

THE POSITION OF LOCAL SELF-GOVERNMENT AFTER MAIN PHASE OF PUBLIC ADMINISTRATION REFORM IN SLOVAKIA

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Abstract: The experiences accumulated during more than ten years of praxis, as well as decentralisation and modernisation measures have been incorporated into public administration reform processes that has completed especially during 2001 – 2005. However, outcomes of the reform have not been one directional. Local self-government strengthening by new powers has been balanced by more demanding and elaborated rules in their execution. The role of state has shifted in many fields from direct administration or services' provision, to the role of regulatory (often by quasi-autonomous bodies) and financing institution (certain powers). Large-scale decentralisation also is accompanied by careful approach of central state in guaranteeing efficient execution of powers in each locality and preventive measures against various forms of potential failures of local self-governments.

Key words: public administration reform, local self-government, decentralisation, local democracy

1. INTRODUCTION

Local self-government developed into very respected level of government and one of crucial democratic institutions in Slovakia. Nevertheless, its basic framework of functioning from the beginning of nineties needed larger scale adaptation, despite permanent minor changes. Public administration reform in relation to the local self-government focused on decentralisation of powers and modernisation, as well as solving of important issues that generated unclearness and disputes during previous period. Large-scale changes had been introduced into praxis within the main period of reform since 2001 to 2005. They started with successive decentralisation of powers to the local level (since January 2002) and finally have been completed by fiscal decentralisation applied since 2005. Although we can consider this reform as complex and leading to essential social innovations, not all reform intentions were already

completed. Taking into account spatial aspects of reform (e.g. Kaczmarek, 2005), potential for further "minor" communal and regional reforms is quite large.

Taking into account character of reform and short period since its introduction, main aim of this study is to summarise and evaluate latest changes (2004 – 2005), especially from the point of view of central (state) – local (self-government) relations. When I evaluated introductory period of the reform (2001 – 2002), I indicated position of local self-government after the reform as – more powers and resources, but less freedom (Buček, 2004). This preliminary conclusion is in fact confirmed by the latest development, although resulting reality in central-local relations seems more perplexed. The decentralisation has not been one directional and unconstrained process fully in favour of local self-governments. There are still important delegated and shared powers with large state involvement. New powers or resources available also are balanced by previously not applied rules in some fields (e.g. more strict budgetary rules, restrictions in borrowing). New central state priorities are reflected in limits introduced to stop never ending process of disintegration of communities. Within local democracy framework, position of directly elected mayor has been stabilised, but reduction of chances to apply local referenda also is true. Large-scale decentralisation effort has been in fact accompanied by careful approach of central state in guaranteeing efficient execution of powers in each locality and preventive measures against various forms of potential failures of local self-governments.

In this paper, featured are only selected fields of local self-government that underwent more extensive changes (transfer of powers, fiscal decentralisation issues, integration/disintegration of communities, joint offices' formation, local democracy). Addressed are mostly general conditions and framework, trends and only in minor limited extent practical experiences (since many changes are applied only for shorter period of time). Main resource materials included legislation and, public administration reform documents (in current stage especially "Communal Reform", 2004). Valuable insight provided analytical studies dealing with certain aspects of reform, as well as various related reflections of discussions and decisions representing both levels of the government, as they were recorded in specialised journals.

2. DECENTRALISATION OF POWERS AND ITS LIMITS

The significance of decentralisation depends on the scope and importance of powers transferred, as well as the scale of regular or potential state intervention, not mentioning availability of resources. There are no doubts that local self-governments after latest public administration reform now have more powers in many important fields and have more opportunities to influence local affairs. Although it can be concluded that the role of state institution was reduced and self-government strengthened, specific balancing approaches as sharing of powers, delegation of powers, reduced freedom in exploitation of transferred property, as well as more regulation was immanent part of decentralisation based reform.

As a result of decentralisation, many new powers are executed directly, more efficiently, with much higher local involvement and in respect to local interests. Local self-governments now decide over important local issues like pre-school and primary schooling, social assistance and social services, health services, environmental

protection, planning and development regulation etc. (details provide Act No 416/2001). However, even in case of these powers, it is not unlimited autonomy of decision-making over mentioned fields. Previous direct administration by state was in a case of many competencies replaced state by new sets of regulation or certain form of supervision by deconcentrated state administration. Besides basic legal framework for their execution, state institutions serve as appeal bodies. Shared execution of the same competence also was introduced by reform legislation. The most typical field is primary education (salaries are provided and teaching standards set up by state administration).

