LOCAL SELF-GOVERNMENT IN SLOVENIA: THEORETICAL AND HISTORICAL ASPECTS

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CHAPTER ONE

THEORETICAL AND CONSTITUTIONAL ASPECTS OF SLOVENIAN LOCAL SELF-GOVERNMENT

Introduction to the concept of local self-government

Local self-government is a key element of the political system of (European) liberal democracy (Stoker, 1991: 1) and is considered a civilisation advance plus a theoretical and practical ingredient of every modern democratic political system. The most straightforward definition of local self-government states that this is the level of government closest to citizens, hence its task of representing the meaning and standpoints of locality. The implementation of local self-government is a demanding task, which primarily refers to the division of powers between the state and local communities (Brezovšek et al., 2008: 120).[1] One can only

1 Grafenauer (2000: 13–14) defines local community as a special kind of social group, based upon spatial organisation of a society or collective life of people residing in a certain geographic space. The core principle of the definition of a local community is the principle claiming that coon needs and interests of individuals within a local community are better addressed through joint

speak of local self-government if the state recognises local communities their legal existence, confers on them the right to decide on certain issues which it does not interfere in and provides them with necessary resources for managing these affairs. Local communities which are recognised by the state as entities of local self-government are communities of public law, having a certain scope of competences in their territories. This authority is nor original neither independent, as only the state can wield such power. Local communities only have as much power (as many rights) as they are granted by the state (Virant, 1998: 162). The true role of local self-government thus lies with the vertical division of power. The division of power between the state and local communities curbs state (centre's) authority so as to reduce the possibilities of its alienation and abuse (Vlaj, 1998). The system of local self-government within a democratic state enables certain public services to be more efficient and having better performance than would be the case if all power was centralised (Vlaj, 2004 and 2005).

The principles guiding local self-government are the following: the principle of autonomy, the principle of subsidiarity and the principle of regionalisation. The principle of autonomy is based upon independence of units of local self-government from the state. The principle of subsidiarity concerns the delegation of decision-making to the level that is as close as possible to residents, for their benefit. The principle of regionalisation is based on transfer of part of political and economic power from the state to lower-level units of local self-government (Brezovšek, 2005: 69).

activities. Apart from the population and the territory itself, Grafenauer also lists the integration of people as an essential element, which makes a key contribution towards the firmness of bonds between individual parts of a community and joins people in it. For more details, see Grafenauer (2000).

Scholars list five major elements of local self-government, namely, the territorial element, which defines the local community's subjectivity of local self-government; the functional one, which emphasises the performance of tasks of local communities in accordance with interests of their inhabitants; the organisational element is based upon the accountability of community members who perform these tasks through local self-government bodies; the material and financial element, which states that every local community must have its own material and financial resources intended for the performance of tasks; and, finally, the legal element, which is based upon the premise that every local community enjoys the status of the rule of law (Kaučič & Grad, 2000: 322–323).

Additionally, scientific literature defines three most important normative elements which serve as a basis for European local self-government, as follows:

- autonomy; it denotes the stages of decision-making power between central and local government; the local-level stage of decision-making power prevents the concentration of political power at the central level and allows for difference of political choice in differing local settings;
- democracy; it defines local authority as a political platform and an opportunity for citizens to participate; the existence of local self-government encourages citizens' participation in governance; and
- efficiency; local authorities are more efficient in providing public services and searching for solutions to local-level problems and are able to adapt measures to local circumstances (Greer et al., 2005: 11).

Local self-government performs the activities intended for strengthening national identity and enhances cooperation

between local communities and citizens and local authorities. It is crucial for democratic character of a state that democracy is protected and works in the smallest units of government, i.e., local communities (Vlaj, 2003: 1). Nevertheless, one cannot omit a yet another, certainly significant fact regarding the role of local self-government, or, to put it more appropriately, local democracy within modern democracies. Local democracy is a mechanism that, even in utmost centralised systems, contributes towards the decentralisation of power and to mitigation of centralistic attempts at all-encompassing control of life from a single centre of power, as it was already stressed by De Tocqueville (1991: 40).

Local self-government (and with it the principle of subsidiarity, which has to be stressed, as it demands that competences be delegated from the level of state to the lowest possible level of government) is enacted in municipalities and, in most states, in other, i.e., wider, higher communities of local self-government (Haček, 2005a).[2] Hence, the primary task of local self-government is the transfer of decision-making on matters of local-level significance (i.e., matters concerning all inhabitants of a local community) to the local level. Local self-government functions as the decision-making power at the lowest possible level or unit, meaning that local community acquires the status of self-government, of autonomy (Brezovšek et al., 2008: 120).

2 Wider local communities have different names in different states, e.g., in Great Britain, they are called "shires"; in France, they are designated as "departments"; in Italy, Spain and Belgium, they are known by the term "provinces"; in Portugal, they are dubbed "districts" etc. (for more on this topic, see the publication Local and regional structures in Europe, 2005).

Basic regulations of Slovenian local self-government

On the territory of what is now Slovenia, local self-government was already introduced in the mid-1800s by the Austrian provisional act on municipalities signed by the then Kaiser in 1849. First municipal representative bodies in Carniola were elected 1850. Sixteen years later, a provincial act on municipalities was adopted and from then on, legislative regulation of local self-government was being performed continuously until 1955, when the introduction of a socialist communal system occurred, which *de facto* abolished local self-government. In the communal system, the municipality was a so-called socio-political community that primarily acted in the name of state, whereas local self-government proper was in part taking place only in local communities at the sub-municipal level. This system was finally replaced by the introduction and the beginning of operation of new municipalities in 1995. In Slovenia, local-self government has been in operation practically since January 1995 when territorially modified municipalities, having new substance and new bodies, became operational. In the years following the re-introduction of local self-government, many changes have happened, especially so in the legislative domain. However, local self-government reform is far from being finished, which is made evident by numerous comparisons of our arrangement and those abroad and it becomes especially visible in encounters of our institutional setup and practices with European standards of local and regional democracy enshrined in the European Charter on Local Self-Government,[3] in the tendencies, directions and

3 European Charter on Local Self-Government is available at http://www.uradni-list.si/1/objava.jsp?urlmpid=199652.

recommendations made by the Council of Europe and the European Union (Brezovšek et al., 2008: 124–127).

Contemporary states usually include fundamental principles of local self-government operation already in their constitutions and constitutional documents. It is very important for local self-government to have a constitutional dimension of its own, since its legal standing is thus reinforced and the state is faced with great difficulties when trying to interfere with it, so it can merely specify it through legislation, remaining within the limits of constitutional provisions. Already in its general provisions (Article 9), the Constitution of the Republic of Slovenia stipulates that local self-government is guaranteed by the Republic of Slovenia. In this manner, local self-government became a constitutional category. Though constitutional provisions on local self-government are fairly general, as more specific regulation is mostly left over to legislation, the Constitution nevertheless devotes a separate chapter to the domain of local self-government.[4] Article 139 of the Constitution of the Republic of Slovenia defines the municipality as the fundamental community of local self-government that encompasses one or several settlements connected together through common needs and interests of their inhabitants (Constitution of the Republic of Slovenia, Article 139). Local Self-Government Act defines the municipality as the fundamental community of local self-government that independently manages and performs its own matters within the limits of the Constitution and legislation and performs tasks delegated to it by laws (Local Self-Government Act, Articles 1 and 2). The latter is also one of the most common definitions and includes

4 This concerns Articles 138 through 144 (Official Gazette of the Republic of Slovenia, No. 33-1409/91-I of Dec 28, 1991).

three major components: the municipality is the most important form of local self-government; has been formed within a natural, historically created local communities, such as (a) settlement(s) (one or more, connected through common interests); and has the status of self-government (Šmidovnik, 1995: 63). According to modern conceptions, the municipality should, first and foremost, properly satisfy the needs of its inhabitants and fulfil other tasks conferred upon it by the law; therefore it has to be established on a territory where it can perform its tasks in a suitable way. An area where a new municipality is to be established[5] has to fulfil the conditions set down by the Local Self-Government Act. Most importantly, complete primary school has to be offered, primary health- and social care have to be accessible, supply of basic necessities has to be assured, there has to be public utility infrastructure, as well as postal services, public library and facilities for administrative work of local communities, etc. (Kaučič & Grad, 2000: 330). In order to fulfil its tasks, a municipality must be of sufficient size, therefore Article 13a of Local Self-Government Act determines that a municipality shall have at least 5,000 inhabitants and that exceptions to the norm shall only be allowed under conditions set down by the law. In spite of these provisions, one half of Slovenian municipalities (110) have less than 5,000 inhabitants (Service of the Government Office for local self-government and regional policy, 2011; now cancelled).

However, in spite of this, the jurisdiction of the municipality is fairly narrowly defined by the Constitution, as its Article 140, Paragraph 1 stipulates that competences of the municipalities

5 The Constitution stipulates that a municipality shall be established by the law, following a referendum held in the territory on which a new municipality is to be established. However, results of this referendum are not deemed binding for National Assembly's MPs (Grad, 1998).

include only those local matters that the municipality shall manage independently and that concern the municipality's residents. Such a narrow definition of competences is only partly compatible with the direction prevalent in modern European institutional arrangements. As a matter of fact, local self-government has to deal with all local matters, including those that do not concern only its inhabitants, but also people who are present on its territory from time to time. Slovenian municipalities are not competent for the performance of *all* tasks on their territories – as are German ones – but only for matters of local-level significance, which unquestionably puts Slovenian system much closer to the French example. The Constitution does not specify local matters beyond municipality's original competence in any greater detail and, in so doing it leaves a more detailed regulation of the topic over to legislation, which uses two terms regarding municipalities' competences, i.e., (municipality's) "proper sphere of competence" and "delegated sphere of competence". The former is represented by the municipalities' competence in local-level matters, which municipalities can regulate independently and which concern only their residents. However, the latter refers to the fact that the state can, acting on the basis of municipality's prior consent, delegate by its law(s) the performance of individual tasks originally falling within the scope of its own competences to the municipality, if the state provides the municipality with the necessary financial resources for that purpose.[6] As a consequence, we delineate tasks of municipalities and tasks belonging to state competences, which are delegated to the municipalities: (1) matters of local significance are municipalities' original tasks, which they themselves determine within the limits of their statutory autonomy, meaning that they differ among different municipalities;

6 This is a case of enactment of the principle of connexity.

(2) local-level matters determined by sectoral laws of the state as tasks of municipalities, which are performed by the latter as their own tasks, belonging to sphere of their own competences and (3) delegated tasks of state administration, which are primarily state's responsibility and which the state delegates, together with corresponding financial resources, to the municipality, which has to give its prior consent (Šmidovnik, 1995: 73–74). The tasks of the first and second type are designated as "original", whereas the tasks of the third type are called "delegated tasks of a municipality." Original tasks are about political decision-making of a municipality, whereas delegated tasks are meant as professional implementation of laws and executive regulations. Municipal bodies are independent in the performance of original tasks, whereas in case of delegated ones, they enter a relationship of hierarchical subordination to the bodies of state (Virant, 1998). Suchlike regulation of delegation of certain state competences to the municipal level can, on the one hand, be interpreted as an arrangement preventing the state from interfering with the local community's sphere of autonomy, but on the other, it can turn out to be an insurmountable obstacle to delegating whatever state functions to municipalities. This is exactly what is characteristic of Slovenian reality, as Slovenian municipalities have not been delegated any tasks from the scope of state competences so far.

