

ELECTIONS AND FUNCTIONING OF HIGHER LOCAL GOVERNMENT UNITS IN POLAND AND SLOVAKIA

Abstract

The article addresses the issue of comparison of higher level local government units in Poland and Slovakia. Initially, the author brings closer the division of states into regions. Then she deals with the analysis of the sources of law, the internal structure of individual units, their elections, mode of action, internal organs, tasks, and the manner of their dismissal in both countries. Finally, it focuses on the dangers posed by political party of local governments. The author claims that party commitment of local governments is the cause of different dysfunctions such as political clientelism, centralism enforcement, local governments indebtedness and weakening of representative democracy.

KEY WORDS: local region, region parliament, local governance, local election, Poland, Slovakia

INTRODUCTION

“Autumn of Nations” and the collapse of real socialism in 1989, that had a place in Central and Eastern European countries, gave them an opportunity to change their political system. The political and socio-economic transformations led to the creation of new administrative and political solutions in democratic countries, and later on January 1, 1993, to a division of Czechoslovakia into two states: the Czech Republic and Slovakia. During the political transition, Poland and Slovakia stood before the challenge of the rebuilding local government, administrative reforms and, as a result, building the structure of local democracy and civil society.

One of the fundamental institutions of the democratic states is the territorial self-government. The goal of public administration reform was decentralization of states, and as part of the search for appropriate solutions, territorial reforms have been introduced in Poland and in Slovakia. The local government is the foundation

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for the local authorities that carry out the original and transferred competences (Nemec – Imrovič, 2017). The tasks of local government are performed on the principle of decentralization, which implies the self-performance of tasks by local government units and means the transfer of relevant competencies and material resources necessary for their implementation, which are transferred to local self-government bodies by law (Niewiadomski 2002, p. 188-189). Local government acts as a public body and was created in order to implement the stated objectives of public administration, which are subject to state supervision, therefore, that local government is a public institution in which all residents create a self-governing community and belong to it obligatory, decisions of local authorities apply to all (Kancik-Koľtun 2017, p. 28). Local government, town should enable the residents to participate in its performance, which causes the connection between local government executives and the most important attribute of self-government, who are residents. (Imrovič, 2016, p.111).

In this article, I will focus on the issue of currently existing higher territorial units in Poland (pl: *województwo*) and Slovakia (sk: *samosprávny kraj*). I work in the comparison of the sources of law, the internal structure of units, their elections, mode of operation, internal organs, tasks and the manner of their dismissal in both countries. I will also try to point out the tendencies that may be caused by political party in local governments.

1 SOURCES OF LAW ON TERRITORIAL SELF-GOVERNMENT

In Poland and Slovakia, the local government system is governed by various laws. In both countries, in the system of sources of law, the constitution act plays a key role as a parent act and all lower legal acts must be consistent with it. Separate chapters in both existing constitutions were devolved to the local government.

The main legal act in which we find the basis of the existence of territorial self-government in Poland is the Constitution of the Republic of Poland of 2 April 1997. The Polish Constitution clearly states that the territorial system of the Republic of Poland assures the decentralization of public authority (Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., art. 15, ust. 1) and that local government participates in the exercise of public authority through the implementation public tasks which it executes in its own name and its own responsibility (Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., art. 16, ust. 2). The seventh chapter entitled “Local Government” from article 163 to 172 is devoted to local government (Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., Dz. U. Nr 78, poz. 483 z późniejszymi zmianami). In 1998 the Act on the self-government of the voivodeship was introduced (Ustawa z

dnia 5 czerwca 1998 r. o samorządzie województwa , Dz. U. 1998 nr 91 poz. 576). In the Slovak Constitution of 23 February 2001, articles 64 to 71 apply to local authorities (Ústavný zákon, 90/2001 Z.z.). In July 2001, the provisions of Article 64 have been supplemented by higher level local government regulations that divided the country into eight self-governing countries from January 1, 2002 (Zákon č. 302 zo 6. júla 2001 Z.z.). On the other hand, the electoral law is governed by the Act on Elections to Local Government (Zákon č. 303/2001 Z.z.). Currently, in Slovakia, we have a period of transitional changes in electoral law and until the end of 2020 (Zákon č. 180/2014 Z. z.).