There exist strict listing of powers and their division between state administration and local self-government in legislation. Powers remaining under the control of state administration that should be close to citizens are executed by local self-government as delegated powers. Execution of such tasks is going strictly within the guidelines defined by the state. Under the pre-reform public administration, the scope of delegated powers was minimal (population register). Now local self-governments are executing as new delegated powers for example powers in schools' administration, building order, planning, social assistance etc. The powers not explicitly marked as delegated in legislation are considered as "original" powers of local self-government. However certain unclarity still exists (e.g. Srebalová, Gallová, 2005). Practical experiences of next period will show the extent of state administration involvement into delegated powers', partly related to local self-government abilities to execute all transferred powers (especially in small local self-government units).

Decentralisation has been accompanied with transfer of state property to local self-government. The most typical cases are schools, social services' and health facilities. Use of this property has to respect limits defined in legislation (e.g. Act No. 447/2001). Local self-government can not use property obtained within decentralisation for business purposes, or as collateral. They are obliged to save original functions of such property. This responsibility can finish only after special procedure controlled by state administration in relevant field (e.g. frequent are changes in network of schools due to decrease in population development).

3. FISCAL DECENTRALISATION – BUDGETARY RULES, FREEDOM IN LOCAL TAXATION, SHARED TAXES AND EQUALISATION

The scope of decentralisation can be evaluated according to increase of resources available to the local self-governments, increase of freedom in local finance decision-making and reduction of state intervention into this field. Financial dimension of decentralisation is clearly confirmed for example by increase of incomes of local self-governments within the last years. While before decentralisation processes total incomes of local self-governments were 32718 mil SK (in 2001), it grew to 76221 mil. SK in 2004 (Ministry of Finance 2002 and 2005a). Important part of decentralisation has been the right for free setting of local taxes valid since 2005, as well as clear determination of local self-government share on personal income tax by legislation (Acts No. 564/2004 and No. 582/2004). However, moderate central state regulation in local fiscal sphere has been reinforced by set of limits completely applied since 2005. It was consequence of financial troubles of more local self-governments, especially in the field

of local borrowing. More sophisticated budgetary rules, local budget structure and multi-annual budgeting extensively modernised local finance praxis. On the other hand, they simultaneously circumscribed freedom in local finances' decision making (disputes over sufficiency of resources are not addressed in this contribution).

Much more elaborated are conditions of local budgeting processes (Acts No. 583/2004 and No. 523/2004). One of the most characteristic features is shift to multi-annual budgeting, as a base of local level financial management. It is considered as medium term tool of local financial policy (until now only one-year budget was adopted). Multi-annual budget is composed by local budget for particular budgetary year and budgets for two following years. However, only budget for first years is binding. Budget is internally divided on – current incomes and current expenditures (current budget), capital incomes and capital expenditures (capital budget) and financial operations. Current budget must be obligatory balanced or in surplus. Capital budget can be in deficit, but this deficit must be covered mostly by surplus in current budget, or by surplus from previous years. Conditions of budgetary provisory also are defined, if budget was not adopted until December 31st of previous year. Local self-governments also form reserve fund (at least at the level of 10 % of budget surplus) and other financial funds from budgetary surpluses and extra incomes (profits, sell of property etc.). New legislation also defines details concerning final account procedures and structure (budget data, balance sheet, development of local debt, results of budgetary organisations, guarantees provided, costs and yields from business activities). The accounting statement must be authorised by auditor. If auditor reveals any violence of rules, it is obliged to inform Ministry of Finance. Final account proposal is submitted to public and adopted by local council.