Hereby it is necessary to highlight the differences between an ordinary and an urban municipality and the consequent difference in the scope of their powers. A certain urban settlement can be granted the status of urban municipality by a certain procedure and provided that it meets special legislative criteria; as far as competences are concerned, the urban municipality differs from the ordinary one in the fact that it also performs tasks of urban development, which are otherwise a responsibility of the state, but are assigned to it by the law, as its own proper tasks. These

are the tasks that enable the working and interconnecting of all the functions of a city as an urban, public utilities, transportation, spatial and planning entity, and turn a city into a centre of cultural, healthcare, educational, scientific and other institutions, important for other municipalities and the state at large as well. All tasks pertaining to the functioning of a city belong to its original competence.[7] In this way, competences of urban municipalities are wider and more clearly defined than competences of ordinary municipalities, meaning that, in practice, an urban municipality can be more efficient at resisting state's interference with its scope of competences, as it can refer to the competences of urban municipalities, set down by the Constitution and the laws.

As far as competences are concerned, the Local Self-Government Act limits the state and not the municipality, effectively preventing the state from intervening into the sphere of municipalities' self-government. This is the opposite of the previous, communal system, in which a majority of the municipality's tasks had to be performed for the state. For instance, the municipality was competent for granting passports, firearms licences, keeping the central register, registering declarations and cancellations of permanent residence, etc. The new systemic arrangement states the Constitution as the foundation of the relationship between the state and the municipality, yet Local Self-Government Act still remains the pivotal point. This law classifies the tasks which municipalities manage independently into six groups (Jerovšek, 1994):

7 This is the field of public buildings, public utilities, city transportation, public institutions, etc.

- In the field of normative regulation, the municipality adopts its statute, decrees and other municipal legal acts, adopts municipal budget and consolidated balance sheet, municipal developmental plans, adopts spatial and local development plans, regulates the management of public utilities infrastructure, i.e., for power and water supply, it is in charge of maintenance of roads public paths, recreational and other public spaces, regulates public order within its boundaries, manages the work of municipal administration, and municipal public services, regulates the manner and conditions of managing municipal assets, puts together asset accounts list, defines misdemeanours that represent violations of municipal regulations and sets down fines for them, as well as it deals with other local-level matters of public relevance.
- In terms of administration, it manages municipal assets and local public services, steers public and other companies, manages municipal public spaces and other public goods, and is in charge of maintenance of local public roads and other paths.
- It uses its own resources to build and maintain local public roads and other paths, promotes cultural, associations', educational and librarian activities, builds structures and installations of public utilities, constructs housing for socially deprived persons, ensures the operation of public services and the activity of the municipal council, the mayor and the municipal administration.
- Through its measures, it promotes economic development on its territory, promotes the development of recreation and sports, is responsible for fire protection and organises emergency rescue services, provides protection against pollution of air, water sources and ground, as well as it is responsible for protection against noise pollution and for organised refuse collection.

- Assures aid and rescue in cases of elementary disasters and control of local public events and
- Concludes contracts on acquisition and alienation of mobile and immobile assets on public concessions, on the use of public goods and on other legal relationship in which it enters.

We have to stress that the municipalities' sphere of work is mostly regulated by sectoral legislation. Hence, other laws also set down municipal competences, e.g., Roads Act, Environment Protection Act, Kindergarten Act, etc. Despite this being the case, disputes between municipalities and the state concerning competences are frequent and require interventions of the Constitutional Court of the Republic of Slovenia.

Residents of the Republic of Slovenia enact local self-government (and in so doing, the principle of subsidiarity) in municipalities and other communities of local self-government. Municipalities are the fundamental units of local self-government. However, the second level of local self-government will be represented by regions. They will operate on a wider territory comprising several municipalities. It is worth remembering that it is this setting in which the most important interconnections between local self-government and state administration are forged (Haček, 2005a). As mentioned above, almost all EU Member States feature not only municipalities but wider communities of local self-government as well, or, in other words, they do not have single-level local self-government systems, which is the *de facto* situation in the Republic of Slovenia, since they have at least two levels of authority below the level of central government (and in some cases, even three levels), encompassing wider or narrower geographical areas.

The case of Slovenian Constitution's text from 1991 – in the section on wider local self-government communities – caused quite a stir during the first decade following its adoption, primarily within a more specialised expert public, but also in the wider one. The constitutional legal problem of Slovenia's regionalisation – the issue of regions – remained unsolved until 2006. At the same time, a whole range of differing expert opinions were formulated, which either chose the direction of amending the Constitution – its Article 143 and other Articles – or the establishment of regions without any amendments to the Constitution (Pirnat, 1999: 241). Thus, the constitutional legal problem of regionalisation of Slovenia is without question the most fundamental of all issues in the field of local self-government (Šmidovnik, 1999: 189). Roughly speaking, two sets of opinions have existed as regards the constitutional design of the region. According to the first one, which has had a marked prevalence in the corresponding scientific literature, Article 143, which concerns the establishment of wider communities of local self-government, is unfeasible. *Provisions on the tasks of wider communities of local self-government are unqualified as well* (Šmidovnik, 1995: 164–165). However, according to the other side, Slovenian regions can be implemented on the basis of the Constitution as it is now. Regions are already a constitutional category, which enables them to be established on the basis of the Constitution currently in force (Act on regions with theses on normative regulation (proposal), 1998: 4). The origin of the first opinion is the presumption that a region has to be a mandatory unit of the local self-government, which, however, can only be guaranteed by the state. Such regions could not be established without amendment(s) especially to Article 143 of the Constitution of the Republic of Slovenia, which used to define the region as a form of voluntary cooperation among municipalities, having no independent legal subjectivity or autonomy. This view claims

that the fundamental flaw in the constitutional setup of regionalism lies in its treatment of the region as a non-binding form of inter-municipal cooperation that may obtain in some part of a state and may not in other(s). Such a region is not a wider community of local self-government, as it bears no autonomy, because its founding, existence, funding and operation are completely dependent on municipalities. In this case, such a region would not be a community of people residing within a wider geographical area, but more of a confederation of municipalities (Ribičič, 1998: 22). The fundamental problem of the constitutional provision on regions was thus not in the voluntary basis of their establishment, but in its treatment of regions as derivative communities, based solely on the fundamental units of local self-government – i.e., the municipalities – and not on the residents of a wider territory on which an individual region would be founded (Ribičič, 1999: 197–199). The design of regions as (voluntary) communities of municipalities could be productive provided that Slovenian municipalities were strong enough both as regards their competences in the field of local self-government and their financial capabilities, so as to be able to establish, maintain and develop their own common region(s).

Parallel to the legislative basis of the establishment of wider communities of local self- government – i.e., the regions, the ministry in charge of local self-government, acting in cooperation with other departments and in accordance with the principle of subsidiarity – undertook a study of the delimitation of tasks between the state and the local self-government, that is, between municipalities and future regions (Government of the Republic of Slovenia, 2001: 48).

When delimiting the tasks and competences of regions, one has first to emphasise that practically all their tasks and

competences have to be stipulated by the law, since Article 140 of the Constitution provides the region (as is the case with the municipality) with no clearly defined sphere of original competences. The scope of these powers is determined by Article 143 of the Constitution in two ways: (1) for the purpose of managing local matters of wider relevance, municipalities unite themselves into regions and (2) in an agreement between the state and the regions, the former delegates some of its competences to the scope of original competences of the latter. Both types of tasks currently represent either local-level tasks, i.e., tasks of municipalities delegated by the latter to their region or state tasks delegated to the scope of original competences of the region. Both cases demand that these tasks be specified by laws and these laws be amended in a manner enabling these tasks to become a matter of region's competences. Competences of the region cannot be determined merely by its statute. The crucial problem of legislative regulation of tasks and competences of the region is the fact that laws usually do not specify these tasks and competences or they do so only to a limited extent (Pirnat et al., 2002: 258).

Even though Article 4 of the Draft European Charter on Regional Self-Government[8] provides for the recognition of regions' competences in constitutions, laws, regions' statutes or provisions of the international law (Draft European Charter on Regional Self-Government, 1996), only three options of legislative arrangement of regions' competences were envisioned in Slovenia, as follows:

8 Draft European Charter on Regional Self-Government, adopted in at the meeting of the Council of Europe, the Congress of Local and Regional Authorities of Europe and the Chamber of Regions held in June 1996.

