Oliver Nikolić, LL.D
Academy for diplomacy and security, Belgrade

LAW ON LOCAL SELF-GOVERNMENT IN SERBIA

The Law on Local Self-Government was adopted in December 2007 and is one of the four basic laws which regulate the legal framework of local self-government. Considering that the innovations introduced by the 2006 Constitution are not so numerous, the process of harmonising the Law on Local Self-Government with the constitutional changes was not difficult. The legislator used this opportunity to additionally modify some provisions, and practice will show whether all the new solutions have been successfully implemented. The most significant innovation introduced by this Law and based on the new Constitution is that the local self-government units have their own property and that it is managed independently by their respective bodies, which, as mentioned above, still awaits implementation.

Key words: Constitution, self-government; Serbia

I. Historical background of the local self-government

Local self-government in Serbia does not belong to recent historical heritage because certain forms appeared as early as during the Turkish rule over Serbia. Naturally, such local self-government is not a result of government decentralisation and is considerably different from the present meaning of that institution. In that period, the only authority in villages was knez (headman) and all major issues were settled at village assemblies. For an area of several villages (called kne?ina), kne?inski knez with executive and judicial power was elected by the people and with approval by the Turks. In exercising his authority, he was assisted by bulyubashas (captains) and major issues were discussed at the meeting of all knezes.

By obtaining certain autonomy from Turkey and by passing the first (1835) and second (1838) constitution, Serbia started creating a classical government structure and separating central from local government. The Law

on Organisation of Municipalities was passed in 1839 and presents the first piece of legislation regulating local self-government in Serbia. Under this law, there are rural and urban municipalities and they are supervised by the head of the district or sub-district ("srez"). By passing the Law on Municipalities (1889), a distinction was made between district, sub-district and municipal local self-government and the municipality had its own property, collected taxes and had its own bodies as well (court and council). Such an advanced status of municipality did not last long and a centralised model was introduced, whereby the municipality was placed under a direct supervision of sub-district and district authorities. With certain legislative changes, such a situation was characteristic of the Kingdom of Serbia, later of Serbia, Croatia and Slovenia, and Yugoslavia.

The period of socialism, which lasted until the complete break-up of the Socialist Federal Republic of Yugoslavia, is characterised by the establishment of federal system, which does not mean a true decentralisation of the country. The municipality as a territorial and political unit and later also as the basic socio-political community in which self-management is exercised had considerable competences on paper, but its status did not imply an actual development of local self-government. The real power at the central level as well as at the local level was exercised by the Communist Party, directly or through its bodies. By the 1974 Constitution, which presents the beginning of break-up of Yugoslavia, the republics and autonomous provinces were becoming increasingly independent from the central government, which was indirectly reflected on the similar status of municipalities as well. Such a situation reached its climax in the early 1990s when the Socialist Federal Republic of Yugoslavia disintegrated and Serbia remained within the Federal Republic of Yugoslavia and, finally, the State Union of Serbia and Montenegro.

The 1992 Constitution of the Federal Republic of Yugoslavia merely established the right to local self-government, while leaving to the republics the right to regulate this matter independently. Serbia established a largely centralist model of government, so the municipalities and towns remained deprived of many competencies that were characteristic of the neighbouring countries. By this Constitution, the property of local self-government was proclaimed to be state-owned, and the manner of its management was specified by a republic law, which enabled the adoption of the Law on Property of the Republic of Serbia in 1995. By this law property was taken away from local self-government units and transferred to the Republic, which caused a reduc-

tion in significant revenues and their impoverishment as well as a partial collapse of the system of local self-government.

With the change of regime in 2000 the attitude to the system of local self-government also changed, so in 2002 the Law on Local Self-Government was passed, significantly improving the status of municipalities and towns. First of all, the Law introduced the system of division of power instead of the system of unity of power applied until then, so the normative authority exercised by the municipal assembly was separated from the executive authority exercised by the mayor, assisted by municipal or town council. As one of the main innovations, this Law introduced the direct election of mayors.

The Law unfortunately keeps the single-type system of local self-government because it still does not make any significant distinction between municipalities and towns as local self-government units. This law made progress in the field of local government finance, regulating the types of local revenues and increasing the number of own revenues. Unfortunately, the influence of political parties is of crucial importance for the activities of local self-government units, which largely prevents a true and democratic development of local self-government and its institutions.

However, for the financial strengthening of local self-government units, it was necessary to wait until 2006 when the Law on Local Self-Government Financing was passed, whereas the problem of appropriated property was not legally regulated until the 2006 Constitution was adopted. Now it is up to the legislator to regulate legally the restitution of ownership authority to local self-government units, thus creating the conditions for its full functioning. As for the depoliticisation of local self-government units, for the time being this should not be expected to happen in the near future.