The limits on local taxation were traditional attribute of local finances since the beginning of nineties. They guaranteed certain level of uniformity in local taxation by explicit defining of taxable activities, as well as uppermost limits of taxes/fees. Within this framework, local self-governments had been free in determining local taxes/fees. As a result of fiscal decentralisation, explicit taxable activities list remained practised but local self-governments can freely set up size of local taxes since 2005. Besides main real estate property tax, set of other local taxes was not substantially changed (previously known as local fees) – dog tax, public space use tax, accommodation tax, selling machine tax, game machine tax, car entrance/stay in historical part of the city tax. Local fee is still paid in a case of communal and small construction waste liquidation. New nuclear facility tax is the only tax with upper limit in taxation. It concerns local self-governments in nuclear powers stations neighbourhood (in zones to 30 or 20 km to facility location).

Local self-governments' freedom in taxation led to considerable increase in tax yields in some of them. It was caused mostly by need to compensate insufficient transfers from state budget and lack of experiences in setting taxes. It led to discussion to limit this freedom again, although in more moderate form, as it was until 2005. There are opinions (e.g. Ministry of Finance, 2005b) focusing for example on reducing extreme differences in taxation within one local self-government unit, introducing of limits in free setting of tax base concerning certain types of land, or reducing taxation of multi-stories' high rise buildings. Such changes have opposed representatives of local self-governments' association (Association of Towns and Communities of Slovakia – ZMOS). They declared that increase tax yield for more than 500 % was the case only of 13 local self-governments (of total 2991) and emphasise that it breaks newly introduced freedom in setting local taxes (Obecné noviny, 2005). It is considered as too early intervention of state into a few months old principles of fiscal decentralisation.

Very important shift has been achieved in the field of shared taxes. Since 2005 local self-governments are not participating on yields collected from legal person income tax (e.g. it was 7.17 % share in 2004) after long years. Road (now vehicle) tax, also permanent part of shared tax transfers to local self-governments (usually 30 % of tax collected) for about ten years, is full income of self-governmental regions since 2005. Personal income tax (PIT) has become main shared tax of local self-governments, with much higher share as before (usually it was about 20 %). PIT is shared under following distribution model since 2005 – 70,3 % is income of the local self-governments, 23,5 % share is income of regional self-governments, and the rest is income of central government (Directive No. 668/2004). Crucial is turn from distribution of shared taxes on annual basis (according to the State Budget Act for particular year) to more stable rules based on specific legislation focusing only to this issue.

The PIT share of local self-governments is distributed to individual local self-governments by newly introduced equalisation formula (not used in such form and scale before). It takes into account powers transferred and unequal costs of certain services among local self-governments. According to number of population are distributed 23 % of yield (of which 44 % is calculated by coefficient of altitude, respecting higher costs of winter street maintenance and heating in public facilities). Further 32 % are distributed according to number of population calculated by coefficient of size category. For example, such coefficient for local self-governments below 1000 population is 0,89; in size category 50000 to 100000 it is 0,94; and Bratislava has coefficient 2,35. This differentiation has been matter of conflict among urban and rural self-governments (e.g. Olach, 2004). Especially large cities feel damaged by less differentiation and call for change (Union of Cities, in Ministry of Finance, 2005c). The largest portion (40 %) is distributed according to number of pupils in local art schools and pupils using school facilities established by self-government, calculated by coefficient of art school and school facility (e.g. kindergarten, free time centre size). The smallest portion (5 %) is distributed according to number of population older than 62 years.

4. NEW RULES IN BORROWING AND ENLARGED AUDIT MEASURES

Although problems with indebtedness of local governments are known from many countries, they emerged in more danger scope in Slovakia since the end of nineties (for details see e.g. Kling, Nižňanský, 2004). Total debt of local self-governments was about 19 mld. SK to the end of 2004 (Ministry of Finance, 2005). Although major share on this total debt have largest Slovak cities, situation of local self-governments in many small communities also is difficult. The reasons of local self-governments financial failure are manifold. We can mention long term scarcity of resources (low incomes, lack of property), too ambitious policy of mayors and councillors, internal tensions and extensive fiscal autonomy. As a consequence, the most important intervention into the fiscal autonomy of local self-governments concerned conditions of local self-government borrowing and scope of audit measures.