- *A special act setting down tasks and competences of regions:* the main idea behind this method of regulating the competences of regions is that, together with the adoption of the Regions Act, a special act would also be adopted, which would set down in detail what tasks and competences of state authorities and municipalities would become original tasks of regions and which would be classified as their delegated tasks. Such an act on the stipulation of competences would result in amendments to sectoral laws, i.e., those primarily determining the competences of state bodies and possibly in part of municipalities. The main setback of this approach is the extreme difficulty of amending a greater number of other laws by a single act (Pirnat et al., 2002: 259–260).
- *General stipulation of tasks of regions:* this approach is the exact opposite of the previous one. The main weakness of this approach is that it actually determines no tasks and competences of regions, as it only sets down a framework for the sphere of their operation. Such provisions, however, cannot be considered a viable legal basis for regional bodies to execute any administrative tasks. This is too general and lax an approach, incapable of assuring regional authorities any chance of efficient operation (Pirnat et al., 2002: 260).
- *Combined approach:* this option is a kind of combination of the two preceding ones, as it features a general definition of the tasks of the region enshrined in an act on regions and its interim and final provisions, the stipulation of at least some of its concrete tasks, as specified by the laws in force. An act on regions would also set down the interim, provisional period prior to a more detailed regulation in respective sectoral laws, define certain tasks of state and municipal bodies as responsibilities of regional authorities and specify the regional bodies concerned (Pirnat et al., 2002: 261).

Competences of the region are a legal expression of its tasks, which it has a unit of wider local self-government. From the legal-functional view, this is about the rights and obligations of the region to regulate social relationships on its territory, performs certain tasks and provides for the execution of others. The regulatory powers of the region authorise it to adopt different ordinances of its own with which it regulates different questions within the scope of its competences. The region performs its tasks directly through its bodies; or, alternatively, it can found the required organs and bodies for the implementation of tasks or provides their realisation in other ways, e.g. by granting public concessions. The region may also take care of various aspects of social life taking place in its precinct by the virtue of creating favourable conditions and promoting the development of different activities (Pirnat et al., 2002: 261).

Some of the tasks carried out by the region are more local in character, whereas others have a more state-like character. Many of them can be efficiently done only within the region (or the region and municipality) and others require the cooperation of the state, region and municipality. The relationship between the state and the region is manifested in two types of competences, namely: (1) the exclusive competences of the region (meaning both the regulation and implementation of certain matters) and (2) mixed or joint competences (the regulatory function lies primarily on the part of the state, which can delegate a more detailed implementation to the region; the region still performs the tasks belonging to its own competences). In the latter case, the state and the region have certain powers in the same areas or concerning the same affairs. However, certain matters are subject to competences of all three levels, i.e., the state, the region and the municipality, whereby the contents of competences usually differs between exclusive and joint ones (Pirnat et al., 2002: 262).

Regions would perform:

- *Original tasks:* the region would perform all those original assignments, which would be determined by its own statute or other legal acts and would qualify as local-level matters of wider significance. Such tasks are usually non-obligatory and the only limitation local communities are faced with in their execution is their own financial capabilities. This concerns cooperation between municipalities and regions in the interest of entire area's development. Additionally, the state can assign certain tasks to the regions as local matters of wider relevance and the number of such tasks is expected to grow due to the process of decentralisation. Also, original tasks of regions include the ones stipulated by sectoral laws, which are matters of intermediate character (i.e., between the state and local levels), or put otherwise, issues of regional importance.[9] The region ought to have an option to adopt legal acts of its own or regulate legal relationships, rights and duties of people under its jurisdiction in all areas belonging to its original competences. Equally, it needs to have the possibility of determining misdemeanours and violations of its regulations and provide for surveillance of their implementation (Government of the Republic of Slovenia, 2001: 54–55).
- *Delegated tasks:* competences of the state or municipality can be delegated to the region. The state would delegate some of its competences[10] to the region, which would be governmental tasks – primarily those currently performed by administrative units. In other words, the tasks of the state that would be delegated to the region would be those that could be performed more rationally and efficiently by the region.

9 Draft Regions Act, 2008, Article 13.

10 Draft Regions Act, 2008, Article 14.

> This is the case for the so-called "amphibian region". These tasks could be delegated gradually, for instance, this process would commence with spatial planning, environmental protection and administrative interior affairs, followed by the rest of competences. The performance of tasks that would not be delegated from administrative units to the region would remain either with administrative units or some other state institutions. Matters belonging to municipal competences would be delegated to the region by the municipality on the basis of a mutual agreement, in principle by contract and the scope of tasks would be narrower (Government of the Republic of Slovenia, 2001: 55).

In terms of the relationship between the centre and its periphery, the question of establishing wider units of local self-government, their funding and financial autonomy of regions is especially important. The problem of establishing the layer of wider local self-government at originates at least in part in the general situation of local self-government. Namely, municipalities and, respectively, regions should be established on a certain territory where certain common interests of local or regional character are expected to exist and which should be regulated by municipalities and regions themselves. However, the right to managing one's own local or regional affairs also entails the obligation of their funding independently from the state or other local communities. Any financial dependence on anyone or anything effectively means the end of self-government. As a matter of fact, this is the key problem of Slovenian local self-government.

When introducing new municipalities, the state failed to arrange the conditions for their financial independence as a majority of them is completely dependent on funds coming from state budget. Therefore, ever-present aspirations for new municipalities

come as no surprise. Yet as soon as a municipality is funded by the state, it becomes clear that the former is going to perform those local-level tasks that are in accordance with the interests of state. Certainly, the fundamental problem is not that Slovenia has produced so many small municipalities, as more important problems result from the fact that municipalities are widely diverging that most of them are completely dependent upon the state and its funding injections and that the powers of contemporary Slovenian municipalities are much narrower than is the case with the municipalities of certain European Union Member States. At the same time, it is evident that the problématique of the founding of regions links with the issues of ill-conceived and state-ordered creation of a new network of municipalities after 1994.

CHAPTER TWO

HISTORICAL DEVELOPMENT OF SLOVENIAN LOCAL SELF-GOVERNMENT

The beginnings of local self-government in Slovenia

The beginnings of the local self-government are connected and dependent on the historical conditions in each period. It is mostly stated that the roots of modern local self-government, and thus municipalities, are reaching far into the Middle Ages. During this period, the first outlines of self-government are evident in medieval towns by acquiring a certain degree of autonomy or independence in relation to the prince or to the nobility of the land.[11] The legal framework of self-government in medieval

11 The historic launch of local self-governments, especially the city self-governments, is in relation between the feudal lords and towns in the feudal regime. As long as the cities were not economically strong, were only a part of the feudal territory and the authorities, and the population was subjected to various tributes and taxes and in constant dependence on feudal lords. When the cities, which are increasingly becoming centers of artisans and traders, start

cities is reflected in: urban privileges (documents) and thus in a separate legal regime; its own Statutory Law (city records statutes represented the city rights which were granted to the city); its own judiciary with the (elected) town magistrate at the head (with jurisdiction in particular for the "lower" civil and criminal matters, while the "blood" justice was in the hands of the officials of the prince); the election of the city council and the personal freedom of citizens. On the Slovenian territory, this form of city self-government first developed in coastal towns (as some sort of continuity from the Roman period onwards), while in the inland towns the most important monument of the medieval town law was Ptuj statute law, because of its complexity and diversity it makes a very good insight into medieval town administration (Haček, 2005b).[12]

In the period from the 15th to the early 17th century, it is possible to highlight the dualism between monarchs and classes as the "groups" of privileged people in the country - the nobility, clergy, bourgeois and peasants. Monarch was first developing its

to strengthen its economic power, there comes a demand for an increasing degree of autonomy - i.e. for such an organization that would allow each class in the city (traders and craftsmen) to protect their interests. "Fight" between cities and the feudal lords for independence and the acquisition of urban self-government is one of the important features of the time when the feudal system came into its final phase. Result of the efforts of a young bourgeois class was the implementation of Independence of towns, i.e. the city's self-government in which the city itself implemented the judiciary, forged money, freed itself from paying taxes and other burdens to feudal lord, and more. In addition, apart from maintenance of subjects' and vassals' relationships, the medieval country was not in charge of social relations, and therefore did not have a developed bureaucratic apparatus. Thus, in addition to the state government, a medieval class and local self-government was created (Grafenauer, 2000: 88).

12 See the text of the Constitution and composition of Vladimir Simič (student edition "Statute of Ptuj of 1376" Ptuj, 1998).

administrative (clerical) apparatus particularly where the classes had no say - i.e. at its headquarters (this later led to the formulation of governments) and at the administration of chamber property at all levels, on the other hand, the prince's offices are generated within the country. Such an arrangement has brought obvious conflicts between monarchs and classes, but from these conflicts all over Europe came out as the winner the ruler, which has led to absolutism, in which at the highest level was decided by the legal unlimited ruler's will. In the Slovenian lands from the early 17th to mid-18th century, we are talking about so-called political absolutism (when the old regulation has apparently still maintained and the ruler had been calling classes, but they no longer had their previous powers), and the state began to be more and more involved in the economy for the fiscal reasons. Then with the period of the reign of Empress Maria Theresa (1740-1780) and especially of Joseph II (1780-1790), started a reform of the legal form of absolutism (its characteristic are that the ruler eliminated the old legal forms and created the law by himself, and in the field of tax law became independent of the classes), but after 1792, started a so-called conservative absolutism, which lasted until the March Revolution in 1848. The essential immediate purpose of the reforms at the time of Empress Maria Theresa and Emperor Joseph II was the strengthening of the country that is an absolute monarch. Externally, there was the need for a military (at that time, the mercenary system transformed into a system of forced recruitment) and inwardly, there was a firmer organization of the state by constructing a state bureaucratic apparatus, even at lower levels to limit the arbitrariness of the nobility. Thus, in the middle of the 18th century, the ruler's situation became so strong that he started to set up his offices at the level of provinces, as well as at lower levels outside the chamber of the administration. Due to the wider intervention of the absolutist state in the range of social issues - promoting

agriculture, crafts, trade, education and health - instead of the previous nobleman jurisdiction and the class system, the state bureaucratic apparatus has developed, at the court in form of various departments and in the country in the form of state administration and judiciary (Haček, 2005b).

