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The Mayor of a Municipality – Competences, Qualifications, Current Status in the Slovak Republic

Abstract: The mandatory authorities – the municipal office and the mayor of the municipality – play an irreplaceable role at the municipal level. Both bodies are elected. These authorities influence the direction of municipal development in the upcoming term of office, the municipal representatives' protection of citizens' needs and interests as well as fulfilment of the tasks and obligations imposed by the law. The main aim of the article is to clarify the importance and seriousness of the mayor as the highest representative of the municipal government in the Slovak Republic. Another aim is to present new realities connected with the mayor's office as well as new requirements associated with it.

Key words: municipal government, mayor of a municipality, competences, qualifications, municipal elections, citizens

Introduction

Building high-quality public administration at all its levels, including the level of municipal government, requires qualified workers with appropriate expertise and experience. This expertise and experience are particularly expected from the elected officials – mayors and members of the municipal governments – who represent the given government on the outside. They are mandatory authorities established in elections. These authorities influence the direction of municipal development in the upcoming term of office, the municipal representatives' protection of citizens' needs and interests as well as fulfilment of the tasks and obligations imposed by the law. The aim of the article is to clarify the importance and seriousness of the mayor as the highest representative of the municipal government in the Slovak Republic. We will work on the assumption that the mayor's office is a public office and the mayor is the highest executive authority of the municipality. The mayor represents the municipality on the outside – in relation to public authorities, other municipalities and towns as well as other natural and legal persons. On the basis of the above mentioned facts, we can assume that the post of a mayor is a very attractive one and there is a great interest in it. We can also assume that the mayor's office must be held by a person with clean criminal record, appropriate education and abilities and skills necessary to fulfil all the required tasks in accordance with the law.

For writing the article, the methods of analysis and synthesis in the form of logical analysis were used. This approach enabled us to also apply the inductive method which allowed us to draw general, or rather more general conclusions on the basis of the individual premises. The theoretical as well as practical and functional points of view are included in the article, therefore, to obtain its' clarity, it is not possible to reduce their empirical data, which corresponds to the scope of the article. The text is focusing on

a specific period and has a territorial commitment – and those are another reasons why it is difficult to reduce the processed data only. Since this is a specific issue, based on the position of a municipality mayor in the Slovak Republic, the information were primarily collected from the Slovak authors. The methodological process also consisted of collecting material in the form of laws, regulations, and various documents. The current information was collected and processed mainly from the daily press, expert discussions and from other available sources published by the Statistical Office of the Slovak Republic.

Legal Definition of the Position of a Municipality Mayor in the Slovak Republic

According to the Act of the National Council of the Slovak Republic No. 180/2014 Coll. on Conditions of the Exercise of Voting Rights as amended by later regulations, the mayor is chosen in free and democratic elections. The elections are a mechanism of political participation of citizens in the administration of public affairs. They represent a legitimate political tool and the formation process of assigning the eligibility to exercise political power and development of political representation. However, the point of elections is not limited only to the exact depiction of the way voters are politically stratified. It is also characterized by other features which are based on the theory of political pluralism. According to I. Palúš, society understands the theory of political pluralism as “a system, in which there is a plurality of interest groups with the same status. These groups try to promote their own partial interests in confrontation with the interests of other groups” (Palúš, 2002, p. 98). Fighting for one’s own interests is an integral part of the political democracy in developed countries. The elections are a crucial base for the vertical structure of democracy and the basic institute of legitimisation of power in a given political system and political regime (Kulašik, 2002). The elections also check the voters’ confidence in certain political party and its leaders, candidates and election programme (Jones, Hudson, 1998). In a representative democracy, elections are “central requirement and yet unchallenged mechanism for implementation of political decisions” (Koper, 2003, p. 66). The general elections enable us to take a view at the distribution of political powers in the whole country as well as in individual regions, towns and municipalities. Participation in the elections to municipal and local governments is important primarily because the local, or rather municipal government is closest to citizens. Therefore, it is an ideal place for their realization: they can ask for explanation of some decisions taken by their representatives or they can attend the meetings of the municipal or local offices. According to R. Dahl’s concept, the citizen is aware of the politics of the government, country, political parties and civil associations. At a particular time and in a certain way, each individual becomes a part of the political system. Everybody is thus within the reach of some kind of political system (Dahl, Tufte, 1973). Civic participation can definitely be regarded as an effective tool of the citizens’ contribution to the administration of public affairs. It provides for taking the best decisions for the good of all citizens who live and want to live in their municipality or town not only today, but also in the future. The core of the legal theory concerning the explanation of legal and theoretical requirements for participation of citizens in public life is based on Article 30 of the Constitution of the Slovak Republic. Article 30, Section 1 of the Constitution of the

Slovak Republic explicitly states: “Citizens shall have the right to participate in the administration of public affairs directly or through freely elected representatives.” Section 4 of the same article states: “Citizens shall have access to the elected and public offices under equal conditions.” These regulations understand the mentioned right as political right (Mesíková, 2010). We can therefore state that the elections do not necessarily cause a qualitative change of the political system. However, to preserve the power structure, they can act as a tool and mechanism of qualitative change of the way of governance.

