

SPECIAL TYPES OF SELF-GOVERNMENT IN TOWNS AND MARKET TOWNS
IN SLOVENIAN TERRITORY FROM THE END OF THE MIDDLE AGES TO
THE ABOLITION OF TOWN AND MARKET-TOWN SELF-GOVERNMENTS

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ABSTRACT

This contribution discusses special types of local self-government in towns and especially market towns in Slovenian territory from the end of the Middle Ages through to the abolition of town and market-town self-governments in the first half of the 19th century. It delves into cases where the level of self-government was lower than usual and also its origin was specific. Just two of such towns are known, both emerging only in the Early Modern Age, whereas the genesis of limited self-government in market towns was multifarious and independent from the time of the market town's occurrence or the recognition of its market-town title. Although some market towns have the same or similar traits in common, every case has its own story.

Keywords: towns, market towns, Slovenian territory, local self-government

FORME SPECIALI DI AUTOGOVERNO NELLE CITTÀ E NEI MERCATI DEL
TERRITORIO SLOVENO DALLA FINE DEL MEDIOEVO FINO
ALL'ABOLIZIONE DEI AUTOGOVERNI CITTADINI

SINTESI

Il contributo tratta delle forme speciali di autogoverno locale nelle città e soprattutto nei mercati dalla fine del medioevo fino all'abolizione degli autogoverni nella prima metà dell'Ottocento. In essi il livello di autogoverno era inferiore a quello comune ed era legato anche a uno sviluppo specifico. Tra le città, i casi erano solo due e si svilupparono solamente all'inizio dell'età moderna, nel caso dei mercati si può invece constatare forme molto diverse di sviluppo dell'autogoverno locale, non legate al periodo in cui i mercati erano stati fondati, ossia dal riconoscimento del diritto di mercato. Sebbene alcuni esempi studiati mostrano delle somiglianze, si tratta di casi diversi fra di loro, ognuno rappresenta infatti una storia a sé.

Parole chiave: città, mercati, territorio sloveno, forme speciali di autogoverno.

PRESENTATION OF THE PROBLEM

Up until the 15th century, there was a certain degree of fuzziness in the substantive differentiation between towns and market towns in the Slovenian and broader central-European area. Namely, initially the denomination of market town (*mercatum*, *oppidum*, *Markt*) and town (*civitas*, *Stadt*) was largely a reflection of the status of the then town or market-town seignior. The existence of town walls was often a more decisive factor when distinguishing between provincial princely towns and market towns than economic rights (Mitterauer, 1980, 281, 289, 292–298). More important than use of the designation was another distinguishing criterion whose existence in Bavarian-Austrian territory was already emphasised by E. Klebel. Based on a thorough analysis of town and market-town seigniors, he found that towns were primarily established by princes, whereas market towns were established by lower noblemen (Klebel, 1939/40, 48).

A clear distinction between towns and market towns can only be made at the time the term *town* became a legal term and/or category in the legal hierarchy of naming urban settlements. Almost the only way to achieve the title of *town* was if it was bestowed by the ruler, as attested to in historical records in Austrian territory since the last quarter of the 13th century (Melik, 1972, 312). In Slovenian territory, the first formally founded town was Novo mesto (1365), with the word '*nov*' indicating it was new (Vilfan, 1969, 88 ff.). In the second half of the 15th century, the elevation of its status into *town* was followed by the general elevation into *market town* by the provincial prince. It replaced the two former main types of market-town privileges, namely the granting of trading rights and the privilege of holding a weekly trade fair which provincial princes mainly granted to the centres of aristocratic and ecclesiastical seigniories (Mitterauer, 1980, 299–300).

At the end of the Middle Ages, all continental towns in Slovenian territory (the development of littoral towns was different) had four basic town characteristics in terms of their legal status and town rights granted through privileges, they had a well-established community of personally free townspeople, they had a market and engaged in trading on a daily basis, they held a special jurisdiction over their territory and enjoyed a privileged status regarding public charges. On the contrary, market towns only enjoyed some of these elements. Although they strongly resembled towns in terms of their size and functions, they did not have the town privilege and the title *town* – these being the basic criteria distinguishing towns and market towns (LMA, 1997, 2177; LMA, 1993, 634).

As in the broader area, the number of towns in Slovenian territory at the turn of the Modern Age reached its upper limit that was not exceeded until the 20th century, with the exception of two 'non-genuine towns'

(towns in name only) that emerged in the Early Modern Age. The distinction between towns and market towns became clear where provincial princely town privileges gained ground, along with towns' participation in the provincial political life (Vilfan, 1961, 156, 310 sl.). On the other hand, the legal bases of medieval market towns were incomparably weaker and differed considerably from one case to another. Along with other reasons, the number of market towns constantly varied even much later in the Modern Age due to the heterogeneous substance of the market-town title. Thus, by the 18th century the market-town title had disappeared in some towns but appeared in some others (Golec, 1999).

A clear-cut dividing line can be drawn between towns on one side and market towns on the other also with regard to local self-government. While the level of self-government and its organisation were practically uniform in towns (at the helm of the town was the elected town judge and, beside him, two elected town councils), market towns merely followed the example of towns but differed tremendously from each other (Golec, 1999, 377–437).

The article provides an overview of the development in those Slovenian places bearing the town or market-town title, where the local self-government deviated from the common standard and whose emergence and form were specific. Among towns, there are solely the two already mentioned (Idrija and Sv. Križ) whose title of *town* was established only in the Early Modern Age, whereas the special development of self-government characterised several market towns regardless of the time of their occurrence, which applies to both medieval towns and those evolving from villages in the Early Modern Age. Those market towns, chiefly the small ones, which remained at the level of a village community, are not included in the discussion. The upper time limit is the first half of the 19th century when the town and market-town self-governments ceased to exist as such: in 1811 in that part of Slovenian territory under the rule of the Illyrian Provinces during the 1809–1813 period, and elsewhere in 1849 upon the Austrian reform of the administrative and judicial system (Žontar, 1988, 88–90).