In the field of administration, there are significant reforms in the years between 1748 and 1749. At the middle land stage, provincial districts are set up (district office, whose administrative area was a district): Styria was divided into five administrative districts, including Maribor and Celje; Carinthia was divided in Villach and Klagenfurt district; Carniola was divided in Ljubljana, Novo mesto and Postojna district, Gorizia formed only one district; Littoral territory was subordinate to the district in Trieste. At the head of the districts, there were district governors, who were totally dependent on instructions from the centre of the country. Districts have extended their activities to all the main administrative areas and gained control of the old feudal autonomy. Lower administration, however, was formed at the close drawing upon recruiting and tax systems. The latter was formulated based on numerous sections[13] and by creating so-called tax municipalities. A cadastre was composed after these municipalities, so they called them cadastral municipalities. Thus, it was created a "Josephine" or "Joseph Cadastre" of municipalities that were relatively stable, and above all accurately assessed territorial units that could be used in the assembly of larger administrative units. Between areas occurred some considerable differences in

13 In 1771, carried out by a mixed committee of officers and civilian commissioners, the territory of parishes was divided into smaller territories - conscription (census) municipalities, which were conscription districts. They were also named the counting departments. They consisted of one or more settlements and when counting, they assigned houses their current house numbers.

the design of cadastral municipalities, with the least population of the municipality was in the district of Maribor (Grafenauer, 2000: 85–94).

By stacking cadastral municipalities, in the French Illyrian Provinces[14] in 1810 they introduced much larger municipalities - commune[15] as a first level administrative state (especially fiscal) authorities. In designing, they stayed true to the principle according to which the municipality comprises of 2,000 to 2,500 inhabitants, due to particularities of a place and natural features can also be less. There have thus become substantially larger municipalities, as they were like previous cadastral municipalities in Austria. At the head of the major communes was mayor - mér (maire), at the head of the small one (less than 2,400 inhabitants) was a sindik. Mayor of Ljubljana was made by emperor, in other municipalities, the mayors were made by Governor General, where the mayors were prominent citizens. Mayors have been assigned to manor house (adjunct, adjoint), and the councillors, and the mayor set a paid secretary. As determined in the technical literature, we cannot discuss about the municipalities from the period of the Illyrian Provinces about their autonomy. In addition, in the French organization of communes there were no differences between urban and rural municipalities (Grafenauer, 2000: 95–96).

14 The Illyrian Provinces were established on the same day as the defeated Austria, based on the peace treaty concluded in Vienna (Schönbrunn, October 14th, 1809), had to assign to Napoleon the district of Villach in Carinthia, the Gorizia eastward of Soča, gubernium and the city of Trieste, Carniola, Hungarian Littoral, Zagreb County south of the river Sava and six regimental territories of Croatian Military Frontier.

15 The term "commune" has its origin in the Latin word "communis" - a common, universal. In its most general sense, it denotes a community of people, the population, which is organized to carry out their own self-government.

After the departure of the French, Austria has abolished the organization of communes on the previous area of the Illyrian Provinces, but these administrative units were not completely removed. The territories of the commune were taken into account in determining the new districts. As a rule, they maintained the communes as "major municipalities" (Hauptgemeinden) and placed high rihtars as head (Oberrichter in Slovenian literature also referred to as the "nadžupan" (high mayor)). When introducing this feature, they were looking back on patterns of other Austrian provinces and assigned it a significantly fewer rights than relevant French officials had previously held at this stage. The main municipalities were composed of several sub-municipalities (in one main municipality there were on average 7 sub-municipalities) and at the head of these were rihtars or deputy mayors (Vilfan, 1996a: 380). High rihtars performed the functions of government, granted to them by the county nobility, rihtars in sub-municipalities had to take care of their own local affairs and in practical life or in other words they had to take over the function of mayors of the old type. In municipal matters two councillors under the direction of the mayor were participating, but in larger municipalities they may have had a municipal chamberlain (treasurer), head of construction (he was taking care of municipal buildings, wells, plumbing, floors, roads, fire extinguishing devices, and so on.), a sergeant (he was taking care of the local police) as well as field and forest rangers (Grafenauer, 2000: 96).

The March revolution

One of the demands of the March Revolution of 1848 was the independent status of municipalities (Vilfan, 1996b). So-called "Imposed March Constitution", which was released on March

4th 1849 with the imperial patent by Emperor Franz Joseph I, also contained provisions on "inaccessible fundamental rights of the municipality". This is where the foundation of the new administrative arrangements became a municipality, designed as an autonomous and self-governing authority of first instance. The introduction of the municipalities meant a direct interference in the pre-patrimonial rule, which was then eliminated. An important fact that with the reforms of the structure of public administration affected on the idea of establishing the municipality was that the subjects of the same village often belonged to different nobilities, which was a major obstacle on the path to a better administration, which the state of enlightened absolutism wanted to introduce. The March Constitution stipulated that each municipality has the right to: a) the elections of their representatives, b) the admission of new members to the municipality, c) an independent performance of their duties, d) a public presentation of its management, and e) a public performance of its representatives. In addition, it was also determined that the detailed rules were to be laid down by the municipal law. Municipalities are thus becoming one of the essential foundations of the construction of the government regulation at that time and an essential novelty is in their relatively independent position (Grafenauer, 2000: 97–102).

The Act, which regulated "the area of municipalities" - the municipal law was issued or promulgated on March 17th 1849. Its main creator in substantive terms was the interior minister at that time Count Stadion, which was generally the creator of the new administrative changes. Provisional Law on Municipalities (Provisorisches Gemeindegesetz) was named a provisional - temporary, because its authors proceeded from a standpoint that it is a sudden transition to a new regime for the entire monarchy. The principles of this law remained largely in place until the

collapse of the Austro-Hungarian Empire. The Act has a famous principle in the introduction: "The foundation of a free country is a free municipality."[16] It provided the municipalities a self-government in their "internal" matters, in the management of their assets, setting up municipal authorities, and the work of the local police. Each municipality had its "closed territory", which means that it consisted of one cadastral municipality and the law also included a provision where individual municipalities that did not have sufficient resources to perform their tasks, could combine with others in one local municipality. The basic form of the municipality was called "a local municipality", which was then the expression for the municipality, as we understand it today. In addition to the local municipalities, the law also provided for "higher units", i.e. "county" and "district" municipalities that were never designed (Haček, 2005b).

The creation of municipalities was, despite numerous complications, done in a relatively short period of time. The main work was carried out by district governors, who were required to obtain the opinion of cadastral municipalities. Although it were the district governors who had a lot of second thoughts (even evasions) in respect of the successful performance of future municipalities (especially in small municipalities that did not have the material possibilities and possibilities in personnel, as for example in some of them there was no literate inhabitants), while they also referred to the "immaturity" of people et cetera, so Count

16 The interior ministry stated to the draft of the law that proclaims the supreme guiding principle in the organization of municipalities »autonomy, self-government of municipalities in all, in terms of its own interests and without prejudice to the foreign field« (Janko Polec: Introduction of municipalities in Carniola 1849/1850, Historical newspaper, year 1952-1953, in Grafenauer, 2000: 106).

Stadion insisted on an immediate realization of the law, and so the municipalities were formed until June 1850. However, the principle of the law and subsequent instructions that each cadastral municipality consists of a local municipality, was not carried out because, for example, in Carniola from a total of 931 cadastral municipalities emerged 497 local municipalities (the same ratio was also in Styria), which means that a one local municipality constituted of an average of two cadastral municipalities. It is also important to note that shortly after the start of the municipalities emerged the helplessness of small municipalities to carry out their tasks (Grafenauer, 2000: 106–107).

The year 1851 marked an important organizational functioning of municipalities, as the so-called December patent (December 31st), which repealed the March Constitution, imposed a strict centralism into the absolutist monarchy. For local municipalities, this meant a complete restriction of their independence and a return to a system of complete dependence of municipalities in relation to state authorities. Principles and measures of the patent have been the cornerstone of the functioning of municipalities until the Constitution of 1961 and the Municipal Law of 1862. Thus, some of the major principles determined: it is necessary to distinguish between rural (peasant) and city municipalities; the Government confirms municipal heads, and in certain circumstances even appoint them; the municipal heads and Committee Members are elected by electoral jurisdictions, but by law, this can also be arranged differently; the names of heads of municipality and Committee Members are determined, as it was generally determined before in the land; the work area is limited to matters of the municipalities themselves, but must cooperate with state authorities in certain public matters; more important decisions from their own field of work must be submitted to national authorities for review and

approval and have to avoid public discussions of the municipality represented, except for the ceremonies, but municipal members have the right to access the issues that interest them. In the following years, this principle followed orders from the emperor's decisions, which elaborated the operation and organization of municipalities. That is how one of the orders (1859) stipulated that elections to municipal representations must be carried out under the provisions of the Law of 1849. The first elections were conducted in 1851, after the expiry of their term of office the next election were then deposited, so that the first municipal committees functioned the whole period of absolutism. New elections took place only when the restoration of a constitutional life in the year 1861 began.

Act of 1862 and the regime of municipalities at that time

After the fall of almost ten years of Bach's absolutism, the principles of provisional in Act of 1849 have revived, most of which were passed in the new "framework law, which form the principle provisions for regulating municipalities", dated March 5th 1862. This law was then the basis for municipal orders (Gemeindeordnung) and municipal electoral order (Gemeindewahlordnung), which have been adopted in the form of laws for individual provinces (Carinthia on March 15th 1864, for Styria on May 2nd 1864, for Carniola on February 17th 1866, for Gorizia on April 7th 1864, and for Istria July 10th 1863). These then with minor changes remained in effect until the new legislation after the First World War.

The Act of 1862 primarily regulated the types of municipalities, working area of municipalities, municipal authorities, and relationship of municipal bodies to the government and other

autonomous bodies. This law, just as the law of 1849, did not separate municipalities, a special position had only the provincial capital and district cities - these are municipalities with special status - to which they may also transferred jurisdiction of district boards by special laws. The provincial capital cities, and on their proposal other important cities and major resorts as well, could have their statutes - so we can talk about these cities as the "statutory cities". Another characteristic of state and district laws was that they separated working area of municipalities on their own ("home", in theory, also called natural) and transferred ("handed over") working area. Own area of work consisted of all the issues that concerned the interests of municipalities and it was possible to regulate them within its borders and with its own municipal assets. This was mainly the following: free administration of municipal property (recording, concern for the proper management, gaining income from those assets); concern for the safety of persons and property, care for the maintenance of municipal roads, paths, squares, bridges; concern for the safety and unhindered transport by road and by water, and for the crops and food police and the traffic control on the market and especially control of the measure and weights; concern for the health, labour and business police; implementation of building codes and the issuance of building permits, and so on. Transferred work area was comprised of implementation of public affairs, which the country transferred with the delegation (with laws or specific regulations) to the municipality - for example, proclaiming the laws, collection of direct taxes, care for military recruitment, accommodation of population, the prosecution of foreigners, and so on. Delegated powers of the municipality were performed by the mayor, and the government could appoint an official in charge of these powers (Grafenauer, 2000: 114).