Borrowed financial resources can only be used to cover capital expenditures. Pay for debt may not to harm balance of current budget in subsequent years. Communal

bonds can be issued only after permission of Ministry of Finance. Each credit exceeding 75 mil. SKK needs agreement of the ministry (ministry has to agree if local self-government fulfil all defined criteria). It is not allowed to take guarantees for credit of business entity (with exception of own company). Since year 2005, local self-governments are allowed to take certain form of returnable resources if total debt to the end of budgetary year do not exceed 60 % of real current incomes of previous budgetary year, and total sum of annual debt payments including rates do not exceed 25 % of current incomes of previous budgetary year. Credits from state funds are not included to total sum of debt.

Conditions of recovery regime and forced administration have been introduced into the field of local finances in Slovakia for the first time ever (Act No. 583/2004). It is supposed that recovery regime will precede forced administration in majority of cases. Local self-government is obliged to introduced recovery regime if size of its payments after date of payment overcome 15 % of real current incomes of previous budgetary year and it did not paid some payment until 60 days since its date of maturity. Recovery regime must be introduced within 15 days since mentioned conditions were fulfilled (proposed by mayor to the local council). Within recovery regime local self-government can use own resources only within adopted recovery regime conditions. Under such conditions, each transaction must approve internal main auditor and information must be provided to Ministry of Finance (beginning, periodical reporting). Forced administration is introduced especially if recovery regime does not bring needed changes according to set conditions. Forced administrator is nominated and recalled by the Ministry of Finance. Costs of forced administration (e.g. forced administrator salary) cover affected local self-government. Administrator must approve all transactions and can ask local council to formulate consolidation programme. Local council must adopt crisis budget within 30 days (if not, such crisis budget prepare forced administrator). First cases of forced regime were already applied. For example, it is the case of Devín, one the smallest city quarter local self-government in Bratislava (caused by its unsuccessful development projects).

Large attention has been paid to internal as well as external audit strengthening by more detailed and sophisticated conditions. Permanent has been rising role of internal audit, represented especially by "main auditor" (Slov. hlavný kontrolór) affiliated to local office. It has focused on developing of its more independent position (clear rules for size of salary, it can be only main job, no business activities, acceptable working conditions, relevant expenditures, etc.) and better defining its responsibilities and powers. For example, internal main auditor is obliged to inform Ministry of Finance on any violence of borrowing conditions. Nevertheless, internal audit is still considered as not enough efficient. One of the remaining problem it is absence of main auditor in many small communities. Main auditor serving more communities on part time job principle seems potential solution.

The intentions to extend external audit powers also over use of local self-government resources have been permanent during last years, despite various forms of external limits already imposed. It is especially obligatory external audit of final account, public procurement procedures, Tax Office supervision, as well as very precise budgetary and accounting rules. Such debates led to change of Slovak Constitution in section concerning rights of National Audit Office (Act No. 463/2005). Its audit rights, until 2005 limited to resources transferred from state, have been extended to all property, property rights and resources of local self-governments, as well as legal entities with their capital participation since 2006. Local self-governments (e.g. their association

ZMOS) do not consider such powers of National Audit Office, as in agreement with principles of self-government (in Sýkora, 2005).

5. DISINTEGRATION/INTEGRATION OF COMMUNITIES

Moderate conditions of disintegration of local self-government units were one of the typical features of local democracy during post-socialist epoch. It was positive shift comparing to forced integration during communist regime. After 1989, local citizens could decide on this issue without any strong limits or state administration intervention (according to Act 369/1990). The effect of these conditions is well documented by rising number of local self-governments (from 2694 in 1989 to 2891 in 2004). Quite free conditions were changed in 2001, especially with aim to prevent further growth in number of small local self-governments' units. New legislation more or less stopped process of disintegration and can be evaluated as step against local democracy for very local spatial communities and in favour of more efficient management of local affairs.

According to original 1990 legislation, only general legal conditions of disintegration were defined. It should be community with own cadastral territory, community whose built environment did not merge with the rest of local self-government built environment. It also should be community without joint investments/facilities the rest of whole local self-government unit is depending. The decision had to be adopted by local referenda in concerned spatial community. These non-complicated conditions of disintegration led to growing number of local self-governments, although it was not always easy processes. For example, some large cities obstructed such development (e.g. Banská Bystrica, Lučenec) arguing by mentioned general conditions, or using administrative constrains (Buček, 1998). In some cases, the legitimacy of disintegration was decided by Constitutional Court.

