.
- József Hegedűs: *Co-operation between the Government Tiers in Hungary* (MRI, prepared for the Ministry of Economics, 2001)
- Temesi, István: *Local Government in Hungary*. In: *Decentralization: Experiments and Reforms*, ed. Tamás M. Horváth, OSI 2000, Budapest, p. 343-384
- Visegrády, Antal D.Sc. and Cziboly, István: *Az önkormányzati rendeletek hatékonyságának problematikájához (The Problems of the Effectiveness of Local Decrees)*, In: *Magyar Közigazgatás 1999*, p. 154-160

## Structure and Relationship of Legislative and Executive Powers in the Units of Local and Regional Self-Government in Croatia

### 1. Introduction

The administration reform in the Republic of Croatia, initiated early in the last decade, although being on agenda for almost ten years now, in the framework of which there has been adopted a new Law on local and regional self-government as early as 2001, has neither been completed, nor is there its termination in sight, so far.

The territorial organization within which there exist two levels of self-government, counties on the regional level and cities and municipalities on the local level, has still not been redefined.

The processes of regionalization, which has been developing more and more in the world within the administration of global, regional and local inter-dependences requires re-examination of the existing counties and the creation of real regional units, while fiscal incapability of small municipalities and cities make it necessary to investigate the number of these units of local self-government and their powers.

The introduction of the subsidiary principles as a basic principle to determine the units of self-government's scope of activity requires further law amendments and hence a change of the system of financing local and regional self-government and strengthening of their original incomes.

Local and regional self-government in the Republic of Croatia is regulated by the Constitution, the Law on local and regional self-government, the Law on territories of municipalities, cities and counties in the Republic of Croatia, the Law on the financing of units of local self-government, the Law on the elections of members of representative bodies of units of local and regional self-government and a series of special laws which regulate the responsibility of single bodies, the bodies of state administration and bodies of the units of local and regional self-government concerning their sphere of action defined by the Constitution and laws.

In 2001 a new Law was adopted on local and regional self-government. The legislative changes affected also the structure and the interrelation between the legislative and executive bodies in the units of local and regional self-government, which will be described in this paper.

### 2. An outline of local and regional self-government in Croatia

In the Republic of Croatia there exist two levels of self-government, the local and regional one. The units of local self-government are municipalities and cities, while



the units of regional self-government are counties (županije). It is, however, necessary to mention that the counties do not have the characteristics of regions.

A city, as opposed to a municipality, is a unit of local self-government, which as a rule has more than 10,000 inhabitants or which is the seat of a county. Exceptionally, where there are special reasons for that (historical, economic), a settlement can acquire the status of a city even if it does not meet the previously mentioned conditions.

In the Republic of Croatia there exist 424 municipalities, 122 cities and 20 counties. The capital, the city of Zagreb, has the position of a county and in its self-government scope of activities it combines the functions of both a city and a county.

The units of local self-government have the right to establish on their territory forms of citizens' self-government on a micro-level, which are not autonomous and do not have their own financial sources, but are organized by the statutes of the units of local self-government and financed from their budgets..

### **3. The structure of legislative and executive powers at local level**

The structure of the legislative and executive powers in the units of local and regional self-government in the Republic of Croatia is not uniform. The structure varies and depends on the size of the unit of local self-government. Larger units like cities as well as regional units (counties) have a similar structure. In small units the structure is based on the principle of unified powers and no separate executive bodies exist. It is only the representative body which is elected and which fulfills also the duties of the executive bodies. This structure is obligatory for the units with less than 3,000 inhabitants and optional in the units with more than 3,001 but less than 10,000 inhabitants.

In larger units the structure is based on the principle of separation of powers and is composed of a legislative representative body, that is the municipal or city council and the county assembly respectively - and the executive bodies, that is the (municipal) mayor, (city) mayor and county head and the collegial executive body the municipal or city executive board.

In the units which have executive bodies, it is not the citizens who elect them through general elections as they elect the members of the representative bodies. Executive bodies are elected by representative bodies, usually from among their own members. The functions of the executive bodies are separated the the functions of the representative body by law. The representative bodies, as well as the executive bodies, have a scope of tasks defined by law from which there also arise the mutual relationships.

In minor units, where the executive bodies are not being founded, the representative body and the president and the vice-president of the assembly fulfill all functions of the executive bodies defined by law, so that the relationships, which were established between the legislative and executive bodies in larger units, are not realized.

#### **3.1. Representative bodies in the units of local and regional self-government**

In the system of local and regional units of self-government the highest body is the representative body, whose members are elected through universal and direct

elections, by secret vote, for the period of four years: municipal and city council at local level, and county assembly at regional level. The representative body adopts general acts within the framework of the self-government scope of activity of the unit of local and regional self-government respectively and fulfills also other duties in accordance with the law and the statutes of the unit.

##### **3.1.1. The size of the representative body**

As to the size of the representative bodies, the recent Law has introduced some changes. The number of members of the representative bodies was reduced with respect to the former period. Before, the municipal council in municipalities with less than 10,000 inhabitants could have from 16 to 32 council members, the city council, no matter whether the city had less or more than 10,000 inhabitants, could have from 20 to 50 council member, and the county assembly from 30 to 50 members.

The new Law differentiated the number of council members in the municipalities and cities with respect to the number of inhabitants, and also defined the minimum and maximum size of county assemblies, so that the number of members is as follows:

- in municipalities with less than 3,000 inhabitants 7 to 13 members
- in municipalities with more than 3,001 and less than 10,000 inhabitants 9 to 15 members
- in municipalities and cities with more than 10,001 and less than 30,000 inhabitants 13 to 19 members
- in cities with more than 30,000 inhabitants 19 to 35 members
- in the City of Zagreb 51 members
- in the counties 31 to 51 members.

Before the latest amendments of the Law, representative bodies were composed of an even number of members. This fact could lead to a deadlock and in order to avoid this the even number was changed into an uneven number of members.

According to the present legal regulations, when we put into relationship only the smallest and largest size of units with the lowest and highest number of members, we come to very different number of citizens being represented by one member of council or assembly: this number goes from 200 citizens per council or assembly member up to 15,866 citizens being represented by one council or assembly member.

Generally, there are two model solutions for the question of the adequate size of the representative bodies: the European and the American. The system with a higher number of members of representative bodies is based on the European model of local self-government, which emphasizes the requirement of representativeness of local and regional legislatures. The other system, with a smaller number of members of the representative bodies, is organized in analogy to the American local self-government system, which emphasizes the criteria of effectiveness and rationality of the system. The recent amendments of the Croatian Law, by which the number of members was reduced, took the fiscal weakness of some of the local units into account and aimed at rationalization of the system.

It can be said that the representative bodies now have an adequate size to satisfy both requirements to ensure their representativeness, and at the same time make efficient decision-making possible.

### **3.1.2. The powers of the representative bodies**

The prerogatives and duties of representative bodies can be divided into following groups:

1. Definition of policies and programmes,
2. Deciding on local or regional regulations,
3. Definition of the administrative organization of the unit,
4. Supervision of the executive,
5. Evaluation of efficiency and effectiveness of individual programmes.

The Law on local and regional self-government determines that the representative body fulfills the following duties:

1. It adopts the statutes, the budget and annual settlement of the unit of local and regional self-government respectively.
2. It adopts decisions and other general acts by which it regulates the matters from the self-government scope of activities of the local or regional unit.
3. It adopts plans and programmes determined by Law.
4. It elects and dismisses the (municipal or city) mayor/ county head and their deputies and members of the city council, except in cases where this is differently determined by law (in small units).
5. It elects and dismisses the president and vice-president of the representative body.
6. It founds and working bodies of the (city and municipal) council and elects their members and appoints and dismisses other persons provided by law, other regulations or statutes.
7. It determines the organization and scope of activity of the unit's administrative bodies.
8. It founds public institutions and other legal persons for the fulfillment of economic, social, communal and other activities, which are of interest for the unit.
9. It notifies of a referendum.
10. It decides about the association and cooperation with other units and unions.
11. It fulfills also other activities, which were placed by law or any other regulation under the scope of activities of the representative body.

