

*FDI - CEE Online Publications***Experiences With Self-Governments and Their Financing in Slovakia****Ondrej Csanda***Vice President, ZMOS, and Mayor, Nove Zamky***Introduction**

The social changes that occurred in the 1980s in several Central and Eastern European countries have brought about fundamental changes in public life. In Slovakia, after more than 40 years of extremely centralized power, a remarkable shift toward decentralization has occurred. The historical social change of 1989 has led to circumstances allowing the reconstruction of public administration based on new, but generally accepted, principles. Above all, it involved a shift in the administration of a certain portion of public issues to the competencies of autonomous local (territorial) self-governing bodies of municipalities and cities. This form of public administration has historical roots in Slovakia, so it has not been a completely unfamiliar management model.

Seven years have elapsed since the establishment of the first territorial self-governing bodies. This is a relatively short period for substantive changes in the civic consciousness of the people and for economic stabilization of a post-communist country with a transforming economy to take place. Nonetheless, sufficient time has passed to enable an analysis of the process of establishing this form of public administration and to assess its current status. Such an analysis provides the opportunity to detect possible shortcomings in the transformation process.

I am pleased to take this opportunity to present the opinions of the representatives of self-governing bodies and to contribute to the integration of insights regarding the questions now under consideration. I do this, on the one hand, as the vice president of the Association of Slovak Towns and Communities (ZMOS), which represents more than 90 percent of the territo

rial self-governing bodies of Slovakia; and, on the other hand, as a mayor for the last eight years of a city of 44,000 inhabitants.

The relative advantages of various forms of public issue resolution have probably been a subject of discussion since the first society of human beings was established. Sensitive issues such as the right to govern and the degree of power to be divided between the center and the components of society are involved. Current circumstances provide new possibilities for further strengthening of democracy. ZMOS, as a voluntary association of self-governing bodies, has been very actively involved in this public discussion. The basic aim of our association has been straightforward and steadfast since

the beginning: to strengthen the status of self-government as the fundamental component of local democracy and stability of the state. In formulating our views, we have looked to the opinions of city and municipality representatives; we have also relied on principles recognized in states with developed local democracy.

Most experts on foreign approaches to issues of local self-government regard our legislation on municipal establishment as highly progressive. This legislation was enacted by the Slovak Parliament while still within the federal bond; indeed, we recognize that most of our Parliament's legislative acts are essentially only a translation from Czech into Slovak. However, the process of gaining independence—of separating Slovak cities and townships from the state—has been entered into with much more enthusiasm than has been the case for our Western neighbors. This was clearly proven not only by the Act on Municipal Establishment, but also by the Act on Municipal Self-Governmental Elections.

Based on the experiences gained from application of the Act on Municipal Establishment and the efforts of some key players in the Slovak political scene, we had identified three strategic intentions for ZMOS:

€ to recognize the inviolability of the current underlying principles of territorial self-government in Slovakia (i.e., to not allow any changes that would weaken the fundamental legal framework);

€ to adopt the principles of the European Charter of Local Self-Government through legislative amendments designed to strengthen the competencies of self-government with an adequate economic background; and

€ to use the time required for adaptation of our norms to those of the charter to formulate basic tenets for establishing local self-governments and preparing an appropriate legal framework.

The Main Problems of Local Self-Governments in the Slovak Republic

ZMOS members, based on their seven years of experience in the operation of territorial self-governments and in light of the political heat generated by the Act on Municipal Establishment, have defined the fundamental attributes of territorial self-government in our country. Naturally, they have relied on the cardinal standards in this field set by the European Charter of Local Self-Government. In the following sections, I set forth specific areas addressed by the charter and try to illustrate the main problems—or bad experiences—that demand a clear formulation of our standpoint. This part of the paper can thus be regarded as an analysis of current status as seen from the municipal level.

1. Issues of Subsidiarity

1.1. The right to immediate administration of matters concerning the territory of the municipality

1.2. The right to administration of matters concerning all inhabitants of cities and townships

1.3. The right to continuous, one- level, complex and independent administration of these matters and issues

Article 67 of the Constitution of the Slovak Republic states that "in matters concerning territorial self- government, the municipality makes its independent decisions; responsibilities and constraints may be imposed

on it only through an act of law." The basic problem is that the creators of the legislation on municipalities did not take into account historical domestic and foreign experience and custom in defining the competencies of municipal bodies. Self-governing bodies in the Slovak Republic thus far have not been vested with the rights and abilities to manage a substantial portion of the public administration in their territories—as if our legislature looks upon the self-governing bodies that are closely connected to the local community and its everyday problems with a certain mistrust.