The municipal elections take place every four years in Slovakia. The first democratic elections to the municipal authorities took place on 23 and 24 November 1990 and they made space and conditions for renewal of civic activities and development of local democracy. In 2014 the elections were held for the seventh time – 1990, 1994, 1998, 2002, 2006, 2010.¹ The basic principles of the suffrage are universality, equality and directness. In the municipal elections, the majority voting system² is applied. It is based on competition of individuals; i.e. the citizens vote for a particular candidate regardless of their political affiliation.³ “The voters have their say in the election programme and abilities of the candidates. They choose a candidate that is closest to their image of a suitable representative of their interests” (Tóth, 1998, p. 72). The majority voting system enables the election of nominees from political parties and movements as well as independent candidates with a special emphasis on the personal qualities and capabilities of the nominees. However, it is advisable to pay attention to the heterogeneity of voters’ opinions and attitudes which can be influenced by various factors – e.g. the place where they live and work; the level and quality of the services provided; education, age, gender and many others. At municipal level, the emphasis is put primarily on pragmatic approaches in solving everyday problems of the citizens. The individuals that are aware of the possibilities of an effective participation in the decision processes tend to believe that “participation is useful and it is worth for them to take part in it. At the same time, these individuals tend to actively participate in the social affairs and they regard the decisions taken as obligatory” (Kováčik, 2009, p. 150). By taking part in municipal elections, the citizens can decide who will uphold their interests in the upcoming term of office.⁴ The rights and obligations of citizens of a municipality are defined in Paragraph 3, Sections 2 and 3 of the Act of the Slovak National Council of the Establishment of Municipalities No. 369/1990 Coll. as amended by later regulations. Based on what we stated, the citizen of a municipality has the right to vote and to stand as a candidate at municipal elections.

¹ During the general four-year term of office, by-elections of the municipal authorities can be held. By-elections are held e.g. when the mayor’s position becomes vacant (because the mayor resigns, dies, is dismissed, not elected, etc.). Dates for holding the general elections as well as by-elections are always declared by the Speaker of the National Council of the Slovak Republic who issues their decision in the Collection of laws.

² The majority voting system is applied not only in the elections to municipal administrative bodies but also in the elections to administration bodies of higher territorial units and in presidential elections.

³ By contrast, in the case of proportional voting system in the Slovak Republic (elections to the National Council, elections to the European Parliament), the voters choose particular subjects or coalitions.

⁴ An impediment to the exercise of the right to vote can be limitation of personal freedom stipulated by law due to protection of people’s health; the execution of a custodial sentence imposed for the commission of a particularly serious crime (Paragraph 4 of the Act of the NC SR No. 180/2014 Coll. as amended).

However, a person who does not have the Slovak citizenship but has their permanent residence in a municipality is also a citizen of a municipality. This means that if a foreigner has a permanent residence in a municipality, borough of the capital of the Slovak Republic Bratislava, or in a borough of the Košice city and meets other conditions necessary to perform the duties of a mayor, they can stand for the mayor's office. The right to vote in municipal elections applies to Slovak citizens who "have a permanent residence in a municipality, borough of the capital of the Slovak Republic Bratislava or in a borough of the Košice city and who will have completed 18 years of age as of the election day" (Paragraph 163 of the Act of the NC SR No. 180/2014 Coll. as amended).⁵ Persons who own immovable property in the municipality, pay the local tax or charge, have only temporary residence in the municipality, or were awarded with the honorary citizenship of the municipality, have no right to vote or stand as candidates in municipal elections. They also have no right to vote in the municipal referendum (Paragraph 3, Section 5 of the Act of the SNC No. 369/1990 Coll. as amended).⁶

