
Characteristics of Local Self-government in Serbia with the Overview of the Organization of Authority

Milan Rapajić¹ and Dejan Logarušić²

¹Faculty of Law, Kragujevac

²Faculty of Law for Commerce and Judiciary, Novi Sad

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Author Note

Milan Rapajić  <https://orcid.org/0000-0002-1268-6826>
Biljana Jovanović  <https://orcid.org/0000-0001-9782-9277>

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Corresponding author: Milan Rapajić

E-mail: mrpapajic@jura.kg.ac.rs

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Abstract

Local self-government represents a form of territorial decentralization. It exists in the states where local self-governments have been given the right to make autonomous decisions on local matters, without the interference of state power, through their local bodies which are chosen by the citizens or in which the citizens have direct vote. The elements which are constituent to the concept of local self-government in Serbia, as well as in the majority of states worldwide are: 1) it is guaranteed and regulated by the Constitution and more closely by law, 2) it is implemented in local communities where the citizens live and meet their everyday needs, 3) it is based on autonomous and original competences which are exercised without state interference, 4) citizens participate in making decisions on local matters directly, or indirectly via local bodies chosen in free elections and the state cannot interfere in their appointment. Self-government authority has been structured towards an assembly model which makes it different from the model of a rationalized parliamentarism at the state/republic level. This model asserts the election of the president of municipality or mayor, in case of cities. The solution from the previous Law on self-government from 2002 has been presented in this paper. It foresaw the direct election of municipality presidents and city mayors which entailed problems in local political practice. The legal framework of the present Law on self-government from 2007 has also been discussed. It provides that municipality presidents and city mayors are elected by local representative bodies. This indirect election of municipality and city leaders in political practice may have the character of direct voting, which is the fact that should not be neglected.

Key words: local self-government, the Constitution, the Law on local self-government, original competences, organization of authority, Republic of Serbia

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Introduction

To shed light on local self-government in a legal system is a demanding task which the authors of this text have endeavored to achieve. But before underling the characteristics of local self-government in the Republic of Serbia, it is necessary to observe the characteristics of self-government in general. Self-government is a form of decision making and governing in local communities which are formed on smaller parts of the state territory. These activities are performed directly by local community citizens or through their freely elected representatives. Local community represents a means for restricting centralism, but also it is an autonomous organization, independent from the central state institutions. This kind of organization creates a fertile ground for the independent decision making of the citizens on local matters. This organization or institution is the part of the constitutional matter and its autonomy is inaugurated by the constitution, which means that it enjoys its protection. It is hard to imagine the history of constitutionalism without the history of local self-government, i.e. without the fight of local communities for governing their own destiny.

Local self-government is one of boundary stones of the rule of law (since, in fact, we are speaking here about the vertical division of power). In the major document of international character – the European Charter of Local Self-Government, local self-government is defined as the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population (Article 3). “The concept of the local-self-government shall be determined by the legislation of the signatory state and, where possible, the constitution.” “Local authority expects from the central authority necessary and versatile means for its unobstructed

functioning, while the state authority assumes that local authority is able and ready to follow the central authority in its mission and to aid and support the national strategy and implementation of its complementary policies. From the insight into the current state of the correlation between the central and local authority, the government and self-government and the choice between "localism" and "integrationalism", it seems that this latter option is more successful and on more solid ground – instead of strengthening the independence of these two poles, the preference is given to their interdependence and functional closeness" (Damjanović, 2002, p. 15). As a matter of fact, this functional closeness should encourage and not prevent local self-government to enjoy a certain degree of freedom in exercising its rights and duties.