The key authority in the municipality under this Act was the municipal representative. This consisted of a municipal committee (Gemeindeausschuss) and municipal direction (Gemeindevorstand). The first had 8–30 members - the number was dependent on the number of voters - and took decisions (resolutions) on municipal matters and controlled the direction, which performed the tasks of direct implementation (enforcement) of the decisions. Municipal committee was chaired by the mayor (Gemeindevorsteher) as "prvosednik" (first seater) in the event of his absence, the deputy took his place. The board passed the decisions with the majority of votes of present committee members. For a valid conclusion of municipal committee was set the two-thirds quorum,[17] for passing a decision was required a majority of votes of present committee members. Mayor's vote played a decisive role in cases where due to an equal number of votes did not come to a decision. Reference (if necessary, but at least three times a year), the preparation and conducting of the meetings were regulated in detail by municipal orders. The directorship of municipalities was made up of the mayor and at least two councillors. The municipal board elected the mayor and members of the municipal directorship of committee members by an absolute majority. The mayor has been granted a fairly great powers: if he considered that any decision was in contrast to the law, it was not executed and asked the county board for the opinion; he took care of performing the delegated work area; together with the councillors, he stipulated penalties from his own field of work, and in cases of the delegated working area he decided by himself. Among other things, the task of the mayor was preparation of the annual budget (less than one month before the New

17 This is the number of members who were present so the municipal committee could work and make conclusions.

Year) and accounts (actually realized revenues and expenditures) within two months after the end of the calendar year. In relation to property and financial matters, the municipal committee has played an important role, as it could prescribe municipal taxes (these may have been an additional burden to ordinary taxes or edibles, forced labour for municipal purposes, other charges and taxes). In order to avoid arbitrariness in introducing new and additional taxes, the taxes in excess of 20 % of the true tax or 15 % of edibles, required to be passed with the consent of the regional committee. Law and municipal orders in relation to issues of providing the necessary funds for municipalities assumed that this suggestion is imposed or confirmed by the citizens at an assembly of citizens. For the proper and efficient functioning of municipalities, a control was introduced that was implemented by the district board. The board had jurisdiction to prohibit the execution of unlawful decisions of the municipal committee, and the provincial committees could resolve the mayor or municipal councillors if they violated the rules or fail to fulfil their duties (Haček, 2005b; Brezovšek & Kukovič, 2012: 96).

Also, in this Act have been omitted provisions that allowed merging and separations of municipalities. Such an act was possible only if the municipalities of the same county agreed on that and had a consensus among the country deputies and the provincial board. Municipal orders determined that before the merger - and also for the demerger - to they should agree on the property. In the demerger, the law provides that it is possible if each of the new municipalities is able to meet its obligations.

An important part of municipalities, both functionally and organizationally, were also the elections and the electoral system. The elections were governed by a special municipal election orders, which have been passed and published simultaneously with

the municipal orders of individual countries. The overall conclusion for the electoral system in the municipalities is that it was complicated. The electors were the ones who were paying a fixed tax (i.e. the tax suffrage), and those who had the right to vote regardless of their position (i.e. intelligent suffrage). So only the citizens, who had to pay taxes of the possession, trade or income in the municipality at a certain amount (tax census), had the right to vote. In addition, the right to vote also had the municipal officers, i.e. priests, government officials, retired officers and their equivalents military officers, lawyers and notaries, persons who have reached the "academic" honour, as well as public teachers.[18] The right to vote was "unequal" because the voters were, regarding the amount of direct taxes, divided into two or three voting classes. This means that the one, who had contributed more, also had the right to a major impact on decision-making. Each electoral class (curia) has voted the same number of committee members. Elections conducted by the electoral commission were public, every voter was able to give its voice to so many committee members, as voted by his voting class, elected were those (men who had the right to vote and were at least 24 years old), who received the most votes. Municipal elections after 1861 have repeated every three years and were a regular part of political life. For the election to the municipal committee has often been a struggle between Slovenian and German party (especially in larger municipalities). For example, Ljubljana had the majority of Slovenes until 1868, then German majority until 1882 and then Slovenian again, the Styrian cities had most of the German majority. In other cities of Carniola, elections often ended up in the Slovenian benefit (Grafenauer, 2000: 117–119).

18 The municipal election rules for Carniola limited voting rights only to superiors and headteachers.

As already mentioned, by the Act of 1849 bigger cities had a special legal status of statutory cities (Ljubljana got its statute in 1850). Act of 1862 expanded this option to include spas, since 1867 the actual choice of such places was left to provincial legislation. Statutory municipalities were distinct from others by the fact that in matters of transferred working area (which were substantially wider than in other municipalities, as they performed tasks that inherently belonged only to district governor) were directly subjected to the provincial government and not the county or the district board. The mayors had to be acknowledged by the emperor, with which was declared the municipal self-government.[19] According to the statutes of municipalities, the holder of the city's autonomy and decision-making and supervisory body was the municipal council, which elected mayor and deputy mayor from its composition. The executive body of the municipal council was the magistrate, composed of the mayor, municipal advisors and magistrate consultants (ranked higher municipal officials). Such or similar arrangement had the following cities on the Slovenian territory: Ljubljana (special statute August 5th, 1887), Maribor (March 23rd, 1866), Celje (January 21st, 1867) and Ptuj (October 4th, 1887). In Ljubljana, in Ljubljana's city order of August 5th, 1887, the holder of city self-government was city council, which had 30 members, its authorities were the mayor with magistrate and district heads of the five urban districts. Celje had a committee with 24 members and the municipal office as the executive apparatus. Maribor's city council had 30 members, the mayor and four city councillors were head of the municipal office. Ptuj had 18 members in council, the executive body was the municipal office. In addition

19 In Ljubljana, there has been no confirmation from the emperor for Mayor M. Ambrož in 1850 and for Ivan Hribar in 1910.

to the regulation authorities, city statutes contained a number of provisions of the possibility of controlling and prejudice of provincial government, for example, for the lack of validation of the decisions taken at the city council, by prohibiting the execution of the decisions, and more. In the work of the municipality bodies, the declared autonomy on the one hand and the broad powers of the state on the other hand, caused tense relations and tensions between the authorities of "municipal self-government" and "state administration" (Haček, 2005b).

Municipalities between the two world wars

Significant changes in the organization of a state occurred immediately after the First World War, when National Council was founded in Slovenia as a body of political representation of the interests of Slovenes, especially when at the end of October 1918 the State of Slovenes, Croats and Serbs was created and the National Government for Slovenia was formed. This has been appointed on October 31st, 1918 and shortly after assumed the supreme judiciary and the control of all the autonomous authorities and devices throughout its territorial area, the provincial committee of Carniola was disbanded, provincial governor and provincial councillor have been dismissed of its functions, temporary leadership and liquidation of the provincial administration was entrusted to the commission. As the most important task of the national government was the unification of all Slovenian regions into a single administrative unit, with the Decree of government on transitional administration on the territory of the National Government of SHS in Ljubljana was adopted a decision on transitional administration. In this decree the provisions are particularly important, that pass all matters of provincial committees to the National Government of SHS in Ljubljana or at its

substantive relevant departments and that the special "liquidation" commission for liquidating of the management board of the provincial committees was set up, it was also determined that the then municipalities of and county representation remain in its organization and its field remains unchanged. On the lower level of local self-government in terms of legal regulation and organization of municipalities and counties immediately after the formation of the new state were no significant changes. It is noted that in state-government and self-government often came to intertwining. For the period of the National Government of Slovenia can be said that this is the period of Slovenian highest level of self-government, and the period when in the light of the fact that the national government was during that period an actual holder and executor of state authorities, we are even talking about the first Slovenian national independence (Haček, 2005b).

After the establishment of the Kingdom of Serbs, Croats and Slovenes (December 1st, 1918), there were no major changes on the creation of municipalities, including the rules for their operation in Slovenia. It was probably a realization that the established mechanisms of local self-government does not have to be changed, and that the 70-year-old tradition of the operation of the self-governing municipalities on the Slovenian territory is a sufficient justification for the preservation of such organization. In designing the first Constitution, first concerns about the organization of local self-government have appeared. As a result, the Vidovdan Constitution (June 28th, 1921) set the principles for the new structure of the country and in this context for the local self-government. The establishment of local self-government was also intended on three levels: in the municipality, in the district, and in the authority (Šmidovnik, 1995: 150). County self-government was never carried out, while the other two forms in state organization became a reality. The number of municipalities that

were formed in the period of the Austro-Hungarian Empire, was not changed. In the year 1921 in the area of the former Slovenia, except for the area that was in the context of Italy between the two world wars, there was 1,073 municipalities. The only change that has befallen the municipalities was that with the introduction of the new authorities, the commissariat for Internal Affairs liquidated the municipal committees and placed "gerenti" for management of municipal affairs, and the ones appointed to an advisory committee gerenti were called "assessors".

Another important area of local self-government or changes in the functioning of municipalities in the former period were elections to municipal board. The elections were held on April 26th, 1921 (in municipalities with their own statute) and May 3rd, 1921 (in other municipalities) and were carried out based on the Decree of elections to the municipal representative body in Slovenia, the content of which was later reproduced in the Act of elections to the municipal representative body in Slovenia, which regulated the entire field of elections of the municipal board, mayor, deputy mayor and municipal counsellors. Under this Act, all male, aged at least 21 years of age, and citizens of the Kingdom of Serbs, Croats and Slovenes had the right to vote (active right to vote), who had at least one year of permanent residence in the municipality. The Act provided how many members the municipal board consists of, regardless of how many people the municipality has, in which the number of residents was set after the most recent census. It included detailed provisions on electoral processes and the performance of elections and the method of distributing of mandates. Municipal councillors were elected to mandatory lists of candidates, which had to be signed by at least as many voters as there were voted committee members. After the election of the municipal board, the mayor had to be elected (in cities with its own statute deputy-mayor and

municipal advisors had to be elected as well, if so prescribed municipal order), and no later than within eight days. For the mayor, deputy mayors and advisers, only councillors could be elected. Session of the municipal board was convened by the municipal superior at that time and chaired by the oldest municipal committee member. After this law, elections were made in 1924 in all municipalities in Slovenia, with the exception of Prekmurje, where there was no elected municipal boards until the next elections in 1927.