The article is underpinned by the author's previous research into individual towns and market towns, applying numerous primary sources and standard scientific methods pertaining to history. To avoid listing a great number of references that might lead to a lack of clarity, only the author's scientific publications are quoted instead of individual archival records and published literature.

Given the considerable differences between the special types of self-government of towns and market towns in Slovenian territory, a comparison of the peculiarities within the wider European area would be very demanding, but clearly of great benefit. In this

contribution, such a comparison is only indicated in individual examples. Considering that historiography has dedicated substantially more research attention to the comparative history of towns than to minor types of urban settlements which, in Slovenian territory, are known by the name *trg* (market town, borough), whereas other names and types are found elsewhere (cf. especially Knittler (ed.), 2006), in the future nothing less than delving into micro-studies from other areas will be required to identify the common features and similarities in the development of types of market-town self-government. This contribution basically aims to offer researchers from other regions an insight into the Slovenian situation and facilitate the inclusion of Slovenian special features in comparative (suprarregional) research.

TOWNS AND MARKET TOWNS WITH A SPECIFIC TYPE OF LOCAL SELF-GOVERNMENT

Besides 20 continental towns with a medieval origin in the territory of present-day Slovenia, two more emerged in the Early Modern Age, namely Sv. Križ (present-day Vipavski Križ) and Idrija. As the latter never had any legal or other attributes of a genuine town, they can merely be termed **nominal towns**, i.e. towns by name only. It is not surprising that they lie in the western part of Slovenia where the network of towns and market towns was the weakest.

The town of **Sv. Križ (Vipavski Križ)** in the Goriška region was one of the few towns in Slovenian territory not owned by a provincial prince, and emerged in 1532 after the provincial prince, King Ferdinand, granted the request of the seignior Thurn to elevate this rural settlement into a town, which had been walled for defence reasons and served as a fort during the Turkish invasions half a century earlier. Based on this elevation charter, the inhabitants of Sv. Križ became burghers (inhabitants of market towns, or German: *Bürger*), but only by name, and the town was granted the right to hold annual and weekly trade fairs but not to its own judiciary and administration. According to their legal status, the inhabitants continued to be serfs to their seigniors and the town functioned as an ordinary village community. All administrative and judicial transactions were carried out by the seignior administrator, the town did not have its own office or a head holding the title of town judge, but only 12 community representatives functioning as a consultation body. Before the elevation of its status into *town*, Sv. Križ was led by an elected village head called *župan* (German: *Suppan*), with the same powers as those of *župans* of other villages. After the declaration of town status (1532), the *župan* function can no longer be attested to due to the scarce historical sources that remain, but it is highly probable that it continued to exist. Although Emperor Joseph II still

approved the town rights of Sv. Križ in 1781, the status gradually faded away. Thus, in 1818 Sv. Križ was officially only a market town, then lost this title in the 19th century and became an ordinary village until it was granted, at least symbolically, the title of *town* at the end of the century (Golec, 2007, 210–217).

The second nominal town was **Idrija** with a completely different genesis since this was initially a large mining settlement, having emerged at the end of the 15th century next to a mercury mine. After the mine fell under the control of the provincial prince in 1575 and became the second largest in the world, Idrija enjoyed a special status of autonomous land that did not belong to any hereditary dominion. Some considered it a market town at least from the end of the 17th century, whereas in the second half of the 18th century, probably without any formal act, it became a town or, by its name, a mining town (German: *Bergstadt*). Besides the small town of Sv. Križ, Idrija was the only town in Slovenian territory without a corporation of legal-formal burghers. The whole administration and judiciary were in the hands of the mining or state authorities, which is why any town self-government was out of the question. This finding is all the more surprising because, after the final annexation to the Duchy of Carniola (1783), the town was the second biggest in the province, following the capital of Ljubljana. Paradoxically, local self-government in Idrija dates back to the time when, in the period of the French occupation, all town and market-town self-governments were abolished and administrative municipalities were first introduced (1811). Following the Austrian restoration of authority (1813), Idrija, like all municipalities, had an appointed head, called *rihtar* (German: *Richter*), and elected committee members, up until the great municipal reform of 1849 (Arko, 1931, 91–93, 211–213; Golec, 2014, 159–161).

Given the above, Idrija cannot in any way be considered a type of town that historiography names a 'mining town'. Namely, such towns that were typical mainly of the mining areas of Central Europe (e.g. Upper Silesia and Eastern Slovakia) enjoyed special town privileges that stemmed from mining rights (Kaufhold, 2004: VII–XI).

Sv. Križ (Vipavski Križ) and Idrija can be classified, not only because of their self-governance peculiarities but also for other characteristics, into the type of towns that the historiography of the German-speaking area calls *Minderstädte*, i.e. minor or incomplete towns (cf. Ehbrecht, 2006 1 ff.).