Organization of self-government authority

"The term authority has various meanings in different social spheres: politics and law, versatile social groups and forms of organization, family, school. In that context we should distinguish the term authority from the term power, even the word authority¹ has various meanings, which are more or less inherent to governing authority, making it powerful and respected. Hence, the word authority here assumes the state authority as a legal and political institute supported by the means of supreme force: armed formations and physical force. Here the force does not imply that the state authority is merely the force of an organized community which is called "state", but it is rather a comprehensive system of domination linked by institutions which constitute state bodies. State authority, from the semantic point of view, represents the authority of one whole entity – the state, but it is executed in various forms and is delegated to different state bodies: government, judiciary, armed forces. If the bureaucracy or other bodies perform the activities of state authority according to same principles, then we can speak about a unique branch

¹ „Unlike the (state) authority, authority in general assumes that approval or implementation of a decision is made voluntarily because the decision itself is good, beneficial and in general interest" (Pavičević, 1974, p. 79).

of state power, or one state function – the state authority” (Orlović, 2008, p. 15).

The bodies of the self-government authority are organized according to the model found at the state level. Namely, the Law on local self-government defines the local bodies, their competences and mutual relations. The system of rationalized parliamentarism is established at the state level, while the system of local authority inclines towards the assembly model of governance. The model of local self-government authority is assembly-based because it reflects the significant position of municipal assembly. In the assembly model, “assembly should simultaneously represent the highest legislative and executive body, where the executive branch of power does not and cannot have its own will, different from the will of assembly” (Lukić & Košutić, 2008, p. 118).

In addition to assembly, a municipality also has its president, municipal council and municipality administration. Local ombudsman, the protector of citizens, can be instituted for one or several municipalities. Here we have the situation of, so called, decentralization of ombudsman, which is “explained by the need to secure a successful protection of human rights and the requirement that the external control of government must be exercised at lower levels of authority as well; therefore, one ombudsman and its office at the national level would not be enough to deal independently with all of this” (Klarić, 2020, p. 92). On that note, the first ombudsman at the local level was established under the name of the protector of citizens in Subotica in 2002 based on the Statute of the municipal assembly. In mixed nationality communities, a separate body may be established – the Council for interethnic relations.

Municipal assembly is the highest body at the local level whose major characteristics, competences and composition are defined by the Constitution while other elements are left to be more closely defined by the legislator. Municipal assembly consists of 19-75 members, the city assembly up to 90 members, while the assembly of the capital city has the fixed number of 110 members. The election of the assembly president and the appointment of the secretary² (who manages the

assembly administration) are the activities which lead to the formation of the assembly³ and from that moment starts the four-year term of office of its members. The term of office can be shortened in case the Government decides to dissolve the municipal assembly because it has not convened the session for three months, has not elected the president of the municipality and municipal council (here the deadline is one month), or has not adopted the municipal statute and budget. Municipal assembly adopts decisions publicly with the majority of votes of the present members if the session is attended by majority of the total number of assembly members. The president of the assembly leads and represents the assembly and can be replaced by the deputy in case of his/her absence or incapacity. Municipality president is elected from among the assembly members for a four-year term of office by the majority votes of the total number of assembly members and at the proposal of at least two thirds of assembly members. However, the president of municipality can be recalled before the expiration of his term of office, in the same way he was elected. Assembly members enjoy only material immunity – they cannot be held accountable for the opinion they expressed or the vote they cast. “Thus, an assembly member’s scope of immunity is considerably narrower than MP’s since it only includes the guarantees for non-accountability and does not include inviolability” (Marković, 2014, p. 420).

Municipal assembly has and implements a number of competences foreseen by the Constitution, law, statute and rulebook on the organization of work. Assembly’s normative competences include: adoption of statute, budget and annual statement of account, then a development plan, urban plan, various regulations, decisions

² Secretary of municipal assembly is appointed for a four-year term of office at the proposal of municipality president and may be re-appointed (secretary of municipal assembly must have a law degree, passed professional exam for the work in government bodies and at least three years of work experience). This person is in charge of performing professional activities related to convening and holding assembly sessions and the meetings of its working groups and is responsible for managing administrative activities related to their work.