Within the framework of a different understanding of the function of local self-government, based on the application of the subsidiary principle and methods of general clauses, according to which the units of local and regional self-government execute all duties of local importance except those which are by Constitution or law given to central authorities, it can be concluded that the regulatory function of the representative bodies could be extended.

With respect to a precise definition of the field of activities of the representative and executive bodies, there exist among special laws an uneven praxis when allocating the authorities. Some prerogatives are given to the representative body by laws or other regulations, while at the same time other legal norms assigns these prerogatives to the executive body (for example the founding of institutions and similar issues).

### **3.1.3. The president and vice-presidents of the representative body**

The representative body has the president and up to two vice-presidents who are elected by majority of all votes given by the representative body's members.

They fulfill their duty on an honorary basis, except in the city of Zagreb and in cases where the executive bodies are not elected but where the representative body decides that the assembly's president and vice-presidents who fulfill the duty also of the (municipal) mayor and the head respectively, fulfill their duties on a professional basis. That accrues from the possibility prescribed for the units, which elect the (municipal) mayor, (city) mayor and county head, which can fulfill their duties on a professional basis, if that is decided by the representative body.

The president of the representative body summon the sessions of the representative body as required, but at least once in three months.

If the president of the representative body fails to summon the session of the council/assembly within a period of 15 days after receiving a request for it, the (municipal) mayor, the (city) mayor or county head respectively shall summon the session within another 15 days period. In the units where there does not exist a (municipal) mayor and mayor respectively, it is the county head who shall summon the session.

### **3.1.4. The working bodies of the representative body**

The representative bodies can establish permanent or temporary working bodies serving to prepare decisions within their scope of activities. In the working bodies the problem agenda should be considered in order to facilitate and accelerate decision-making in the representative body. That, however, is generally not the case, mainly because the debate of the working bodies is simply repeated in the sessions of the representative bodies. The working bodies cannot be entrusted with authority of decision-making. This is the prerogative of the representative body.

### **3.1. Executive bodies in the units of local and regional self-government**

As already mentioned at the beginning, the executive bodies of the units of local and regional self-government are the following: the (municipal) mayor, the (city) mayor and the county head as well as the municipal, city and county executive board as collegial executive body.

The authorities and duties of these bodies as well as the mutual relationship and relationship with the representative body are defined by law. That applies, as already mentioned, to major units of local self-government and to the units of regional self-government where the executive bodies are being founded.

According to the Croatian legislation, the citizens do not elect directly the executive bodies, but a model was elaborated according to which the executive bodies accrue from the representative body of the unit, and it is forbidden at the same time to fulfil the duty of the member of the representative body and the duty of the member of the executive body, they are perceived as mutually incompatible duties.

In the units where the executive bodies are elected, the mandate that the (municipal) mayor, the (city) mayor and the county head respectively as well as the members of the

council have, in the representative body - once they are elected to one of the incompatible duties and once they have chosen to fulfil one of the duties - then the mandate does not cease but is dormant and in his/her place comes a deputy chosen by a political party.

### **3.1.1. The mayor and county head**

The (municipal) mayor, (city) mayor and county head are elected by the municipal and city council respectively as well as by the county assembly from among their own members.

The (municipal) mayor, (city) mayor and county head are the presidents of the municipal, city and county executive boards.

They represent the municipality, city and county respectively.

They have up to two deputy mayors or county heads who are elected by the members of the representative body.

It is possible to set forth by a general act of the representative body that they both and their deputies can fulfil their duty on a professional basis, so that for that time they have the right for payment and compensation of payment respectively.

When executing their duties within the self-government scope of activity of the unit, they have the right to exclude from application the general act of the representative body, if they evaluate that by that acts the law or any other regulation is violated and to ask the representative body to remedy the realized defects within the period of 15 days. If the representative body fails to do so, they are obliged to inform the head of the central body of the state administration authorized to monitor the legality of the activities of the units' bodies, within the period of 8 days.

If the president of the representative body fails to convoke the session within a period of 15 days after receipt of the application, the (municipal) mayor, the (city) mayor and the county head respectively shall convoke the session within a further period of 15 days. In the units where there is no (municipal) mayor and (city) mayor respectively, it shall be the county head, which shall convoke the session.

They ensure the execution of the general acts of the representative bodies.

They monitor the legality of the work of the administration bodies, which fulfil the activities from the self-government scope of activity of the unit.

For the execution of state administrations' activities transferred to the scope of activity of the municipal bodies, city and county respectively, they are responsible to the central bodies of state administration.

The individual prerogatives of the (municipal) mayor, (city) mayor and county head are explicitly elaborated only with respect to the representation of the unit and the monitoring function over the general acts of the representative body, in all other cases they are considered only as presidents of the city executive board. Their authorities are better elaborated by the law on state administration concerning the fulfilment of transferred activities from state administration to the bodies of the unit, than the authorities in executing activities from the self-government scope of activity of the unit.

Different from some special laws which determine their power in the decision-making procedure and adoption of certain decisions (for example budget), that law did not at

all elaborate the possibility to independently regulate certain relationships within the executive function or to have, as an independent executive body, the right to initiate and propose decisions.

Although established, the double responsibility to the representative body and central bodies, does not suppose, as in former times, a higher responsibility towards the central authorities than towards their representative body. The responsibility towards the central authorities is restricted only to the implementation of activities of state administration delegated to the bodies of the units of local and regional self-government.

### **3.1.2. The executive board**

The city executive board is a collegial executive body, whose members are elected by the representative body, usually among the members of the representative body, which means that they can also be from outside the members of the representative body, on proposition of the president of the city council for the period of four years.

The members of the city executive board can be in charge of one or more special fields from the scope of activity of local and regional self-government respectively.

With respect to the composition of the city executive board, the recent law made great changes as to the previous situation. By that, they introduced the "political" executive board, consisting exclusively of members with a political mandate with exclusion of the so-called "professional" executive board, consisting also of heads of the administrative bodies. Only in the city of Zagreb a special law provided for the establishment of a "political-professional executive board", where the members of the city council can also be the heads of the administrative bodies, but not for all fields.

Changes were brought about with the aim to render more professional administration and to separate it from the political, volatile dimension, and with the aim of administrative reorganization and separation of the administration from the influence of the elected office-holders for the promotion of the administration's work and the elevation of the decision-making level.

In the earlier experience, all three solutions used to be accepted. The middle solution according to which politicians and administrative office-holders also made up the city executive board in different proportions. In some units the other solution was also accepted, like in the city of Zagreb, where all members of the city executive board can also be administrative office-holders in single resorts, while in some units there also existed the present system.

It is estimated that the introduced system of the "political" executive board, where the board members are volunteers, is the most adequate in minor units which have only one unified administration department, and that in major units, where we also have board members and heads of single administration fields, it provokes certain undesirable effects:

- Reduction of efficiency and effectiveness of the system because the authorities, earlier cumulated in one person, are now shared between the council member and the head.

- Higher demand for further coordination between the numerous parts of the system because now there are more subjects in the chain of coordination.
- Higher functioning costs of the system - apart from payment for one person, there appears also the payment for the executive board member, the activity costs are duplicated with respect to the work of the executive board, there arises the necessity for further working space, the administrative and other surrounding activities are growing.
- Interference of executive board members, into the field of authorities of the head, like it is the direction of the administrative body, signing of acts and similar issues.