II. Constitutional principles of local self-government

The basic principles of local self-government in Serbia were established in the part seven of the Constitution of the Republic of Serbia, which was adopted by the National Assembly of the Republic of Serbia at a special session on 30 September 2006 and endorsed by referendum on 28 and 29 October 2006. Local self-government is well regulated by the Constitution of the Republic of Serbia compared to previous Serbian constitution from 1990, but still many institutions should be specified by laws and other legal acts. This leaves room for the legislator to better define the proper work of the municipalities, but also room for manipulation as was main characteristic of the last century's nineties.

In Serbia state power is restricted by the right of citizens to provincial autonomy and local self-government. The Constitution in the article 176 stipulates: "Citizens shall have the right to the provincial autonomy and local self-government, which they shall exercise directly or through their freely elected representatives". The local self-government is the right of citizens to govern themselves and their community, both directly and through their representatives.

There are different types of territorial units in the Serbia: the autonomous provinces as territorial unit of provincial autonomy, municipalities and towns as territorial units of self-government. The status of the City of Belgrade is somewhat specific because it is regulated by a separate Law on the Capital City.

The ownership's mandate is serious problem in Serbian parliamentary life, because Constitution in article 102 states "Under the terms stipulated by the Law, a deputy shall be free to irrevocably put his/her term of office at the disposal [of] a political party upon which proposal he or she has been elected a deputy". It seems that political parties' intent is to tie the deputy to the party position on all matters at all times. This is a serious violation of the freedom of a deputy to express his/her view on the merits of a proposal or action. It concentrates excessive power in the hands of the party leaderships[1].

Municipalities, towns and city of Belgrade are defined as territorial units in which citizens exercise self-government in affairs prescribed by the Constitution, laws and the statutes of the self-government units. Units of local self-government have their own competences but they can receive delegated competences from Republic or autonomous provinces. Local self-government units are competent in those matters which may be realised, in an effective way, within a local self-government unit. Also Republic and autonomous provinces can delegate particular matters within its competence to local self-government units and provide necessary resources to execute the delegated competences. According to the Constitution a municipality has the following competences:

- to regulate and provide for the performing and development of municipal activities;

---

[1] See, , European Commission for Democracy through Law (Venice Commission), Opinion on the Constitution of Serbia adopted by the Commission at its 70th plenary session (Venice, 17-18 March 2007), p. 12.

- to regulate and provide for the use of urban construction sites and business premises;
- to be responsible for construction, reconstruction, maintenance and use of local network of roads and streets and other public facilities of municipal interest; regulate and provide for the local transport;
- to be responsible for meeting the needs of citizens in the field of education, culture, health care and social welfare, child welfare, sport and physical culture;
- to be responsible for development and improvement of tourism, craftsmanship, catering and commerce;
- to be responsible for environmental protection, protection against natural and other disasters; protection of cultural heritage of the municipal interest;
- protection, improvement and use of agricultural land;
- to perform other duties as stipulated by Law on local self-government

Supreme legal act of the municipality, town and capital city is statute. It is positive that the assemblies of LSG units have great freedom in drafting their statutes and are limited only by the fact that the statute must be in accordance with the Constitution and laws.

The Constitution only lists the sources of revenue but does not include any explicit guarantees for the financial autonomy of the local self-government units.

The Constitution proclaims the autonomy of municipalities in managing local affairs and restricts the supervision of the government to control over legality of the municipal general act and certain case dismissal of the Municipal Assembly. Also, the protection of the local self-government is guaranteed by the Constitutional Court of Serbia.

One of the best novelties of the new Constitution is guarantee for the local self-government units to the property and the free management of their own property. This provision of the Constitution is of outstanding significance for further development of local self-government However; the aforementioned provisions do not represent the state's obligation to return to the local authorities the property that were deprived by Law on Assets of the Republic of Serbia (1995). The law that will regulate local self-government title as well as what is meant by the property of local self-government units is yet to be adopted. The devolution of property is closely linked to the issue of restitution of property nationalised upon the establishment of communist Yugoslavia. The preparation of a comprehensive package of laws on property

and ownership rights should be one of the top priorities of the Serbia in order to enable the all units of local self-government to freely dispose of their property, within the limits of the law, in order to promote local development, especially in the context of pre-accession programmes of the EU.

It is stipulated that the election of executive bodies in municipalities be performed in municipal assemblies. This represents a positive solution, taking into account the non-functioning of some municipalities in the previous period because of poor cooperation of the municipal assembly as the legislative body and the mayor as the executive body of the municipality. However, the regulation of the election of municipal executive bodies by the Constitution is uncommon but it is left to the law.

