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Reform of Public Power in the Slovak Republic: Achievements and Prospects

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Abstract

This study discusses the reform of public power in the Slovak Republic. The main stages of the reform for 1989-2020 are analysed based on the studies of Slovak researchers of this subject area. The authors conclude that the reform of public power in the Slovak Republic is partially successful, because it is unsystematic and inconsistent. Considerable attention is paid to the analysis of public power reforms implemented by the governments of the Slovak Republic. The authors emphasise that some reforms were unmotivated because they were implemented merely to differ from the previous government. Furthermore, the authors conclude that the public service was reformed under the influence and even pressure of the European Union. The authors of the study consider the reform of decentralisation of power and local self-government to be the most effective, which has become a real means of ensuring the powers of municipalities. The authors address the lack of a legal framework for financial decentralisation and states that a considerable fragmentation of municipalities is the main drawback of this reform. The article focuses on the powers of municipalities and highlights the main forms of inter-municipal cooperation that can neutralise the disadvantages of excessive fragmentation. It is concluded that, proceeding from the lack of political will to consolidate municipalities, inter-municipal cooperation remains an effective form of exercise of powers by municipalities. The authors conclude on the fluctuations in the reform of public power from a specialised non-concentrated system of public administration to a general non-concentrated system and vice versa

Keywords: financial decentralisation, reform, decentralisation, local self-government, municipalities

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Problem Statement

The reform of public power is one of the crucial democratisation components of the newly independent states formed in the post-Soviet space. The variety of approaches to the reform and criteria for evaluating its results spark lively discussions among researchers and practitioners. This problem remains acute for modern Ukraine; therefore, it is relevant to study the practices of other countries. Experts consider the Slovak Republic to be one of the most prominent examples of public power reform. Therefore, it is advisable to analyse the public administration reform in the Slovak Republic and its results. Despite some progress, Slovak researchers note the inconsistency of the reform process and the presence of steps back in the reform of the public service after 2001, which together poses a threat to the country's democratic development. Shortly after Slovakia joined the EU in 2004, there were certain regressive changes in the functioning of the public service. Thus, the Public Service Department was completely eliminated in 2006, and the new legislation adopted in 2017 (developed in accordance with the EU requirements and under its pressure) was supposed to restore the European standards to the Slovak public service [1, p. 120].

The Slovak Republic can be attributed to the "standard" countries of South-Eastern Europe, which, after the first wave of democratisation reforms, made further changes due to external motives and pressure, and, as a result, these reforms were not always well-received by society. However, the decentralisation reform of 2000-2005 remains a separate problem. The results of this reform have provided local self-government with additional functions and powers, but there are real problems with their implementation caused by too many small municipalities that are objectively unable to exercise their expanded rights and take on additional responsibility.

Analysis of Recent Research and Publications

Many articles of not only Ukrainian, but also foreign authors cover the issues of organising local self-government. In particular, N. Balderstein and L. Rose note in their study that the territorial, political, and administrative organisation of local self-government has different features in each country, and the question of the optimal size of self-governing units does not have an unambiguous answer [2]. In addition, the expediency of fragmentation/unification of self-governing territorial units has been discussed for the last thirty years by A. Bours [3], M. Goldsmith [4], P. Mowritsen [5], P. Svyanevich [6]. D. Klimovsky points out in his article that local self-government has proper legal support for the exercise of its powers, so Slovakia is called the champion of decentralisation [7].

Some issues of Slovakia's history as an independent country, namely public administration reform, were

investigated by Slovak researchers M. Buchek and Y. Nemeč. In their article, the authors note that independence for mayors is much more valuable than, for example, efficiency [8].

Purpose of the Article

The purpose of this study lies in a comprehensive analysis of the reform of public power in the Slovak Republic based on a generalisation of the existing array of developments of Slovak researchers, as well as regulatory and legislative acts of the country under study.