A higher level of local self-government, which was actually carried out in the period Vidovdan Constitution, was the so-called authority.[20] The authorities have acted as a state and as self-governing bodies until the dictatorship of January 6th in 1929, when they were finally abolished and replaced by a new subdivision of the state to Banovinas (Šmidovnik, 1995: 150). Since April 1922 when the council of ministers (government) issued a Decree on the distribution of power in the country, Slovenia was divided into Maribor and Ljubljana power, which were headed by great mayors, who were the political representatives of the government. Authorities of authoritative self-government, after the centralist regime disabled the launch of self-government authorities for more than five years, have actually started to operate only in the beginning of 1927. The most important bodies of authoritative self-government were authoritative assembly and authoritative committee. Assembly was the decision-making body and the supervisory authority of imperious self-government, its most important legal act was the decree. Authoritative committee was

20 For the creation of the authorities, it was decided that the design takes into account the natural, social and economic conditions, in particular, it was determined that the government should not have more than 800,000 inhabitants (Grafenauer, 2000: 456).

the executive body of the authoritative self-government, elected by the Assembly and made up of 5 to 8 members who elected a chairman among themselves (Grafenauer, 2000: 457).

Ever since the creation of the Kingdom of Serbs, Croats and Slovenes, there was in the newly created country a central state law question and fundamental field of political conflicts, which took place in various forms and with various intensity associated with the centralist or federalist concepts of the country's regime. Disputes have become particularly noticeable in the work of the National Assembly and have reached such proportions that King Alexander issued proclamation on January 6th 1929, with which he decided to repeal the Constitution of the Kingdom of Serbs, Croats and Slovenes on June 28th, 1921 (the Vidovdan Constitution), and proclaimed himself the holder of all authorities in the country. The king became the sole supreme state authority and joined legislative and executive power. The leading idea of this change was the concentration of the empire, where the only self-governing unit remained the municipality. In the same month, there was an Act of alternation of laws on municipalities and authoritative self-governments that has been prescribed by King Alexander, which led to the termination of the then relatively successful operation of authoritative self-governments in Slovenia. According to the provisions of this Act authoritative assembly and authoritative committees were devolved, conduction of their affairs were taken over from the king by the appointed commissioners. In addition, based on this Act, all municipal authorities were relieved of their duty and new authorities were set, appointed by the higher mayors. This followed the Act of the title and the division of the Kingdom into the administrative areas, which the king issued in October 1929, which was set up legal basis for the dissolution of the self-government in the authorities. According to the provisions of this Act, with which was given a new name of the Kingdom of Yugoslavia,

the overall government was implemented in Banovinas, srez (political districts) and municipalities. It was therefore introduced a new unit - Banovina (province). In the country, there were nine Banovinas - in our area, there were Banovina of Drava, based in Ljubljana, which was a unit of Ljubljana's and Maribor's government, so the Banovina of Drava comprised of all Slovenian territory in Yugoslavia at that time. Act of government in Banovina, which was complementary to the Act of the title and the division of the Kingdom into the administrative areas, granted extensive powers the Bans as the central authority and the representative of the royal government. There was also a council of Bans as a consultative body of the ban, which was set by the Minister of the Interior (Grafenauer, 2000).

The start of a new era in the development of local self-government in Slovenia means the adoption of the Act on Municipalities (adopted on March 14th, 1933) and the Act on city municipalities (adopted on July 27th, 1934). The mentioned Acts represent a turning point in the field of systematic regulation of municipal self-government, because until then in the area of Slovenia, the laws of municipalities, or more specifically the municipal orders were in force (for Carniola on February 17th, 1866, for Carinthia on March 15th, 1864 and for Styria on May 2nd, 1864) and municipal statutes for cities (for Celje on June 21st, 1871, for Maribor on December 13th, 1871, for Ptuj on October 4th, 1887) and the municipal order for the city of Ljubljana on August 5th, 1887.

In the Act on municipalities of 1933,[21] municipalities are defined as a natural and economic unit, which is comprised of a fixed

21 For the city municipalities (CM) has been adopted a special law a year later (1934).This law applied for four municipalities in Slovenia: Celje, Ljubljana,

part of the territory and must have a minimum population of 3,000, exceptions could have less. The Act provided that municipalities may be merged, the municipalities of the same political district could merge at the request of municipal boards or at the written request of a majority of voters of municipalities. The formation of new municipalities with the distribution and elimination of previous places of one municipality and annexation to another municipality was provided. About all these changes, the

Maribor and Ptuj. With this law, the authority of municipality are city council and the President. The City Council had 27 to 72 members. President and the two-thirds of the members of the city council were elected, one third of the members of the City Council have been appointed by Ban. For the election of the President and Members of the City Council was a condition of membership in the municipality, 30 years of age and at least a five-year stay in the city. The term of office of the President and members of the city council lasted four years. The elections were carried out based on ballots, which may have been suggested by at least 100 voters, in municipalities with over 30,000 inhabitants, the candidates should be at least 200. To determine the election results and the distribution of cities to individual ballots was provided the calculation of the d'Hondt system. Municipality and the City Council was headed President of the Municipality, who also voted. The President was elected at the same time with the City Council and was as a candidate for President of the City Council placed at the head of the ballot, which got the highest number of votes. President of the municipality was a representative of the city in all its relations and dealings, the executive body of the city council and the head of the city administration. Unlike other municipalities, the President of the municipality performed the tasks of state administration entrusted to the municipality. Given these duties, the President had to report to the Ban, in some cases even to the ministers in charge and cooperate with them and act in accordance with their instructions. This leads us to the conclusion that the working area of city municipalities was broader than "ordinary" municipalities. The Act specifically allows that any matter on which the city council has to conclude, has to be seen first in the relevant committee of the City Council. City Council has passed major general acts as the statutes, regulations and policies, and the work was governed by the rules of procedure. The law was in some cases required that certain acts (statutes) had to be approved by the Minister of the Interior in agreement with the Minister of Finance.

king had to issue a decision on the proposal of the Minister of the Interior. The name and registered seat of the municipality were established by the royal decree on the proposal of the Minister of the Interior. Each municipality also had to use the seal, which had the national emblem in the middle, and the names of the municipality and political district on the seal. The Act also prescribed that every municipality had to have a municipal administration building in an appropriate and dignified place.

As a head decision-making body of the municipality, the municipal board has been defined by law. The number of members of the municipal board depended on the number of inhabitants in the municipality (thus the municipal board could have had 18 to 36 committee members). The Act also contained provisions on the election of the municipal board, which was elected by universal, equal, direct and public ballot for a term of three years. The right to vote had people who were enrolled in the electoral roll of the municipality under the law on electoral rolls. For committee member could be elected a member of the municipality who has attained the age of 25 years, but the law also contained provisions on incompatibility of functions.[22] The votes of voters have turned to places in the board in a way that they took two-thirds of the elected candidates from the ballot, which got the most votes, and

22 According to the Law, the Committee Members were not able to be as follows: municipal officials and officials of the state administration, who performed the supervision of the municipality; those who were in litigation with the municipality until it was completed; municipal suppliers, entrepreneurs who were engaged in municipal work and tenants of municipal property; those who needed to provide billing management of municipal assets, as long as this has not been done; those who without reasonable cause did not accept the board function in the last election; users of municipal support; those who were in kinship with the president or members of the municipal government.

the rest of the places were allocated to candidates on the ballots by the d'Hondt system.

Working area of municipalities was the same as it was, divided into "original" and "transferred". The original consisted of all businesses affecting the interests of municipal community and related to the economic, cultural and social progress in the municipality, i.e. mainly the management of municipal property, care for municipal transport infrastructure, care for the poor, the health status of the population, promotion of economic activities and cultural development. All of the above functions were implemented by the municipal board, municipal administration, the president and municipal employees. An important authority of the municipal board was deciding on the resources, important to perform the duties of the municipality, assignment of the municipality, on disposal of property, and the adoption of the municipal budget. The tasks of the municipal administration were primarily in the management of municipal property, budgeting, overseeing the work of municipal institutions and enterprises and preparing decisions for the municipal board. The law stated the President of the municipality, in addition to a representative of the municipality and the executive body of the municipal board, the implementation of tasks of the municipal board and municipal administration, concern for the good work and supervision of municipal staff, budget execution, and so on (Haček, 2005b).

The law contained provisions on municipal finances in a separate chapter. Thus, inter alia, it contained provisions on municipal property, bookkeeping and municipal computing books, municipal possession and use of income from municipal property. Municipalities funded themselves primarily from municipal property and businesses, invested money, supplements on direct

state taxes, municipal indirect taxes (excise duties, which were the main income of the municipality) and fees. Municipal budgets were confirmed by the Ban (if the supplements on direct state taxes were not higher than 200 percent) or Treasury Secretary (if the supplements were higher than 200 percent). The framework in which the municipalities were allowed to determine the amount of allowances, was determined each year, the amount was specifically determined with the act, which approved the budget. The fiscal burden of the population by municipalities was great. On the other hand, due to the economic crisis at that time, the budgets of municipalities have shrunk and have therefore begun to incur debts (mainly due to the construction of schools and electrification).

Provisions of the Act allowed the Ban to dismiss the President of the municipality and members of the municipal administration and committee members if they did not perform their duties in accordance with the law or they did not perform quality work. Before its decision, the Ban had to give an opportunity to the affected to speak out about it, and they had the right to appeal to an administrative court if they did not agree with the decision of the Ban. In addition, the Ban could discharge the municipal committee, municipal administration or the President in cases where they have accepted decisions, which were harmful to overall national interest. In cases of dismissal or dissolution of the municipal council, they had two months to carry out new elections, and until then the current tasks were performed by a temporary municipal administration.

