Special Legal Status of Bratislava as a European Capital City

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After the dissolution of Czechoslovakia in 1992, Bratislava regained its status as a European capital. An historical approach allows a better understanding of the development and functioning of the capital of the young Slovak Republic. A decentralisation trend that replaced authoritarian centralism has had consequences on the organization of the city. Its special legal status is stipulated by the Constitution. Its organization is rather decentralized and each district is a legal entity with considerable autonomy. This organization could be attractive from a democratic point of view but it is costly and could cause problems in terms of coherence. Nowadays, when European capitals launched an intense competition, fundamental reform of the capital city seems to be a necessary step to take on the way to more efficient governance.

Keywords: Bratislava, special legal status, European capital cities, Central Europe, decentralization

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1. Introduction

Since the dissolution of Czechoslovakia in 1992,¹ the Slovak Republic has been an independent state. At the same time, Bratislava regained its status of a true European capital, which it had several times during its history. This city has changed its name several times and is still sometimes called by its German name Presbourg or by its Hungarian name Pozsony. The fact that it carried the names borrowed from the languages of three Central European nations shows its cosmopolitan and profoundly European character. »The history of Bratislava has seen surging of countless movements of nations through its territory. This region was the battleground where empires fought for the hegemony in Central Europe: Quads and Romans, Hungarians and eastern Franks, Hungarian Empire of Arpad and medieval Austria, French empires and empires of Central Europe clashed here or reconciled here after tough battles« (Fichelle, 1937: 189-194). The status of Bratislava had evolved over the centuries until the Constitution of 1993² on the establishment of the Slovak Republic finally recognized it as the capital of this new independent nation-state. This special status and the organization of its districts is the result of a long historical process that should be analyzed in order to understand its evolution and reform challenges.

CROATIAN AND COMPARATIVE PUBLIC ADMINISTRATION

2. Bratislava – a European Capital with Turbulent History Whose Status Has Changed Over the Centuries

The first written reference of Bratislava then known as *Brezalauspurcse* was found in the annals of Salzburg where a battle between the Bavarian and Hungarian troops that took place in the year 907 was described.³ Following their victory, Hungarian troops occupied the eastern part of Great Moravia, which was incorporated into the Kingdom of Hungary after its establishment in the year 1000. Bratislava changed its name repeatedly during its history but it was still an important economic and administrative

 $^{^1\,}$ Constitutional Act No. 542/1992 Coll. on the Dissolution of the Czech and Slovak Federative Republic.

 $^{^2\,}$ Art. 10 of Act No. 460/1992 Coll. The Constitution of the Slovak Republic as amended.

³ Official website of the city of Bratislava http://www.bratislava.sk/

centre. Due to its geographical position on the borders of the Kingdom of Hungary, it was subject of numerous attacks by enemy forces. The erection of fortifications around the city in the 12th century strengthened its strategic importance. During the conquest of Budapest by the Ottoman Empire, the Hungarian nobility fled to Bratislava. It became the capital of Hungary in 1536. From 1563 to 1860 eleven Hungarian kings were crowned in Pozsony. It was followed by a process of hungarisation. Pozsony was a place of cooperation and conflicts between the German and Hungarian elites.⁴ After World War I. Czechoslovakia was created⁵ and Bratislava became de facto the capital of the Slovak part. On 27 March 1919, the city council adopted a resolution that gave Bratislava its current name, which combines the Slovak words »brat«, which means »brother« and »slava«, which means »glorv«. This resolution was endorsed by a decree on October 4, 1919 but the new name was not welcomed without protests from neighbouring countries and the names of Pressburg and Pozsonv continue to be used.