³ Assembly’s constitutive session is convened by the president of previous assembly within ten days from the date of publishing the decree on awarded assembly seats on the official website and must be held within 30 days from the date of publishing the decree on awarded assembly seats on the official website (National Assembly of the Republic of Serbia, 2022, Art. 65).

and other general acts. These acts include the decisions related to municipal taxes, fees and public debt. The election and recall of a president of municipal assembly and his/her deputy, members of municipal council, local ombudsman, as well as the election of assembly management: president, deputy and secretary and other permanent and temporary working bodies – constitute its voting and election rights. The creation of administrative departments, public enterprises, institutions and organizations, establishment of municipal office for emergency situations and the municipal election committee – constitute an assembly's founding rights. Assembly's competences pertaining to control and inspection activities are connected to its relation with the municipality president and municipal council. These bodies should inform assembly about their work on regular basis and are the subject to recall. Municipality president may be recalled by the majority of the total number of assembly members which assumes the automatic recall of his deputy and municipal council. Assembly may also recall any individual member of municipal council. That this model of local authority resembles the state one can be seen in the fact that municipal executive bodies may not dissolve municipal assembly. Municipal assembly has specific competences which include: launching a municipal referendum, providing opinion related to the Republic of Serbia spatial plan and other spatial plans, providing opinion on the laws related to local self-government, initiating a procedure of the assessment of the constitutionality of a law before the Constitutional Court, providing a consent for the use of municipality name and coat of arms, signing the agreements with local self-governments from another countries with the approval of the Government, etc.

Assembly members are elected based on the lists of candidates of political parties, coalitions of political parties or a group of citizens. An electoral list must meet three criteria: 1) must be supported by at least 30 voters per each proposed candidate on the list (a voter can sign in support of one electoral list only and the signature must be verified according to law regulating the verification of signatures); 2) must comprise sufficient number of candidates, at least one third of the total number of members to be elected; 3) at least 40% of

candidates of less represented gender must be on an electoral list so that after every fifth candidate in order on the list, the election list must contain three candidates of one and two candidates of the other gender (the first 5 positions, the second five positions, and so forth) (National Assembly of the Republic of Serbia, 2007, Art 41). The order of the candidates on an electoral list is decided by the party, coalition of parties or the group of citizens which submit the lists. "Every adult citizen of the Republic of Serbia over whom parental rights have not been extended, or who has not been wholly divested of legal capacity, with permanent residency on the territory of the local self-government unit in which he/she exercises the right to vote, shall have the right to elect the assembly member and to be elected as an assembly member. A person partly divested of legal capacity may elect assembly members and be elected as an assembly member, unless a court has declared him/her incapable of exercising the right to vote under the decision on partial deprivation of legal capacity" (National Assembly of the Republic of Serbia, 2007, Art 3). The President of the National Assembly passes the decision on calling the elections for assembly members whereas no less than 45 days, and no more than 60 days shall elapse between the day of calling the elections and the day of holding the elections. Electoral commission and polling boards of the local self-government units are responsible for conducting the elections for assembly members. Electoral commission publishes the election results upon the completion of the election. The seats are allocated to the candidates from electoral lists in proportion to received votes. „Only electoral lists that have received at least 3% of votes cast may participate in the distribution of seats. If no electoral list has received 3% of total votes cast, then all electoral lists that have received votes may participate in the distribution of seats.“ (National Assembly of the Republic of Serbia, 2022, Art 61)