Main Material Presentation

The foundations of a new democratic model of public administration in Slovakia were laid in 1990. The main changes were aimed at overcoming the shortcomings of centralised state administration of the Soviet period [9]. The former three-level system of national committees, which exercised state power and local self-government in the Czechoslovak People's Republic, was abolished in 1990 by the Law No. 369/1990 "On Local Self-Government Bodies"¹ and a system of local self-government was established with approximately 2,850 municipalities, where the first municipal elections were held in 1990. The public power reform was aimed at creating a more independent local and regional self-government. However, the main problem was and still is excessive fragmentation at the municipal level – there are still 2,850 municipalities in the country, most of which have less than 1,000 inhabitants. Many studies confirm that unification (or at least functional unification) is necessary, but there is no political will to start it.

The state of public service in Slovakia also remains problematic. The Slovak Republic has introduced standard European legislation governing public service prior to joining the European Union. However, there are no political forces in the country that are interested in independent and professional public service, and patronage relations remain more convenient for exercising control over the public administration system. Therefore, the law had been repeatedly amended to politicise and centralise the public service. Strong intervention by the European Union has forced Slovakia to reintroduce the core values of public service into national legislation through the adoption of the new Law on Civil Service of 2017. However, even this law does not provide convincing guarantees due to the specific national political and legal culture [1].

Local self-government remains an acute problem of governance in Slovakia. At present, there are 2,850 municipalities in Slovakia, with the average population of the municipality being only 1,870 inhabitants, and the average municipality covering approximately 17 km². Slovakia and the Czech Republic are the two most fragmented EU countries in terms of the average number of inhabitants per municipality.

¹Law of the Slovak National Council No. 369/1990 "On Local Self-Government Bodies". (1990, September). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1990/369/19950101.html>.

The Slovak municipal system is very close to the principles proclaimed by the European Charter of local self-government. This fact is confirmed by the Monitoring Report of the Council of Europe, which was approved in early 2016. Slovakia's municipalities have numerous functions and powers, but there are two issues. Firstly, too small self-government units are incapable of exercising their legal powers due to the lack of human and other resources; secondly, there is not a single actor who can start an objective discussion about how to deal with over-fragmentation of municipalities.

E. Mesikova and I. Nemek notes that after the initial period of major democratic changes in the country, little has been done to reform the public administration system prior to the election of the Cabinet of Ministers under M. Dzurinda in 1998. Reform of the V. Mečiar's 1996 government was aimed at improving the efficiency and quality of public administration, but mostly formal administrative changes were introduced, which entailed huge costs and yielded minimal results [10; 11].

After the 1998 elections, the government declared public administration reform one of its main goals. The main factor of influence was the prospect of Slovakia joining the European Union, the government of M. Dzurinda started working on integration to manage joining the EU in the first wave of post-Soviet countries. Apart from joining the EU, one can also highlight certain internal motives for the public administration reform implemented by this government, which supported the ideology of a "smaller state" and a change in the centralisation of state power. The motivation for joining the EU as soon as possible contributed to the adoption of the State Service Code and the Public Service Code in July 2001.

To implement the decentralisation reform in the Slovak Republic, the position of State Commissioner outside the official ministerial structures was introduced. Viktor Nizhnansky, a representative of right-wing political

forces, was appointed to this position. The result of his activities was the Strategy of Public Administration Reform of the Slovak Republic, adopted by the government in 1999¹, and later the Concept of Decentralisation and Modernisation of Public Administration (2000)². The first steps of the 1999 reform in Slovakia were the signing of the European Charter of local self-government. The main idea of the decentralisation reform of 2000-2004 was that decentralisation would solve all the problems associated with inefficient management. The start of the reform was postponed several times due to the lack of political consensus, but only the active intervention of Prime Minister M. Dzurinda in early 2001 pushed the decentralisation process forward. Subsequently, in a very short time, the main legislative acts that provided the legal framework for decentralisation were approved by the Parliament, namely: the Law on the Introduction of Regional Self-Government (July 2001)³, the Law on Elections to Regional Self-Government Bodies (July 2001)⁴, the Law on the Transfer of State Competence to Regional and Local Self-Government (September 2001)⁵, amendments to the Law on Municipalities (October 2001)⁶, amendments to the Law on Communal Property (October 2001)⁷, the Law on the Property of Regional Self-Government Bodies (October 2001)⁸, amendments to the Law on Budget Regulations (October 2001)⁹, the Law on Financial Control and Audit (October 2001)¹⁰ [1, p. 118].