2 BREAKDOWN INTO HIGHER TERRITORIAL UNITS AND THEIR TASKS

Poland is divided into 16 local region - voivodeships, whose equivalent in Slovakia is 8 local regions (*samosprávny kraj*). The number of councilors in the relevant territorial unit depends on the number of inhabitants. And therefore respectively in Poland, the number of councilors in regional parliaments in voivodeships is 30, if the region of up to 2 000 000 inhabitants and next three councilors for each additional started 500 000 inhabitants. In Slovakia, they elect one councilor per 12,000 to 15,000 inhabitants (Zákon č. 180/2014 Z. z.). Table 1 shows the territorial distribution of councilors in the voivodships in Poland.

Table 1: Division of voivodeships, voivodship cities, number of councilors of the regional council

Local government	Voivodship cities	Number of councilors
dolnośląskie	Wrocław	36
kujawsko-pomorskie	Toruń	33
lubelskie	Lublin	33
lubuskie	Zielona Góra	30
łódzkie	Łódź	33
małopolskie	Kraków	39
mazowieckie	Warszawa	51
opolskiego	Opole	30
podkarpackie	Rzeszów	33
podlaskie	Białystok	30
pomorskie	Gdańsk	33
śląskie	Katowice	45
świętokrzyskie	Kielce	30

warmińsko-mazurskie	Olsztyn	30
wielkopolskie	Poznań	39
zachodniopomorskie	Szczecin	30

1. The voivodship self-government carries out tasks of a voivodship character defined by statutes, in particular with regard to:
 1. public education, including higher education;
 2. promotion and protection of health;
 3. culture and preservation of historical monuments and care of monuments;
 4. social assistance;
 - a. supporting the family and the foster care system;
 5. pro-family policy;
 6. the modernization of rural areas;
 7. spatial development;
 8. environmental protection;
 9. water management, including flood protection, and in particular the equipment and maintenance of flood control divisions (Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa , Dz. U. 1998 nr 91 poz. 576, art. 14. 1);
 10. public transport and public roads;
 11. physical culture and tourism;
 12. protection of consumer rights;
 13. defense;
 14. public security;
 15. counteracting unemployment and activation of the local labor market;
 - a. activities in the field of telecommunications;
 16. protection of employee, claims in the event of the insolvency of the employer.
2. The Law may define matters belonging to the scope of activity of the voivodship as tasks within the scope of government administration, performed by the voivodeship management.
3. The law may impose on the voivodship the obligation to perform tasks from the scope of the organization, preparation, and conduct of general elections and referendums (Przepis uchylający pkt 9 w ust. 1 w art. 14 wejdzie w życie z dn. 1.01.2018 r. (Dz. U. z 2017 r. poz. 1566))

Table 2: Distribution of local government, representatives and councilors of the national agency.

Local government	Cities	Number of councilors
Bratislavský	Bratislava	46
Trnavský	Trnava	40
Trenčiansky	Trenčín	45
Nitriansky	Nitra	52
Žilinský	Žilina	52
Banskobystrický	Banská Bystrica	49
Košický	Košice	57
Prešovský	Prešov	60

The self-governing region takes care of the comprehensive development of its territory and the needs of its inhabitants. In particular:

- a. creates and implements programs of social, economic and cultural development for the territory of the self-governing region;
- b. implements planning activities relating to the self-governing territory of the region;
- c. acquires, discusses and approves spacial planning documents and territorial plans of the regions;
- d. utilizes local human, natural and other resources;
- e. performs its investment and operational activities to ensure the fulfillment of the needs of the local self-government and the development of regional self-government;
- f. establishes, revokes and controls its budgetary and tax organizations and other legal entities in accordance with special regulations;
- g. participates in the creation and protection of the environment;
- h. creates the prerequisites for the optimal arrangement of the interrelation of settlements and other elements of their territory;
- i. creates and approves the development program in the field of social services, work with municipalities and other legal entities and individuals for the construction of facilities and housing intended to provide social services;
- j. creates conditions for the development of health care;
- k. creates conditions for the development of education and training, especially in secondary schools, and the development of further education;
- l. creates conditions for the creation, presentation, and development

- of cultural values and cultural activities and for the protection of the monument fund;
- m. creates conditions for the development of tourism and coordinates this development;
 - n. coordinates the development of physical culture and sport and children and youth care;
 - o. co-operates with municipalities in the elaboration of programs of socio-economic development of municipalities;
 - p. participates in solving problems affecting several municipalities in the territory of the self-governing region;
 - q. develops cooperation with territorial units in the country and abroad;
 - r. exercise other powers provided for in specific legislation.
2. The regional government is required to set up an effective monitoring system to determine its role as a regional inspector and to select it. The Autonomous Region is also required to create the appropriate organizational, financial, human resources and material conditions for independent control (Ustawa z dnia 5 czerwca 1998 r., op. cit.).

3 THE STRUCTURE OF HIGHER SELF-GOVERNMENT UNITS

In the case of both the countries surveyed local government units of a higher level have their own bodies. The decision making and controlling authority at the level of the province belongs to the provincial council. This authority is derived from secret, equal, universal and direct elections, and the term of office is 4 years. Voivodship councilors are selected on the basis of the Act on the self-government of the voivodship (Ustawa z dnia 5 czerwca 1998 r., op. cit.), which specifies all the rules and methods for conducting elections, funding and carrying out the campaign, reporting of the candidates. Elections to the regional councils are managed by the Prime Minister after consultation with the National Electoral Commission at 30 days before the end of the term. The date of the election is set for a non-working day within 60 days of the end of the term of the office.

In Poland, we have 3 levels of local governments (municipalities, counties, regions), while in Slovakia there is only 2 (municipalities, countries). Active (the right to elect) and passive (eligibility) right to vote has got each Polish citizen, who has completed 18 years of age (no later than on the day of the elections) and permanently resides in a given territorial unit.

These elections are held together with lower-level elections - municipal and county elections. Candidates for councilors may be submitted by election committees: political parties, party coalitions, voters, and associations

and social organizations. The list of candidates for councilors should be signed by 300 voters to be registered.

The elections are the foundation of democracy and are based on norms and procedures. In Poland, a proportional electoral system is applied to the voivodeship, i.e. the shall be allocated to the list of candidates in proportion to the number of valid votes cast. In the distribution of seats are involved only those lists that exceeded the 5% electoral threshold. The conversion of votes to the mandates/seats is being made by using the d'Hondt method. Each list shall be granted as many seats as it counts with the mathematical calculations. Then, the seats on the list receive successively the candidates with the highest number of votes.

The tasks of the regional council:

1. regulation of local acts, in particular:
 - a. the statute of the voivodship,
 - b. the rules of property management for the voivodship,
 - c. the rules and procedures for the use of voivodeship facilities and utilities;
2. to adopt the development strategy of the voivodship;
3. adoption of a spatial plan;
4. to make a resolution on the mode of work on the draft budget resolution;
5. to make a resolution on the detail of the executive system of the voivodship budget, provided that this detail cannot be lower than that specified in separate regulations;
6. adaptation of the voivodship budget;
7. specify the rules for the granting of subject and object subsidies from the voivodship budget;
8. (repealed)
9. the examination of the reports of the implementation of the voivodship budget, voivodeship financial reports and reports on the implementation of multiannual voivodship programs;
10. to take a resolution on granting or withholding a discharge to the voivodeship management for implementation of the voivodship budget;
11. to adopt, within the limits of the regulations, the provisions relating to local taxes and fees;
12. passing resolutions on entrusting the tasks of the voivodship self-government to other units of local self-government;
13. to adopt “Priorities of foreign cooperation of the voivodship”;
14. adoption of resolutions concerning the participation in international regional associations and other forms of regional cooperation;