The political parties and the coalitions of political parties of national minorities shall participate in the distribution of seats even they have received less than 3% of the votes cast. "It is important to make it clear that the quotients of national minority electoral lists that have won less than 3% of the votes cast shall be increased by 35%

because when this rule was introduced in February 2020 there were different interpretations – whether the quotients are increased by 35 % even when a national minority electoral list has received more than 3% of the votes cast – now it is explicit that this increase refers only to minorities' lists that have remained below the threshold" (Pásztor, 2022, p. 17). Whether a political party or a coalition of political parties of national minorities qualifies to have such a status is decided by the electoral commission of local self-government unit at the proposition of the given party or coalition which has to be enclosed when submitting the list. Electoral commission decides on the number of seats allocated to each electoral list by applying the method of the largest quotient – D'Hondt method. In fact, "there are different mathematical techniques for the distribution of seats in a proportional system and the most commonly used one is the method of electoral quotient, D'Hondt method, Baden system and Hare quota" (Živković, 2017, p. 112). Thus, the application of the method of the largest quotient is regulated by Article 62 of the Law on local elections: "Seats shall be distributed by dividing the total number of votes won by an electoral list participating in the distribution of seats by each consecutive number from one to the number equal to the total number of assembly members. The quotients thus derived shall be sorted by size, and the number of seats allocated to each electoral list shall be equal to the number of its quotients among the highest quotients of all electoral lists. The number of the largest quotients shall be equal to the total number of the assembly members. If two or more electoral lists get same value quotients based on which a seat should be allocated, the electoral list that has received larger number of votes shall have priority. If the number of seats due to a certain electoral list is greater than the number of assembly candidates, the seat that is not allocated to that electoral list shall be allocated to the electoral list having the next highest quotient for which the seat has not been allocated. An electoral list that has passed the electoral threshold, to which pursuant to the system of the highest quotient no seat is due, shall be allocated one seat at the expense of the electoral list having the last quotient based on which a seat should be allocated, but which

is not a national minority electoral list and which got more than one seat" (National Assembly of the Republic of Serbia, 2022, Art 62). „Within seven days from the date of publication of the general report on the results of local elections, electoral commission shall allocate seats to candidates keeping the order in which they are listed on the electoral list, starting from the first candidate on the electoral list, by passing a decision and issuing certificates of their election as assembly members" (National Assembly of the Republic of Serbia, 2022, Art. 63). „Term of office of an assembly member shall start on the day of the confirmation of his/her term of office. The assembly shall decide on the confirmation of the term of office of its members at the constitutive session (National Assembly of the Republic of Serbia, 2022, Art. 64). If a member's term of office is terminated, then the next candidate from the electoral list shall become an assembly member, and if the list belongs to a coalition of parties, then the first candidate from the same party shall become the assembly member.

The Constitutional Court of the Republic of Serbia, with its decision of May 2020, established that the previous provision of the Law on local elections according to which a party, coalition of parties or a group of citizens shall determine upon the election which candidate from its electoral list shall be an assembly member regardless of order (Article 43) and the provision on pre-signed resignations (Article 47) are not in accord with the Constitution and, therefore, they became ineffective. The selection of the members of assembly based on party's free will and regardless of their position on the electoral list would mean that they were not elected in direct election as foreseen by Article 180.3 of the Constitution, but that it was rather an indirect election since the parties, coalition of parties and the groups of citizens which submitted electoral lists appeared as the mediators between the voters and their representatives after the election. Instead of being selected in order, according to their position on the list, the candidates became the assembly members based on the „choice" made by the holders of electoral lists. The Constitutional Court concluded that the status of an assembly member could be obtained in accord with the Constitution only in the election in which

citizens voted directly for him/her. On the other side, the pre-signed resignations which the candidates for assembly members enclosed to the agreements signed with the party, the coalition of parties or the group of citizens which submitted the electoral lists turned a free term of office of the candidate into an imperative term of office of the given party. Taking into account that a pre-signed resignation neither represents the expression of the candidate's actual will nor it has been freely expressed, the Constitutional Court established that the provision of the law which regulated pre-signed resignations was not in accord with the Constitution and ratified international agreements. Consequently, the changes and amendments of the Law on local elections from 2011 prescribe that a member of assembly may tender his/her resignation, certified by the body authorized for the verification of signatures, directly to the president of the assembly of a local self-government unit within three days from the date of its certification. The assembly president shall put the resignation for vote at the next assembly session by including it in its agenda.