In market towns, special types of local self-government varied considerably from one place to another, as market towns differed substantially in terms of the level of acquired administrative and judicial rights. Generally, large differences were also observed between individual lands. While in the Slovenian Styria

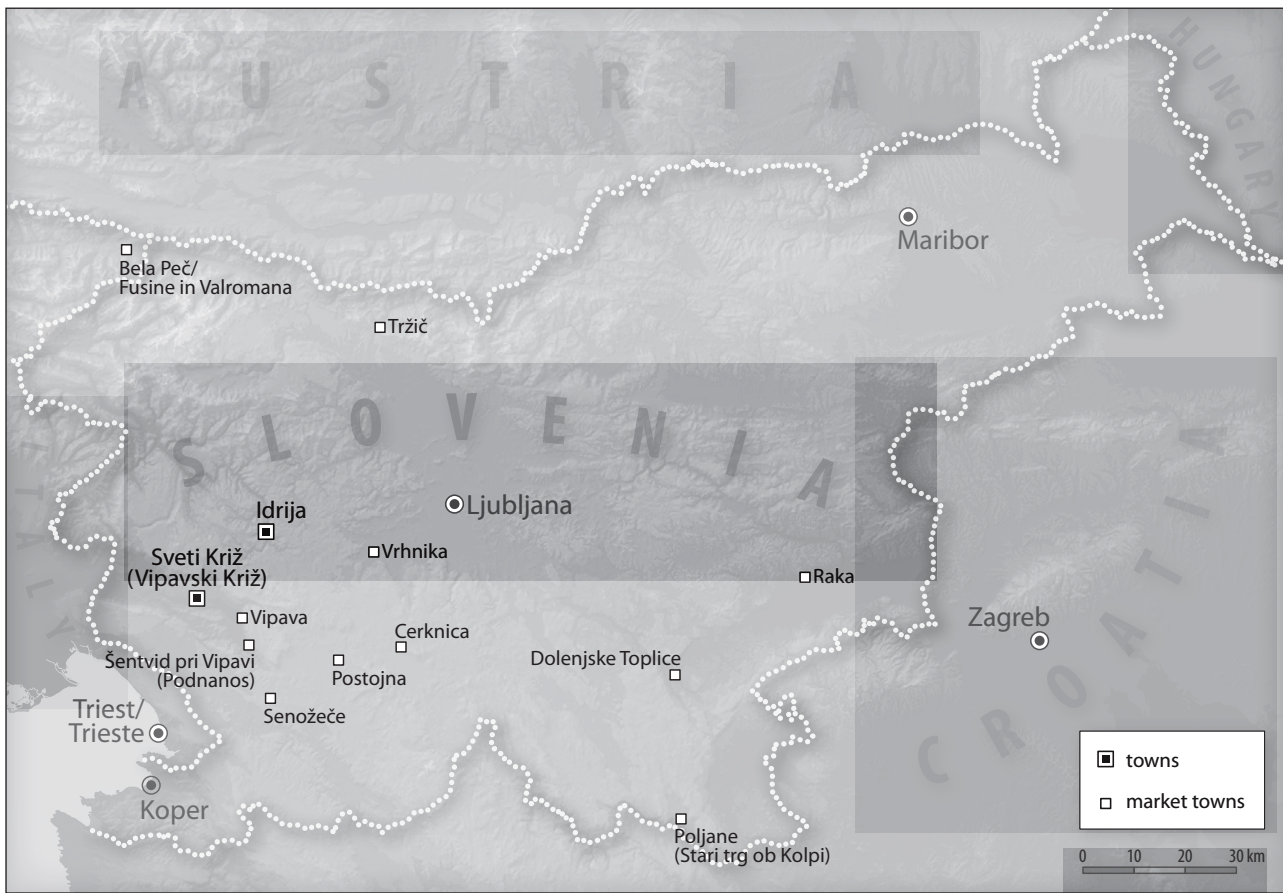


Figure 1: Towns and market towns with special types of local self-government.

and the Slovenian part of Carinthia nearly all market towns enjoyed distinctive administrative and judicial autonomy¹, featuring an elected judge, a market-town council, a lower judiciary and a community of legal-formal burghers (i.e. those holding full status), such market towns were in a minority in Carniola and did not even exist in the Goriška region. The main reasons for this stem from the different time of emergence and divergent development of the market settlements. This issue has not yet received sufficient research attention and no comparative study applies to all of the Slovenian territory.

In Goriška, a relatively scarcely populated area in the western part of the Slovenian territory, the notion of market town emerged very late, only in the Early Modern Age. In terms of local self-government level, market towns in Goriška had no differences from ordinary villages, which is a peculiarity on its own (Golec, 2007, 214). Diametrically opposed to Goriška were Slovenian Styria and Slovenian Carinthia, where new market towns (i.e. establishment of the name 'market town' for an already existing place) nearly ceased emerging after

the end of the Middle Ages (Curk, 1991, 74). This was also one reason for there being few market towns in that area without highly-developed self-government (Curk, 1991, 74, 75, 90, 99, 110).

Of all Slovenian lands, the greatest differences between market towns were found in Carniola where nearly one-half of all market towns appeared in historical sources only after 1500, whereas several medieval market towns died out or even fell into ruin. Undoubtedly, in some Carniolan places the delayed granting of the market-town title was because some more recent medieval towns in Carniola were not comparable, in economic and demographic terms, with towns in the proper sense of the word. These mainly included market towns whose status had been elevated to *town* by the provincial prince only in the last third of the 15th century due to the threat posed by Turkish invaders. A great many places in Carniola where trade fairs were held were bigger than an average town, and these especially strived to be granted the market-town title if they had not yet had it by then. Low standards for acquiring the town title led to many settlements seeking to be recognised

¹ The term autonomy is also established in the historiography for (local) self-government, whereas the legal profession distinguishes between autonomy and self-government (cf. Kambič, 2008, 459–488).

as market towns by their seignior and the surrounding areas. Accordingly, after 1500 as many as 11 places, differing in terms of size and importance as well as the level of local self-government, succeeded in obtaining the market-town title in one way or another (Golec, 1999, 236–237).