15. election and dismissal of the voivodship board and to decide on remuneration for the voivodship marshal;
16. examination of reports on the activities of the voivodship board, including in particular financial activities and implementation of the programs referred to in paragraph 2;
17. appointment and dismissal, at the request of the voivodship marshal, treasurer of the voivodship, who is the chief accountant of the voivodship budget;
18. adoption of resolutions on the formation and dissolving of associations and foundations, as well as the access to or the coming out of them;
19. to pass resolutions on the property issues of the voivodship concerning
 - a. he rules of governing the acquisition, disposal and encumbering of immovable property and their renting or renting for a definite period of time exceeding 3 years or for an indefinite period, unless otherwise provided for in special laws; The resolution of the voivodship council is also required when an up-to-3-years contract is concluded and the parties enter into further contracts for the same property; Until the rules are set, the Management Board may perform these activities only with the consent of the voivodeship council,
 - b. emitting bonds and specify rules for their sale, purchase, and redemption,
 - c. taking out long-term loans and credits,
 - d. setting the maximum amount of loans and short-term loans taken by the voivodship management board and the maximum amount of loans and sureties granted by the voivodeship management in the budget year,
 - e. establishment and accession of commercial law companies and cooperatives and the setting up of contributions, as well as the acquisition, disposal and transfer of shares,
 - f. creating, transforming and liquidating provincial self-government units and equipping them with property;
 20. adopting resolutions on the rules of granting scholarships to pupils and students;
 21. passing resolutions in other matters reserved by the laws and the statute of the voivodeship to the competence of the regional council;
 22. to adopt regulations concerning internal organization and the mode of work of the self-government bodies of the voivodship (Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa , Dz. U. 1998 nr 91 poz. 576, art. 18).

In Slovakia, a higher level organ of a territorial unit is a representative of

a self-governing country (*zastupiteľstvo samosprávneho kraja*). The messengers (*poslanci zastupiteľstva*) or the equivalent of Polish councilors are elected in universal, secret, direct, equal elections. Their term of office is 4 years. Elections are announced by the Speaker of the Parliament (*predseda Národnej rady Slovenskej republiky*) 90 days before the election date. Elections at this territorial level take place at a different date and year than the one on the lower, municipality level. Both elections will take place at the same time starting from 2020. The right to vote is granted to citizens and persons who are permanently resident in the territory of the local government and who are 18 years of age at the latest on election day. Candidates for the messengers may be submitted by political parties and candidates themselves. The list of candidates for messengers should be signed by 400 voters to be registered. The messenger is the candidate who received the highest number of votes in his constituency.

The tasks of the local government parliament include:

- a. passing the acts of local law,
- b. defining the rules of governance and ownership of the assets of a self-governing country, and of the property passed to him,
- c. acceptance and approval of the program of social, economic and cultural development of the self-governing country, the regional strategy of education and training in high schools, plan and programs for the development of the region, as well as territorial planning documents of regional self-government and its territorial plans,
- d. to adopt and approve the budget of the self-governing region, its revision, to control the budget and to approve expenditures; to the extent prescribed by the delegation of self-government, budget changes may be made by President
- e. accepting loans,
- f. approval of the terms of remuneration of employees in the region drawn up under a special regulation,
- g. announcement of a referendum,
- h. the establishment, abolition, and control of the activities of legal entities of the self-government of the country and the proposal of the president to appoint and dismiss their leaders (directors) unless a special law provides otherwise, and approves the ownership participation of the region in a legal person
- i. approving agreements in order to combine the funds and activities of the self-governing region and to decide on the membership of self-government in associations,
- j. to select and recall at the request of the Chairperson the Deputy Chairperson