The mayor's term of office lasts four years and starts right after they take the oath. The mayor decides in all matters of the municipality administration which are not reserved for the municipal office by the law or by the status of municipality.⁷ The mayor's office is a public office that is based on the monocratic principle. The mayor is not employed by the municipality. Therefore, after being elected to the office, the mayor has no employment relation to the municipality. The mayor of the municipality cannot be an employee of the municipality. They issue the working regulations, establishment plan for the municipal office, and the system of wages of the employees of the municipality. The competences of the mayor regarding issuing the internal regulations of the municipality are adapted to their position as a statutory body in the employment relations of the employees of the municipality – on behalf of the municipality, as the employer, the mayor undertakes legal actions, e.g. concludes employment contracts with the employees of the municipality, concludes damage compensation contracts with the employees of the municipality, etc. The mayor is obliged to inform the members of the municipal government about issuing as well as changing the establishment plan of the municipality considering the competence of the municipal office – to determine the budget for the activities of the municipal office. The mayor is the statutory body also in the proprietary area of the municipality – they undertake legal actions on behalf of municipality, e.g. sign purchase or lease contract that concern the property of the municipality.

According to Paragraph 13a, Section 1 of the Act of the Slovak National Council No. 369/1990 Coll. as amended by later regulations, the mandate of the mayor of a municipality may terminate for their refusing to take the oath, lapse of the term of office, renunciation of the mandate, legal conviction for a deliberate criminal act or deprivation, or limitation of their legal capacity, change of the permanent residence to other munic-

⁵ This means that the right to vote have all the persons with permanent residence in a given municipality or a town regardless of their nationality, who will have reached 18 years of age as of the Election Day.

⁶ However, these citizens cannot be withheld the right to speak at the assemblies of citizens of the municipality. The law confers them this right although they are not the citizens of the given municipality.

⁷ The authority of the mayor to act on behalf of the municipality does not mean that they form the will of the municipality.

pality, death of the mayor, or dissolution of the municipality. The mandate of the mayor terminates also when a referendum decides that the mayor shall be dismissed.⁸ Only the citizens of the municipality can vote to dismiss the mayor in the local referendum. The municipal office can call the referendum on the dismissal of the mayor if at least 30 per cent of the subjects eligible to vote request it in a petition. The municipal office must approve the proposition by majority of all members of the municipal government.⁹ The municipal office can call a referendum on the dismissal of the mayor also when their absence or incapability to perform their duties lasts longer than six months (Paragraph 13a, Section 3 of the Act of the SNC No. 369/1990 Coll. as amended).

The mayor decides primarily the individual legal acts, i.e. decides the rights, interests protected by the law and the obligations of natural and legal persons in public administration.¹⁰ In accordance with the amended Act on the Establishment of Municipalities and considering the demanding administrative work of the mayor, the mayor as the statutory body of the municipality is enabled to entrust an appropriate employee of the municipality on behalf of the municipality with the decisions on the legal relations of legal persons in the area of public administration (the Act of the NC of the SR No. 102/2010 Coll. as amended).

Compared to the municipal office, the mayor is under greater control of the municipality's citizens who can dismiss them from the office. The mayor is chosen by the citizens, so they do not need the support of political parties represented in the municipal office. However, if the municipal office does not support the mayor, the mayor's proposals are often impassable and that can impede exercise of power. The mayor is not a member of the municipal government and is not elected by it.¹¹

According to the current legislation, the mayor has an independent status. The mayor summons and chairs the assemblies of the municipal office and municipal council,¹² signs resolutions and regulations, but has no right to vote, unless the law provides otherwise. Apart from the already mentioned exclusive right to sign the general binding regulations and resolutions, the mayor also has *the right of veto*, i.e. they can suspend the execution of the resolution of municipal office if they suspect that this resolution contradicts the law or is obviously disadvantageous for the municipality.¹³ However, the right

⁸ In contrast to the members of the municipal government who cannot be dismissed from their office, the mayor can be dismissed. The amended Act on the Establishment of Municipalities regulates only the conditions concerning the mandate termination of the members of a municipal government.

⁹ The aim of this regulation is to prevent the situation that mayor's office would be held by a person with a terminated mandate. Another aim is to ensure that the municipality will be entitled to call new elections.

¹⁰ In accordance with the amended Act on the Establishment of Municipalities, the mayor is no longer the administrative authority of the municipality, but the municipality acts as a legal person for which the mayor acts also in administrative relations.

¹¹ The municipal government has no right to attribute any tasks to the mayor.

¹² This resolution is specified in the Act of the National Council of the Slovak Republic No. 102/2010 Coll. as amended by later regulations, because in some cases laid down by the law not just the mayor of the municipality can summon and chair the assembly of the municipal office and municipal council but also e.g. the deputy mayor or another member of the municipal government.