As we will see, only in certain Carniolan places was the occurrence of the market-town title (between the 16th and beginning of the 18th centuries) directly connected with acquisition of a specific type of local administration or self-government. However, special types of local self-government that deviated from the contemporary standard (i.e. an elected judge as the head of the community, a market-town council and a lower judiciary) not only characterised those market towns that emerged in the Early Modern Age, but also some places that appeared as market towns in historical records for the first time already in the Middle Ages. The time of market-town title acquisition was somewhat of secondary importance. Except in one case, there was always an informal recognition of the market-town title by the seignior, without any formal act. We sometimes come across almost the same or very similar development of limited self-government in two market towns of which one has its origins in the Middle Ages, whereas the other was granted and acknowledged the market-town title only in the 16th or 17th century. As the administrative and judicial rights were bestowed on a market town informally, their protection was thereby small. It is not surprising that the acquired level of local self-government in some places only lasted for a short time, as it depended completely on the (self) decision of the seignior. The study of the existence, level and operation of self-government in nearly all market towns is hindered by the fact that not many historical records remain. The lower the level of the administrative and judicial rights, the less the records are preserved.

The overview starts with those market towns where the development of local self-government achieved the highest level, nearly the same or completely the same as those rare market towns in Carniola considered as having a developed administrative and judicial autonomy. Such market towns had their own judge, acting as the head (German: *Vorsteher*), who was elected and approved by the seignior, an elected market-town council and the community of legal-formal burghers (i.e. those holding full status) into which every person was accepted individually. The first instance corresponded to the judge and the council and the second instance to the seignior who, as a rule, also held the exclusive right to adjudicate in serious criminal matters (Kambič, 1996, 11; Golec, 1999, 381–402; Golec, 2016, 403–408).²

Bela Peč, a market town with a specific origin and located in the extreme north-west of the former Carniola, i.e. present-day Italy (Italian: Fusine in Valromana),

joined the group of these market towns in the 16th century. The settlement as such emerged relatively late, towards the end of the 14th century as a place of lodging for ironworkers and blacksmiths. At the turn of the Modern Age, its inhabitants received from their seignior tacit acknowledgement of the status of market town and burghers (the first mention of burghers dates back to 1499), whereas the so-called mining judge (first mentioned already in 1404) was bestowed the status of market-town judge (appearing in historical records as such for the first time between 1533 and 1535). The legal basis for this was not provided in writing, but at that given point in time the ironworkers' aspirations simply coincided with their seignior's interests. Of all ironworking and mining places in Carniola, Bela Peč was the only one to hold the market-town status. Even after, when its market-town title had been acknowledged, it retained its character and, in terms of physiognomy, did not differ from comparably-sized settlements with the same origin. The key difference was that the Bela Peč ironworkers, with their seignior's consent, 'transformed' their mining judge into a market-town judge and, following the examples of market towns with a well-developed self-government, created the institute of legal-formal burgher and market-town authorities. As ironworkers elected their mining judge, likewise, legal-formal burghers had the right to elect a market-town judge. They had to present the judge to the seignior's administrator for approval, the latter functioning as the second instance above the market-town court. The local self-government of the Bela Peč market town is very well documented in the book of court records from the 1525–1734 period, fully acknowledging that this market town of late origin achieved a level of self-government witnessed only in a few market towns in Carniola. This high level of rights was unheard of in any other market towns in the province, which are discussed below.

In the second half of the 16th century, the difference in the administrative and judicial status between Bela Peč on one hand and that of all other ironworking and mining places in Carniola on the other, was finally acknowledged. The latter, with their mining courts, subjugated to the newly-established instance – the provincial princely higher mining judge for Carniola. On the contrary, Bela Peč functioned in the same manner as any other market place with well-developed self-government and, similarly to other Carniolan market towns of this type, preserved its self-government powers until the French occupation at the start of the 19th century. According to its physiognomy, economic orientation and inhabitants' professional structure, this market town remained a typical ironworking settlement, except that in the 16th century the ownership structure changed considerably, as the original co-owners of the ironwork-

² In Carniola (without part of Istria) there were only seven market towns with a developed administrative and judicial autonomy: Mokronog, Radeče, Žužemberk, Ribnica, Litija, Vače and Bela Peč.

ing facilities, whose ownership shares were quite balanced, were replaced by a small number of powerful noble families. The legal-formal burghers were not all engaged in ironworking, but pursued different professions (Golec, 2016, 390–409). Bela Peč had certain characteristics of Central European mining towns (cf. Kaufhold, 2004: VII–XI), but it is impossible to classify it as such, first and foremost because it was only a market town and not a town.

Quite similar, but much younger and shorter was the development of local self-government in the market town of **Dolenjske Toplice**. This market town is a special phenomenon since it is mentioned in historical sources as the second last among all Carniolan market towns only at the start of the 18th century, yet like many other older market towns it had a well-established community of burghers and a market-town judiciary, led by a market-town judge. The 'lifespan' of the market town, according to available archive records, was merely half a century, namely from 1705 to 1756; in a broader sense, this period lasted for a little less than 100 years, starting with 1657, when judge was mentioned for the first time, without the market-town title. Despite the scarce historical sources, in a brief half a century, which can probably be extended slightly into the past and a few years into the present, we come across all the main attributes of a well-developed market town, except for recorded market-town liberties, market-town council and elections of self-government authorities. The following are proven in historical sources: market-town title, market-town judge, burghers, courthouse and court. The market town of Dolenjske Toplice, despite its late evolution from a village, had even more characteristics of a genuine market town than many other Carniolan market towns.

The way the administrative and judicial autonomy functioned is primarily revealed in the well-preserved court minutes of the Žužemberk seignior. It is no coincidence that the place was granted self-government exactly at the time the health-spa activity was blooming for the first time. It is worth noting that the Dolenjske Toplice market town was 'established' by the most important noble family in Carniola, the Auerspergs, and that its judge, most likely the first one, was installed in 1657 by Count Volf Engelbert Auersperg, the then Carniolan provincial governor. The Count's motive was clear: to ensure a better standing for the rising health-spa town, featuring thermal springs. It is not a coincidence that the market-town judge was mentioned for the last time in the mid 18th century. The judicial service disappeared as a consequence of Maria Theresa's administrative reforms. With the loss of its own judge, the market-town also lost its title, one reason being that there were no weekly and annual trade fairs or any other visible signs of a market (Golec, 2015a, 101–117).

