

LOCAL GOVERNMENT IN SLOVENIA (WITH SPECIAL REGARD TO REGIONALISATION)

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Legal background

The *Constitution of the Republic of Slovenia* guarantees autonomy for local government in Slovenia.

In Article 5 on local-government, the Constitution stipulates that the Slovene people shall exercise local government powers and functions through municipalities and other local government organisations. A municipality may comprise a single community or a number of communities whose inhabitants are bound together by common needs and interests. A municipality may be established by statute following a vote in favour of its establishment at a referendum conducted to ascertain the will of the people in the area affected.

The range of duties and functions to be performed by a municipality include local matters, which the municipality may independently determine. The State may, by statute, transfer additional duties and functions into the jurisdiction of municipalities and other local authorities, subject to their prior consent, and should provide the necessary means for the fulfilment of such duties and functions.

The Constitution provides that the municipality shall raise its own revenue. Those municipalities that due to poor economic development are unable to meet all expenditures required to perform their duties, are eligible to receive additional financial assistance from the State.

The Slovenian local government reform comprises three basic elements: functional, territorial and organisational features. None of them have fully been accomplished.

The scope and structure of local authorities

In Slovenia municipalities are based on local communities. The Constitution entitles municipalities with the right to establish regions. The formation of regions is based on the provisions of the Local Government Act and on a special Act on Regions, which is under preparation. The Constitution of the Republic of Slovenia stipulates that Slovene citizens shall exercise local government powers through municipalities and other local government organisations. The term “other local government organisations” covers wider local government bodies – regions. Municipalities may integrate into communities or form alliances of two or more municipalities to represent and manage local matters of wider interest. The manner of integration and the status of these communities are determined by the statutes of the municipalities being integrated into a community or forming an alliance of municipalities (Article 86 of the Law on Local Self-government).

Municipalities may take the decision to establish regions for the implementation of duties of common interest. A region is a larger spatial unit that may freely be formed, changed or terminated by law on the basis of the decisions of municipalities. The region has its statute and bodies. After their establishment by law, regions become an obligatory, multi-purpose form of co-operation, i.e., local communities have their own jurisdictions on regional level. In accordance with the Constitution and the Local Government Act, the region should perform duties of wider interest including community services, economic, cultural and social development on its territory, the fulfilment of common needs of the inhabitants and the economy of the area, the strengthening of local governance in the municipalities of the region and the facilitation of their development. Municipalities define, by statute, the local duties of wider interest, which the region performs in its jurisdiction. The region may perform duties that are transferred to the region by the state. The Act on the Transfer of Duties from State Jurisdiction to the Region determines also the method for the provision of funds for the implementation of these duties.

The regions govern and perform local matters of wider interest, which exceed the capabilities of the municipalities.

The enclosed Local Government Act clearly defines the duties municipalities should independently. The duties the municipalities perform for the benefit of their local residents have only partially been listed. Municipalities may either determine these duties by statute or law may regulate them. In addition to compulsory duties to be performed by all municipalities, urban municipalities perform additional duties and functions related to the regional and urban development.

The Constitutional Court decides in disputes regarding the jurisdiction between the state and local government, and among local communities themselves. The state may, by law, transfer the implementation of individual duties and functions from state jurisdiction to the municipality but it is subject to the prior consent of the municipality and also to the provision of necessary resources for the performance of these duties (Article 24).

In January 1995 there were 147 municipalities in total, which were founded in the area of the former 62 "communes" (Table 1). A series of requirements for the establishment of new municipalities emerged even in the first phase after the establishment of the initial municipalities, mostly in smaller areas with smaller populations. Having been aware of the problem of setting up municipalities and marking their territory, the Government of the Republic of Slovenia prepared an Act on the Procedure of the Establishment of Municipalities and Marking Their Territory, which was adopted by the National Assembly in August 1996. On the basis of this Act 45 new municipalities were established. Second regular local elections held in November 1998.

Table 1

Total number of municipalities in 1998

Number of population	Number of settlements
– 1 000	6
1 001 – 5 000	90
5 001 – 10 000	42
10 001 – 50 000	51
50 001 – 100 000	1
100 001 – 500 000	2

The areas in which a municipality must fulfil or guarantee essential provisions are as follows:

- Primary education,
- Rendering primary health service for citizens,
- Provision of essential goods,
- Provision of municipal services,
- Postal services,
- Library, and
- Premises for local community administration.

A municipality must have at least 5,000 inhabitants. In exceptional cases, a municipality may have less than 5,000 inhabitants for geographic, border location, nationality, and historical or economic reasons.

A sub-urban municipality is a compact settlement or group of settlements linked in a uniform spatial organism, with the surroundings of the city linked by the daily commuting of population. A city may acquire the status of an urban municipality in case it has at least 20,000 inhabitants and at least 15,000 jobs, of which at least half are in tertiary and quaternary activities, and it is the geographic, economic, and cultural centre of its gravitation zone.