President of the municipality, i.e. city mayor is the chief executive officer. Local self-government units in Serbia have two executive bodies – municipal (city) council and the president of the municipality (city mayor). Here we have a dual executive scenario. Thus, according to the Law on local self-government from 2007, municipality president is indirectly elected by municipal assembly from among the assembly members for a four-year term of office by the majority votes of the total number of assembly members and by secret ballot. The president of the municipal assembly proposes a candidate for the president of the municipality. Deputy president also needs to come from among the assembly members and is elected by the municipal assembly in the same way as the president of the municipality. The law prescribes that the municipal council should not consist of assembly members. This means that the president of the municipality, his/her deputy and council members should come from among the assembly members, but their term of office is terminated at the moment of their election for another position. Thus, as it is also the case with the authority at the state level where the Government

cannot consist of the members of the National Assembly, the municipal council cannot include the members of municipal assembly.

The previous Law on local self-government from 2002 foresaw the direct election of the president of the municipality for the same term of office. He/she was chosen by the local population by secret ballot (National Assembly of the Republic of Serbia, 2002, Art. 40.2). This method had its advantages - the executive officials had larger democratic legitimacy since the citizens knew who were the candidates for the municipality president or city mayor, that is whom they were going to give their trust. However, soon the problems of cohabitation and obstruction of institutional work appeared in practice in the situation when the president of the municipality was from one party and the majority of the municipal assembly from another political group. Thus, Bogoljub Milosavljević spoke about the problem which occurred in September of 2004 when, following the local elections, the local assemblies and municipality presidents, i.e. city mayors were elected. This author further states: "Soon after the local elections were finalized, the functioning of local institutions appeared to be a serious problem. In more than one third of local municipalities and cities the work of local bodies was blocked because the municipality presidents or city mayors belonged to one political party and the majority of municipal assembly members were from another political group. Therefore, the idea that municipality presidents and city mayors should be elected in direct elections was abandoned in 2006 with the adoption of the new Constitution of the Republic of Serbia" (Milosavljević, 2012, p. 751). Direct election of mayors is the solution which is being applied in a number of European countries, such as in Croatia and Bosnia and Herzegovina, Serbia's neighboring countries. However, based on the law from 2002, Croatia witnessed the same cohabitation problems that were encountered in Serbia. The following has been noted: „After the introduction of the model of direct election of municipal counsellors and presidents, city mayors and the mayor of the capital city Zagreb, one of the major weaknesses of this model came to light – the issue with cohabitation. On the other side we have a model of indirect election of mayors which is dominant on European soil and is applied

in majority of cities in Austria, Switzerland, the Netherlands, Sweden, France, Spain" (Milovanović, 2015, p. 41). A municipality president in Serbia has two roles. In the first role he/she represents the municipality, submits proposals how certain issues should be resolved by municipal assembly and guides and directs the work of municipality administration. In the second role, municipality president represents the municipal council and is authorized to convene and preside its sessions. He/she is also responsible for ensuring the legality of work of municipal council and suspending the execution of its decisions if he deems they are not in accord with law. The term of office for which he/she was elected may be shortened if he/she is recalled with no confidence votes of at least one third of assembly members in the same way he/she was elected. If the recall of municipal president fails, the same group of assembly members who submitted the proposal for his/her recall cannot re-submit the same proposal until the period of six months from the date of the previous recall voting has expired. The recall of municipality president assumes the recall of his deputy and the municipal council members since the candidate for the municipality president proposes the candidates for his/her deputy and for municipal council members.

President of municipality is authorized to propose the recall of his/her deputy and a municipal council member before the expiration of their terms of office which is then decided by the municipal assembly in the same way as they were elected. This recall may also take place at the proposal of one third of assembly members. Simultaneously with submitting the proposal for the recall of his/her deputy or a municipal council member, the president of municipality needs to submit the proposal for their replacement. Then, municipal assembly passes a simultaneous decision on the recall and the election of a new deputy or council member.