The reform legislation has circumscribed free conditions of disintegration and respect to decision of local citizens on theirs' own local self-government. Restrictive conditions have been reinforced by introduction of explicit size limit of community after disintegration to at least 3000 population (mentioned earlier conditions also remained valid). The requirement for compact settlement of future unit is also mentioned, in order to prevent potential grouping of local communities in effort to fulfill size limit. As a consequence, there is very limited chance for disintegration at present. It is especially thanks to the nature of the Slovak settlement system typical by large number of small settlements having no chance to overcome mentioned limit (larger ones already mostly have own self-government). While there were no specific formal conditions in earlier legislation (besides referenda), current legislation defines need to achieve formal and signed agreement, as well as expected content of such agreements.

6. FORMATION OF JOINT COMMUNAL OFFICES NETWORK

The transfer of powers within public administration reform has to cope with problem of large number of small communities in Slovakia and their capacities to execute new powers (see e.g. Kling, 2003). The solution has been found in establishing

of joint communal offices serving more local self-governments. Formation of such network has not been easy task, especially when it should be voluntary process. For the first time, problematic point in decentralisation was local self-government not sufficiently prepared to take over new powers and not for example, central level unwillingness to decentralise.

It is declared in legislation that joint office formation should be based on voluntary principles, mutual advantage, equal position of partner self-governments, autonomous decision making of each participating community. Local self-governments had to cope with series of interrelated problems within the process of joint offices' formation. They had to accept that part of their powers will be administered in different community, as well as overcome suspicion that they will lose autonomous decision-making. The decision on seat of joint office and selection of the most suitable legal form also were not easy tasks. Slow progress in their formation went into conflict with terms and conditions of decentralisation. Rapid growth started only to the end of year 2002 and beginning of 2003, facing the pressure of new powers being taken in 2003. Nevertheless, 179 joint offices serving 2800 communities already worked in April 2005 (Slovak Republic Government Office, 2005). Less than 100 communities were not included into the network of joint offices. The most frequent powers were delegated powers, only in minor cases they executed jointly so-called "original powers".

Slowly progressing completion of joint offices network covering all local self-governments and problems in execution of certain powers, as for example building permissions (Slovak Republic Government Office, 2005) led to discussion on change of approach to the problem of small self-government units, efficiency and effectiveness of their local self-governments. As main alternatives are mentioned amalgamation or at least forced obligatory formations of joint offices in centres decided by central state. Local self-governments (as expressed by their associations) as well as citizens in opinion polls refuse amalgamation, and prefer inter-communal co-operation (Olach, 2005).

7. CHANGING FRAMEWORK OF LOCAL DEMOCRACY

Basic framework of local democracy in Slovakia is quite stable since its introduction in 1990 (Act No. 369/1990 Coll.). Main institutions include assembly of citizens, local referenda and main local representative bodies – Local Council and Mayor. The latest changes focused primarily on reasonable reduction in number of local councillors, stabilisation of position of mayors and setting new rules concerning local referenda. However, in a case of local referenda, extended application and more precise rules have contradictory effect on their implementation. Newly introduced quantitative limits threaten valid application of this form of direct democracy, under current level of citizens' participation in local voting (e.g. average participation was 49,5 % in Slovak 2002 local election).

The reduction in number of local councillors was reaction on the fact that many self-governments formed too large, not very flexible and efficient councils. This was result of very free 1990 legislation that declared very broad limits concerning number of councillors from 5 to 60. Current legislation defines number of councillors for each size category of communities (from 3 to 41). For example, communities with 3000 to 5000

population can have 9 – 11 councillors, 10000 to 20000 inhabitants can have 13 – 19 councillors. There still remained large local councils in Bratislava and Košice (80 councillors), both having own special legislation.

Directly elected mayors are among specific features of Slovak local self-government since 1990. However praxis confirmed their unstable position in certain local political situations. Among the most problematic were conditions to recall mayor. Originally, he could be recalled if he did not call for Council meetings for more than four months, he did not fulfil his duties as a mayor, he was working with serious inadequacies, or citizens ask to recall mayor by petition (not mentioning his own resignation, or loss of post if he was found guilty by criminal behaviour). The most vulnerable position faced independent mayors, or mayors having different political affiliation comparing to majority of local councillors. Under such conditions polarisation of opinions and conflicts from time to time emerged. It had led to strange situation – and when mayors elected directly by citizens, could be recalled by councillors (by three fifth majority). New legislation stabilised position of mayors and removed this inconsistency. The expiration of his mandate, besides already mentioned conditions, is also possible as a result of local referendum and as a consequence of moving to live outside community, she/he is mayor. Local Council can only announce local referendum (by simple majority of all councillors) – if mayor is acting against Constitution, legislation and other regulations. As a result of changes, – potential to revoke citizens' choice is more limited.