After 1945 and especially in the 1960s, Bratislava became the centre of many efforts for the emancipation of the Slovak nation. On February 25, 1948 the Communists gained control of the Czechoslovak government and a new constitution was proclaimed on May 9, 1948. The Constitution declared Prague as the capital of Czechoslovakia and referred to Bratislava only as the city where the National Assembly sits (Articles 168 and 97).⁶

In 1968, the Constitutional Law of the Czechoslovak federation was signed at Bratislava Castle. On 1 January 1969, the CSSR became a federation made up of the Czech Socialist Republic and the Slovak Socialist Republic, each with their own parliament and government. Henceforth the administration was represented by districts (*okresy*) and municipalities (*obce*); Bratislava was a separate unit and benefited from a special legal status. The Constitution establishing the Czechoslovak Federation recognized its status as the capital of the Slovak Socialist Republic⁷ but the Soviet regime did not support the idea of self-government, therefore

⁴ Cosmopolitan character of the city is well described in Babejová, 2003.

 $^{^5\,}$ Act No. 11/1918 Coll. of Acts and Decrees of 28 October 1918 on the establishment of the independent Czechoslovak state.

⁶ Act No. 150/1948 Coll. The Constitution of the Czechoslovak Republic as amended.

 $^{^7\,}$ Article 141 paragraph 3 of the Constitutional Law No. 143/1968 Coll. on the Czechoslovak Federation

leaving little room for political manoeuvre to Bratislava. All the important decisions were actually made in Prague.

After the fall of the Berlin Wall and the dissolution of Czechoslovakia, Bratislava regained its status as a European capital. If we ignore the episode of the fascist state during World War II, this is the first time that the Slovak nation has its own state. The recent creation of the nation-state led to a search for a unifying symbol. Having a capital that is worth its name, with historical monuments symbolizing the glory of the past or the suffering of a sovereign nation, contributes to the dissemination of mythology, which seems to be one of the unifying points common to many nationstates.⁸ Bratislava is a European capital of average size with a population of about 430,000 inhabitants⁹ but this number represents 8 per cent of the Slovak population. It is the largest urban centre and the heart of Slovakia. A symbol to match its status as a European capital has been found in the recently renovated castle overlooking the city.

2.1. The Development of Bratislava's Legal Status since the Fall of the Berlin Wall

The fact that, since 1993, Slovakia has been an independent state is considered as the natural conclusion of a long struggle for emancipation of the Slovak nation. The fall of the Wall resulted in the process of decentralization started in 1990 by the revival of municipalities as autonomous territorial units. A strong political signal was sent through the process of decentralization by eliminating the centralized and authoritarian administration of the territories. It is important to remember the context and ideological foundations of the decentralization movement. Granting large autonomy to the municipalities and districts of Bratislava was perceived necessary for putting an end to ultra-centralized administration of the Communist Party. In June 1990, municipalities were re-founded as decentralized territorial self-administrative units, independent of the state. The first elections were held on November 24, 1990. Municipalities became the basis of independent and representative local government

⁸ For example, a controversial statue representing Svätopluk, defender of the sovereignty and independence of Great Moravia against the attacks of the Franks in 871 was presented to public at the castle of Bratislava on June 6, 2010.

 $^{^9\,}$ On December 31, 2009, Bratislava had 431,061 inhabitants (official website of the city of Bratislava).

with legal personality. The Act on Municipal Administration¹⁰ has given political autonomy to all municipalities, even to the small ones, which explains local fragmentation.¹¹ The number of municipalities increased after 1989,¹² from 2,694 to 2,891. Fragmentation at the local level in Slovakia is a serious problem because just over 87 per cent of municipalities have more than 2,000 people and often they do not have the resources to exercise their competences properly.

The new Slovak Constitution and the law of September 6, 1990 made a distinction between municipalities (*obec*) and towns (*mesto*). Among 2,891 Slovak municipalities, 138 now enjoy the town status. The main difference between a municipality and a town is that the Law of 1990 has given towns the right to adopt their statutes. In addition, their organs have different names than in municipalities. Towns can also set up district committees composed of all the elected representatives in a district. These provisions apply to 136 out of 138 towns.

Since the Act on the Capital City of the Slovak Republic Bratislava¹³ and the Act on the City of Košice¹⁴ were adopted by the National Assembly in 1990, Bratislava and Košice, which is the second largest city in the country with almost 240,000 inhabitants,¹⁵ have enjoyed a special legal status. At the municipal level, Bratislava and Košice are headed by the lord mayor (*primátor*) elected by direct universal suffrage, and by the city council (*mestské zatupitel'stvo*), which is the deliberative body. Bratislava and Košice have a double structure of bodies. There are bodies at the city level and the sub-municipal bodies of the districts (17 in Bratislava, 22 in Košice). Each district functions as a town, and mostly follows the rules applicable to the other Slovak towns. The representatives of the city level decide on the most important issues concerning the city as a whole.