Municipal council is a collegial executive body of the municipality. Colloquially, it is a municipal government. It consists of the municipality president, his/her deputy and municipal council members whose number is determined by the municipality statute and who are elected by secret ballot for a four-year term of office by

majority of votes of the total number of municipal assembly members. The candidate for the municipality president proposes the candidates for municipal council members. "The municipality president deputy is a member of municipal council by his/her function. Municipal council, whose members are elected by municipal assembly at the proposal of the municipality president, may consist of 5 members for the municipalities with up to 15000 citizens, 7 members for the municipalities with up to 50 000 citizens, 9 members for the municipalities or cities with up to 100000 citizens or 11 members for the cities with over 100000 citizens based on the data from the latest census. Municipal council members elected by the municipal assembly cannot be assembly members at the same time, but they can exercise one or several duties from the competences that belong to that municipality. An assembly member's term of office is automatically terminated with his/her election for the position of a municipal council member. The members of municipal council may have a full time employment contract with the municipality." (National Assembly of the Republic of Serbia, 2007, Art. 45.5-9). Municipal council is responsible for the following activities „1) to propose the statute, budget and other decisions and acts to be adopted by municipal assembly; 2) to directly execute or monitor the execution of the decisions and other acts of the municipal assembly; 3) to adopt a decision on temporary financing in case the municipal assembly has not adopted the budget before the start of the fiscal year; 4) to monitor the work of municipality administration and to cancel and terminate its acts which are not in accord with law, statute or other municipal general acts and decisions passed by municipal assembly; 5) to resolve the cases in the administrative procedure of second instance related to the rights and obligations of citizens, enterprises, institutions and other organizations on the administrative matter in domain of the municipality competences; 5a) to monitor the realization of the program of activities and coordinate the work of public enterprises founded by the municipality; 5b) to submit to the municipal assembly a quarterly report on the work of public enterprises for the purpose of further reporting according to the law regulating the legal status of public

enterprises; 6) to ensure the execution of delegated competences within the framework of the rights and obligations of the Republic of Serbia, i.e. the autonomous province; 7) to appoint and recall the head of the municipality administration, as well as the heads of the specific fields of administration; 8) to perform all other activities prescribed by law." (National Assembly of the Republic of Serbia, 2007, Art. 46). „Municipal council may adopt decisions if the session is attended by the majority of the total number of council members. It adopts decisions by simple majority of present council members unless the law or the statute prescribe other forms of majority voting for certain kind of topics. Municipal council's organization, work method and decision making are closely regulated by its statute and rulebook on work organization which are in accord with the law." (National Assembly of the Republic of Serbia, 2007, Art. 47.4-6).

According to the current Law on local self-government, municipality administration has received the status of a specific municipal body. „According to the previous Law on local self-government, municipality administration had the status of a professional department, a phrase that embodied the essential characteristic of municipality administration as a municipal body. Municipality administration is the holder of administrative function, which represents one layer of the executive function in the municipality" (Marković R., 2014, p. 424). „Municipality administration: 1) prepares the drafts of regulations and other acts to be passed by municipal assembly, municipal council and municipality president; 2) executes the decisions and other acts passed by municipal assembly, municipal council and municipality president; 3) resolves the cases in the administrative procedure of first instance related to the rights and obligations of citizens, enterprises, institutions and other organizations on the administrative matter in domain of the municipality competences; 4) performs the activities of administrative control of the execution of regulations and other general acts of municipal assembly; 5) executes laws and other regulations whose execution was delegated to the municipality; 6) performs professional and administrative-technical activities facilitating the work of municipal