According to the provisions of the Local Government Act, local authorities (municipalities) cooperate among themselves on the principle of free will and solidarity. For this purpose, they may collect funds and designate common bodies, organisations and services for the performance of common duties.

Such communities, alliances associations and common bodies, and services have equal status to that of the municipal administration, municipal governments and services.

There are special provisions concerning the right of local/regional authorities to cooperate, on an individual basis, with counterparts in other states and conditions relating to membership of international associations of local/regional authorities

Local communities may, within the framework of their competence, freely cooperate with the local communities of other countries and with local community international organisations in the field of the development of local self-government and in matters concerning the implementation of local community duties in accordance with the basic principles of establishing connections on equal level. The Act on the Procedure of the Establishment of Municipalities and Marking their Territory with Local Government Act stipulate that on areas where changes in the territorial structure are proposed municipal councils and councils of local or village communities or citizen's assembly, are eligible to participate on the preliminary procedure of the establishment of new municipalities.

According to the Act on Referendum and People's Initiative, referendums of a consultative nature, should be conducted on proposals for territorial changes. On the basis of preliminary procedures and the referendum, the National Assembly should approve the establishment of municipalities and should mark their territory.

Administrative units

In Slovenia, the special units of state administration are the administrative units and there are 58 of them. The administrative units are territorial bodies of state administration with their own field of operation, competence, functions, and leadership and they cover the territory of one or more municipalities.

The Law on the Administration introduced administrative units as territorial authorities of the state administration with their own area of work, jurisdictions, functions, management and territory. Their area of work is the same as that of the ministries whose duties are territorially performed through administrative units. The basic responsibility of the administrative units is to decide on administrative matters at the first instance. The competent ministry or body or organisation within the framework of the ministry decides upon appeals. The head and leaders of the internal organisational units have direct legal authorisation to make decisions on administrative matters in the administrative unit, while other personnel may perform these duties on authorisation by the administration head. Administrative units also exercise supervision over the lawfulness of the work of the bodies of local communities in the performance of their original competencies and also supervise the appropriateness and expertise of their work in matters from state jurisdiction, which are vested in the local community.

The administrative unit is organised for the area of one or more local communities so as to achieve the rational and efficient performance of state administration duties as determined by law. There are 58 administrative units whose territory covers the territory of former municipalities. The law may exceptionally determine, for a particular area, a different territorial organisation of the administration, relationships, jurisdictions and responsibilities of territorial units and the authorisation for making decisions at the first instance on administrative matters (Article 33, Law on the Administration). For the purpose of cooperation between the administrative unit and local communities a special advisory board of the head of the administration is formed which acts as the consultative body of the head of the administrative unit. The competent local community bodies elect the members of the advisory board. The advisory board deals with matters concerning the performance of the duties of the administrative unit, and communicates its opinions and proposals to the head of the administrative unit (Article 39).

The ministry, under whose competence fall the duties performed by the administrative unit, supervises the administrative unit in the implementation of duties from the ministry's area of work. The head of the administrative unit must regularly report to the competent ministry on the implementation of duties from its jurisdiction, performed by the administrative unit (Article 41).

In relation to municipalities, administrative units supervise the lawfulness of the performance of local government bodies of their competent duties and functions and supervise the appropriateness and expertise of their work in matters concerning state jurisdiction, which are vested in municipalities. For the purpose of cooperation and co-ordination of work between municipal bodies and the administrative unit, there is an advisory committee of the head of the

administrative unit whose members are appointed and dismissed by municipal councils.

In accordance with the Constitution of the Republic of Slovenia, state bodies supervise the lawfulness of the work of municipal bodies. On the basis of constitutional provisions competence to exercise control is determined by the Law on the Administration and the Law on Local Self-government. The government and ministries exercise state supervision of the work of local community bodies. The ministries (administrative units – state bodies at the local level) exercise supervision over the lawfulness of the work of local communities, each of them in their own area of work (over the implementation of laws which regulate the area of work of the ministry or fall under its competence by general and individual municipal acts).

The system of local authorities

Municipal bodies are as follows:

- The municipal council,
- The mayor,
- The supervisory board,
- The electoral commission

The highest decision-making body on local level is the municipal council. The municipal council, above all, approves general municipal decrees with the budget and supervises the performance of the mayor and municipal administration with regard to the implementation of the municipal council's decisions.

The municipal council is composed of council members (their number is between 7–45 depending on the number of local residents) who are elected by the citizens on the basis of general and equal voting rights at free and direct elections by secret ballot.

Local elections are regular (they are held every four years), and called by the speaker of the National Assembly for the whole national territory.