In 1921, Slovenia had a total 1,227 municipalities, 1,073 of them were in an area that was part of the Kingdom of Serbs, Croats and Slovenes (including the four city municipalities), and 154 in an area, which was then part of the Kingdom of Italy. Although there

have been changes after the year 1921 and authorities formed first and then the Banovina in 1929, the total number of municipalities in the area which was under the Banovina of Drava remained essentially the same. If in the year 1921 there was 1,073 municipalities in the area, there was only one municipality less in the same area in 1931, in total of 1,072 municipalities. The most important changes which were the result of consolidation (unification) of municipalities occurred in the Banovina of Drava in 1933 when 362 municipalities formed (with four city municipalities). Changes occurred based on statutory provisions under which the municipality should have at least 3,000 inhabitants, only exceptionally could they have less. As we can see, there has been a significant reduction in the number of municipalities that have become larger in terms of population, as well as their surface. As a typical example, we can highlight Prekmurje, where in 1933 in political district of Dolnja Lendava the number of municipalities decreased from 48 to 12, in political district of Murska Sobota but from 122 to 19. In this area, there has been such a dramatic unification of municipalities and thereby reduction of their numbers primarily because they the municipalities at that time were very small and comprised mostly of one cadastral municipality, in addition to that, the natural resources provided a relatively simple communication links between the settlements of a circular area. Thus, a good third of the municipalities (133 municipalities) had more than 3,000 inhabitants, 123 municipalities had from 2,000 to 3,000 inhabitants, and 151 municipalities had fewer than 2,000 inhabitants. In the period before World War II, then came to some changes in the Banovina of Drava, changes in the design and number of municipalities (in 1934, the number of municipalities increased up to 366), so in 1939 there already were 407 municipalities. This means that, before the Second World War on the present territory of Slovenia taking into account also those municipalities, which at that time

operated under the Italian government, there were a total 469 municipalities (Haček, 2005b; Brezovšek & Kukovič, 2012: 105).

Municipalities after the Second World War

After the war (in early 1946 and 1947), they adopted the Constitution of Federative People's Republic of Yugoslavia and the Constitution of the People's Republic of Slovenia as well as the general law of the People's Committees, a construction of a new state was built, which was based on the People's Committees at various levels. The Constitution defined towns, districts, neighbourhoods and cities as administrative-territorial units, and the People's Committees as bodies of state power in these units. People's Committees of town were elected by citizens for a term of two years, in other units for a period of three years, voters were provided with the right to dismiss the elected committee members. The number of members of the people's committees was relatively large, where people's committees had very small jurisdiction and represented extended arm of the state administration and were closely associated with higher People's Committees. If we look at the People's Committees from the standpoint of modern local self-government, we can say that they were a small part of the institution of local self-government, but the larger part they were national authorities or bodies of state authority of local units with relatively small autonomy and subordination to higher authorities. People's Committees were regarding the position and role modelled based on the arrangements of the Soviet system of the USSR, the similarities were also in the internal organization, application of the principle of democratic centralism, double liability, and more. This makes it possible for the People's Committees to find relatively few elements of self-government, but it is not even possible to talk about

such a division between the responsibilities and authorities of the country on one hand and the responsibilities and authorities of self-governed local communities on the other hand, as we know it today (Grafenauer, 2000: 462–463).

It is typical for the post-war period, that up to the entry into force of the Constitution of 1963 or until 1965, when they abolished counties, that some frequent changes in the creation occurred, also in modification and termination of local territorial units, so it is possible from this point of view to mark this period as a period of territorial instability. In the case of territorial units, we can determine that there has been gradually phasing out first the units of the "third degree" (districts or authorities) and then units of the "second level" (counties), with which a single-stage local self-government with the municipality being as a single category was formed.

An important milestone in the territorial division of Slovenia is the year 1952, when the Act on the distribution of People's Republic of Slovenia to cities, districts and municipalities was adopted. At that time with this act, they newly introduced a concept and institution of municipality in the system of local territorial units. Cities have been identified: the capital city of Ljubljana (which was divided in the centre of town and municipalities Polje and Šentvid), Maribor (which was divided in the centre of town and municipality of Kamnica) and Celje. A total of 19 districts and 386 of all municipalities in Slovenia (including the cities of Ljubljana, Maribor and Celje and 9 municipalities, which were then still within Zone B of the Free Territory of Trieste).

In 1953, following the adoption of important law, the Constitutional Act on foundations of social and political order of state and bodies of people's power in the People's Republic

of Slovenia, in which it was stated that the People's Republic of Slovenia is a socialistic and democratic state of working people of Slovenia and that all power belongs to the working people, who exercise it through their representatives in the People's Committees and People's Assembly LRS, in work councils and other self-governing bodies. People's committees were identified as the authorities of the people's self-government, bodies of authority of the working people and the highest authorities of municipalities, cities and counties. It was determined that the county and city people's committees must consist of a county or city assembly and the assembly of manufacturers. For the People's Committees were required to independently perform all cases - except those specified in the Constitution for the federal and republican authorities - which are of general significance to the community in economic, communal, cultural and social life and development of the county, city or town. They were also empowered for direct enforcement of federal and republican laws if the Constitution or the law has not given the jurisdiction of the federal and republican authorities. For the municipal People's Committee it was decided to carry out all matters, which are of general significance for the economic, communal, cultural and social development of the municipality. People's Committee prescribed their own organization by the statute. Among other things, the People's Committee performed the following tasks: independent acceptance of the budget (city and district people's committee were also accepting the social plan) and supervision on the management of the general public property, which means that it has played an important economic right or entitlement of the general public property. Municipal People's Committee, as a general representation, consisted of committee members who were elected by the voters registered to vote in the municipal area based on universal, equal and direct suffrage. Committee members were elected for three years. District people's committee and

People's Committee of cities and municipalities were composed of two chambers: the district (urban) Assembly and Assembly of manufacturers. The first was defined as a general representation, the other was a representative body of working people who worked in the area of the county in production, transportation and trade (Grafenauer, 2000).

Municipalities have been identified as territorial and economic entities consisting of one or more settlements. The area of the municipality was determined and changed by the law, the name and address changed by order of the Presidium of the People's Assembly of the LRS. Municipalities were within the area of the counties that were identified as territorial units, made up of many municipalities and communes, which are economic, cultural and transport links. A city municipality with special rights has been identified as a separate territorial economic and communal whole in the composition of the county, which is sociopolitical, economic and cultural centre of its surroundings and has special rights and duties defined by law. Act on municipal People's Committees also included a special chapter entitled Village committees. There was envisaged that by a decree of the municipal People's Committee, villages and towns could set up village committees, in order to successfully carry out individual issues that are important only for residents of the villages (settlements). Village committee consisted of committee members of the Municipal Council, elected in the village or settlement, and the citizens elected by voters of the assembly. In addition, the law as a special form of direct citizen participation in the work and control over the work of the municipal People's Committee extensively defined gatherings of voters and municipal referendums. It should be pointed out that with the regulations of 1952 a county became a unit, which took the focus of public decision-making tasks, particularly on issues of economic and general

development. In addition, the district was subjected to the assumption of the first instance of the implementation of federal and republican regulations. Thus, the district at that time was in relation to the municipal centre of governmental, financial as well as political power (Brezovšek & Kukovič, 2012: 107–108).

New and decisive step in the field of territorial units is the year 1955, in which the communal system was set up, a system where the municipality gets a position of the "commune". As a basis for the establishment of such a system served the Paris Communes of 1871 and their theoretical presentation in the works of Marx, Engels, and Lenin. Commune meant "a cell" of future socialistic society and it marked a socio-economic and socio-political community in which they established a new socialistic social relations based on social ownership of the means of production and in rural areas, based on various forms of socialization and limitation of private property of farmers over land and participation in various forms of cooperation (cooperatives). Commune as a political form of organization of socialistic society, whose inner content is to socialize all the basics and the conditions of human existence, was a form of community, which was the opposite to the country, because the latter was based on exploitation, economic and political domination and other forms of alienation of man (Grafenauer, 2000: 300).

In the broadest sense, the concept of municipality represented an organized community of people where it is executing authority and manages other social issues in a given area. The municipality has therefore been a governmental and self-governing community, where most of the tasks were performed for the country. The concept of the municipality described, based on the principle according to which it represents the basic socio-economic community, has called for the creation of economically

and financially of stronger and territorial larger municipalities, which could effectively carry out their basic tasks. At the same time we can see that in the initial phase of the communal system started to emphasize the economic function of the commune, which should be a kind of rounded economic organism, which as a whole should be capable of independent life (Grafenauer, 2000: 301). It should carry out all the rights and duties in the management of social affairs, except those who have been determined with the constitution or law for the county, the Republic or the Federation. With this law, the municipalities in the legal system established a universal jurisdiction for the implementation of all laws and other regulations and the provision of other public affairs. Otherwise, the logic of the county as a commune erased the distinction between ordinary and city municipalities. As the administrative-territorial units in 1955 remained only counties and municipalities, the number of both was significantly reduced (the number of counties was reduced from 19 to 11, the number of municipalities from 386 to 130). Thus, the average municipality in 1955 compared to 1952 was more than twice as large and greatly strengthened.

The development of the communal system in the period from 1955 to 1963, when the new constitution was adopted, was characterized by the following processes: continuous increase in the statutory powers of the municipality due to the continued decentralization; steady decline in the number of municipalities and counties, while increasing their areas and strengthening financial independence and financial strength of municipalities. Based on the number of changes of the Act on the areas of counties and municipalities in the LRS was in 1960 the number of districts decreased from 11 to 8, the number of municipalities in the period from 1955 to 1960 decreased from 130 to 83. With the re-publication of the consolidated text of the mentioned Act

of 1964, at that time there were only four districts in Slovenia: the district of Celje, the district of Koper, the district of Ljubljana and the district of Maribor. At that time, the four districts consisted of 62 municipalities.