Neither the Constitution of the Slovak Republic nor the Act on Municipal Establishment define the notion of subsidiarity. Currently, this concept is foreign to our legislature, and it has been rather smartly circumvented by the possibility of shifting execution of some part of public administration to the municipalities. Time has shown that the state has been preparing its control bodies for such an eventual shift, and this is probably the reason why we are already witnessing the third redevelopment of the system of state public administration within seven years. This is the way to create a "good" structure that does not allow community members to decide whether the self-governing bodies are publicly acting in accordance with their interests, but to leave such matters to competent "specialists" from state regional centers who are capable of seeing things "in perspective."

I do not intend to imply, of course, that the self- governing bodies are infallible in their activities and that all decisions are made in harmony with the interests of the majority of a community and with the law. But it is helpful to realize that these are independent corporate bodies that should be responsible for their own incorrect decisions or for a violation of law. The latter eventuality should be determined by an independent court, not by an administrator with a possibly subjective or biased interpretation of the law.

An effort should be made to establish a clear legislative framework for the execution of the rights of self- governing bodies; and, as the constitution stipulates, responsibilities and constraints should be imposed directly by acts of law. It might not be a bad idea to anchor the fundamental rights, competencies, and responsibilities of local self- governing bodies in the

constitution. Regardless of whether this happens, however, it is in any case desirable to move toward a more precise definition of the basic competencies of local self-

government as provided in article 3, paragraph 1, of the European Charter of Local Self-Government.

I believe that, if the decision on the existence of territorial self-government were to have been made under the present political circumstances, true territorial self-governing bodies in Slovakia would not have been established at all. I back up my argument with two examples: the competencies and faculties of territorial self-government have not been strengthened in the past seven years, despite the three restructurings of public administration that have taken place.

My second example involves the efforts to establish and determine through legislation the functions of self-governments of larger territorial units. Our legislature is currently discussing the Act on Self-Government of Larger Territorial Units. But the proposals concern everything but these regional self-governments.

2. Issues of Establishment, Organization, and Operation of Self-Governments

2.1. The right to constitute and approve self-governing acts of the law

2.2. The right to autonomous decisionmaking

2.3. The right to establish and utilize other self-governing authorizations

2.4. The right to constitute municipal bodies

2.5. The right to chose methods of self-governance

2.6. The right to regulate the number of municipal staff

2.7. The right to execute organizational changes

This set of issues primarily stresses the independent decisionmaking of local self-governments both in legislative terms as well as in the execution of their competencies in particular spheres of public administration and in their organization. Some of these issues—e.g., points 2.4 and 2.5—have no associated problems. Problems do arise, however, where the competencies of particular sectors of public administration have not been properly defined; in issues of self-government versus state administration; and where a bias, in the form of an idiosyncratic interpretation of the law, can influence the decisionmaking process. As an example, take those spheres that have been allocated to the competencies of self-governing bodies, but for which the relevant assets have not been transferred. This is most strikingly manifested

in the area of water

management, where the municipalities are responsible for providing the community with water and for disposing of sewage, but the majority of the assets that serve these purposes remain in the hands of the state administration. A similar situation exists in public transit, where different cities with the same range of responsibilities have different financing methods—and even different public transit company management. Self-governing bodies are not only unable to fulfill their tasks, but even lack the tools for successful execution of their decisions on particular issues.

3. Issues of Community Ownership and Business

3.1. The right to administer own property and own resources

3.2. The right to establish, merge, divide, and abolish community businesses

This area involves one of the most significant attributes of self-government and is in constant flux. To a great extent, it is influenced by nationwide processes—and it can be unambiguously stated that self-governments are being influenced for the worse. The reasons for this perhaps lie in the steps taken in the establishment of self-government in Slovakia. There was a six-month gap between the creation of the first territorial self-governing bodies in Slovakia and enactment of the legislative foundations for allocation of their assets. This initial discontinuity between the legislative and economic foundations of self-government led to bad experiences for Slovakia's cities and towns; they thus stress the need to avoid this problem in the establishment of self-governments of higher territorial units.

The Act on Municipal Establishment contains certain legislative terms that are often related to local self-government in typical democracies—e.g., public services, municipal business, local taxes, etc. Municipal property can be used by law for public purposes, entrepreneurial activities, and the execution of self-government. The property that is intended for entrepreneurial activities serves as basic capital for municipal businesses or other forms of entrepreneurship. The representative body has a right to establish a municipal corporation. It should do so to fulfill one of its self-governing functions, namely to realize "its own investment activities and business activities in order to satisfy the needs of the municipal community and to provide for the development of the municipality." Property

management options should be formulated very precisely, and social control by the community should be ensured because such activity should be aimed at the well-being of municipal residents.