- of the Self-Government, Vice-Chairperson (*podpredseda*), and to appoint a Vice-President, who is long-term in office,
- k. appointing committees and other representative bodies, to define their role, electing and dismissing their chairpersons and other members.
 - l. vote for six years and dismiss the Chief Auditor and determine his salary,
 - m. determine remuneration for Members,
 - n. determine remuneration for members of committees who are not Members,
 - o. establishing the internal structure of the body,
 - p. approval of the rules of procedure of the representation,
 - q. implementation of other matters that may be reserved for a self-governing region unless they are legally entrusted to the chairperson.

Both in Poland and in Slovakia, the regional level authorities work in session mode and the sessions should be convened as required, but at least once a quarter in Poland and once every two months in Slovakia. In the case of both states self-governments form local acts; in Poland, a simple majority of votes is required in the presence of at least half of the statutory council composition, while in Slovakia, the majority of the votes of the current councilors is required, followed by approval of the chairman of the self-government.

At the first meeting of the voivodship councilors - regional parliament (*sejmik województwa*), the councilors, by secret ballot in the absolute majority of votes, shall elect from their group main chairperson and up to 3 vice-chairpersons, they cannot be members of the voivodeship board.

The internal organs, which are appointed by the regional council and the national representative office, are various types of permanent and ad hoc committees. In Poland, it is mandatory to appoint a review committee responsible for granting of discharge from the budget, in Slovakia the same responsibility lies with the financial and mandatory committee.

The executive body of the higher regional self-government unit in Poland is the voivodeship board, which is a collective body elected by the councilors of the voivodship council, regional parliament (*sejmik województwa*). The board consists of 5 people - as chairman of the voivodeship marshal (*marszałek*), one or two vice presidents and members. The regional council has three months to elect a board. Board's term of office lasts 4 years.

In Slovakia, the one-man executive body of the self-governing country is the president (*predseda samosprávneho kraja, Župan*). He is elected in universal, equal, direct and secret elections, during the same elections as representatives of the self-governing country. His term of office is 4 years. One is selected in each of the seven local governments. As far as the electoral law is concerned, the rules

are the same as in the elections of local government representatives, while the right to vote is limited to citizens who have reached the age of 25. Candidates for the president nominate political parties and independent candidates themselves, who must collect 1000 signatures under their candidature. At the same time, the candidate can take part in the council and the chairman elections. In order to become chairman, the candidate needs the absolute majority of votes, that means that more than half of the valid votes, should be obtained.

The main difference between the executive bodies in both countries is that in Poland it is a collective body, whereas in Slovakia the role holds a single person. Elections to this organ are also different, namely, in Poland is chosen indirectly, whereas in Slovakia elections are direct and universal.

The referendum of a higher executive body of local government units in Slovakia can only be held after a national referendum. In Poland, the constituent body - the regional council may dismiss the board before the end of the term.

CONCLUSION

To sum up, it should be noted that in the case of higher levels of local government units analyzed in both countries, their electoral procedures, goals, and tasks are similar. On the other hand, the level of party administration of local government units is disturbing. As Jakub Bardovič rightly points out, political parties in modern democratic systems have become an important political actor in the political scene in the state not only in Slovakia, but also in Poland (Bardovič 2016, p. 99). Political parties should not, however, engage in local politics, as their actions are almost always based on the fulfillment of the objectives of the party, not necessarily on the good of the people, the satisfaction of their needs and the development of the region or city. Undoubtedly, however, the electoral law to the regional parliament in Poland favors political parties. Politicization of local self-government can have many negative effects: political corruption, the strengthening of centralism, the debt of local governments, the weakening of representative democracy, the consolidation of structural pathology.

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