The reform transferred many powers to local and regional self-government bodies, but did not introduce other important decentralisation elements, namely real fiscal decentralisation (the new powers were funded by grants, and not from the municipalities' income). To address these shortcomings, the project for further decentralisation of public administration for 2003-2006, which was adopted by the government, identified two priority areas: fiscal decentralisation (since the mass transfer of powers did not immediately change the

¹Resolution of the Slovak Republic No. 695/1999 on the Public Administration Reform Strategy. (1999, August). Retrieved from https://www.vlada.gov.sk/uznesenia/1999/0818/u_0695_1999.html.

²Resolution of the Slovak Republic No. 230/2000 on the Concept of Decentralisation and Modernisation of Public Administration. (2000, April). Retrieved from https://www.vlada.gov.sk/uznesenia/2000/0411/u_0230_2000.html.

³Law of the Slovak Republic No. 302/2001 "On the Introduction of Regional Self-Government". (2001, July). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/302/>.

⁴Law of the Slovak Republic No. 303/2001 "On Elections to Regional Self-Government Bodies". (2001, July). Retrieved from https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/303/vyhlasene_znenie.html.

⁵Law of the Slovak Republic No. 416/2001 "On the Transfer of State Competence to Regional and Local Self-Government". (2001, September). Retrieved from https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/416/vyhlasene_znenie.html.

⁶Law of the Slovak Republic No. 453/2001 "On Amendments to the Law of the Slovak National Council No. 369/1990 on the General Institution with Changes and Amendments and Some Other Laws". (2001, October). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/453/>.

⁷*Ibidem*, 2001.

⁸Law of the Slovak Republic No. 446/2001 "On the Property of Regional Self-Government Bodies". (2001, October). Retrieved from <https://www.zakonypreludi.sk/zz/2001-446>.

⁹Law of the Slovak Republic No. 453/2001 "On Amendments to the Law of the Slovak National Council No. 369/1990 on the General Institution with Changes and Amendments and Some Other Laws". (2001, October). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/453/>.

¹⁰Law of the Slovak Republic No. 502/2001 "On Financial Control and Internal Audit, Including Amendments to Certain Acts". (2001, October). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/502/20141101>.

country's fiscal system) and changes in the administrative management system (changes in the territorial structure of the Republic, as well as the transition from general to specialised deconcentrated public administration bodies). During 2000-2004, Slovakia has also introduced a large set of legislation governing changes relating to joining the EU. An important change relating to this process was the Law of the Slovak Republic "On Free Access to Information" (May 2000)¹.

Unfortunately, there were no significant changes in public service reform in 2006-2012 (the first left-oriented government of R. Fico and the short-term right-wing government of I. Radichova). The gradual reform of 2007 only changed the structure of the public administration system again towards deconcentration of powers. In the Programme Declaration (2012-2016 electoral period), the second government of R. Fico has committed to taking steps to improve the efficiency of the public service. The "Programme of Efficient, Reliable, and Open Public Administration" was approved by the Government of the Slovak Republic in April 2012. The main idea of this reform was to make the Government simple, orderly, and accessible, function stably,

transparently, and spend financial resources efficiently. These reforms included three main areas: the integration of the specialised local public administration into a unified public administration; the creation of universal client centres to ensure citizens' contact with local authorities (planned for 2014-2015, but still not completed), and the optimisation of administrative processes and administrative structures (including the development of e-governance), planned for 2014-2020.