The lord mayor is elected directly by citizens. His mandate is incompatible with other mandates (city councillor, some public functions).¹⁶ Mi-

¹² 2,694 before 1989, 2,891 in 2011

¹⁰ Act No. 369/1990 Coll. on Municipal Administration as amended.

¹¹ The Slovak Republic, the Czech Republic and France are the three EU countries with the highest number of municipalities compared to their populations.

 $^{^{13}\,}$ Act No. 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava as amended.

 $^{^{14}\,}$ Act No. 401/1990 Coll. on the City of Košice as amended.

 $^{^{15}\,}$ Košice had 238,725 inhabitants according to the census from August 1, 2010.

¹⁶ Act No. 369/1990 Coll. on Municipal Administration as amended.

lan Ftáčnik, the current lord mayor of Bratislava, who was an independent candidate supported by the Social Democratic Party, was elected in November 2010. In Bratislava and Košice, elections are conducted in a rather particular manner. Each voter must submit four ballot papers in each of the ballot boxes during the vote to elect the lord mayor, the mayor of a city district, city councillors and district councillors. The number of councillors of the district council in each district depends on the population; each district has at least one councillor.

In the system of division of competences with the district council, the city council decides in all matters related to their competences at the city level. Article 28 of the Statute of Bratislava lists the following competences: economic, cultural and social planning (preparation of local urban plan); urban public transport; construction and maintenance of local roads; water supply and sanitation; collection, transport and disposal of waste; and street lighting. Along with these competences, we can add those delegated by the state for which the city is allocated funds according to the number of inhabitants. City council adopts the city budget and sets all the terms of local taxes within its competence.

2.2. The Organization and Competences of Districts

The tendency to grant broad autonomy to local governments during the democratic transition also had an impact on the organization and competences of the districts of Bratislava. The Slovak capital, as many other capitals and agglomerations, has grown gradually integrating the surrounding municipalities. This occasionally authoritarian amalgamation could be considered as an excess of the previous regime. In fact, neighbouring municipalities such as Petržalka, Rača or Dúbravka were integrated in 1946, but other municipalities (Podunajské Biskupice, Vrakuňa, Záhorská Bystrica, Devínska Nová Ves, Jarovce, Rusovce, Čuňovo and Prievoz) were integrated later, in the period of so-called »normalization« that followed the Prague Spring of 1968.¹⁷ The sense of belonging to the district could then become a kind of protest and resistance to the authoritarian centralism of the regime. Thus, it seems logical that after 1990 districts as well as municipalities again found certain politic autonomy. It may be one of the explanations for the highly decentralized organization

¹⁷ Act No. 63/1971 Coll. which amended Act No. 43/1968 on the Capital City of the Slovak Republic Bratislava and came into force on January 1, 1972.

of Bratislava, which is not without difficulties in the implementation of coherent development policies. The city of Bratislava is divided into 17 districts. At the district level, the chief executive is the mayor of city district (*starosta*). The number of district councillors differs across districts. There were 391 district councillors before the elections in November 2010, which was expensive and complicated the decision-making. Since the reform launch during the last election, the number of councillors has been reduced to 266. The most densely populated districts of Petržalka, Devín and Dúbravka have 25 councillors and districts with fewer inhabitants only 7 councillors. There are 17 districts, which vary in terms of area and population. The most densely populated district is Petržalka with over 112,545 inhabitants, while Devín has only 1,099 inhabitants.¹⁸



- 1. Staré Mesto
- 2. Ružinov
- 3. Vrakuňa
- 4. Podunajské Biskupice
- 5. Nové Mesto
- 6. Rača
- 7. Vajnory
- 8. Karlova Ves
- 9. Dúbravka
- 10. Lamač
- 11. Devín
- 12. Devínska Nová Ves
- 13. Záhorská Bystrica
- 14. Petržalka
- 15. Jarovce
- 16. Rusovce
- 17. Čuňovo

The districts of Bratislava have the status of legal entity and therefore they have their own elected assemblies and executives. The original competences and the exercise of competences delegated from the state are shared between the city and the districts. Thus, the districts have their own competences and their own taxation. This autonomy can cause prob-

¹⁸ As of 31 December 2009, Office of Statistics of Slovakia

lems related to coherence in the city development and there is sometimes fiscal competition between districts.