The change in the act on budget guidelines in 1993 forced municipalities to convert their municipal corporations into other forms of business. However, the state corporations have remained. The municipal law mentions disposal of sewage, cleaning of the municipality, public greens management, public

lighting, water supply, public waste disposal, and public transportation as public services. On the other hand, the law governing the establishment of nonprofit organizations for the provision of publicly useful services—which authorizes nonprofit organizations to use their property in business activities to achieve profits for publicly useful services—covers completely different spheres of self-government activities. A similar situation exists with the legal notion of the local tax; I address this later.

4. Financial Issues

4.1. The right to generate and utilize own financial resources

4.2. The right to efficient utilization of consigned financial resources

4.3. The right to redistribute resources and raise them in a timely manner in accordance with future needs

These issues cover a broad scope and are discussed later in this paper.

5. Issues of Complex Territorial Development of Cities and Townships

5.1. The right to approve developmental plans regarding the city/township

5.2. The right to establish and operate public facilities and institutions

These rights of cities and townships concern their future economic, social, and cultural development. In accordance with the principles of subsidiarity, a territorial self-government should have the right to make these decisions and determine the direction of its future development. Slovak legislation, especially the Act on Municipal Establishment, grants this right to cities and townships. Problems arise only in the application of decisions of the self-government.

Publicly useful facilities have been defined in our legislation subsequent to the adoption of the Act on Nonprofit Organizations. The areas that have been allocated for nonprofit organizations are defined in such a way as to make it impossible for self-governments to establish and operate nonprofit businesses in just those sectors that would most significantly contribute to the execution of self-governmental functions.

6. Issues of Cooperation

6.1. The voluntary right to organize territorial self-governing units

6.2. The right to associate with other municipalities

6.3. The right to regional cooperation

6.4. The right to cooperate with self-governing bodies in other states

Issue 6.1 can be understood in two contexts. On the one hand, it should provide for a voluntary establishment of larger self-governing territorial units to solve mainly regional problems. If this requirement had been given at least partial attention in Slovakia, the plan for the division of historically established regions that had been approved by the people would succeed.

On the other hand, it is possible for self-governments to make alliances in order to successfully handle self-government competencies. Slovak's municipalities so far have not acted on this option, since they really do not have competencies of a relevant nature. Some tasks, like the collection and disposal of municipal waste, construction of a common infrastructure, etc., are solved by coordination of activities across municipalities or by setting up multiple joint agreements with contracted organizations. Elements of intermunicipal cooperation appear mainly in the activities of regional associations of townships and cities, of which there are currently more than 50 in Slovakia.

The issue of territorial self-government's participation in cooperating with foreign self-governments is currently very topical within the context of a new amendment to the basic law on territorial self-government. In this context, a peculiar form of positive discrimination" as emerged. According to the draft amendment, Slovak's self-governments that express an interest in cooperating with foreign self-governing bodies are "positively" suspected of intentions contrary to national interests. It is thus desirable that such an agree

ment for cooperation be approved by a state administrator even before its subscription by the self-governing body. Should the state take a negative stand, the municipality could turn to the court and prove its innocence.

In implementing the above-mentioned attributes of self-government under the current legislation, certain doubts are emerging as to their full enforcement, particularly with regard to subsidiarity, financial independence, and cooperation.

Current Financing Situation of Self-Governments in Slovakia

Article 65, paragraph 2, of the Constitution of the Slovak Republic states that:

The municipality finances its needs mainly from own sources of income, as well as from state grants. The law shall establish which taxes and levies are municipal income. State grants can be demanded only within the scope provided by law.

The past seven years have revealed several deficiencies in the transformation of public administration and the formation of self-governing bodies. The main shortcoming has been a lack of attention by responsible authorities to

the fulfillment of the Slovak constitutional statutes in a tangible form of municipal economic independence. The most frequently cited reason for this deficiency is that the economic transformation and transition of the tax system are not yet finished. I personally regard this reasoning as weak, because the economic independence of self-governments should have been taken into account during the transformation of the entire economic system; moreover, there is evidence suggesting an intent to make municipalities more dependent on the state.

The economic independence of municipalities could in principle be ensured by direct, regular tax revenues. This proven principle is being applied in states with an developed market economy where the requirements on the autonomous mission of municipal budgets are accepted.

A fundamental change in enhancing the independence of municipalities was realized in fiscal year 1993, which was the first year of the new tax system. That year shows the highest share of direct municipal tax income to date (see table 1). Note that this was a one-time increase caused by additional taxation equaling half of the previous tax base. A more realistic indi

cation would be 16.85 percent, but it would not be consequential to the nominal results of the fiscal year.