¹³ The mayor applies the right of veto when they do not sign the regulation approved by the municipal office up to 10 days after its approval. The members of the municipal government can confirm the exercise of the resolution up to 3 months from the approval of the regulation in the municipal office

of veto does not enable the mayor to challenge the resolution on the choice and dismissal of the main supervisor. To avoid the possible conflict of private and public interest, the mayor cannot use the right of veto in the case of a resolution on calling the referendum regarding their dismissal from the office.

Paragraph 11b of the Act of the Slovak National Council No. 369/1990 Coll. as amended by later regulations says that: “the mayor of a municipality or the municipal council may convene the assembly of inhabitants of a municipality or parts thereof to discuss municipal affairs”. The mayor of a municipality and the municipal council are entities authorised to initiate and convene the assembly of municipality inhabitants.

Qualifications Necessary for the Mayor of a Municipality

Quality plays an irreplaceable role at all levels and areas of the social, economic and cultural life. To ensure high-quality performance at all levels of public administration, high-quality human resources are needed to perform everyday tasks and activities of the administration. “If we are interested in building quality at all levels, education must become an integral part of our everyday life. This also applies to the level of public administration, the quality of which will be reflected in efficiency and prosperity of the whole country” (Kováčová, 2014a, p. 55).

The mayor as the elected official has to possess a broad knowledge of the area they represent and realize the potential, strengths and weaknesses of the area they control. According to E. Kováčová, the mayor also “has to possess certain personal capabilities, expertise as well as practical experience. The mayor has to be a socially mature personality that is even-tempered and able to react in critical situations. As the representative of the citizens, the mayor has to follow ethical principles, certain principles of basic courtesy, has to fully respect the law. At the same time, they should have certain specific personal qualities, analytical and conceptual capabilities that they will use primarily when forming development plans, the programme of social, economic and cultural development, the land-planning solutions as well as other strategies and documents” (Kováčová, 2014, p. 192–193). The mayor performs a broad range of different tasks, therefore they should be able to apply knowledge from several scientific disciplines – law, political science, economic policy, economy, management, sociology, psychology, security, international relations, regional science, global studies, etc. (Before the municipal..., 26 September 2014). The mayor has to be a good manager able to work in team, lead people and to communicate with them. They also have to motivate people and encourage them to perform better, listen to them and at the same time learn something from them. Considering the current societal challenges, the representative of the municipal government has to actively participate in social partnerships in order to solve the economic and social issues at the local as well as regional level. The mayor also has to respect the need of systematic supervision, ensuring that the services provided to the citizens as well as other subjects

despite the veto of the mayor, if the majority of three fifths of all members of the municipal government votes once more for the resolution. The mayor cannot apply the right of veto against the qualified confirmation of the resolution executed by the municipal office. The resolution is valid and enforceable even against their disapproval. The mayor cannot suspend the execution of the confirmed resolution.

improve and develop. Considering the limited resources, the mayor has to be aware of the increasing requirements of the citizens and other subjects.

From the mentioned qualifications it could be assumed that only a person with a certain level of education can serve as the mayor. However, Paragraph 165 of the Act of the National Council of the Slovak Republic No. 180/2014 Coll. on Conditions of the Exercise of Voting Rights as amended by later regulations, states only very moderate requirements for a person to be elected a mayor of a municipality, that is: at least 25 years of age; permanent residence in a municipality, borough of the capital of the Slovak Republic Bratislava or in a borough of the Košice city. The candidate for a mayor must not face any impediment in the exercise of their right to vote due to serving of a prison sentence or due to deprivation or limitation of legal capacity (Paragraph 6 of the Act of the NC SR No. 180/2014 Coll. as amended).

After the competence and fiscal decentralisation, when the state imposed a lot of new tasks to the municipalities and added financial resources to ensure their fulfilment, the requirement for the state to specify more competences of the mayor in the law seems justified. It is certainly worth considering whether the candidates do not need at least secondary education to hold such important positions. According to K. Liptáková and J. Krnáč, the self-governments asked the education condition to be a part of every election, so that the city mayors and lord mayors should pass at least the secondary education (Liptáková, Krnáč, 2016). Every four years we have the opportunity to see the situation for ourselves.

The Association of Towns and Communities of Slovakia proposed to amend the Act by the education requirement. The executive vice-chairman of the Association of Towns and Communities of Slovakia M. Muška states: “We have supported this idea for a long time. However, we could not find anyone who would be able to so implement it in a way compliant with the constitution” (*The mayor with...*, 10 September 2014). The Association further states: “considering the number of rights and obligations connected with the public officials, the execution of the public office requires capabilities and skills that are related to at least a certain level of education.”