The (municipal) mayor, the (city) mayor and county head are presidents of the city executive board and have a mandate for the composition of the board in the form that they, formally, have an influence on the election of their closest colleagues. In the city executive board, however, which is composed on the basis of a coalition agreement with participation of several political parties, the bearer of the executive power within the unit, once elected, cannot independently influence the composition of the city executive board. As the city executive board is a political body, that composition depends on the coalition agreement among the political partners about their mutual share of departments and the decisions of the political parties on the members of the city council. Formally, the bearer of the executive power proposes the members; in reality the political parties do that.

### **3.1.3. The size of the executive board**

Law, according to the size of the unit, determines the structure of the city executive board. The statutes determine the number of board members within the framework fixed by law.

The number of board members must be uneven and it oscillates between:

- For municipalities which have from 3.001 to 10.000 inhabitants from 3 to 5 members,
- For municipalities and cities which have from 10.001 to 30.000 inhabitants from 5 to 7 members,
- For cities with more than 30.000 inhabitants from 7 to 9 members,
- For the city of Zagreb from 9 to 15 members,
- For the counties from 7 to 13 members.

### **3.1.4. The prerogatives of the city executive board**

The authorities of the city executive boards can be defined as initiative and executive ones. With difference from the former way, where the lawgiver preferred the executive function when defining the authorities, now the advantage is given to the important instruments of the initiative function.

The initiative function is expressed through proposals of all important general and other acts adopted by the representative body, while the executive function is expressed in the assurance of the implementation of the policy and formal decisions by the representative body, in the coordination of activities and supervision of the

administration bodies' work as well as in the management of the assets. The city executive board is given essential organizational and personal prerogatives, because it regulates the inner organization of the administration bodies and nominates the heads of the administrative bodies, and with respect to the administration of the assets. It is determined by law that the city executive board:

1. Prepares the propositions of general acts,
2. Executes or ensures the execution of general acts of the representative bodies,
3. Coordinates the activities of the administrative bodies of the unit when doing the work from the self-government scope of activity and monitors their work,
4. Manages and disposes of immovable and movable properties owned by the unit, as well as of their incomes and spending,
5. Fulfills also other activities determined by the statutes.

The board members do not have the right of decision in cases concerning management of immovable and movable properties owned by the unit if they personally or through their close family members are the interested party.

The executive bodies are obliged to present reports, give details and inform on request of the representative body and on the basis of their initiative and to give answers to questions posed by members of the municipal or city assembly concerning the implementation of policy, the decisions of the representative body and the solving of problems within the units from the competence of the executive bodies.

The executive bodies are responsible for administrative work in the unit and have the power to command, coordinate and monitor the administrative body or administrative bodies, if there are more in one unit; they care about the efficiency and effectiveness of the administration's work and the quality of the service offered.

The city executive board is an active participant in defining local and regional policy; it is not only the executive body of the unit. Although subordinate to the representative body, it has a significant independence and responsibility and significant influence on the overall policy within the unit.

## **4. The relationship between the legislative and executive powers**

As the executive bodies loom up from the representative ones, they are responsible to them for their work. The law provides an undoubtedly fixed horizontal responsibility of the city executive board to the representative body of the unit. There is no more a vertical responsibility of the executive board to the higher state bodies.

For the (municipal) mayor, (city) mayor and county head, however, there exist only the legal provision on their vertical responsibility to the central bodies of state administration for the fulfilment of state administration tasks transferred into the scope of activity of the bodies of municipalities, cities and counties respectively.

The responsibility of the (municipal) mayor, the (city) mayor and county head for the fulfilment of tasks from the self-government scope of activity is not explicitly fixed by law. It accrues from the responsibility of the council to the representative body, to which that body is the president and from the fact that the representative body gave its confidence to the executive bodies they had elected.

The supervisory function is one of the most important functions of the management system; its implementation controls the effects of the different parts of the system, adherence to the rules, achievement of results, success, level of effectiveness and efficiency of the system.

In the units of local and regional self-government, as well as at state level, a mechanism was set up of mutual dependence and control of the legislative and executive power.

In connection with the council's responsibility to the representative body, there was installed the institute for the vote of confidence to the (municipal) mayor, the (city) mayor and county head respectively as well as to their deputies, to the single member of the city executive board or the board as a whole. It may be asked for the vote of confidence on application of at least one third of the members in the representative body, while the vote of confidence to the executive board may demand their president and (municipal) mayor respectively, the (city) mayor and county head.

That institute has in its execution a two-sided significance. First, the representative body is enabled to ask for the vote of confidence for the executive bodies in cases when they do not agree with the mode of executing decisions and other matters for which these bodies are responsible with the aim to evaluate the work and to fix the responsibility of the executive bodies. On the other part, the executive bodies are thus enabled to execute political pressure on the representative body in the case when they want them to adopt a decision in which they are especially interested and to impede the adoption of decisions to which they are opposed for they evaluate that it will not be possible to ensure its implementation.

As already mentioned, the (municipal) mayor, the (city) mayor and county head have the right, when effecting the tasks from the self-government scope of activity of the unit, to stop the general act from being applied by the representative body if they deem that by that act also the law was violated or any other regulation and to ask the representative body to remove the established deficiencies within a period of 15 days. If the representative body fails to do so, they shall be obliged to inform within a period of 8 days the head of the central body of the state administration authorized for the supervision over legality of the units' bodies' work.

The executive bodies are obliged to present reports to the representative body from which his supremacy over the executive bodies becomes evident. Owing to such an organization of power and mutual relationship, the emphasis is put on the importance of the role of the representative body within the system of local government, but without pretensions to build domination over the executive bodies, which are according to that, given independence in doing the execution functions.

### ***5. The quality of functioning in the units with separate legislative and executive bodies***

The model founded on the separation of power between the legislative and executive bodies is surely a model that ensures an improved fulfillment of jobs from the self-government scope of activity of the unit.

Their advantages are as follows:

1. Higher adaptation to the needs for every-day operative fulfilment of tasks, which have a bigger importance for the unit, those tasks which should not be transferred to the head of the administration body.
2. Ability to react immediately and to adopt decisions quickly and to effect urgent measures.
3. Higher competence of the members of executive bodies to implement decisions thanks to their day-to-day or very close contact with the administration.
4. Operative supervision over the work of the administration bodies.
5. Existence of institutional mechanisms which have to impede the concentration of power in the hands of the (municipal) mayor, the (city) mayor and county head respectively and the council members and to enable the implementation of supervision over the executive bodies and local government: - the policy is determined by the representative body, the institute of posing questions by the members of the executive board, responsibility of executive bodies to the representative body, the institute of vote of confidence, presentation of reports.

Like all other models, which has advantages and disadvantages, as disadvantages one may stress the following points:

1. Temporary appearance of differences in the understanding of policy and the mode and content of implementation of decisions by the representative body.
2. Such an institutional structure leads to a certain concentration of political influence in the hands of the (municipal) mayor, the (city) mayor and county head and executive board. He is entrusted with the role of linking political, executive and administrative functions. There exist, however, institutional mechanisms, which restrict such tendencies.
3. The initiative role of the executive bodies leads to strengthened influence of the administration on the decision-making of the representative body. The executive bodies are not only executors of decisions of the representative body, but also have the decisive significance on forming policy and the content of decisions adopted by the representative body.

### ***6. Advantages and disadvantages of a system without separate executive body***

It is new, as mentioned before, that in units of up to 3.000 inhabitants the executive bodies are not elected. The president of the assembly performs the authorities of the municipal mayor, the vice-president of the representative body fulfills the authorities of the deputy mayor and the representative body performs the powers of the executive board.

In the units that have from 3.001 to 10.000 inhabitants it can be decided that the executive bodies will not be elected and then the same principle is applied.

The operative administrative function is implemented in a single administrative body, which is managed by the head nominated on the basis of notifications.

The legislator insisted, departing from the diversity of the units of local self-government, on setting up a structure that will ease the functioning of the system in minor units where the problems of insufficient financial and material means and insufficient staff is evident.