The chance to create by the Constitution a multi-level character of local self-government and establish regions as forms of territorial decentralisation, of a government organisation level between the Republic and local self-government units, was missed. Introduction the regions will improve the capacity of public authorities to manage delegated competences more efficiently, as well as original competences.

The legislator should also change the single-type character of local self-government and make a true distinction between the municipality and town, which would be regulated in more detail by subsequent legal solutions. This is necessary step for recognition the difference between the municipality and the town.

III. General overview and main principles introduced or confirmed by the new Law on Local Self-Government

The Law on Local Self-Government was adopted in late December 2007 (Official Gazette of RS no. 129 dated 29 December 2007) and presents one of the four basic laws[2] which regulate the legal framework of LSG. The Constitutional Law for Implementation of the Constitution of Serbia prescribed that the elections for councillors in LSG unit assemblies had to be scheduled not later than 31 December 2007, which caused a prior adoption of a set of laws regulating LSG.

---

[2] The other three laws are the Law on Local Elections, the Law on Territorial Organisation of the Republic of Serbia and the Law on the Capital City, published in the same issue of the Official Gazette of Serbia as the Law on Local Self-Government.

Considering that the innovations introduced by the 2008 Constitution are not so numerous, the process of harmonising the Law on Local Self-Government with the highest legal act in the country was not difficult. The legislator used the opportunity to introduce some new elements in the Law, in an effort to improve the inadequate legal provisions of the previous Law. Practice will show after a while whether it has succeeded in that.

The Law has the standard structure that the laws of similar content have and consists of 103 articles divided into nine sections. In addition to the basic provisions, the Law covers and regulates LSG units, direct participation of citizens in exercising LSG, community self-government, relations between the bodies of the Republic, territorial autonomy and bodies of LSG units, cooperation and association of LSG units, symbols and names of parts of settlements places in a LSG unit, protection of LSG and transitional and final provisions.

The most significant innovation introduced by this Law is the fact that the LSG units have their own property and that it is managed independently by their respective bodies. Now it is up to the legislator to "return the property" of the LSG units, by a law or other act, which the government appropriated by the Law on Assets of the Republic of Serbia in 1995.

The optional introduction of town municipalities in the territorial structure of towns and its completely free definition and organisation by the town statute presents an innovation in the legal framework of LSG. It is obviously a positive and democratic to leave each town the right to decide whether it will found town municipalities or not and in what manner it will regulate them. However, a framework organisation, the manner of establishment, change and abolition of town municipalities, which each town would elaborate and adapt to its needs by its statute, should have been established by the Law. Since this is not the case, primarily the newly created towns face big problems regarding the introduction of town municipalities, so the system of local communities is just transformed into a system of town municipalities, which is often not functional and necessary for the citizens. A special problem may appear if the towns opt for different town municipality solutions, which may create diversity throughout the territory of the Republic and possibly make more difficult some subsequent legal solutions in this field.

Observing the constitutional provision on the indirect election of municipal mayors[3], the Law also applied it to election of town mayors, which it was

[3] "The Municipal Assembly shall decide on the election of municipal executive bodies, in accordance with the Law and the Statute" (Constitution, Art. 191 paragraph 4).

not obliged to do[4]. The legislator's intention that the power division principle should be abandoned and that all the power that, until the adoption of this law, was shared between the assembly and the head of the municipality or town should go now to the municipal or town assembly was clear. This is, in a way, understandable and justified, taking into account certain problems in their cooperation, which affected the functioning of the municipality. However, the creation and simultaneous election of two executive bodies, in the form of the mayor and municipal or town council, is not completely justified. All the more so if taking into account a great impact of the mayor on the election and dissolution, as well as, after all, the entire operation of the municipal or town council.

A question arises as to why the legislator classified the municipal or town administration among municipal or town bodies. This is an administrative body (holder of administrative function), without the right to make decisions, whose main role is to execute the acts of the municipal or town assembly and executive bodies. It is even stranger why the administration head is responsible for his/her work to the municipal or town assembly and to the municipal or town council when only the municipal or town council elects and dismisses him/her. However, a positive thing is that the administration head is fortunately appointed based on a public advertisement, for a five-year period.

The Law introduces a new advisory institution of assistant mayor. Not all LSG units have the same need for this institution, in terms of the fields they would act in, as well as in terms of their number[5]. That is why it is good that complete freedom is given in the Law to the municipality or the town to prescribe by its statute for which fields the assistant mayors will be appointed. However, it is completely unclear why the legislator prescribed that assistant mayors are a part of the municipal or town administration and not of the cabinet or some similar body of the mayor when he/she elects and dismisses them. Does that mean that assistant mayors are responsible for their work to the head of municipal or town administration and what the consequences of that responsibility may be. The legislator would have to correct this provision when first amending this law.