In 2014, the SMER-SD party members tried to introduce an amended bill concerning the minimum education requirements. On 29 May 2014, the National Council of the Slovak Republic approved the Act on Conditions of the Exercise of Voting Rights designated by the Ministry of Interior of the Slovak Republic – the *education census*. Although the bill caused controversial reactions, it was supported by 99 members of the National Council. In favour of this bill voted not only the SMER-SD party members but also KDH party members, some SDKÚ party members, Obyčajní ľudia party members as well as some independent members (*The mayor with...*, 10 September 2014). However, 35 opposition members of the parliament challenged the bill at the Constitutional Court of the Slovak Republic. According to the constitutional lawyer E. Bárány, implementation of the education census is “a controversial issue at the edge of the law” (*The mayor with...*, 10 September 2014). Another constitutional law expert P. Kresák refused the new requirement and pointed out that the education census was refused everywhere else in the world. He further states that the bill could be passed only if it was provable that “there is a causal link between the achieved education and the ability to represent the citizens as an elected representative. In my opinion, it is definitely unconstitutional”

(*The mayor just...*, 29 May 2014). According to the Constitution of the Slovak Republic, the education census cannot be a requirement for elections, more specifically, for the passive voting right since the constitution lays it down without restriction. The requirement of the education census for the mayor's office interferes with the principle of democracy and therefore it is unacceptable just as the criteria concerning property (*The educational...*, 12 September 2014). It is necessary to realize that the democracy has not only advantages but also certain disadvantages that can manifest themselves in elections, e.g. when the citizens of a municipality choose an unsuitable candidate for the mayor's office. The result of elections really depends on the free will and decision of the citizens. According to D. Lipšic, the majority of the voters choose a candidate they see as the fittest. "However, this does not mean that the majority chooses the best candidate. That is why the attempt to limit the passive voting right is an undemocratic and unconstitutional restriction" (*Part of the Opposition...*, 3 July 2014).¹⁴ On the basis of the decision of the Constitutional Court of the Slovak Republic from 10 September 2014, the effect of the articles of the Act of the National Council of the Slovak Republic No. 180/2014 Coll. on Conditions of the Exercise of Voting Rights as amended by later regulations that laid down the condition of at least secondary education for the candidates standing for a mayor of a municipality or a town was suspended.

The Association of Towns and Communities of Slovakia does not consider the introduction of the minimum education census at the level of practical literacy an infringement of constitutional rights. It is important to bear in mind that besides the competences transferred to the municipalities from the state, municipalities also receive money from the proportional tax and decide how the financial means and the municipal property will be used. Besides other competences, municipalities manage primary schools and the mayor can influence appointing of their head teachers. The mayor also submits nomination and dismissal proposals regarding the heads of budget and contributory organizations established by the municipality to the municipal office, and nominates the chief of the municipal police. The mayor can suspend the execution of resolutions adopted by the municipal office and also adjust the budget to the extent determined by the municipal office. As can be seen, the range of mayors' competences, obligations, financial and other responsibilities is quite broad. The question arises why the Slovak legislation does not require mayors to reach a certain level of education that would ensure they are, in fact, competent to perform their duties. The Act on the Establishment of Municipalities only requires such qualifications from the main supervisor (Paragraph 18a, Section 1 of the Act of the SNC No. 369/1990 Coll. as amended).¹⁵

Is it not, in fact, a paradox if the mayor is eligible to appoint head teachers, heads of main budget and contributory organizations, and chief of the municipal police; conclude the working agreement with the main supervisor and require them to immediately dis-

¹⁴ D. Lipšic also pointed out that e.g. the candidates for the head of the higher territorial unit, members of the National Council of the Slovak Republic, or members of the European Parliament are required to have only the primary education. So, it is appropriate to ask ourselves the following question: "A candidate with a primary education cannot be a mayor yet they can be a president of a higher territorial unit or a member of the National Council of the Slovak Republic or a member of the European Parliament?"

¹⁵ The minimum qualification requirement in this case is completed secondary education.

close the inspection results; appoint and dismiss the head of the municipal office, and issue a written authorization determining the competences of the deputy mayor – while not having even completed their secondary education? It is important to emphasize that according to the Constitution of the SR, every citizen has the right to free primary and secondary education. Pursuant to the law on education, the completion of primary school education is obligatory, therefore, it can be stated that the minimum education requirement for mayors does not discriminate or infringe their constitutional rights (*Part of the Opposition...*, 3 July 2014.)