Of similarly short duration was the partial self-government of the small market town of **Senožeče**. The peculiarity of Senožeče, settled along the main road

between Ljubljana and Trieste, is the co-existence of a village and market town bearing the same name. The latter emerged next to the old village no later than at the start of the 15th century and was one of the few fortified market towns in Slovenian territory. Although the village and the market town constituted a whole and also functioned accordingly, they were divided throughout the centuries by a stone wall which, encircling the small market town, physically hindered its expansion and at the same time limited its legal features. This situation was also reflected in historical sources, with a consistent distinction between the village and the much smaller market town. It was not until the second half of the 18th century that they both merged to form a rural-type market town, after the fortified town had almost completely been vacated in the face of economic collapse.

Senožeče entered the Modern Age as a market town whose inhabitants were named burghers and their property had a privileged status, as the burghers, compared to serfs, paid fewer and different taxes to the landowning nobles. Despite the material benefits enjoyed by the market town's inhabitants, historical sources from the first half of the 16th century reveal no trace of any type of even limited market-town self-government. This finding is all the more important due to the existence of a detailed description of rural self-government in villages, dating back to this period (1524). Most villages elected their own *župans* (German: *Suppan*), who were then approved by seigniors. It all seems that the Senožeče market town did not have a permanent head (be it a *župan* or a judge); therefore, the market-town community was directly subordinate to the seigniorial administration. Burghers participated quite early on in the seigniorial judiciary as invited assessors.

In the 16th century, the market town's further development was strongly marked by the appeasement of the political situation and favourable economic position following the rise of early capitalism. Its beneficial location along the main road towards the sea brought high and particularly regular income from trading. The development of this small market town was spurred by the settling of merchants from the Italian province of Bergamo, many of whom were relatives. This was a merchant family of Garzarollis, who later became members of the nobility and held a prominent role in the town until the first half of the 20th century. A particularly valuable record of the legal circumstances is the rent-roll of the lien administration of provincial seignior [German: *Pfandherrschaft*] of Senožeče from 1576, revealing the strong emancipation of the market-town community relative to the seignior, which is to be ascribed to the newcomers. The market town had a modest judicial self-government, of which there was no trace whatsoever half a century earlier. The rent-roll explicitly states that the market town does not have its own jurisdiction and the judge is appointed by the lienor (German: *Pfandherr*) of the Senožeče seignior, but this was already a great achieve-

ment compared to other market towns in Inner Carniola. Of all Inner-Carniolan market towns of medieval origin, Senožeče was the only one that consistently had its own market-town judge in the Early Modern Age, even if only for a short period when it was at its economic peak. The achieved limited market-town self-government was a result of the seigniority lienors' yielding to the requests of the self-confident Italian newcomers who had been accustomed to different circumstances and liberties. An unanswered question remains whether the class of burghers was legally-formally established among the inhabitants of this small market town or whether all independent landowners simply addressed themselves as burghers (German: *Bürger*). The available historical sources do not reveal whether Senožeče obtained an elected judge instead of an appointed one after 1576. Moreover, little is known about the judge's powers and none of the market-town judges is known by their name. By all means, the judge was the head of the market-town community and administration, whereby they perhaps did not have fully autonomous first-instance jurisdiction, but had to share it with the seigniority administrator. An important finding to help better understand the achieved level of self-government is that the market-town judge in the first quarter of the 17th century was not only recognised by the domestic seigniors but also by the broader environment and higher authorities. However, already before the middle of the century, the market town was stricken by poverty and in 1644 allegedly counted only ten houses. Some burghers lost everything, others became rich and abandoned trading. As regards self-government rights, the market town already returned to its starting point before the mid 16th century. After it was heavily impacted by the national economic policy in the first half of the 18th century – depriving it of the lively weekly trade fairs and building the main road towards Trieste away from it – this small market town nearly became vacant in a few decades. In this respect, Senožeče cannot be compared to any other place in Slovenian territory, especially due to the abrupt end to a formerly successful market town. Its short local self-government that was enforced by the colony of foreign immigrants is also a unique phenomenon in Slovenian territory (Golec, 2006a, 366–378).

In the same part of Carniola, namely Inner Carniola,³ there were not many models for developing market-town self-government as there was only one town (Lož), which on top of everything was small and of late origin whereas, of nine market towns in total, five achieved market-town status only in the Early Modern Age (Golec, 2006b, 105). It is not surprising that the Inner-Carniolan market towns attempted to find original paths to local self-government with a delay and that none of them had well-developed administrative and judicial