assembly, municipal council and municipality president" (National Assembly of the Republic of Serbia, 2007, Art. 52). „Municipality administration is organized as a unique body while the municipalities over 50000 citizens may form additional administrative units for specific fields. Municipality administration as a unique body is governed by the head of the municipality administration who needs to have a higher education degree – completed basic academic studies in the field of legal sciences corresponding to at least 240 ECTS credits or master academic studies, master applied studies, a four-year program of basic academic studies and specialization studies, then, at least five years of work experience in the given field and passed state exam for the work in state administration bodies. Municipality administration which is formed as a unique body may have its internal organization structured in such a way allowing the formation of separate organizational units for the execution of related activities. When a municipality administration is organized to include several additional administrative units, these units are governed by the head of the administrative unit. The head of the administrative unit created for a specific field needs to have a higher education degree – completed basic academic studies in specific scientific field related to the scope of work of that administrative unit corresponding to at least 240 ECTS credits or master academic studies, master applied studies, a four-year program of basic academic studies and specialization studies, then, at least five years of work experience in the given field and passed state exam for the work in state administration bodies. Within an administrative unit, separate organizational departments may be formed for the execution of related activities. The head of municipality administration or the head of the administrative unit for a specific field is appointed for a five-year term of office by public vote of the municipal council. Head of municipality administration may have a deputy who performs the head's duties in case of his/her absence or incapacity. The deputy head of municipality administration is appointed in the same way and under same conditions as the head of municipality administration. Heads of organizational units within the municipality administration are appointed by the head of the municipality

administration. The head of the municipality administration, for his work and the work of his administration, reports to municipal council according to the municipality statute and the act regulating the organization of municipality administration. The municipality statute may foresee that assistants to the municipality president may be appointed for specific fields (economic development, urban planning, primary health protection, environmental protection, agriculture, etc.). Assistant of the municipality president is appointed and recalled by municipality president. These assistants may launch initiatives, propose projects and give opinion related to the issues which are significant for the development in the field for which they are appointed, as well as perform other activities as instructed by municipality president. The assistants of the municipality president are appointed to work in the municipality president's cabinet during his/her term of office. One assistant to the municipality president may be appointed for the municipalities with up to 15000 citizens, two assistants in the municipalities with up to 50 000 citizens and three assistants in the municipalities with up to 100000 citizens based on the data from the latest census. The act on the organization of municipality administration is passed by municipal assembly at the proposal of municipal council. The act regulating the internal organization and job positions in municipality administration, its departments and units is compiled by the head of municipality administration and forwarded to the municipal council for adoption. By performing the activities in domain of administrative control, municipality administration may: 1) order, by issuing a decree, the execution of measures and activities within certain timeframe; 2) impose a fine; 3) file a complaint to authorized body for a criminal act or a commercial offence or submit a request for initiating an infringement procedure; 4) issue a temporary order or ban; 5) inform another body, if applicable, about the measures undertaken in domain of its competences; 6) undertake any other measure it is authorized to execute according to law, regulation or general act. The authorizations and organization of the activities from the paragraph 1) of this article are more closely defined by a decision passed by

municipal assembly. In the procedure which is performed before the municipality administration related to the cases pertaining to the rights, obligations and interests of the citizens and legal entities, the provisions of the administrative procedure act are applied. Municipal council resolves the conflict of competences between the municipality administration and other enterprises, organizations and institutions when, based on the decision of a municipal assembly, it decides on certain rights of citizens, legal entities and other parties, as well as between internal organizational units. The activities of municipality administration related to the execution of rights, obligations and interests of the citizens and legal entities are performed by the individuals who need to have an adequate degree, passed professional exam for the work in state administration bodies and an adequate work experience prescribed by law and other regulations. The issue on the exemption of the head of the municipality administration that is of the head of the administrative unit for specific field is decided by municipal council. The issue on the exemption of an official from the municipality administration is resolved by the head of the municipality government" (National Assembly of the Republic of Serbia, 2007, Art. 53–64).