As explained above, the fact that the mayor is authorized to make decisions regarding a broad range of important questions including the management of municipal finances, inadequate education can make them even pose a risk for the municipality. For example, they may not be able to properly manage the municipal office, misunderstand a law, or make an uninformed or hurried decision with a negative impact on the municipality, e. g. jeopardize the municipal property by a writ of execution and invoke forced administration.¹⁶ After all, it is up to every citizen whether they vote for the candidate and whether they really believe that this person is competent to perform the duties resulting from such a serious position.

Municipal Elections 2014 Revealed new Facts

Based on the observation of the last municipal elections that took place in Slovakia in November 2014, it can be stated that a new trend has emerged. In comparison to previous municipal elections, this time the candidates opted for personal contact with the citizens, and to certain extent, they were also influenced and motivated by the developments in the “top level politics”. In the course of campaigning but also during the municipal elections as such, the public encountered a number of problems and unexpected situations that were specific specifically for the 2014 elections. In certain municipalities, there was a single candidate or no one was interested in the position. This was the case in the following municipalities: Ondavka, Bardejov county at the North-East of Slovakia, or Ižipovce, Liptovský Mikuláš county; Harakovce, Poprad county (Kováčová, 2016). In these municipalities no one was interested in becoming the mayor or even member of the municipal government. The number of citizens in the above mentioned municipalities was very small, ranging from 16 to 20 persons. Mainly young people move to larger cities to find jobs, while their parents and grandparents stay. Such municipalities subsequently battle large debts and low incomes. It results in writs of execution and forced administration. In smaller municipalities, mayors work part-time while members of the municipal government receive no reward for their work. Every tenth municipality in Slovakia has less than 200 citizens which results in low municipal income from the proportional tax; consequently, municipal expenditure exceeds its income, while the municipality still has to perform the tasks as provided in the legislation. Not only financial but also human resources pose a problem. Small municipalities may also be unable to provide basic serv-

¹⁶ However, there are trainings and courses available for mayors who do not possess the required knowledge but are interested in acquiring it, e. g. minimum legal training. Of course, it depends upon their personal interests and efforts.

ices for their citizens – public transport, education, healthcare, social services, etc. Pursuant to the Act of the Slovak National Council No. 369/1990 Coll. on the Establishment of Municipalities as amended by later regulations: “the term of office of the mayor ends when the next mayor takes the oath”. If the next mayor was not elected or there were no candidates for the position, the term of office of the previous mayor continues. However, they can resign from the position¹⁷ which ends in a deadlock, and the municipality is left without a mayor.¹⁸ The Act on the Establishment of Municipalities provides a solution, however, it is a rather complicated one. According to E. Kováčová, “the municipality can merge with another municipality based on a referendum..., however, it would result in a large burden and several risks, ..., the new municipality established by merging the two smaller ones becomes the legal successor bearing all the responsibilities, commitments, and possible debts..., no one wants to become the mayor in such situation, the position is unattractive, and the citizens do not wish to merge with another municipality” (Kováčová, 2016, p. 26). The Act of the National Council of the Slovak Republic No. 70/2018 Coll., which amends the Act of the Slovak National Council No. 369/1990 Coll. on the Establishment of Municipalities as amended by later regulations provides for the possibility connect the municipality to a neighboring municipality (Paragraph 2aa, Section 1 of the Act of the SNC No. 369/1990 Coll. as amended). Municipalization could solve the problem of smaller municipalities in debt, under forced administration, or losing their property to a bailiff. However, municipalities will not merge voluntarily, such a big change can only be enforced by the legislation.¹⁹ Municipalization certainly is a solution, however, the issue is very serious and complicated and it requires a sensitive approach, so that the citizens of the merged municipalities do not lose their sense of integrity, autonomy, and territory (The future of the municipal..., 14 October 2014). All in all, such a serious change requires political will and social demand. However, in this context it is important to state that efforts to introduce municipalization in Slovakia had already been taken by previous governments, but without much success.²⁰ It is inevitable that all involved parties are openly willing to address the agenda. Over the recent years, changing of the government and political structures seem to also pose a problem. The term of office itself is an issue, since many goals and related decisions require a longer time period to implement. The government which made a decision may not be able to

¹⁷ However, the legislation does not recognize such a situation. Therefore, it is inevitable to incorporate similar situations into the legislation in the future.

¹⁸ After the 2010 municipal elections, no mayor was elected in as many as 17 municipalities. Elections are repeated until a mayor is finally elected. The ideal solution would be to merge smaller municipalities with the larger ones in their vicinity.