Table 1. Revenue Sources as Shares of Total Municipal Incomes

Income source	1991	1992	1993	1994	1995	1996
Municipal taxes	22.04	36.56	52.20	47.71	38.43	39.97
Central taxes	13.33	20.35	26.94	29.74	27.74	24.71
Direct tax	8.70	16.22	25.27	17.95	13.69	15.27

The fundamental characteristics of the evolution of municipal tax income can be summarized as an effort:

€to maintain a high degree of dependence for the income base of territorial self-government budgets on centrally collected income, and

€to achieve a gradual decrease of the share of municipalities on central taxes through short-term regulatory instruments.

These trends of the past three or four years have forced the territorial self-governing bodies to mobilize one-time, unique, and nonrecurring sources of income in order to obtain the means to perform self-governmental functions. Such approaches to income generation in territorial self-government budgets are unacceptable, because they fully suppress the possibility of a conceptual and integrated approach toward the development of a territorial unit. Under such circumstances, territorial developmental plans, as the primary

regulatory instruments of territorial development, lose their credibility; and, at the same time, doubts arise as to the position of and justification for the existence of territorial self-governing bodies.

Looking at the evolution in the basic orientation of expenditures, we see a relatively high degree of stability. Territorial self-governments in Slovakia have managed to maintain a high share of expenditures directed toward capital investment. Compared to the tendencies characterizing the state budget, it should be emphasized that even under remarkable constraints, self-governments have managed to focus on those sectors that create conditions for the future development of a territorial unit. This evolution is not entirely uniform, however, because opportunities for strengthening capital expenditures were more accessible to municipalities with more inhabitants, where the available

means allow for better management of disposable assets and for the use of such investment instruments as, for example, municipal bonds.

Table 2. Ratios of Current and Capital Expenditures to Total Expenditures

1991 1992 1993 1994 1995 1996

Current/total 63.92 61.63 65.89 67.34 68.80 65.54

Capital/total 36.08 38.37 34.11 32.66 31.20 34.46

This information about past trends in the economies of territorial self-governments indicates the need to seek a compromise in the creation of new self-governing units. The main issue concerns contradictory opinions about the autonomy of a territorial self-government, taking into account its magnitude, economic power, and ability to self-govern local issues. If we, the representatives of territorial self-governing bodies, continue to adopt an "ostrich" policy on these issues, we will only bolster those forces that aim to prevent further decentralization of power and the shift of the decisionmaking process closer to the citizen.

What Next?

To solve the problem of economic independence, we must primarily focus on clarification of the degree of independence of territorial self-governments. All territorial self-governing units should aim to cover the tasks required by law (scope) as a fundamental principle. During its enforcement, its conjunction with the instruments of economic interest (merit) and financial balancing should not be forgotten, and the specific circumstances of some self-governing units should be taken into account. These regulatory instruments should be long term, and their efficiency time should be no less than the electoral period of the municipal bodies.

To strengthen democratic tendencies in Slovakia, these steps should be taken

in the near term.

€ Clearly formulate the intent of the Slovak Republic on territorial self-governing bodies regarding:

— allocation of competencies (scope), with an eye toward devolving further competencies;

— determination of the minimal size for a territorial self-governing body;

— securing a high degree of municipal economic independence;

— application of long-term economic regulatory instruments; and

— creation of conditions for ratification of the European Charter of Local Self-Government and of the forthcoming European Charter of Regional Self-Government.

€ Effect legislative changes to accomplish these by:

— codifying the competencies of territorial self-governments in the constitution and related acts;

— providing a sophisticated solution to issues of territorial self-governments in specific acts;

— determining the extent of local taxes;

— determining the minimum share of territorial self-governments in central taxes;

— specifying basic conditions for applying balancing instruments at the regional and state levels;

— amending the tax system to effect regional taxes;

— determining the manner, means, and conditions of sanctioning territorial self-governments for negligent performance of legal duties and irresponsible management;

— determining the extent of public services and understanding of the term "transfer of public administration"; and

— completely eliminating the possibility of legislative solution of issues regarding competencies and economy of territorial self-governments by the formula "to be addressed by a specific act of law."

In our opinion, during the last seven years in Slovakia and through more than 100 years of existence in the modern world, territorial self-governments have proven their unquestionable worth in the democratic structure of a society, in the provision and enforcement of local interests, and in the realization of a complex development of territorial units. It is up to us to reflect on and solve these issues quickly for the sake of progress in Slovakia.

Discussion

[\(Follows paper by Milan Bucek.\)](#)

[Home](#)