Merging/disintegration of communities and extra tax/fee introduction obligatory require local referenda. Local Council can also announce local referenda on other important local issues. Citizens' will expressed by petition also is reason for local referenda. New legislation aspires to strengthen legitimacy of referenda process. While under previous conditions petition of 20 % of registered voters was enough to call for referenda, it shifted up to present 30 % of all registered voters (main argument is in extension of referenda application on personal issues). Results are legally binding for local council, but referenda are valid if participation exceeds 50 % of all registered voters. The most important innovation that extended the scope of direct democracy in local policy making is opportunity to have referenda on personal issue (i.e. to recall mayor). Important is condition that at present Results are legally binding for local council, but referenda is valid if participation exceed 50 % of all registered voters. It should be mentioned that the most frequent reason of referenda application in Slovakia was referenda on disintegration of communities, however such applications will be very rare until current conditions. More frequent probably will be attempts to recall mayor. At present, local councils also can call for local referenda only in a case of local issues, while sometimes it was on almost everything (e.g. on issue of joining NATO). Despite very democratic nature of local referenda, there are certain limits imposed by central state. The referenda on important local issues are not binding for upper level of government (names of community, affiliation to particular region etc). Central government and parliament can reject local referenda results.

New conditions introduced by legislation attempt to strengthen legitimacy of referenda process. While under previous condition petition of 20 % of registered voters was enough to call for referenda, it shifted up to present 30 % of all registered voters signatures is needed to call for referenda based on petition. It has been accompanied by precisely defined procedures of local referenda in legislation. The most important innovation that extended the scope of direct democracy in local policy making is chance to have referenda on personal issue (e.g. to recall mayor).

8. CONCLUSIONS

As a result of the reform, the relation between local self-government and central state can be briefly summarised as – not damaged interests of central state and strengthened local self-government. However, not all aspects of reform have been completely settled and not all requirements of local self-governments have been already fulfilled. Practical experiences will bring series of adjustments, for example in highly discussed fiscal sphere. As stressed already Goldsmith (1995), central – local relations are constantly changing, are unstable and local autonomy uncertain. Such characteristic is also true in a case of Slovakia.

Central state can be satisfied with reform outcomes. Its interests have remained secured, although achieved by different tools now. It is done by legal framework, formation of autonomous non-state institutions, and in very reduced scale by state administration. There are less frequent direct interventions and supervision. Societal praxis will examine functioning of such environment. Pressure for achieving certain goals has also been introduced. Among various features, I would like to emphasise (central) state concentration on its protective role. One of the main trends is protecting citizens living in local communities against "bad" local self-government. Central state attempts to defend citizens against possible extreme inter-communal differences, to guarantee standards in certain functions administration. It acts more preventively and correctively against failure of local authorities (e.g. fiscal collapse). Corrections of such local failures need not local community always efficiently accomplish autonomously. Current more transparent conditions try to prevent more extensively to potential misuse of local self-government freedom (Act No. 357/2004).

Local self-governments are satisfied with its strengthened position, expressed in more powers, more resources, freedom in setting certain taxes, although there are still disputes on certain powers, sufficiency of resources etc. Their role strengthened also abolition of district offices of integrated state administration as potential competitor in influencing local affairs or strong supervisory body (replaced by dispersed and fragmented networks of field offices according to particular ministries). More elaborated legal framework of functioning of local self-government also was achieved. It reflects need for more efficient decision-making, as well as for their clearer and less conflicting functioning. Certain limits, more sophisticated conditions and more requirements on local self-government functioning are inevitable by-product of far more demanding and quickly developing society. Such limits also confirm local self-government as more important institution as before, having more powers and more resources under control. They partly reduced scale of previous freedom (e.g. many fields of activity had no specific rules or guidelines, local self-governments could act according to own consideration). But freedom of action was not always efficient approach. The experiences proved that local self-governments have needed basic framework, alternatives, within which they could act in certain fields. Among almost 3000 local self-governments not all of them are highly initiative, innovative, efficient, effective etc. Therefore, mentioned approaches can surprisingly be interpreted also as strengthening of local self-government. This is the case of legal rules introduced into activity spaces previously without any guidelines. It gives local self-governments in many cases more standard, less vulnerable position towards potential competitors. Thanks to the changes, more rules and limits of local self-government also is at the same time balanced by more clear rules for outside intervention into their domain.