¹⁹ For example, Denmark started reforming this issue as early as in the 1960s. The Slovak Republic is at least 25 years late. The area and population of Denmark is similar to that of Slovakia; Danish citizens elect 2,500 deputies per 90 municipalities. Based on the current number of municipalities in Slovakia – approx. 2,920 villages and 138 cities – their number could be decreased to the total of 160–300 municipalities. 10 to 20 current small municipalities could be merged into a single large municipality, representing 20,000–35,000 citizens. For more details, see: The future of the municipal government – a communal reform (Budúcnosť miestnej samosprávy – komunálna reforma), 14 October 2014 <http://www.rtv.s.sk/radio/archiv/1175/63265>.

²⁰ For example, the government led by the prime minister Iveta Radičová elected in 2010 was planning to address the issue. However, since the term of office of this government ended prematurely and new elections were held in March 2012, it was not possible to achieve the stated goal.

achieve the set goals, since the implementation period may be of mid or even-long term nature. A single term of office is not long enough to implement the changes, there is not enough time to provide visible results (The future of the municipal..., 14 October 2014).

In the 2014 municipal elections, other peculiarities also took place, e. g. a mayor was found guilty of the offence of endangering others under the influence of an addictive substance and stripped of their mandate.²¹ In terms of the Act on the Establishment of Municipalities, a mayor's mandate can also be revoked if they are found guilty of an intentional crime, or if their legal capacity is limited. However, the mandate cannot be revoked based on an indictment, but based on the final judgement, i. e. by convicting the defendant. More than a year ago, the legislation became stricter regarding driving under influence. Before the 2014 municipal elections, mayor of Gemerček, Rimavská Sobota county – Zoltán K. – lost their mandate after being stopped by the police while driving under influence. The Rimavská Sobota county court issued the sentence order pronouncing Zoltán K. guilty of the offence of endangering under the influence of an addictive substance. The mayor was sentenced to a suspended 6-month imprisonment with a 1-year probation period. Since the defendant renounced their right to file an appeal against the sentence order, it came into force. However, the mayor of Gemerček continued to hold the office until the next elections. The defendant Zoltán K. ran for mayor again. Despite the incident for which he received a suspended sentence, Gemerček citizens elected him the mayor of the municipality again (Kováčová, 2016). According to the Central Electoral Commission, even if a mayor loses their mandate due to a conviction, they can still run for the office in the next elections. The Act on the municipal elections does not state that the Central Electoral Committee is obliged to examine the integrity of the candidates.²² If such a situation emerges, the repeated candidacy of a convicted mayor (although the sentence was suspended) is rather considerable. It is important to realize that the mayor is the highest ranking executive body in the municipality, they represent it in front of the state authorities, other municipalities, but also the citizens themselves. After all, it is up to every citizen whether they vote for the candidate and whether they really believe that this person is morally competent to perform the duties resulting from such a serious position. Any mayor that happens to be in a similar situation should perform certain introspection and evaluate their position from the perspective of morals and ethics.

As for the way citizens decide to pick their candidate, it can be stated that education was not the decisive criterion regarding the municipal elections, people did not care about it too much. They were interested in the following criteria: “what the candidate does for the municipality, their behaviour, presentation, character...”. As for the elections in small municipalities, the voters were not interested in education or political affinity of their candidate, they looked for a common goal. In comparison, voters from large cities were interested in the occupation and education of the candidates which substituted their

²¹ In the last term, as many as 12 mayors were convicted and lost their mandates, however, they were allowed to run for the office again in the next elections. There is another example: 136 mayors broke the law on the conflict of interests. 118 out of these people ran for mayors repeatedly despite the fact.

²² As can be seen, it really is inevitable to incorporate similar situations into the legislation to improve ethics and quality at the municipal level.

lack of personal knowledge of the candidate and provided some information on whether the candidate could be useful for the communal policy or not. As can be seen, the larger the municipality, the higher the probability that the candidates are actually competent for the position. This increases the intensity of competition in the democratic elections thus providing the process with a new dimension. The Slovak municipal elections that took place in November 2014 and were repeated in March, June and October 2015, as well as in April 2016²³ reopened several unanswered questions; challenges emerged – these need to be addressed in order to improve the quality of life of Slovak citizens.

Conclusion

The article analyses not only the well-known facts, but also the new context and reality that allowed for new requirements to emerge.

Constant changes in the system of public administration – cancellation and establishing of new offices; horizontal and vertical transfers of competences and authorizations within the system; compliance with the legislation; applying for project grants provided by European structural and investment funds – all of these require experienced and educated people not only in the administration, but also in the highest positions. Their education, experience and competency are the basic preconditions for being able to provide quality service for the citizens.