With the adoption of new constitutions in the year 1963, the municipality becomes a constitutional institution that had its rights under the Constitution itself. Thus, the municipality had a constitutional status of fundamental socio-political form of self-government in the country's political system and the status of fundamental socio-political community. The municipality was envisaged as a minimum basic socio-political community, which would normally perform all the functions of the community and decide on all fundamental matters that affect citizens, it was also the basic territorial community of self-management, in which the self-management would carry out the most. According to constitutional provisions, the municipality was established for the area, which has been associated with common interests and where there were conditions for independent performance of the duties of the municipality, for its economic development and for the development of social self-management. In larger cities could be set up several municipalities. In 1964, a law was adopted which defined the city, which was divided into municipalities as a (special) community, and it was a legal entity and had its own statute. For the establishment of the municipality were prescribed certain conditions: the municipality shall be established for the area, which is connected with common interests; municipality shall be established in an area where there are conditions for independent performance of the duties of the municipality for its economic development and for the development of social self-management, and so on. Due to the adjustment of the territory of municipality to its authorities, the municipality more distanced from the citizens, who did not have the possibility to

influence on decision-making in the municipality. The focus of the most important decisions was drifting further away from its direct impact. Citizens have become rather disinterested for the political developments in the municipality. This has led to reflections on the establishment of local communities as fundamental territorial communities, which should be an essential element of direct democracy, in which citizens could address their everyday interests. Otherwise, the local communities in practice took over numerous municipal functions (Haček, 2005b).[23]

Representative body of the municipality was the municipal assembly, which composed of the Municipal Assembly and the Assembly of the working people. Assemblies of the Municipal Assembly were working and deciding together, but otherwise their work was regulated by municipal statute. Municipal assembly elected from among themselves a president who, in addition to referring and presiding over meetings, present and represent the municipality as a legal person, took care of implementation of decisions of the municipal assembly, also coordinated the work of its organs. In the municipality, there were also councils as "political-executive" authorities of the municipal assembly and the bodies of social self-management in the areas for which they were established. The term of office of the members of the

23 The Constitution of 1963 well defined the local community, where it has been determined that citizens organized communal, residential, economic, social, health, cultural, educational and other activities directly satisfying their needs, and the needs of families and households, as well as for the development of the settlement. The organization of the local community, which was a legal person, was governed by its statute, approved by the municipal assembly. The basic authority of the local community was the local community council, its task were performed with local community's resources that were provide by the municipality, and with the means contributed by citizens and organizations working in the settlement.

municipal assembly lasted for two years and were responsible for their work in the municipal assembly. In carrying out its tasks, the municipal assembly could issue general regulations in the form of decrees, orders, and instructions.

The new constitution of 1974 stipulated that the basic territorial unit is a municipality, whose position was defined as a self-governing and fundamental socio-political community based on self-management and the authority of the working class and all working people. With such a constitutional definition, unlike the previous constitutional arrangements, it is directly emphasized the self-governing nature of the municipality. It was a new form of integration of various forms of self-management in a unified system of socialistic self-management of the working class and all working people. Even under this Constitution, the municipality was established in the area in which the working people and citizens were related with common interests and in which the basic conditions for the coordination of economic and social development as well as direct and effective fulfilment of needs based on self-government and for carrying out functions of authorities was created. The municipality has set up, joined with another municipality or changed the area with the law after the discussion of working people and citizens of a specific area in the Socialist Alliance of the Working People and under the conditions and procedure in accordance with the law (Brezovšek & Kukovič, 2012: 111).

Authorities of the municipality were very broad: the municipality generates and provides the conditions for its life, directs social development, implements and coordinates its interests, meets the overall needs, carries out functions of authorities and performs other social issues. As a body of social self-management and the highest authority in the context of rights and duties of

municipality operated the municipal assembly. It consisted of chamber of associated labour, chamber of local communities and the socio-political assembly (as assembly of delegates of working people and citizens, organized in socio-political organizations - i.e. League of Communists, Socialist Alliance of Working People and the union). The most important general legal acts, accepted by the municipal assembly, were the statutes, decrees and budget. The creation of the Municipal Assembly based on so-called delegate system, where the members of delegations were elected for four years by direct secret voting. Delegates were granted immunity so that they could not be held criminally responsible nor detained for an opinion expressed by, or a vote given in the Assembly. Among the delegates was elected president of the municipal assembly, which was its representative in charge of the work by the assembly rules of procedure and perform other tasks specified by the statute of the municipality. Unlike the Constitution of 1963 was here in the first place self-governing character of the assemblies and then the character of their highest authorities in the framework of rights and duties of the municipality. The municipality had a dual role - it was also a unit of local self-government or self-governing local community of inhabitants and also the fundamental socio-political community, which performs the function of authority and in the hands of the centre of the implementation of federal and republican laws. So the commune mainly implemented state laws and tasks from the context of public administration, but in the subordinate part it was responsible for the implementation of local affairs (Haček, 2005b).

In practice, in the communal system in tasks of municipality, the state aspect of functions prevailed over self-governing and the municipality was mainly devolved unit of implementation of government tasks, and the first step in deciding in administrative

matters. The same notes Šmidovnik (1995: 152), which says that the commune acted mainly as the first stage of the state administration, but had to be postpone local tasks to so-called local communities. There have been just over 1,200 if these in Slovenia and have been established in almost all the settlements in which there were once municipalities. Local communities have been a substitute for the self-governing municipalities, but a poor substitute, because their organization was more similar to voluntary associations of citizens than the organization of public law organizations - local communities. Local communities had to finance themselves - with the self-imposed contributions from citizens who were voted in referendums, but it was not enough even for the most urgent needs in the settlements. Carrying out local affairs, which should be a fundamental concern of the self-governing municipalities, was also pushed aside because the local communities were not able to perform them, the municipality was to too far away from them and it should primarily deal with a broader national significance; its jurisdiction also included state affairs, such as the police, defence matters, tax matters, state inspections, general administration in the first instance, and so on. For these reasons, and due to such burden, the commune territorial increase almost to the extent of the former counties. In the period from 1965 through 1994, the number of municipalities ranged between 60 and 65, the average Slovenian municipality had a population of over 30,000 inhabitants and measured just over 300 square kilometres.

Municipalities after Slovenia's independence and up to this day

After the independence of the Republic of Slovenia was the introduction to the local self-government one of the most important and difficult tasks in the new country, as it was a radical change in

the then self-governing communal organization in a direction of "classical local self-government" of European type. The first steps were preparations for the technical groundwork for the project of local self-government, which have already been prepared in 1989, for the adoption of the new Slovenian Constitution with a significant emphasis on local self-government at the end of 1991, and the adoption of the framework law on local self-government on December 21st, 1993. Constructing foundations for the implementation of the reform of local self-government were set with the adoption of the Act of referendum for the establishment of municipalities in 1994. Referendums were carried out on May 29th, 1994, except in the municipality of Koper, where the referendum was conducted on September 11th, 1994. The results were very difficult, almost impossible to fully take into account, as voters voted in favour of the establishment of its own municipalities in only 111 referendum areas (out of 339). Since the nature of referendums was merely advisory, the National Assembly of the Republic of Slovenia decided for a "loose" compliance with the election results and adopted the Act on establishment of municipalities on October 3rd, 1994, with which 147 municipalities were established in Slovenia, where 11 of them were city municipalities. Such a decision gained much criticism, the pinnacle was reached when the local communities made considerable initiatives on the Constitutional Court of the Republic of Slovenia to assess the constitutionality of the Act on establishment of municipalities. The Constitutional Court then ruled that the legal articles, which determine which municipalities were established, are not in accordance with the Constitution and that the National Assembly must abolish the non-compliance not later than six months before calling the next elections for municipal councils in 1998. In 1996, a law of the procedure for the establishment of municipalities and determination of their areas was passed. The actual implementation of the law in 1998, when it was first used

for the restoration of with the constitutional decision declared unconstitutionality of the entire first network of Slovenian municipalities, has proved to be unsuccessful. The network should have been consistent with the Constitution and with the provisions of the Act on local self-government, instead there were 45 new municipalities additionally set up, among whom were many of those who did not meet the statutory requirements for the establishment of municipalities. In February 2002, the National Assembly of the Republic of Slovenia discussed the new 31 proposals for the establishment of municipalities. Regulatory conditions were met by three municipalities, but eventually came to the decision that Slovenia will expand for only one municipality (Haček, 2005b). In January 2006 was the consultative referendum on the municipalities in which the residents of respective villages voted on the creation of new municipalities. On March 1st, 2006, the National Assembly of the Republic of Slovenia approved the referendums and new municipalities, so the number of municipalities in Slovenia increased to 205. On May 4th, 2006, the Government of the Republic of Slovenia sent a proposal on the establishment of five new municipalities to the National Assembly, thus the number of municipalities increased to 210 (Brezovšek & Kukovič, 2012: 113–114). In February 2011, there were changes again so that the current number of municipalities in Slovenia is 212, but this figure is probably not final yet, because a new opportunity for establishment of municipalities is during that year in which they are conducting local elections.

In all of this, of course, raises the question of the size of the municipality - what should be the territory and population, and what should be the jurisdiction of the municipality to be able to meet the needs of their people and at the same time allowing them to be directly involved in the process of decision-making. If the municipality is excessive, it is losing internal cohesion

and there is a distance from the power and the population and, consequently, to a feeling of inability to influence decisions or direct decision-making. If municipality is too small, the inhabitants are conducting less important functions because others cannot, and have nowhere to use their self-governmental rights (Grafenauer, 2000: 52). Between large and small municipalities is usually a conflict between the political requirements for local democracy and the highest possible degree of inclusiveness of the population in decision-making processes on the implementation of the everyday interests and needs on the one hand, and the other hand requirements of the administrative-organizational rationality, according to which the administration operates as modern, so effectively with regard to its tasks and expectations. Depending on the results of extensive empirical study, Humes and Harloff (1969) find that local communities must be large enough to have a sufficient staff and other conditions, and small enough that you can maintain an atmosphere of the community in which the individual has the feeling that can successfully influence on the policy of this community. We can therefore say that the benefits of one group of the municipalities present the other's shortcomings.

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