District councillors are elected by all inhabitants whose principal residence is in the district, for a term of four years. District councils perform their duties according to the common rules concerning the municipal council of towns in Slovakia. The elections for district institutions are usually held at the same time as the elections for city institutions. During these elections, the district mayor is elected. The executive organ of the district mayor and of the local representative body (district council) is the municipal office. District council decides independently on the most important issues at the district level, including the budget and terms of local taxes within the district. Article 29 of the Statute of Bratislava¹⁹ stipulates the competences of district councils: management of the district budget, management of district's assets and real estate, management of local taxes within the competence of the district, management, maintenance and construction of local roads, and management and maintenance of historical monuments of local importance. Competences delegated by the state for which the districts receive state funds are added to the original competences. Competences delegated by the state include social assistance, care for people with severe disabilities and management of the licenses for fishing and hunting.

2.3. The Relationship Between the City and District Levels

When the representatives at the city level decide on the issues of city nature (affecting the interests of a district), they adopt a resolution only after receiving the position of the relevant district (within one month). If the district's position is contrary to or different from the city's position, the city council may adopt its decision only with the three-fifths majority of the councillors present. The district council has a right to propose to city representatives to adopt a resolution of city character that concerns the district's interests. The city council may adopt a resolution only with the three-fifths majority. As for the decisions taken within their own competences, district representatives decide without the interference of the city level. However, local decision cannot infringe the decision at the municipal level and it cannot limit its scope of implementation. There are fre-

¹⁹ Statute of Bratislava adopted on July 3, 2008 entered into force on September 1, 2008 is available on http://www.bratislava.sk/vismo/dokumenty2.asp?id_org=700000&id=11 018373&p1=51337

quent tensions between the district councils and the city council. Such a decentralized organization and a complex system of legislative procedure complicate the decision-making and sometimes make the development of coherent policies impossible. The fact that districts have wide competences and their own fiscal resources sometimes leads to competition between them and to the detriment of coherence at the city level. Each district disposes of its own taxes and determines the tax rate. There is also a system of distribution of fiscal resources between the city level and the districts stipulated in Article 91 of the Statute of Bratislava.²⁰

Table 1: Distribution	of fiscal	resources	between	the	city	level	and	dis-
tricts ²¹								

	City level	Districts
Real estate tax	50%	50%
Particular share from income tax	68%	32%
Sale of real estate owned by the city	90%	10%
Sale of real estate owned by the districts	10%	90%

3. Necessary Modification of the Special Legal Status of Bratislava

Bratislava has a special status and does not follow all the rules applicable to other Slovak towns. Its organization is decentralized and each of the districts acts as a unit with legal entity and a degree of autonomy (in terms of competences, but also in terms of resources). Such organization may provide for better management by bringing decision-making process closer to citizens, in accordance with the philosophy of the principle of subsidiarity. Although this is attractive from a democratic point of view, it can cause problems regarding the coherence of development strategies. Actually, in Bratislava there is great heterogeneity of districts in terms of population, surface area or development strategy. For example, the

²⁰ Article 11 paragraph 5 of Act No. 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava as amended.