Such a structural solution has a positive influence on:

1. Reduction of costs.
2. Less need for staff.
3. Removing of differences in the understanding of policy and the kind and content of decision implementation by the representative body because the persons who define the policy of the unit participate also in its implementation
4. There is no fear of whether the (municipal) mayor, the (city) mayor and members of the council will alienate too much political power.
5. There is no doubt whether the bearers of the executive functions are qualified.

Such a legal decision, however, must lead also to a number of practical problems:

1. A whole series of legally provided institutes is not executed.
2. Procedures, provided by law, cannot be respected; neither is it possible to realize certain powers, which accrue from the relationship between the representative and executive bodies.
3. The incompetence of the members of the representative bodies for the implementation of decisions is evident. In the field of planning, administration, financing and budget, accountancy, public relations work, staff policy and personal activities, new technologies, computers and similar issues, professionalism is unrenounceable.
4. The model cannot satisfy the needs for every-day operative management of tasks being of major importance for the unit, those tasks whose management should not in any case be transferred to the head of the administrative body, given the fact that the representative body has not been drawn up as a body for the operative management of tasks and it cannot immediately react by quickly adopting decisions and undertaking urgent means.
5. Such an institutional structure must lead to concentration of political influence in the hands of the president of the representative body who concentrates in his hands also the functions which accrue from the work of the representative bodies and functions of the executive bodies, the (municipal) mayor, the (city) mayor and the council. He is entrusted with the role of linking political, executive and administrative functions; he is the key person in minor units.
6. There is no institutional mechanism, which would impede the concentration of power in the hands of the president of the representative body and a very small group of people in the unit.

## 7. Administration

The units of local and regional self-government are formed for the fulfilment of tasks within the self-government scope of activities and tasks of state administration transferred to be fulfilled by the bodies of the administration units.

The only restriction defined by law refers to the units without executive bodies. There can be formed only a single administration department for the fulfilment of all tasks. The law provides that the single administration department can be organized also in the units, which do have executive bodies.

The organization of administration bodies is formed by a general act adopted by the representation bodies, while the executive board forms the inner organization, naturally in those units, which have one.

According to that, in minor units there do not exist any special administration bodies for the service of executive bodies and service of representative bodies respectively. In major units the situation is very different. In some units, there exist special bodies, in some they do not.

Every organization that departs from the division and then integration of tasks is better than the one, which divides the work processes in single organizational units. The decision in any case produces the need for further coordination and growth of work costs on the one hand, but also a quicker reaction to the needs of the single body on the other hand, as well as the possibility to independently prepare certain acts for the representative body, without restriction to the initiative of the executive bodies.

## 8. The role of political parties

The representative bodies of the units of local and regional self-government are composed similar to the representative body on national level, mainly of members of political parties and they are the political arenas for certain party activities. Only a minor part of the members of the representative bodies are non-partisan and come from independent election lists.

The multi-party structure wholly reflects the work of the representative bodies on their sessions, in their composition and the work of their working bodies and parliamentary groups who adopt an attitude on matters proposed by the agenda of the session.

The same situation is with the executive bodies. Their structure is adequate to the election results and agreement of political parties. There is no situation that the (municipal) mayor, the (city) mayor and county head come from parties who are in the opposition, as there is no institute of their direct election, which would create such a situation. As the representative body elects him/her from among themselves, usually from among the bearers of the list, it is undoubtedly that this appointment will be the result of the preferences of the winning party or coalition that took over the power.

With respect to the executive board, the political role of the parties is likewise decisive. Although the (municipal) mayor, (city) mayor and county head respectively, are the bearer of the mandate to propose the executive board, he cannot independently have an influence on the executive board's composition. As the city executive board is a political but not professional body, that composition depends on the coalition agreement of the political partners on the mutual division of the departments and the decisions of the political parties on the council members. Formally, the bearer of the executive power proposes the members, but in reality it is the political parties that do so.



## 9. Conclusion

The Republic of Croatia is, in the process of the reform of local and regional self-government, facing another process of decentralization and strengthening of local self-government.

The present system concerning legislative and executive powers applies two completely different models, depending on the size of the unit.

Such a different approach can be regarded as a positive step towards defining the system, which as a result has a different economic, financial and staff quality of the units, takes into account different conditions where they exist and offers the possibilities to realize the most favorable results.

Nataša Kličković

## Structure and Relation between Executive and Legislature at Local Level: Workshop Summary

The seventh follow-up workshop under the project "Local Self-Government and Decentralization" with the topic "Structure and Relation between Executive and Legislature at Local Level" took place in Sarajevo, Bosnia and Herzegovina, on October 24<sup>th</sup> and 25<sup>th</sup>, 2002. With exception of Albania, the workshop gathered, as usual, the experts from the Stability Pact countries, who exchanged their experiences and discussed problems related to the topic mentioned above.

In all South-East European countries, the process of decentralization included the reform of local authorities. This reform introduced new internal systems, structures and office-bearers of municipality. The goal was to establish the local authority bodies, which will be able to provide efficient, effective and transparent grass-root politics, corresponding to the interest and needs of the citizens. These local authorities should follow democratic basic principles, municipality development-oriented principles and citizens-oriented principles. In order to reach those goals, the law for local self-government has to define clearly the functions, obligations, scope and limits of the local authorities.

In most of the systems of local self-government, the law separates the executive from the legislative bodies, although some systems are based on the principle of unified powers whereby one body fulfills the duties of executive and legislative body as well. The system based on separation of powers definitely provides higher autonomy and independence in the scope of competences of the bodies. However, on the other side, separation of power may lead to the lack of cooperation and dialogue between the bodies.

Traditionally, the legislature develops and prepares decisions and the executive organizes their practical implementation. In most of the South-East European countries, the municipal council or municipal assembly represents the legislature. The executive power mostly lays in hands of the mayor or in some cases in hands of the mayor and a municipal body, which is sometimes also called council. The competences of the legislature and the executive vary from system to system. Usually, the legislature develops plans and programs for the municipality, adopts the budget, appoints the mayor, oversees the administration bodies etc. The executive body/s mainly ensure/s the execution of the general acts of legislature, monitor/s the lawfulness of the work of administration and propose/s the budget. The mayor is also the chief administrator.

The ways of election also differ in the South-East European countries. No doubt that the direct election of both the legislative and the executive body assures higher

democracy and less political party influence from outside. If the majority of the legislature belongs to a leading political party and the executive body to some other political party, it is most likely that the will of the leading party will prevail. In the systems, where the legislature elects the executive body, it may happen that the majority of the legislature belonging to a leading political party will elect person/s belonging to the same party for the executive body. That will certainly diminish the conflict between executive and legislature on one side, because the executive will not put its position at risk and act against the will of the legislature. But on the other side the decisions made will actually represent the will of the leading party and not necessarily that of the citizens.

The following questions in regard to the structure and relation between executive and legislature were the subjects of the presented papers and also discussed at the Sarajevo workshop:

1. Do these two bodies act separately?
  - Do they have separate competencies?
  - Is the executive elected by popular vote (from people), appointed by central authorities or elected by the legislative organ?
  - Does separation of powers provide better quality of functioning or more independence and possibly lack of cooperation?
  - Does legislature have good channels and opportunities to exert control over the task performance of the executive body?
  - What are the advantages and handicaps when the executive body is elected and directly controlled by the legislature?
2. Do both bodies have their own administration and how do they communicate? Which are the positive/negative consequences when only the executive has its administration?
3. What is the role of the parties and how do these two bodies function when for instance the assembly consists of representatives of one party and mayor belongs to the opposition party?
4. Does the size of the legislature influence its proper functioning?

However, the presentations of the experts of their home country systems and models as well as the discussions arisen thereby provoked some new questions and attention grabbing problems in regard to the workshops topic.