Even a brief overview of the reform of the public administration system points to one problem, called "reforming the reform", that is, a reform implemented with the sole purpose of distinguishing oneself from previous governments. From the standpoint of public administration in Slovakia, the entire period of 1990-2020 is marked by unsystematic changes from specialised to generally concentrated public administration, and vice versa, in Slovak science this process is even called "the zig-zag of reforms" [1, p. 120]. These reforms, accompanied by territorial changes, did lead neither to a greater efficiency in the exercise of functions and powers by public authorities, nor to a considerable improvement in the quality of public services provided to citizens (Table 1).

Table 1. Content of the newly created reforms of the Slovak Republic by the government for 1990-2014

Year	Reform
1990	A specialised deconcentrated system of public administration and a new administrative structure (district and sub-district level) was established
1996	A common deconcentrated system of public administration and a new administrative structure (regions and districts) were established
2004	A specialised deconcentrated public administration system was established, a new administrative structure was introduced (district offices were abolished)
2007	New administrative structure has been established (regional offices were abolished)
2014	A common deconcentrated system of public administration and a new administrative structure were established (district offices were restored)

Local self-government is the main component of public administration in a democratic state. The principle of subsidiarity implies that social and political issues should be solved at the nearest (or local) level that corresponds to their competence (for the local level, this principle constitutes the main element of the European Charter of Local Self-Government). Municipalities in Slovakia exercise both their and delegated powers. The main powers are assigned to them by the laws of 1990. During the period of "decentralisation" in 2000-2005, municipalities received new powers, and a considerable part of these powers was redistributed from their ministerial powers (hospitals, education, etc.).

Within the limits established by law, Slovak local governments have their budgets and assets and can issue orders that are binding on all individuals or corporate bodies within their jurisdiction. Only parliamentary acts can cancel or invalidate local regulations, and any

changes in the powers of local authorities must be approved by the parliament. With the exception of cases established by law, local authorities are not subject to state supervision.

As noted above, excessive fragmentation of municipalities is an acute problem in the Slovak Republic. Due to the reforms of 1990 and 2000-2005, the Slovak municipal system came very close to the principles set out in the European Charter of Local Self-Government. According to the Council of Europe and experts, financing and fragmentation remained the main issues of local self-government. Municipalities have received almost complete freedom and large-scale powers, but many of them are minute in size and resources. However, in terms of competences, all municipalities are equal. Of the 2,850 municipalities, only two cities, the capital Bratislava and Kosice, have a population of more than 100,000 inhabitants (approximately 430,000 inhabitants

¹Law of the Slovak Republic No. 211/2000 "On Free Access to Information". (2000, May). Retrieved from <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2000/211/>.

in Bratislava and 250,000 in Kosice). According to the latest General Census (2011), only seven other cities have over 50,000 inhabitants. Almost 70% of Slovakia's municipalities have under 1,000 inhabitants. Furthermore, a few years ago, the smallest municipality of Prikra had only seven inhabitants (now 12), but according to legal provisions, it has the same competence as the largest Slovak municipalities.

Since 1989, Slovakia has planned the following steps for decentralisation: 1) transfer of power to the local authorities; 2) fiscal decentralisation; and 3) consolidation of territories. However, after the implementation of the first two steps, no central government had the political will to resolve the issue of territorial enlargement, and all of them preferred the status quo [10]. Since forced unification from the central level is politically impossible, inter-municipal cooperation is an option for solving problems relating to small municipalities. The right of municipalities to cooperate has been implemented in Slovakia since 1990. The legal rule on inter-municipal cooperation (IMC) is clearly stated in the Constitution of the Slovak Republic (No. 460/1992)¹. More detailed legal provisions are written in the municipal law, according to which each municipality has the right (within the limits of its powers) to cooperate with other territorial and administrative units, as well as with the authorities of other countries that perform any local functions. They also have the right to become members of international associations of territorial units or territorial authorities. If it is necessary to establish a special body (institution) for the purposes of the IMC, such a body can have exclusively a private status. Despite the absence of a special law on IMC in Slovakia, the Ministry of Internal Affairs of the Slovak Republic published a methodological instruction on the establishment of joint municipal offices in 2002. Furthermore, legal provisions relating to inter-municipal cooperation are found in other legislative acts, for example, in the law on communal property (No. 138/1991)².