As stated in the hypothesis at the beginning of the article, the mayor is the highest ranking executive body in the municipality representing it in front of the state authorities, other municipalities, other legal entities and natural persons, but also the citizens themselves. The hypothesis can definitely be confirmed. Moreover, besides being the executive body of the municipality, the mayor also decides on the public finances which requires them to possess at least a basic command of organization, personnel and financial management. The mayor is an elected employee of the local government expected to be able and willing to work for the municipality on a professional level and fulfil the needs of the citizens, while taking into consideration their interests. The course that the municipality takes over the upcoming term of office depends upon the elected bodies: the mayor and the members of the municipal government and the way they represent the interests of the local citizens and fulfil their needs, while performing the tasks and complying with the obligations in compliance with the legislation.

Therefore, it is desirable that the mayor continues deepening their knowledge needed to perform their role in the municipal administration. Systematic education using

²³ Reasons for repeated elections were various. I. e. On 13 June 2015, by-elections were held because in some municipalities, votes had not yet been cast as there were no candidates. In others, citizens voted either for members of the municipal government or the mayor, while in others voting was simultaneous. The following municipalities voted for mayors: Hodejov, Valice, Želovce, Dolná Trnávka, Jalová, Repejov, Harakovce, Bunkovce, Markuška. In Hodejov, Dolná Trnávka, and Bunkovce, the previous mayors resigned. The mayor of Jalová died. The mayor of Valice was convicted. Želovce, Repejov and Markuška voted for a new mayor pursuant to the resolution of the Constitutional Court of the SR that pronounced the first elections void. For more details, see: *New municipal elections 2014–2018* [Nové voľby do orgánov samosprávy obcí 2014–2018], 15 August 2016, <http://volby.statistics.sk/oso/doplnkove2014/sk/>.

qualified resources has to be an inseparable part of their daily activities. The mayor has to be a “good strategist, visionary, who can see behind the horizon and is courageous enough to try new things – they plan in the long run instead of focusing on the present moment. They have to think globally – from the spatial perspective.” It is also important to take into consideration that their decisions may well have impact in several consecutive generations – the future of the country depends upon the decisions taken today, therefore political goals and power related interests must give way to quality decisions.

Based on the above mentioned facts, in order to improve the quality of the municipal administration, it is important to focus on the following: 1. Despite contradictory attitudes to the legal definition of the qualification requirements for the mayor, it is necessary to address the issue. In both professional and political discourse, the efforts to specify the passive right to vote by incorporating the requirement that candidates running for the mayor’s office must have complete secondary education are strong. 2. Neither does the current Slovak legislation address the situation in which the candidate has been lawfully convicted. According to the Central Electoral Commission, even if a mayor loses their mandate due to a lawful conviction, they can still run for the office in the next elections. 3. Mainly the smaller municipalities with a small number of citizens in which no one was interested in running for the mayor which resulted in by-elections needs to be paid attention. These municipalities subsequently battle large debts and low incomes. They are unable to handle their expenditures while remaining legally obliged to perform their tasks without regard of the size of the municipality and the number of its citizens. Municipalization could solve the problem, however, municipalities will not merge voluntarily, such a big change can only be enforced by the legislation. However, such a serious change requires political will as well as social demand.

Since the analysed cases are not covered in the current Slovak legislation, it is desirable to begin an expert discourse on the topic in order to adjust the legislation by specifying the qualification requirements for the mayors and improvement of the municipal administration before the next elections are held (autumn 2018). Moreover, it is important to emphasize that the examined issue largely depends upon the course taken by the interdisciplinary academic field of public policy and administration. It still remains a “terra incognita” within the system of the modern political sciences.

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Funkcja wójta – kompetencje, założenie i stan faktyczny w warunkach Republiki Słowackiej

Streszczenie

Na poziomie gminy zasadniczą rolę odgrywają organy obligatoryjne – rada gminy i wójt gminy – będące organami wybieralnymi powoływanymi w drodze wyborów. Właśnie od wybranych organów zależy, w jakim kierunku będzie się rozwijać samorząd w danej kadencji, w jaki sposób przedstawiciele samorządu będą bronić interesów i potrzeb obywateli, jak będą wykonywać zadania i obowiązki, nałożone na nich przez prawo. Głównym celem niniejszego artykułu jest wyjaśnienie znaczenia i wagi funkcji wójta jako najwyższego przedstawiciela samorządu terytorialnego w Republice Słowackiej. W dalszej kolejności celem jest wskazanie nowych okoliczności i wynikających z nich powiązań, z którymi łączą się nowe wymagania.

Słowa kluczowe: samorząd terytorialny, wójt gminy, kompetencje, założenia, kwalifikacja, wybory samorządowe, obywatele