²¹ Article 91 of the Statute of Bratislava adopted on July 3, 2008 by the city council.

district of Devín with its very low population density (79 inhabitants per km²) and its geographical features could be seen as a rural municipality, while Petržalka, which has a density of 3,924 inhabitants per square kilometre, has a rather urban development strategy and has to manage problems related to overcrowded transport infrastructure. The issues are sometimes different, which explains the conflicts in the relationship between the city and district levels. Various reforms have been initiated to help create a balance between the need for management of local problems and the need for consistency. No reform of the administrative organization of Bratislava has been successful in solving the problem of the high number and heterogeneity of its districts. The citizens of Bratislava seem to be sensitive to the autonomy of their districts regained after the fall of Communism and an authoritarian approach could remind of the forced amalgamation during the communist regime. However, a number of reforms have been adopted to modernize the status of Bratislava. Before the elections of November 2010, Bratislava had 80 city councillors and 391 district councillors, i.e. 471 councillors in total. This expensive system slowed effective decision-making. An Act that amended the Act on the Capital of the Slovak Republic Bratislava in 2008²² reduced the number of city councillors and imposed a range of the number of councillors for each district. This law entered into force after the last municipal elections in November 2010 and reduced the number of city councillors to 45 and district councillors to 266. In addition to reducing the high number of councillors, fiscal reform was undertaken in 2006 to stop fiscal competition among the districts. No matter how these reforms might be encouraging, some analysts believe that other reforms should be envisaged in order to make governance that is more coherent. The tangle of competences between the city and district levels represents a problem of visibility of actions to a Slovak citizen living in Bratislava who belongs to three levels of decentralized units: the self-government region of Bratislava (whose population consists of more than 75 per cent of inhabitants of Bratislava). the city level and the districts. The possibility of granting the municipal council of the Slovak capital the competences of a region (as in the case of the Council of Paris, which is the deliberative body of the municipality and the department) is an option that has been discussed, since it could fight against the phenomenon of »free-ridding« and save money. Another point that could be modified is the creation of special chapter on the state

 $^{^{22}\,}$ Act No. 535/2008 which amends Act No. 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava.

budget to cover expenditures linked to its status of a European capital city. There is no specific chapter in the national budget on the activities of Bratislava related to its status as the capital. For example, the speech of the president of the United States, George Bush, in 2005, or the organization of NATO Summit in 2009, entailed expenses for the city of Bratislava and they were partially financed from local taxes, although these events had a clear national interest. Nevertheless, the adoption of such a budget line in the state budget would be badly perceived by the public in a country where differences in wealth between the capital and the rest of the country are subject to numerous controversies. The development gap between Bratislava and the rest of the country certainly generates political division that prevents the emergence of a consensus allowing a vote on a fundamental reform in the National Assembly. Such a reform could be interpreted as granting new benefits to Bratislava, whose economic success has already aroused keen interest.

4. Conclusion

Bratislava has recently regained its status of a European capital. Its special legal status has been constitutionally recognized. Historical analysis allows better understanding of the organization and autonomy granted to the districts, but this structure, which seems attractive from the point of view of local democracy and the principle of subsidiarity, has negative effects in terms of policy consistency. In addition, the tangle of competences between the city level and the districts causes the problems of visibility of actions. Nevertheless, successive reforms have modernized the organization of the city and districts of Bratislava. The relationship between the city and district levels has been marked by conflicts for a long time. However, various reforms - those already realized or those yet to come - will certainly facilitate finding a balance between the need for management of local problems and the need for consistency. For example, the 2006 Laws concerning fiscal decentralization established a new way of collecting local taxes and avoided fiscal competition between districts. Moreover, even if the number of districts, which is considered excessive, had not been changed, the last major reform of 2008 reduced the exorbitant number of city and district councillors. At a time when many European capitals create ambitious projects,²³ further reforms seem to be necessary

 $^{^{23}\,}$ See Act of July 3, 2010 on Grand Paris, and the 1999 Greater London Authority Act creating Greater London.

for Bratislava to play an important role on European scene and to be able to compete with the neighbouring capitals. The proximity of Vienna and Budapest²⁴ could prejudice its influence on the international stage as well as its attractiveness. Economic success of the capital of this young state allows for some optimism. The unemployment rate in Bratislava Region is well below the national average and Bratislava is experiencing a sustainable economic growth. This success is in contrast with the development of the rest of the country, which does not facilitate a peaceful public debate on the modernization of the status of Bratislava, which could be perceived by the general public as granting additional privileges to the city that already recognizes a great success in terms of development. A comprehensive discussion, which is necessary, could be politically dangerous. Moreover, it does not belong among the priorities of the political agenda of the weak coalition currently in power. Nevertheless, Bratislava cannot avoid the modernisation of its status in the future if it wants to be able to compete with other European capital cities effectively.