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Postavenie miestnej samosprávy na Slovensku po hlavnej fáze reformy verejnej správy

Resume

Miestna samospráva si získala postavenie jednej z najrešpektovanejších demokratických inštitúcií na Slovensku. Základný rámec jej fungovania zo začiatku 90. rokov, napriek menším zmenám v nasledujúcich rokoch, potreboval rozsiahlejšie prispôbenie sa novým podmienkam a požiadavkam. Hlavným nástrojom bola reforma verejnej správy, ktorá sa zamerala predovšetkým na otázky decentralizácie a modernizácie, rovnako ako aj na odstránenie niektorých nezrovnalostí, ktoré generovali vážne ťažkosti vo fungovaní samospráv v uplynulom období. Pomerne rozsiahle zmeny boli uvedené do praxe v rámci hlavnej vlny zmien v rokoch 2001 – 2005. Tie najzávažnejšie začali postupným presunom kompetencií na samosprávu od r. 2002 a končili fiskálnou decentralizáciou aplikovanou od r. 2005. Hoci toto obdobie môžeme hodnotiť ako kľúčové z hľadiska rozsiahlej reformy verejnej správy, neznamená to, že všetky reformné procesy sú ukončené.

Príspevok sumarizuje hlavné zmeny, ktoré nastali v oblasti miestnej samosprávy v rokoch 2004 – 2005 a pokúša sa o ich zhodnotenie predovšetkým z hľadiska vzťahu centrálnej a miestnej úrovne, resp. štátu (štátnej správy) a samosprávy. Reforma a v jej rámci decentralizácia, nie sú procesmi jednostranne orientované v prospech miestnej samosprávy. Pretrvávajúcu významnú úlohu štátu potvrdzujú dôležité kompetencie, ktoré sú delegované, resp. kompetencie v ktorých spolupôsobí štátna správa aj samospráva. Rast právomocí, veľkosť, či väčšia voľnosť v získavaní finančných zdrojov (miestne dane) majú protívahu v zavedení prísnejších rozpočtových pravidiel, reštrikcie v požičiavaní a pod. Štát formou limitov výrazne obmedzil doteraz stále nekončiaci proces fragmentácie obcí. V oblasti miestnej demokracie sa stabilizovalo postavenie starostov. Zmeny týkajúce sa miestneho referenda sú však kontroverzejšie, najmä redukováním šancí na úspešné referendá.

Už pri hodnotení začiatku reformných procesov (2001 – 2002) som naznačil meniace sa postavenie miestnej samosprávy v smere – viac právomocí a zdrojov, ale menej voľnosti (Buček, 2004). Treba podotknúť, že rozsiahle decentralizačné procesy sú v súčasnosti už výrazne poznačené opatrným „ochranárskym“ a „preventívnym“ prístupom štátu. Ide najmä o snahu garantovať účinný výkon právomocí v každej obci, či zabrániť rôznym možným formám zlyhania miestnej samosprávy a ich dlhodobým negatívnym dôsledkom na život občanov. Pozícia samosprávy sa však posilnila – má viac významných kompetencií a k dispozícii značne väčší objem prostriedkov. Štát sa v mnohých oblastiach posunul z pozície priameho poskytovateľa služieb, do pozície regulátora, využíva júc na to čoraz viac kvázi autonómne inštitúcie (napr. Národný kontrolný úrad). Rovnako sa zmenil aj postoj štátu k financovaniu obcí – stabilizovali sa princípy transferov prostriedkov z podielových daní a redukujú sa transfery formou dotácií (hoci sú stále významné).