The executive body of the municipality is the *mayor* (individual authority), who represents the municipality and heads the municipal administration. The mayor represents the municipal committee, co-ordinates and chairs the sessions of the municipal council, but does not have the right to vote. The mayor proposes general acts and the budget for approval to the municipal council and is responsible for the implementation of the municipal council's decisions. On the basis of the Act on the Organisation and Field of Operation of the Municipal Administration, the mayor determines the job structure in the municipal ad-

ministration appoints and employs municipal administration staff (decides on employment), organises and heads the municipal administration.

The amendments of the Act did away with the unconnected operation between the municipal council and the mayor, and ensured greater co-ordination during the operation of municipal bodies. In accordance with the amendments, the work of the municipal council is to be headed by the mayor, who remains directly elected. The proposal was based on the conclusion that in local communities there is neither a need nor necessity for a strict separation between "legislative power" and "executive power", that the exercising of local authority must be based on the collective responsibility of all municipal bodies for the implementation of public issues of local importance, and that co-dependence between the two bodies will result in greater effectiveness of their operation. According to the regulation, the municipal council remains the highest decision-making body in the municipality, while the mayor has the functions of the person responsible for the implementation of the decisions adopted by the municipal council, representative of the municipality, and head of the municipal administration.

The amendments also include a provision enabling the mayor with the exclusive right to propose the municipal council the adoption of municipal budget as the basis of annual budgetary programme and to appoint or dismiss the municipal secretary, i.e. the municipal official responsible for the management of municipal administration.

The fourth revision of the Local Government Act, coming into force in November 1997, set out in detail the position and role of municipal supervisory boards as the highest body for supervision of the use of public funds in the municipality. It also sets out the obligatory nature of the discussions of reports compiled by supervisory boards and the obligation of complying with conclusions and proposals during the adoption of the municipal council's and mayor's decisions.

The amendments to the provisions governing the supervisory board, stress on the role of the supervisory board as a third municipal party responsible for the supervision of the utilisation of public funds in municipalities.

Citizens' direct participation in decision-making

The Local Government Act stipulates that the direct forms of citizens' participation in the municipality is to be exercised through, citizens' assembly, referendum and people's initiative. The municipal council may call a referendum on one of its acts or other decision on its own, but it should call for a referendum if

requested by at least ten percent of the voters in the municipality. A decision is adopted at the referendum if the majority of voters are in its favour.

The amendments to the Local Government Act, which set out in detail the possibilities of a municipality to carry out the devolution of municipal tasks by establishing narrower municipal parts – local, village or quarter communities – bring decision-making closer to citizens.

Finance

The types of taxes, which local communities levy at their own disposal, are defined in the Local Government Finance Act. The following taxes may be levied at the communities' disposal: gift and inheritance tax, gambling tax and property tax.

The Ministry of Finance transfers current monthly instalments of the funds allotted to local governments based on the amount of running guaranteed spending. These current transfers intended for the finance of current expenditures and investments.

Special funds may be raised by individual ministries for the finance of various investments (demographically endangered regions, municipal services, gasworks, heating plants, construction of waste water purification plants and other attached services, i.e. the construction of waterworks, municipal waste sites, etc.). Each year a deadline is set up in the obtaining these funds.

The purpose of amendments to the Local Government Finance Act is the harmonisation of the finance of Slovenian local government system with the European Charter of Local Governments. The main purpose is to achieve a greater independence of municipalities in their finance. The most essential amendments are as follows:

- 1) Local finances should be uniform: municipal revenues should be no longer split into earmarked revenues and other incomes.
- 2) The term 'Earmarked Revenue' was renamed as 'Appropriate Volume of Funds for the Finance of Local Affairs of Public Importance'. This income will ensure the normal functioning of the municipalities.
- 3) Additional assistance to municipalities from the government in the form of general grants. For this, uniform criteria are determined which apply to all municipalities.
- 4) In areas having high importance for the government, municipalities receive special grants.
- 5) Mayors have greater jurisdiction power regarding budgetary issues.
- 6) The amalgamation of municipalities is stimulated.

- 7) With regard to the excessive debts of municipalities, credit may be granted for municipalities only on the basis of the adopted budget and with the approval of the minister responsible for finance.
- 8) Municipalities should in good time be provided with relevant data for the preparation of their annual budget.

Legal basis for the introduction of regions in the Republic of Slovenia

The regions, as the second level of local self-government have not yet been formed.

The government of the Republic of Slovenia has submitted the proposal for the introduction of regions in the Republic of Slovenia, with main concepts of the their regulation to the National Assembly for preliminary reading. They are in other words the main points for the Act on Regions

The government is well aware of the fact that proper regulation is only one of the elements or conditions for resolving such demanding and complex issues. For this reason it will be necessary during the preliminary reading to conduct certain analyses or presentations of these fundamental elements which decisively influence the successful operation of regions as new administrative structures.