It should be noted that city mayor may appoint maximum 3 assistants in the cities with up to 100000 citizens or 5 assistants in the cities with more than 100000 citizens based on the data from the latest census. In the capital city Belgrade, based on an explicit legal provision, the position of the mayor's assistant for the field of economic development is reserved for the city manager. However, the city of Belgrade Statute may allow that mayor's assistants can be appointed for other fields as well, for example for urban planning, primary health protection, environmental protection and agriculture. The mayor of the city of Belgrade appoints and recalls his assistants. The mayor's assistants' duties are to launch initiatives, propose projects and give opinion related to the issues which are significant for the development in the fields for which they are appointed, as well as perform other activities as instructed by the mayor. "The maximum number of five mayor's assistants, including the city manager, may be appointed in

the city of Belgrade". (National Assembly of the Republic of Serbia, The Law on the capital city, 2007, Art. 37.5).

Concluding remarks

In the course of last two centuries, local self-government in Serbia has developed from a common law institute to the constitution law institute which restricts the state power. Like elsewhere around the globe, local self-government in Serbia is characterized by the right to self-organization synchronized with the application of original competences. In this paper we have attempted to analyze the basic elements of the concept and the position of local self-government in the constitutional system of the Republic of Serbia. These elements are the right of citizens to self-organization and protection, democratic decision making, original competences, etc. This analysis has yielded certain conclusions. Local self-government is the focal point of direct democracy because of its democratic organization, the authorities being as close as possible to the citizens, thus facilitating direct participation of local population in decision making process. It has already been noted that the right of citizens to local self-government is, actually, the clashing point of two opposing processes. Thus, the state strengthening process, particularly in the form of a welfare state, has undermined the execution of certain local self-government competences taking them back to the central level. Therefore, here we can speak about the decentralization in principle and not about the decentralization in substance. The second process, citizens' direct participation in decision making via the institutes of local referendum or public vote has been reduced to a single activity – direct vote for the election of local authority and representative bodies (municipal or city assembly) and, to a certain extent, the heads of local self-government units.

Direct election of municipality presidents and mayors in Serbia was foreseen in the legislation that was in effect from 2002 to 2007 which proved to be inefficient due to cohabitation issues preventing unobstructed functioning of local institutions. The law was changed to include indirect elections of municipality presidents and mayors who

were no longer chosen by the citizens, but by local representative bodies. In this way their democratic legitimacy has been reduced, but not minimized since citizens often know who the candidates are for municipality presidents and mayors they will vote for. Namely, political parties and the coalitions of political parties during their election campaign present their candidates and the leaders on their electoral lists and, in this way, personalize the local election campaign. Thus, the elections for the municipal assembly members (which are direct) are at the same time the elections for municipality presidents and mayors (which are formally and legally indirect elections), but which, as Giovanni Sartori put it, resemble to direct elections.

Local self-governments cannot exist without original competences. These are the affairs which the state gave up voluntarily or under the pressure of public opinion, interest groups and opposing political establishment, transferring them to local self-governments. They execute assigned original competences according to law which to a certain extent restricts or narrows down the original nature of these affairs. Initially, one of original competences of local self-government is its right to self-organization (we have discussed it in this paper in detail) which is also regulated, which means restricted, by law. The legal nature of the right to self-organization has been modified making it closer to delegated and further away from original competences. Municipal assembly, defined as the supreme local authority body (which has moved the system of authority in Serbian local self-governments towards an assembly model) originally represents, according to the Constitution, one layer of the right of local self-government to self-organization. Other local bodies: municipality president, municipal council and municipality administration are the subject of detailed legal observations and are not elaborated by constitutional provisions. Speaking about this classification to original and delegated competences, an issue is raised related to the quality of the inspection of the central authority of the activities performed by local self-government. The final word on the constitutionality and legality of the execution of local affairs lies with the Constitutional Court. The position of the local self-government cannot be absolute

without its right to protection which is institutionalized by specific laws, but also by general acts. Here the final word is also given to the Constitutional Court as the body which is independent from the central level of authority.

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