autonomy. It all seems that the highest development of self-government was in Senožeče, yet only temporarily. In three other Inner-Carniolan market towns, Vrhnika, Vipava and Postojna – all were very large for the Slovenian situation (with about 200 houses at the start of the 19th century) (Golec, 2006b, 129) – the market-town self-government at the end of the 16th century was only ostensible. It was created by the nominal function of market-town judge as a result of the fact that *deželski sodnik* i.e. the criminal justice judge of the seigniority, or German *Landrichter*, 'lent' the function and the name to the so-called market-town judge. The *Landrichter* was also addressed as market-town judge (German: *Land und Marktrichter*), thus combining both titles in the one person (Golec, 2006b, 112–114). Two of three market towns with this phenomenon, Vipava and Postojna, were of a medieval origin, whereas Vrhnika's market-town title appeared only at the end of the 16th century (with the first mention of 'burgher' in 1586), nearly concurrently with the title of market-town judge or *Marktrichter* (Golec, 2006b, 109–110, 112–114). The main reason that **Vrhnika**, a very busy place at the junction of waterways and roads that was already important in the Antiquity, failed to evolve into a market-town already in the Middle Ages and never became a trade-fair venue worth mentioning is that the town of Ljubljana, the provincial capital, was too close to it. Moreover, Vrhnika was divided among several seigniories and consisted of three settlements that differed considerably in terms of their physiognomy; eventually, only two parts of the settlement were named market towns, whereas the third one, with the parish seat, was not (Golec, 2006b, 106–109). The term burgher (German: *Bürger*) is documented only exceptionally and only for individuals, not the community – differently from Vipava and Postojna which were old medieval market towns (Golec, 2006b, 119–120). When another title for *deželski sodnik* (*Landrichter*) was introduced at the end of the 16th century, namely *Marktrichter* (market-town judge), this did not change the substance of the judge's function in any way. Namely, it is unknown whether the judge represented the inhabitants of Vrhnika with respect to external matters, as was the case in Postojna and Vipava. The changes to the office of the Vrhnika judge occurred only in 1624 after the Logatec seigniority passed from the provincial princely ownership to the private ownership of the Eggenberg princes. The seat of *deželski sodnik* (*Landrichter*) was transferred from Vrhnika to the seat of the Logatec seigniority, whereas their office was merged with the office of the seigniority administrator. Consequently, in the Vrhnika market town the judge's function became independent and was limited to the territory of Vrhnika, whereas the judge retained some of the powers of the *Landrichter*. According to the scarce historical sources,

3 For the purpose of this article, the term Inner Carniola has the meaning as applied in a more recent period of time, after the end of the Illyrian Provinces (1813), when it lost the north-eastern part of Istria, Duino along the Gulf of Trieste, and small exclaves in the middle of the territory of the Goriška County.

the position was mostly simply named judge (*Richter, judex*) and only occasionally market-town judge (*Marktrichter*), as they were not directly connected with the market town. Namely, the Logatec seignior appointed them as its own official whose terms of reference included: supervision of the lively traffic through Vrhnika and supervision of inns, collecting trade-fair fees and monetary penalties, maintaining of the usher, direct acceptance of orders by provincial authorities and similar. It is not confirmed whether the Vrhnika inhabitants had any influence whatsoever on the judge's appointment. Its existence was a matter of prestige for Vrhnika, whereas it was important for the burghers' self-image that all renowned judges came from the leading local families. They were among the largest landowners in the town, whereas their professions included postmaster, toll collector, healer etc. The institute of market-town judge was automatically abolished in Vrhnika during the general administrative and judicial reform by the French at the time of the Illyrian Provinces (1811). Vrhnika did not possess any other market-town self-government attributes: neither the elected market-town council nor the formal-legal burgher status. It was in fact an ordinary village community where serfs of different seigniorities each had their own *župan*, a village head drawn from the ranks of serfs, who acted as an auxiliary authority of the seignior (Golec, 2006b, 115–121).

In the two other Inner-Carniolan market towns, **Vipava** and **Postojna**, where *deželski sodnik* (*Landrichter*) of the seignior also 'lent' their name to the *Marktrichter*, such a symbiosis of two titles managed to survive only for a few decades at the end of the 16th and into the first half of the 17th centuries. The judge was not elected but appointed, and the market-town local-government was only ostensible – without a market-town council and legal-formal community of burghers. The market towns functioned as a village community, where market-town inhabitants participated in the judiciary by providing assessors to the provincial criminal court (*Landgericht*). In both market towns, the function of *deželski sodnik* (*Landrichter*) gradually became absorbed by the function of seignior administrator – in Vipava no later than in the mid 17th century and in Postojna not before the start of the 18th century (Golec, 2006a, 202–208; Golec, 1999, 412–423).

In all three Inner-Carniolan market towns, the process of creating a nominal *Marktrichter* based on the function of *Landrichter* was a result of the temporary meeting of the seignior's and inhabitants' interests. It is not coincidental that this happened in the period of Protestantism. Concurrently with the victory of the Counter-Reformation, in the 1620s all three Inner-Carniolan market towns passed from provincial princely ownership to private ownership. Many other market towns experienced the same and their sale to the nobility led to a firm halt in the development of market-town self-governments in general. The new seigniors attempted to

at least limit the rights previously granted to the market towns by the lienors, if not completely abolish them. The modest types of nominal market-town institutions, which characterised the abovementioned Inner-Carniolan market towns, died out because their rights were not written or legally-formally codified (Golec, 2006a, 206–208). A special judge was preserved in Vrhnika only to cater to certain needs, given that the market town was far from the seignior seat (Golec, 2006b, 114). Moreover, in Postojna and Vipava the term burgher (*Bürger*) was gradually losing ground, thus (nearly) disappearing in the 18th century. The fact that in 1748 Postojna became the seat of the large administrative district (German: *Kreis*) for one century failed to result in any changes that would strengthen the market town's local self-government (Golec, 1999, 418–419, 422).