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²⁴ Bratislava is about 80 km from Vienna and 200 km from Budapest.

Act No. 535/2008 which amends Act No. 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava

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Statute of Bratislava adopted on July 3, 2008

SPECIAL LEGAL STATUS OF BRATISLAVA AS A EUROPEAN CAPITAL CITY

Summary

After the dissolution of Czechoslovakia in 1992, Bratislava regained its status of a European capital. This city with rich history also known under the name of Presbourg or Pozsony passed through different empires and regimes until it became the centre of the emancipation effort of the Slovak nation. A historical approach allows a better understanding of the development and functioning of the capital of the young Slovak Republic. As many capitals and agglomerations in general, it has grown gradually integrating the surrounding municipalities. This occasionally authoritarian amalgamation was considered as an excess of the previous centralized regime. The tendency to grant broad autonomy to local governments during the democratic transition also had an impact on the organization and competences of the districts of Bratislava. Its organization is rather decentralized and each district is a legal entity with a wide autonomy. This organization could be attractive from a democratic point of view but it is costly and could cause problems in terms of coherence. Actually, there is a great heterogeneity of districts in Bratislava in terms of population, surface, and development strategy. The issues are sometimes different, which explains conflicts in the relationship between the city level and districts. The fact that districts have wide competences and their own fiscal resources sometimes leads to competition between then and to the detriment of coherence at the city level. A number of reforms have been adopted to modernize the status of Bratislava. These reforms are encouraging but some other reforms should be envisaged in order to create governance that is more coherent. Nowadays, when the European capitals have

launched an intense competition on the best fundamental reform of a capital city's status, it seems to be a necessary step to take on the way to more efficient and affordable governance.

Keywords: Bratislava, special legal status, European capital cities, Central Europe, decentralization

POSEBNI PRAVNI STATUS BRATISLAVE KAO EUROPSKOG GLAVNOG GRADA

Sažetak

Nakon razdvajanja Čehoslovačke 1992. Bratislava je ponovno dobila status europskog glavnog grada. Grad bogate povijesti poznat pod imenima Presbourg i Pozsony (Požun) prošao je različite monarhije i režime dok nije postao centar težnji za samostalnošću slovačke nacije. Povijesni pristup omogućuje bolje razumijevanje razvoja i funkcioniranja glavnog grada mlade Slovačke Republike. Kao i mnogi drugi glavni gradovi i aglomeracije općenito, i on se širio postupno integrirajući okolne općine. Ta ponekad autoritarna pripajanja smatrala su se ekscesom prijašnjeg centraliziranog sustava. Težnja davanja široke autonomije lokalnim vlastima tijekom demokratske tranzicije također je imala učinka na organizaciju i ovlasti bratislavskih četvrti. Organizacija Bratislave je vrlo decentralizirana, a svaka četvrt ima pravnu osobnost s velikom autonomijom. Takva organizacija može biti privlačna sa stajališta demokracije, ali je skupa i može prouzročiti probleme neusklađenosti. U Bratislavi postoje velike razlike između četvrti u pogledu broja stanovnika, površine i razvojne strategije. Različitosti objašnjavaju sukobe između razine čitavog grada i četvrti koje ga sačinjavaju. Činjenica da četvrti imaju široke ovlasti i vlastite izvore financiranja ponekad vodi prema natjecanju među četvrtima i otežavanju usklađivanja na razini čitavog grada. Više je reformi bilo poduzeto radi modernizacije statusa Bratislave. Premda su one ohrabrujuće, potrebne su i dodatne reforme da bi upravljanje gradom bilo usklađenije. Danas kad postoji svojevrsno natjecanje europskih glavnih gradova, pronalaženje najbolje dubinske reforme statusa glavnog grada čini se nužnim korakom prema efikasnijem i jeftinijem upravlianju gradom.

Ključne riječi: Bratislava, posebni pravni status, europski glavni gradovi, središnja Europa, decentralizacija