The Macedonian model is a conventional Council-Mayor model with separation of powers and direct elections for both legislature and executive. The most important problems for local authorities are seen in their narrow scope of competences and restrictive local financing, which can be also interpreted as a still too centralized model of local government. Furthermore, the enlargement of the number of councilors was questioned, especially for the larger municipalities, with the purpose of increasing the possibility for citizens' participation. In order to overcome the lack of professional skill of local authorities, it was suggested to introduce training seminars after elections. Because of the danger of blocking the mayor by the council, or council by the mayor, there should be some mechanism of active control and sanctions for the body that blocks the process.

Another Council-Mayor model was presented in the Romanian paper. Although the Romanian law on local self-government provides balance of power between the executive and the legislature. The praxis shows that in some municipalities the mayor is subordinated to the council and in some municipalities is the council subordinated to the mayor. Furthermore, both bodies are elected directly what enables the mutual control or principle of checks and balances. These mechanisms (e.g. Secretary of territorial-administrative unit, managerial civil servant, who has an important role in communication of the two bodies) are provided by Romanian law. It was emphasized that in order to check, if the division of power is constructive or destructive, the level of transparency, efficiency, stability and services should be measured. The fact that the deputy mayor is in Romania elected by councilors woke up questions such as: Why does the mayor not determine his/her own team? Or at least, why the councilors do not elect the deputy on mayors suggestion, like in Slovenia?

The Yugoslav model is an Assembly-Mayor model, where the assembly represents the legislative power and the mayor the executive one. The mayor may be elected directly and by secret vote or appointed by assembly, according to the cases when the municipal statute determines so. It is very interesting that the assembly may also form a council as a legal and supervisory body. In that case, which is prevailing today, the model is Assembly-Council-Mayor. The task of the council is to control the work of local government bodies, to assure the citizens participation and, as most important, to act as a bridge and mediator between the mayor and the assembly. The idea for such a body came in order to diminish the conflicts between legislature and executive, which are mostly of political nature. The council is elected by the assembly, but proposed by the mayor.

The Slovenian system of local self-government is also based on the Council-Mayor model, with the council as legislature and the mayor as executive. Both bodies are directly elected. Because of the big influence of the political parties at local authorities, Slovenia introduced a new approach, whereby the mayor directs the council meetings, but is not a member of the council than an independent candidate. In this way, neither the mayor can recall the council nor the council can recall the mayor. Furthermore, the mayor is completely a political figure. Some innovations of local self-government in Slovenia are: councils can form committees, composed of independent members as well, according to their needs; new forms of public participation in areas of development and spatial planning are developed through special boards; and there is the possibility for further internal decentralization (division of municipality into smaller units) upon councils and citizens agreement.

The Assembly-Mayor model exists in Bosnia and Herzegovina. This model slightly differs in the two entities of B-H. Namely, in the Federation of B-H the mayor is appointed by the assembly, while in the Republika Srpska the mayor is elected directly. The reason for that is of technical nature. The Republika Srpska is unique entity, while the Federation is divided into ten cantons. The mayor became a dominant figure in post-Dayton times in the B-H. He/she is a political manager. His/her power lays in his/her competences such as initiation, preparation and proposal of the municipal policy and management of the budget. Consequently, the legislature has the

subordinated position in regard to the executive. It is interesting that the assembly may initiate a vote of no confidence to the mayor; and therefore, the mayors position actually depends on the political will of the assembly. However, since the mayor always represents the leading political party, there were no cases where the assembly revoked the mayor. Only the High Representative of the international community relieved the mayor in a couple of occasions.

Bulgaria adopted the French system, i.e. the Council-Mayor model. Both bodies are elected directly and based on the separation of powers. The Council can reverse acts of the mayor, and the mayor can oppose decisions of the council in violation. The central state bodies, such as the regional governors, have the legal control over the local government acts. However, one fact stimulated the discussion and that is the power of the council in Bulgaria to remove the mayor. In most of the Southeast European countries this is not the case. If the mayor is elected directly, it is very unusual that the council can remove him/her instead of the citizens. The praxis in Bulgaria shows that the mayor usually searches for balance and agreement, because the blockage of the processes would only damage his/her political reputation in the next elections.

The Hungarian Assembly-Mayor model has besides these two organs also a kind of secretary general, called - the notary. The assembly and the mayor are both elected directly. The mayor has according to his/her assignments the vital role among the local authorities. The notary is an organ of the central power, a state administrative body. The assembly upon competition and required qualifications appoints the notary. He/she is a legal advisor, has a very significant role in decision-making processes as well as in the execution of the assemblys decisions, and takes care of the expenditures for the realization of planned projects. The notary was the most powerful local government body before the transition. Because of the state supervision of local government through notary and for financial matters through the State Audit Office, one may say that the system of the local government in Hungary is still very centralized.

Croatia practices two different models, one in minor and the other one in larger units of local self-government. The minor municipalities are based on the principle of united powers. This means that the executive body is not elected, than the legislative body, called council, fulfills the tasks of both legislature and executive. The larger units are based on separation of powers with the council as legislative body and the executive board and mayor as bodies of executive power. The legislature elects the executive among its own members, which assures that the position of the mayor is in hands of the representative of the leading political party. The right of the legislature to elect the executive bodies and its right to initiate a vote of no confidence to the mayor or executive board gives the legislature the dominant role. Another specialty in Croatia is that the recent law introduced two kinds of executive boards as the executive body at local level, one is the "political" executive board consisted of members with political mandate and the other one is the "professional" executive board consisted of the heads of administrative bodies. Only the city of Zagreb, the capital, has one "political-professional" executive board.

## Questionnaire about the structure and relation between the legislature and executive at local level

### Institutional Model

1. Which are local government bodies at local level?

Name of the body	Main function of the body		
	legislative	executive	supervisory
<b>Bosnia and Herzegovina</b>			
Municipal assembly/council	x		
Municipal mayor		x	
Municipal administration		x	
The High Representative of International Community			x
<b>Bulgaria</b>			
Municipal council	x		
Mayor		x	
<b>Croatia</b>			
City council	x		
Executive board		x	
Mayor		x	x
<b>Hungary</b>			
Mayor	x*	x	
Assembly	x		
Commissions of the assembly**			
Notary		x	x
Office**		x	
<b>Macedonia</b>			
Council	x		x
Mayor		x	x
<b>Comments:</b>			
Hungary:	* as member of the assembly ** advisory		
Macedonia:	Municipalities have administrations; urban ones Chief City Architects; both conducted and managed by mayors		

Name of the body	Main function of the body		
	legislative	executive	supervisory
<b>Montenegro</b>			
Municipal assembly	x		
Mayor		x	
Municipal secretariats		x	
<b>Romania</b>			
Mayor		x	
Local council	x		
<b>Serbia</b>			
Municipal assembly	x		
Mayor		x	
Municipal administration		x	
Municipal council			x
<b>Slovenia</b>			
Council	x		
Mayor		x	
Supervisory board			x

The tables above show that all of the countries have a legislative body, but some of them call it assembly and the other call it council. However, Croatia has two executive bodies – executive board and mayor. Serbia has council, which represents supervisory body and is a body between the legislature, called assembly, and executive body. The mayor represents in all of the countries the executive body, but he/she also has supervisory function in Croatia and Macedonia. Furthermore, in Hungary has the mayor partly the legislative function as well, because he/she is the member of the assembly. It is very interesting that, besides administration, several countries have some additional local government bodies: B-H has the High Representative of the International Community, who has supervisory function of local bodies. Hungary has a notary, who has executive and supervisory function. Slovenia has a supervisory board with supervisory function.

2. What is (are) the model(s) of local government in your country?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Council-Mayor	x*	x			x		x		x
Assembly-Mayor	x**			x		x			
Assembly-Council-Mayor								x	
Council-Executive board-Mayor			x						
<b>Comments:</b> B-H: * in Federation ** in RS Romania: The relations between them are strictly cooperative; and no subordination of any kind is allowed.									