In Inner Carniola, two market towns gave the impression of having well-developed administrative and judicial autonomy and were very similar in their origin: **Cerknica** and **Šentvid pri Vipavi** (present-day **Podnanos**). These two large villages were named market towns in about 1600 on a more solid legal basis than any other Carniolan market town originating from the Modern Age. Namely, at the end of the 16th century almost concurrently they were granted the provincial princely privilege of a weekly trade fair, and only a little afterwards were their inhabitants mentioned for the first time as burghers (*Bürger*). In terms of internal regulation, the market towns remained village communities headed by the village head, called *župan*, yet they differed from ordinary communities each in their own way. In Šentvid, two symbolic elements of local administration are attested to in historical records as of 1600 but they could even be much older: the community seal and the community house, in which common matters were settled. A community was managed by two elected church caretakers (Golec, 2006a, 217–223). The much bigger Cerknica, which was even the biggest market town in Carniola in the early 19th century, made a few bigger steps towards local self-government than Šentvid did. More favourable conditions for establishing a special market-town administration occurred in the first half of the 17th century when most landowners passed under the Hošperk seignior, triggering a strong reduction of the previous fragmentation between several seigniorities. The new seigniors of Hošperk, the Eggenberg princes, complied with the needs of their serfs by transforming the then *župa* (German: *Supp*), i.e. the lowest administrative unit of the seignior, named *župa* Cerknica in the middle of the 17th century into a so-called judicial district (German: *Richter amt*). As of 1649 there was no mention of *župan* (*suppanus*) but only judge (*judex, Richter*), yet it is unknown which powers the Eggenbergs gave to the newly-established judge, as only the names of the judges are known. Besides performing public legal tasks, judges had, with a great deal of certainty, weaker judicial powers over the Hošperk serfs in the market

town, which means that it was not just about renaming the function of *župan* into the function of judge. The judicial district definitely did not cover the entire market town but only the main part – the former Cerknica *župa* which formed part of the Hošperk seigniory. Despite the judge and a single mention of the market-town council (in 1660), their substance cannot be equated with the elected judges and councils in the administratively and judicially autonomous market towns. The Cerknica judges are seldom designated as *Marktrichter* in historical sources, whereas it can be concluded from their self-designations in the second half of the 18th century that they were not elected but only appointed by the seigniory. The so-called judicial district was in the hands of the same person or economically strong family for several decades and it is most likely that it existed up until the general administrative and judicial reform at the time of the Illyrian Provinces. The same as in other Inner-Carniolan market towns, in Cerknica the institute of legal-formal burgher, i.e. a person that would be granted such a title and rights individually, is also attested to in historical records (Golec, 1999, 404–407).

Certain similarities with Cerknica are found in another Carniolan market town which also acquired its market-town title late. This was the village of **Raka** in Lower Carniola which was first mentioned as a market town in 1616, concurrently with the first mention of the function of judge (*Richter*). Divided among several seigniories, Raka acquired the market-town title in a much less formal manner than Cerknica and with internally limited validity. Except for its close surroundings, the broader area was unfamiliar with its market-town status. The decisive role in acknowledging the market-town title was played by the Kostanjevica seigniory, which was the only one capable of offering a sufficient legal basis. While the market-town title is continuously attested to until the end of the 18th century, the term judge was mentioned for the last time in 1755. The biggest problem concerning the issue of the Raka judge, which is only once mentioned explicitly as a *Marktrichter*, is the poor documentation on the function's substance. The existence of the market-town council can only be assumed, but with a great deal of scepticism, as the burgher title only rarely applied to the Raka inhabitants (Golec, 2015b, 23–44).

Besides Dolenjske Toplice and Raka, among all Lower-Carniolan market towns only the **Poljane market town (present-day Stari trg ob Kolpi)** featured some modest elements of local self-government, if we exclude those five market towns with well-developed administrative and judicial autonomy (Mokronog, Radeče, Liti-ja, Ribnica and Žužemberk). Like with the five market towns mentioned above, Poljane also had a medieval origin and was the only market town in Carniola to have submitted its modest market-town privilege from 1421 until the mid 18th century to the current ruler for approval. In 1781, the Auersperg princes approved the

privilege for the last time and even expanded it; thereafter, the new request for approval made in 1830 was not granted. The market town had only weak characteristics of market settlements throughout this time. Moreover, it was so small and insignificant that the contemporaries did not know it as a market town, which is particularly evident in the works of the well-learned polyhistor Johann Weikhard von Valvasor (1689). There was no trace of any administrative and judicial autonomy; only for a short period of time (1776–1811) do the historical records attest to the so-called judge (*rihtar*), but not as an elected representative of the market-town community but as a seigniory official. It is perfectly clear that they did not have any lower-judicial or administrative powers and that their powers were much broader than those of *župans* because their judge title was above that of *župan*, i.e. it was similar or equal to the title of town or market-town head. It has not been completely ruled out that the Poljane market town nevertheless had an elected head with judicial powers some time earlier, but lost it before the mid 18th century. There is no trace of the institute of legal-formal burghers in this miniature market town (Golec, 2010, 595–607).

While the exact time of introducing the institute of judge in Poljane, which gave this market town an appearance of local self-governance, is unknown, the market-town management in **Tržič** in Upper Carniola is better documented. This economically important market town with more inhabitants than many Carniolan towns and a prominent urban appearance was a peculiarity in several respects. As the only market town in Slovenian territory, it enjoyed the provincial princely privilege to be elevated to market town (1492), which was granted at the request of both seigniors (Zwitter 1929, 72–73). Since then, for nearly two centuries, only a community of burghers, without its own administration or judge, is attested to in historical sources. Their formation in the mid 17th century was enabled by the merger of both seigniories into one, whereby the entire market town was ruled over by the same seigniory. In 1666, all the elements of well-developed market-town self-government were documented: a market-town judge, council and market-town seal, but this situation only lasted for a few decades. After a fire in 1689, the community of burghers alone (without a judge and a council) communicated with the emperor in writing, whereas according to a report by the Tržič inhabitants of 1729 the market town did not have its own judge and jurisdiction (i.e. the first instance) following the abovementioned fire. Even in the mid 18th century, it was still completely subordinate to the administration of the Tržič seigniory; the Tržič inhabitants acknowledged the seigniory administrator as their market-town judge (1752) (Golec, 1999, 436–437). The position of the economically successful and town-like Tržič was literally paradoxical at that time. Unfortunately, we are