Today, there are more than two hundred joint municipal offices in Slovakia; they perform exclusively delegated powers, for example, in the area of building permits, primary education, environmental protection, social services, or urban planning. Thus, the problem of limited capacity of small municipalities is partially solved, but only in terms of delegated powers.

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The association of municipalities to exercise their competences is much less common and is mainly associated with the use of EU funds. A separate limited number of joint service delivery bodies (especially in waste management) are represented by voluntary institutionalised regional/local associations in two main subgroups: euroregions and microregions. Microregions are not yet defined by law, but, as a rule, they constitute geographically small units that have a common historical past, economic interrelation, are created voluntarily, and sometimes disregard official administrative borders. Furthermore, some municipalities are involved in more than one microregion. Many microregions were created to strengthen the ability of local governments to attract funds from various funds, primarily the EU. As for the status of microregions, there are no legal provisions that directly regulate it, so some of them are public associations, and some were created as associations of legal entities. The institution of euroregions is also a platform for developing inter-municipal cooperation and includes various regional development stakeholders from at least two neighbouring countries. Their activities usually relate to development planning, joint projects, cross-border cooperation, and tourism.

Conclusions

In conclusion, local self-government has proper legal support for the exercise of its powers. However, the success of municipalities is limited by high fragmentation, as some municipalities are simply too small to exercise both their and delegated powers. This issue is not being resolved and probably will not be resolved in the near future. Two major and many small barriers block such changes. The main political obstacle – a strong political opposition, especially at the municipal level. The second barrier relates to the lack of comprehensive data on the preparation of such a change. There is no optimal territory size for a municipality, and according to the available academic research, the economic optimum actually varies for different services or does not exist at all. In this situation, it is more appropriate to promote the introduction of effective forms of inter-municipal cooperation and especially the creation of joint municipal services for the performance of delegated powers (or follow the Czech example of creating different categories of municipalities in accordance with delegated powers).

¹Constitution of the Slovak Republic. (1992, October). Retrieved from https://www.slov-lex.sk/documents/10184/493489/460_1992_1.pdf/716c7f51-7b5b-416f-9fbe-f09b4dcb2127.

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Реформа публічної влади у Словацькій Республіці: здобутки та перспективи

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Анотація

У статті розглядається проблема реформування публічної влади у Словацькій Республіці. Аналізуються основні етапи реформи за період 1989–2020 років на основі праць словацьких дослідників вказаної проблематики. Автори роблять висновок, що реформування публічної влади у Словацькій Республіці є частково успішним, адже носить несистемний і непослідовний характер. Значну увагу у статті приділено аналізу реформ публічної влади, які здійснювалися урядами Словацької Республіки. Наголошується на невмотивованості частини реформ, адже деякі з них проводилися з тією метою, щоб відрізнятись від попереднього уряду. Крім того, автори роблять висновок, що реформування публічної служби відбувалося під впливом і навіть тиском Європейського Союзу. Найбільш результативною автор дослідження вважає реформу децентралізації влади та місцевого самоуправління, яка стала реальним засобом забезпечення повноважень муніципалітетів. Автори звертають увагу на недостатність правової бази фінансової децентралізації та головним недоліком цієї реформи називає значну фрагментованість муніципалітетів. У статті приділено увагу повноваженням муніципалітетів і виділені основні форми міжмуніципального співробітництва, які здатні нейтралізувати недоліки надмірної фрагментації. Зроблено висновок, що, виходячи із відсутності політичної волі щодо укрупнення муніципалітетів, міжмуніципальне співробітництво залишається дієвою формою реалізації муніципалітетами своїх повноважень. Автори роблять висновок про коливання у реформуванні публічної влади від спеціалізованої неконцентрованої системи державного управління до загальної неконцентрованої системи і навпаки

Ключові слова: фінансова децентралізація, реформування, децентралізація, місцеве самоврядування, муніципалітети