Except Croatia and Serbia, all of the countries practice the French model i.e. Council-Mayor or Assembly-Mayor model, whereas both a council or an assembly represent the legislature. The mayor represents the executive. In the contrary, Croatia adopted the Council-Executive board-Mayor model, which is usually practiced in the USA, and is consisted of one legislative body (council) and two executive bodies (executive board and mayor). Serbia practices the Assembly-Council-Mayor model, where the assembly represents the legislature, the council supervisory body and the mayor executive body. Serbia invented an intermediary body (council) in order to diminish the conflict between the legislature and executive.

#### Way of Elections

3. How is the mayor elected?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Directly by voters		x		x	x		x	x	x
Indirectly by legislature (council/assembly)	x		x			x			
<b>Comments:</b> B-H: Mayor is elected in Federation of BH by municipal council. In Republika Srpska mayor is supposed to be elected directly by voters in the year of 2004, but until then mayor is elected by municipal assembly as well as in FBiH. Bulgaria: Mayors of municipalities and of local units up to 5000 citizens									

Only in B-H, Croatia and Montenegro is the mayor elected by the legislative body. In all other countries, the mayor is elected directly by voters. Since the local self-government indicates citizens' participation in decision-making at local level, direct election of the mayor surely better reflects the will of the citizens. In the cases when the legislature elects the mayor, the mayor is less willing to oppose to any decisions made by legislature, because the legislature can revoke him/her. Also, in these cases is the mayor usually the representative of the leading political party of that municipality, because the legislature itself is composed of the majority of representatives of the leading party, whose interest prevail.

#### Competencies of Local Bodies

4. What are the main competencies of the legislative body (council/assembly)?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Develop policies	x	x	x	x	x	x	x	x	x
Develop legislation	x		x	x	x	x	x	x	x
Propose budget			x					x	x
Enact budget	x	x	x	x	x	x	x	x	x
Oversee and examine mayor's work	x	x	x	x	x*	x			x
Participate in appointments of chief administrative staff	x	x		x			x	x	x
<b>Comments:</b> Macedonia: * (to some extent) Montenegro: Among main competences of the legislature is also to decide about municipal property; to appoint and release the mayor, deputy mayor and secretary; and to supervise the local bodies work. Romania: Main competences are also administration of the local public and private domain, enactment of the organization rules of the city hall and election of the deputy mayor (from its members).									

Two competences of the legislative body are common for all of the countries. These are: development of policies and enactment of budget. In seven out of nine countries, the legislature develops legislation. Obviously that in Bulgaria and Romania is the central government responsible for development of legislature for local level. In seven countries, the legislature oversees and examines the mayors work. In Serbia is the council that has the supervisory function. The prefect, as a central government body, has the supervisory function in Romania. Furthermore, in six countries the legislature participates in appointments of the chief administrative staff. In the other four countries this competence belongs to the mayor, who is the chief administrator.

Finally, only in three countries the legislature proposes budget. In most of the other countries, the mayor is the one who proposes the budget.

5. What are the main competencies of the mayor as representative of executive?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Propose policies	x	x	x	x	x	x	x	x	x
Propose legislation			x	x	x		x	x	x
Propose budget	x	x	x	x	x	x	x	x	x
Appoints administrative staff		x	x*	x	x	x	x	x	x
Be chief administrator	x	x	x		x		x		x
<b>Comments:</b> Croatia: * council Romania: The main competences of the mayor are also to be guarantor for respect of the fundamental rights and freedoms at local level and to assure the enactment of the council's decisions.									

In all of the countries the mayor is the one who proposes policies. In eight out of nine countries, the mayor proposes budget and makes administrative appointments. In Serbia, the legislature proposes the budget. In B-H, the legislature makes administrative appointments. The mayor proposes legislation in six countries. Finally, the mayor is the chief administrator in six countries.

Table 4 and 5 illustrate that the executive body generally proposes policies, legislation and budget, and the legislative body generally develops policies, legislation and budget. In regard to the administration, the competences are in some countries given to the legislature, in some to the executive, and in some to both bodies. Obviously, through the decentralization process the most important competences are delegated to the local authorities in South-East Europe. These competences are delegated to the executive and the legislature on the principle of separation of powers, whereby there is a balance of power between both bodies.

## Accountability and Control

### 6. Whom the mayor is accountable to?

B-H	Assembly/Council		
<b>Bulgaria</b>	Council		
<b>Croatia</b>	Assembly	Ministries	
<b>Hungary</b>	Assembly	Hungarian Parliament	
<b>Macedonia</b>	Council	Central government	
<b>Montenegro</b>	Assembly		
<b>Romania</b>	Prefect	Citizens	Central government
<b>Serbia</b>	Citizens		
<b>Slovenia</b>	Municipal council	Supervisory board	

Except in Romania and Serbia, the mayor is at the first place accountable to the legislative body. This is expectable for B-H, Croatia and Montenegro, since in those countries the legislature appoints the mayor. However, as mentioned before, in such cases the mayor rarely opposes the decisions made by legislature, because it is in his/her interest to keep the position. Also, the mayor is in such cases a representative of the leading party, since the leading party members compose the majority of the legislature. In Croatia, Hungary, Macedonia and Romania, the mayor is also accountable to certain bodies of the central government. Only in Romania and Serbia is the mayor accountable to the citizens, who elected him/her directly. This is an ideal solution and approach to local self-government, but it is questionable to which extend are the citizens really able to control and check the mayors work and how educated and competent they are to judge the mayors work. The system that Bulgaria, Hungary, Macedonia and Slovenia have could be more appropriate to the countries of the South-East Europe, which do not have long tradition of citizens participation in local affairs. In this system, the mayor is accountable to the legislature, but the legislature does not elect the mayor. The mayor is elected directly. The legislature surely has better insight into mayors work and should be competent and educated enough to judge properly his/her work. Slovenia has an additional body of local authorities called supervisory board, which is the mayor accountable to as well.

### 7. Removal of the mayor

Can the mayor be revoked? (yes/no)	By whom?	Under what condition?
<b>B-H</b>		
yes	by OHR; by assembly/council	The municipal assembly has a special competence within the sphere of political control over the work of the municipal mayor. The municipal assembly adopt the reports on the work of the municipal mayor and on that ground, the municipal assembly can, when finding out that the development policy set forth is not being executed, initiate a procedure of vote of no confidence to the municipal mayor.
<b>Bulgaria</b>		
yes	by council	In cases of continuous incapacity of systematic failure to perform the function for a period over six months - following a decision of the municipal council
<b>Croatia</b>		
yes	by council	Upon request of 1/3 of assembly members
<b>Hungary</b>		
yes	by Parliament	When the assembly is dismissed or contradictory behaviour towards the law
<b>Macedonia</b>		
yes	by Council; by Macedonian Government after the proposal of the Ministry of Local Government	1. In case of unjustifiable absence of his duties for more than six months or if he/she ceases to be a citizen of the municipality he governs 2. In case a) the Mayor is convicted by an effective verdict on at least 6 months prison sentence b) he/she loses his/her business capacity c) his/her office is incompatible with his/her status or position in some other areas
<b>Montenegro</b>		
yes	by assembly	When the mayor is sentenced for a criminal offence or for some other punishable offence; when the mayor has violated the constitution, law and statute; when duties entrusted to mayor have not been performed in acc. to law (by elections - impeachment)

Romania		
yes	by law; by prefect	<b>By law:</b> electoral fraud; loss of political rights, when convicted, when it's impossible for more than 6 months to exercise his rights; when he enacted 3 acts during 3 months that had been declared illegal by an administrative court of law. <b>By prefect:</b> When decided by referendum
Serbia		
yes	by citizens; by assembly; by Serbian Government	When the mayor is sentenced for a criminal offence or for some other punishable offence; when the mayor has violated the constitution, law and statute; when duties entrusted to the mayor have not been performed in acc. to law (by elections - impeachment)
Slovenia		
no	-	-
<b>Comments:</b>		
B-H:	Unfortunately, this competence exists only in theory because it has never been put into execution in order to check the work of the mayor and if possible, to remove him from his/her position. In reality the only who has removed mayors in several municipalities because of the destruction of the Dayton peace agreement concerning the return of refugees is the OHR.	
Slovenia:	Only under specific conditions like being prosecuted for criminal action or illness, the mayor is replaced by vice-mayor and new elections are called.	