unfamiliar with what happened in the background when the market town lost its self-government and regained it again in 1777, if only to a limited degree. At that time, the Count Maria Joseph Auersperg granted a strongly limited administration led by three elected heads, but without a market-town judiciary, judge and council; the abovementioned three headmen – one senior (*Obervorsteher*) and two junior (*Untervorsteher*) – adjudicated as the first-instance authority only in disputes related to craft and granting of the right (*Bürgerrecht*) to legal-formal burgher status, i.e. full right. It is significant that the seignior did not introduce the institute of market-town judge but a three-member collective leadership with a different, less reputable title. In the last decades before the general abolition of town and market-town self-governments in Carniola (1811) Tržič, as the only one of the three Upper-Carniolan market towns, thus survived without developed self-government. It was only an approximation of self-government, although it was the biggest and most important (Miklitsch, 1912, 256–260). On the contrary, one can conclude that the institute of legal-formal burgher was not introduced in the 18th century, but much earlier.

CONCLUSION

It is very difficult to typify the local self-governments of the discussed market towns since not even two places witnessed the same development, but only featured larger or smaller similarities. The highest level of self-government – the same as in the markets of medieval origin which achieved well-developed self-government early on – was acquired by the market town of Bela Peč. This was originally an ironworking settlement, which first appeared in the records as a market town at the turn from the Middle Ages to the Modern Age and retained this status until the general abolition of market-town self-government in Carniola (1811). Lagging behind Bela Peč were the following two market towns where self-government was much more limited and only lasted briefly: Senožeče, with its late medieval origin, and Dolenjske Toplice, first shown in the records as a market town at the start of the 18th century.

Towards the end of the 16th century, the ostensible market-town judge office evolved from the function of provincial criminal judge (*deželski sodnik*) in three large Inner-Carniolan market towns – Vipava, Postojna and Vrhnika. By the end of the period under scrutiny, i.e. the start of the 19th century, self-government survived only in one market town, Vrhnika, which was very important in traffic terms, but even here the *Marktrichter* was in

fact a seigniorial official and not a representative of the market-town community.

Two other Inner-Carniolan market towns, Cerknica and Šentvid pri Vipavi (present-day Podnanos), have in common the emergence of a market town from a village (by acquiring the privilege to hold weekly trade fairs) and the timing of this event (around 1600), whereas their development towards local self-government was different. Cerknica is an example where the function of market-town judge evolved from the function of village head, *župan*. Even less is known about the emergence and substance of the market-town judge's function in Raka, which declared itself a market town at the same time, in the early 17th century. In Poljane, a very small and not-so-important market town which was granted a modest market-town privilege already in the 15th century, a judge was recorded only in the final decades before the abolition of market-town self-government in 1811, whereas their powers were probably not much bigger than those of an ordinary village *župan*. An interesting peculiarity is Tržič, an important and large market town with an urban appearance, which was the only place in Slovenian territory to have held the provincial princely privilege of being elevated from a village to a market town (1492) on one hand but, on the other, despite its economic importance and size, it did not achieve well-developed self-government but only a very limited form.

The study of special types of local self-government in nearly all of the discussed market towns is hindered by the scarcity of the historical sources that are preserved. The lower the level of the administrative and judicial rights, the less the records are preserved. Many times one has to apply analogy and deduction '*per negationem*', always bearing in mind the fact that the notion of what the situation was in any of the discussed market towns could change as soon as a new piece of information is discovered.

This article's findings can be summed up by concluding that local self-governments in market towns in Slovenian territory were much more multifarious than could be inferred by a perfunctory reading of the historical sources. The same denominations, e.g. burgher, judge etc., can be highly misleading because their substance differed from one place to another. The terminology used for towns was substantially more uniform, as we know only two examples of 'non-genuine towns', i.e. towns in name only. Besides the main purpose of this article – to present this varied picture of seemingly uniform local self-governments – another purpose is to enable a comparison with European territories that feature similar phenomena and issues.

POSEBNE OBLIKE SAMOUPRAVE V MESTIH IN TRGIH NA SLOVENSKEM OD KONCA SREDNJEGA VEKA DO UKINITVE MESTNIH IN TRŠKIH SAMOUPRAV

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POVZETEK

Prispevek se ukvarja s posebnimi oblikami lokalne samouprave v mestih in zlasti trgih na Slovenskem od konca srednjega veka do odprave mestnih in trških samouprav v prvi polovici 19. stoletja. Gre za primere, kjer je bila stopnja samouprave nižja od običajne in kjer je šlo obenem tudi za njen specifičen nastanek. Med mesti sta bili takšni samo dve, edini, ki sta nastali šele v zgodnjem novem veku, pri trgih pa je mogoče slediti zelo različnim genezam omejene lokalne samouprave, neodvisno od časa nastanka trga oziroma priznanja trškega naziva. Čeprav so pri nekaterih trgih ugotovljene enake ali podobne poteze, je vendar vsak primer zgodba zase.

Ugotovitve prispevka lahko strnemo v sklepno misel, da so bile lokalne samouprave trgov na Slovenskem veliko bolj raznolike, kot bi sklepali ob površnem prebiranju virov. Enaka poimenovanja, kot npr. tržan, sodnik idr., so lahko močno zavajajoča, saj so imela od kraja do kraja različno vsebino.

Poleg glavnega namena prispevka – opozoriti na pisano sliko na videz precej enovitih lokalnih samouprav – je njegov drugi namen omogočiti primerjavo z evropskimi prostori, ki so poznali podobne fenomene in probleme.

Ključne besede: mesta, trgi, slovensko ozemlje, posebne oblike samouprave

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