The concept of the draft proposal on regions

In the part relating to wider local communities, including regions, the Slovene Constitution refers to voluntary association. In the organisation of regions two approaches may be considered.

The first is based on the organisation of regions working without self-government licenses, administrative tasks and independent finance. Under this concept regions would play only a consultative, co-ordinating role among municipalities, and between municipalities and the central government.

The second approach regards regions as territorial, political, self-governing units. Regions would be defined in the Act as a second tier of local government, as territorial communities with the status of legal entities, their own assets, their own finances, with original jurisdiction and directly elected administrative bodies. The relationship with municipalities would be based on equality; municipalities would not be in a subordinate position with respect to the region. During the preparation of the draft on regions we took the latter approach.

In formulating the Act on Regions we must not rush headlong but neither that things are in constant change not only in Slovenia but in surrounding countries as well – the situation is always changing. We need a realistic time frame and basic strategic conceptions for the preparation of the Act.

During the preparation of the draft the basic provisions of the European Charter of Local Governments were also taken into account.

Annexes

The draft of the Act on Regions

General provisions

A region shall be a self-governing local community dealing with local matters of wider importance and with matters within the jurisdiction of the central government, which by law transfers to it as its original jurisdiction or for the execution of tasks within the jurisdiction of the central government.

A region shall link together municipalities in an integrated area within which there are durable relations between municipalities and their inhabitants in order to meet the common needs and interests of municipalities and their inhabitants and for the preservation of the identity of the area.

A region shall be a public administration unit to be authorized by legal entity status.

The powers of a region

A region shall regulate local matters and carry out tasks of wider importance in the following areas:

- The construction, maintenance and operation of municipal, energy, transport and other infrastructure facilities;
- The construction and maintenance of facilities in the areas of education, sport, culture, health care, social security and other social activities that are important for the development of the region and its municipalities but are excluded from the compulsory tasks of the central government in these areas;
- The construction and maintenance of municipal, energy, transport and other infrastructure facilities which exceed the requirements of the municipality; municipal and other waste and sewage treatment, and other forms of environmental protection with appliances of regional capacity;
- The development of the economy, particularly agriculture, small business and tourism in the region;

- Health services, social security, education and vocational training;
- Activities and services providing help to municipalities in the performance of their tasks and the strengthening of local government in the municipalities;
- Other local matters of wider importance.

A region shall regulate matters and carry out tasks within the jurisdiction of central government that are transferred to its original jurisdiction by law, especially in the following areas:

- Conservation of natural and cultural heritages;
- Noise reduction the protection of natural and living environment;
- Physical planning and environmental protection;
- Regulation of transport and communications (roads, rail, transport, telecommunications, and others);
- Health services, social security, education and vocational training;
- Agriculture, public services, tourism and catering.

The manner and the conditions under which the tasks listed in the preceding paragraph are regulated and carried out by law.

A region, which incorporates municipalities, inhabited either by Italian or Hungarian ethnic communities shall also be regulated, in accordance with the Constitution and the law, and shall exercise the special rights of the respective ethnic community.

A region shall perform the administrative tasks of government in its territory except for administrative tasks that are carried out under the law directly by ministries and administrative tasks transferred by law into the jurisdiction of municipalities.

A region shall carry out the tasks transferred to it by municipalities in accordance with the statute of the region.

The administrative bodies of a region

The administrative bodies of a region shall be the regional council, the regional committee and the President of the region.

The financing of regions

The funds for the financing of regions shall be collected from taxes, contributions and fees that may be levied by a region under conditions set out in the Act.

During the preparation of the budget for the current budgetary year the minister of finance shall hold consultations with the representatives of the regions on the amount of funding allocated to the financing of regions and on the ways

in which these funds shall be secured. Upon submission of the budget, the government shall put forward an agreement on securing funds for the finance of regions.

Regions shall have access to the capital market in accordance with the law.

The system of financial equalisation regulated by law may not restrict the financial autonomy of the regions.

Regional administration

The bodies of regional administration shall carry out the administrative tasks of a region.

The bodies of regional administration shall operate in accordance with law and other regulations and in accordance with the guidelines of the regional committee.

The regional council shall establish the bodies of the regional administration with a decree issued as proposed by the regional committee.

The procedure for the establishment of regions and for changing their boundaries, name or seat

The National Assembly shall initiate the procedure for the establishment of regions with a proposal for the formation of regions, their boundaries, names and seats of the regions.

A proposal for the formation of regions shall be prepared and submitted to the National Assembly by the government following harmonisation with the municipal councils and municipal associations.

Supervision by state bodies

In carrying out supervision over the lawfulness of the activity of regional bodies, the ministries, each in its own area of work, shall supervise the lawfulness of general and specific decrees issued by the regional bodies within their jurisdiction.