In all of the countries, except Slovenia, the mayor can be revoked. This right has the legislative body. However, in Macedonia, Romania and Serbia the removal of the mayor can be performed by the bodies of the central government as well. In Hungary this right has the national parliament. The table 6 illustrates to whom the mayor is accountable to. The same bodies stated in table 6 are stated in table 7 as the bodies that can revoke the mayor. The usual conditions for removal of the mayor are: his/her continuous incapacity to perform his/her work, violation of law, and involvement in criminal acts. The Slovenian system, where the mayor can not be revoked, had caused in praxis some negative consequences. In some cases when the mayor belonged to a different party from that of majority of the legislature, in came to no co-operation between the two bodies and two parties. The legislature has no power to revoke the mayor, and the mayor has no power to dissolve the legislature. Only common sense can force them to co-operate and to reach agreements. The comment of B-H is very interesting. The legislature has only in theory the power to revoke the mayor. The High Representative of the International Community is the only one who actually revokes the mayor.

#### 8. Dissolution of the legislature (council/assembly)

Can the legislature be dissolved? (yes/no)	By whom?	Under what condition?
<b>B-H</b>		
no	-	-
<b>Bulgaria</b>		
no	-	-
<b>Croatia</b>		
yes	by government	Under conditions defined by law
<b>Hungary</b>		
yes	by itself; by the Parliament	contradictory behaviour to the law
<b>Macedonia</b>		
yes	by Macedonian Government after the proposal of the Ministry of Local Government	1. If the council repeatedly passes an act that has been previously annulled or cancelled by the Constitutional Court of the Republic of Macedonia 2. If it passes and act jeopardising the sovereignty of territorial integrity of the Republic of Macedonia 3. If it fails to convene (hold a session) for a period longer than six months 4. If it fails to pass the budget or annual budget balance of payments until March 31, of the year to which the Budget refers
<b>Montenegro</b>		
yes	Central Government	When in longer period of time fails to fulfil its functions
<b>Romania</b>		
yes	Central Government; Prefect	When the local council has adopted no more than 3 acts (in a 6 months time) that had been charged as illegal by an administrative court of law

Serbia		
yes	Serbian Government	When it does not adopt the statute; does not adopt the budget ; if the mayor is not revoked in impeachment elections
Slovenia		
yes	National Parliament	If the budget is not passed for two consecutive years; if it fails to meet for a specified period of time

Only in B-H and Bulgaria the legislature can not be dissolved. In all other countries, the legislature can be dissolved by the central government or as in Hungary and Slovenia by parliament. The system in Bosnia and Bulgaria can have positive impact on local self-government and local authorities, because in this way it protects the local bodies from central interventions. Furthermore, the local bodies have to come up alone with solutions to their problems and disagreements. In all the other countries, the central government can issue writs for pre-elections. The usual conditions for dissolution of the legislature are: non-fulfilment of its functions and contradictory behaviour to the law.

### Political Leadership

9. To whom does the Constitution provide the dominant political power at local level?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Mayor	x		x		x	x	x	x	x
Legislature (council/assembly)		x	x	x	x	x	x	x	
Comments:									
Croatia: and Council									

The political power is equally divided between the legislature and executive in Croatia, Macedonia, Montenegro, Romania and Serbia. That means that both bodies determine and are bearers of the political policy of the municipality. In B-H and Slovenia, the mayors have the dominant political power. This indicates that these Council-Mayor models have a strong mayor and a weak council. The mayors are here primary political personalities, and the legislative body does not have political control over the mayors work. As seen in the table 7, the mayor can not be revoked in Slovenia

at all, while in Bosnia only the High Representative of the International Community actually has this right.

10. How influential is party politics at local level in your country?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Very influential	x		x	x*	x			x	
Influential		x				x	x		x
Not influential									
Comments:									
B-H:	Party politics is a key element for understanding the way of functioning of local self government in BH. Municipal councillors are exponents of the will of the political parties. The process of adopting decisions in the municipal assemblies shows that during the mandate of an elected municipal assembly a dominant impact on the adoption of decisions is effected by the leader of the political parties and the presidents of the parliamentary groups of the municipal assembly members.								
Hungary:	* Depending on the size of the local government; however, there are few mayors, who for the second or further period of the office are running as independent candidates.								
Romania:	The local council members do represent political parties and for this reason they hold a position as a local authority in Romanian legal system.								

In all the countries, except in some cases in Hungary, the political parties influence the work and functioning of local authorities. In Bosnia, Croatia and Serbia is the degree of influence of party politics characterized as very influential. This means that the parties actually determine the municipality policies according to the own interest. Furthermore, in these cases the successful functioning of the local authorities highly depends on the degree of agreement or conflict between different leading parties. However, as mentioned before, Serbia introduced, as a solution, a new local body with supervisory function called council, whose role is to mediate between the legislature and executive and to serve as a buffer zone.



## Relations Between the Legislative and Executive

### 11. What is the prevalent nature of the legislative-executive relationship?

	B-H	Bulgaria	Croatia	Hungary	Macedonia	Montenegro	Romania	Serbia	Slovenia
Conflict	x	x		x		x		x	
Harmony		x	x	x	x	x	x		x
<b>Comments:</b>									
B-H:		In fact, all conflicts are initiated by political parties which are trying to provide the interest through the local policy.							
Bulgaria:		both							
Macedonia:		It better suits prevailing co-operation than harmony							
Montenegro:		Legislature and executive have their own competences and it depends of many factors what will be the prevalent nature							
Hungary:		Depending on the settlement							
Romania:		The relations between them are strictly cooperative; and no subordination of any kind is allowed.							

Conflict as prevalent nature of the legislative-executive relationship exist in B-H, Serbia and in some cases in Bulgaria, Hungary, and Montenegro. Table 10 showed that the political parties are very influential at local level in B-H, Croatia and Serbia. It is obvious, that the political party influence is the very reason for conflict relationship of legislature and executive in B-H and Serbia. It seems that Croatia did find some kind of solution to keep this influence under control, or the solution is due to the right of legislature in Croatia to dissolve the executive bodies. However, it seems that in the most of the countries in the South-East Europe actually prevails harmonious relationship between the legislature and executive.

### 12. Does any conflict resolution mechanisms exist?

	Conflict resolution mechanisms
B-H	no
Bulgaria	Dialogue and by court
Croatia	no
Hungary	no
Macedonia	Constitutional Court
Montenegro	Government
Romania	Administrative court of law
Serbia	Serbian Government; Municipal council
Slovenia	no
<b>Comments:</b>	
B-H:	Ironically said, the only mechanism which can solve major problems and conflicts is provided by the High representative of the international community.

Table 12 confirms that the only mechanisms that exist and function in these countries are the mechanisms of the central government. Only the central government has the right to solve the conflict by dissolution of some local authority or by issuing writs for pre-elections. The exception is Serbia, where the municipal council also has the conflict resolution function. It should foster dialogue between the legislature and executive and call for an agreement.

### Main Problems

#### 12. What are the main problems in regard to the legislative-executive relations in your country?

##### B-H:

The main problems are of political nature. The leading role of the chairman of the municipal assembly is not performed professionally in regard to the political representation of the municipality. That role is given to the mayor. The elected municipal assembly members have to rely on the information and proposals of the mayor and the municipal administration. On the other hand, the leadership of the political parties is becoming the main pillar to the municipal assembly members in the decision-making process. This is because the smaller groups among the members of the assembly do participate actively in the preparation and adoption of decisions, but they are members who often lead the parliamentary group committees of political parties. As for the mayor himself, if he is supported by leading influential political party(ies), he possesses a dominant power as well as political accountability for the local community development.

**Bulgaria:**

- a) Conflicts provoked by the lack of finances
- b) Opportunity for directly elected mayors to be revoked by the council.

**Croatia:**

No problems

**Hungary:**

The sufficiency of the legislature in Hungary is low. In addition to this, the resources that are available for the functioning may cause the re-evaluation of priorities. Therefore, sometimes a legislation gap caused. In different settlements the power e.g. of the Head of the Financial Department is so high that he/she can block the implementation of policies. On the other hand, a huge amount of proposals has to be reviewed between two assembly sessions, thus, giving no sufficient time for the accomplishment of the necessary evaluation and new proposals. The assembly in these cases can only work as a voting-machine.

**Macedonia:**

There is no mechanism to sanction the mayor when he/she does not implement the decisions of the Council or to make the Council pass some decisions when ignoring the initiatives coming from the Mayor. In both cases the system is blocked.

The problems can come from the lack of proficiency, especially on the side of the mayors, and from the lack of motivation, both among councillors and mayors. Definitely some dysfunction comes from the party or ethnic affiliation that sometimes is counterproductive to the common local interests.

**Romania:**

Although we do not see it as a problem, the fact that the council members do represent sometimes different political parties than the one of the mayor, can bring some difficulties in the coherence of the administrative law procedures. However, this can be hardly considered as a real problem, since the Constitution proclaims the political pluralism and the laws of democracy involve the idea of party differences. On the other hand, sometimes it is a problem the lack of celerity in implementing the rule of law, meaning the legislative bodies do sometimes block the efficiency of procedures concerning the legal acts inside the Mayor's office.

**Serbia:**

- a) Unclear constitutional framework;
- b) Still no real feed-back on the relation of the separation of powers between the legislative and the executive;
- c) Still no precedent of the effect of the central government intervention, if local authorities do not function.

**Slovenia:**

- a) In the case of conflict situation between council and mayor there is no conflict resolution mechanisms, even if there is almost a complete blockage of action.
- b) In the case of a conflict situation the council lacks professional support of the administration for its decision-making, since the mayor is the chief executive in command of the administration.

**13. What are possible solutions for existing problems?**

**B-H:**

The relationship between the municipal assembly and the mayor can be improved by strengthening the role of the assembly in the execution of political control over the work of the mayor. The reports of the mayor on the implementation of the fixed policy are a chance to vote no confidence to the mayor.

**Bulgaria:**

By changes of the legislation

**Hungary:**

A possible solution would be a more balanced relationship between the organs. In settlements where the mayor is capable to be a leading personality also of the executive body, by involving the office into the policy making to a high extent, the problems seem to be far less important than in other settlements. In cases where the co-operation between the professional human resources, also from NGO's at local level, exists, the proposing work is far more effective than in cases where the assembly insists on policy development separately.

**Macedonia:**

- a) Introducing the right of both mayor and council to initiate early or premature elections in cases of blockage of the local government processing: In the cases when the system is blocked, the solution could lie in the right of either bodies to initiate early elections by which the former bodies will be dissolved and the citizens will decide to whom they will give the confidence in the ensuing period.
- b) Introducing council - manager structure with city manager and mayor: Bearing in mind that the mayor, as chief executive has a lot of problems coming from lack of funds for local purposes and huge dependence on the central laws and bureaucracy, perhaps some advantages can be found in division of functions between mayor and manager, where the mayor will remain a political body within the system conceiving and carrying out the local policies and performing the duty of political representation or communication and the manager will help him a lot in practical activities such as fund raising and execution of other decisions made by the Council.

#### Romania:

One solution would be a better management procedure. The local authorities should acknowledge the possibility to transform the local bodies into competitive organisations, that not only assure the good administration of their citizens, but their welfare, as well,

#### Serbia:

- a) Clear constitutional framework of local autonomy;
- b) Implementation of European standards of local self-government;
- c) Prospects of regionalization.

#### Slovenia:

- a) To find ways that such situations can be resolved locally (like possibility of earlier elections) without state intervention since the state is very reluctant to intervene.
- b) To make a position of municipal secretary stronger in a sense of city manager responsible for local administration.

The problems regarding the structure and relation between the legislature and the executive in the countries of the South-East Europe are pretty different for each country of the region. Although many countries use the same model for local authorities, it seems that in praxis the problems appear to be of very diverse nature. However, some of the problems that emerge are: influence of political parties and political power, the right of legislature to revoke the mayor, lack of professionalism, lack of celerity in implementing the rule of law, and absence of conflict resolution mechanisms. Still, one should have in mind that these countries practice the system of local self-government only 5-10 years, and they need time to develop this tradition and culture and to search solutions to their problems through praxis and experiences.

## Authors

Ilija Todorovski  
Institute for Sociological, Political Juridical Research  
Bulevar partizanski odredi bb  
MK 1000 Skopje  
Macedonia  
Tel.: +389 2 361760  
E-mail: [milkemil@isppi.ukim.edu.mk](mailto:milkemil@isppi.ukim.edu.mk)

Lucica Matei  
Faculty of Public Administration  
6-8, Povernei st, sector 1  
RO 71124 Bucharest  
Romania  
Tel.: +4 021 212 9388  
E-mail: [lmatei@snsps.ro](mailto:lmatei@snsps.ro)

Mariana Cernicova  
University «Tibiscus»  
Spl.N.Titulescu Nr.11 Sc.A Ap.35  
RO 1900 Timisoara  
Romania  
Tel.: +40 56 201471  
E-mail: [cernicova@hotmail.com](mailto:cernicova@hotmail.com)

Stevan Lilić  
Faculty of Law  
Bulevar kralja Aleksandra 67  
YU 11000 Beograd  
Yugoslavia  
Tel.: +381 11 3241 501  
E-mail: [slilic@Funeu.yu](mailto:slilic@Funeu.yu)

Zlata Ploštajner  
Urban Planning Institute of the Republic of Slovenia  
Trnovski pristan 2  
SI 1127 Ljubljana  
Slovenia  
Tel.: +386 1 4201310  
E-mail: [zlata.plostajner@urbinstitut.si](mailto:zlata.plostajner@urbinstitut.si)

Mirko Pejanović  
Serbian City Council  
Hamdije Kreševljakovića 3  
BH 71000 Sarajevo  
Bosnia and Herzegovina  
Tel.: +387 33 66 6962  
E-mail: [sgvprbih@bih.net.ba](mailto:sgvprbih@bih.net.ba)

Nora Ananieva  
Center for Historical and Political Research  
Positanum 20  
BG 1000 Sofia  
Bulgaria  
Tel.: +359 2 9861673  
E-mail: [solidarityf@yahoo.com](mailto:solidarityf@yahoo.com)

Nora Teller  
Metropolitan Research Institute  
Lonyay u. 34  
H 1093 Budapest  
Hungary  
Tel.: +36 1 2179041  
E-mail: [teller.nora@mri.hu](mailto:teller.nora@mri.hu)

Greta Augustinović-Pavičić  
City of Zagreb  
Trg Stjepana Radića 1  
HR 10000 Zagreb  
Croatia  
Tel.: +385 1 610 1352  
E-mail: [greta.augustinovic-pavicic@zg.tel.hr](mailto:greta.augustinovic-pavicic@zg.tel.hr)

Nataša Kličković  
Friedrich ebert Stiftung  
Zagreb office  
Medveščak 10  
HR 10000 Zagreb  
Croatia  
Tel.: +385 1 4683346  
E-mail: [klickovic@fes.hr](mailto:klickovic@fes.hr)