---

[4] "Election of executive bodies of the town and the City of Belgrade shall be regulated by the Law" (Constitution, Art. 191 paragraph 5).

[5] Only in Article 58 does the Law specify that maximum three assistant mayors may be appointed in municipalities and maximum 5 assistant mayors in towns.

Today, the 1991 Law on Labour Relations in Government Bodies, which applied to all employees in government bodies in the Republic of Serbia until the adoption of the Law on Civil Servants in 2006, analogously applies to local employees. "Currently, local government has a pronounced hierarchical structure, the emphasis is on regulation and procedures, discretionary powers of superiors over subordinates are considerable, and there is a pronounced influence of politics upon personnel issues. All this is largely possible because of the persisting complicated legal framework from the previous period regulating the status of local employees. This framework does not allow for consistent, clear and uniform solutions and proper foundation for the development of human resources at the local level"[6]. For that reason, the creation of a legal framework that would regulate the status of LSG unit employees is a priority. A question arises as to what government body is in charge of reforming the status of local employees.

When it comes to the direct participation of citizens in exercising LSG, the most significant innovation of this Law is the provision which stipulates that a decision made at a referendum is binding and, as such, may not be rescinded by the assembly nor may the assembly change its essence by any amendments. Also, the required number of voters' signatures for a citizens' initiative has been decreased from 10% to 5% of the voters. Also introduced is the obligation of bodies and services of LSG units to inform the citizens about their operation via the media and in other appropriate manner.

Unfortunately, the legislator did not change the mono-type character of LSG, so there is no formal distinction between the competences and structure of municipality and town. The issue about distinguishing the scope of competences of the two LSG units and expanding those of towns has been in the focus of discussions for some time. On the one hand, arguments have been presented that it would be better to make a clear legal distinction between municipality and town in their original competences and not to rely on sector laws that would delegate different activities from the competence of the Republic to municipality or town. This would empower towns to handle the higher responsibilities that they have anyway, particularly in the management and financing of services. On the other hand, such an approach might prove dangerous for smaller municipalities, which would be placed on an unequal standing with bigger municipalities and towns. The second opinion is in

---

[6] Aleksandra Rabrenović, Zorica Urošević, Analysis of the legal status of local government employees, Beograd, 2007, p.3.

favour of encouraging the inter-municipal cooperation instead of "fuelling" towns as economic, cultural, educational, and political centres. It is also argued that this distinction is not really a priority for Serbia now and is not called for by the current administrative structure and level of development of LSGs. Supporters of that view insist that this is not an urgent issue, and more time should be given to assess the functioning of the current law before big amendments to it are proposed. Although the authors would favour more strongly the first opinion, we believe that, at this point, it is most important to attract the attention to the relevance and practical importance of this issue rather than to opt for a solution.

IV. Brief description of introduced changes[7]

Since the new Constitution provided for certain changes in the system of local self-government compared to the period of application of the previous 1990 Constitution and the 2002 Law on Local Self-Government, it is understandable that the new Law on Local Self-Government, which was passed in 2007, was primarily aimed at overcoming these differences. The legislator made an effort to improve legal solutions and hence the large number of legal-technical improvements that were included in the new Law. In the following text the most important changes in the new Law compared to the previous will be briefly indicated, without getting into a deeper analysis.

The field by which the manner of financing and the terms and procedure of borrowing by local self-government are prescribed is not covered by the 2007 Law on Local Self-Government but a separate Law on Local Self-Government Financing (Official Gazette of RS, no. 62/2006) was passed, which started to apply as of 1 January 2007. According to the previous 2002 Law on Local Self-Government, it was regulated that local self-government units were to be financed from own and allocated revenues, defined by law, as well as from shared revenues. Harmonising itself with the Constitution, the new Law stipulated that local self-government unit had its own property and managed it independently through the bodies of the local self-government unit, in accordance with the law. Certainly, enabling local self-government units to possess property and to manage it independently presents a great incentive in the process of strengthening local self-government. Although the local self-government would reduce direct dependence on funding from the republic (or province, when it

[7] For detailed analysis of this Law, see Miloš Petrović, Petar Vujadinović, Analysis of the new Law on local self-government (MSP project), Kraljevo 2008.

comes to shared revenues) by this constitutional and legal solution, that is still insufficient, because it is necessary to pass a certain number of laws and by-laws that would put this constitutional and legal solution into practice. Therefore, until the legislator passes, first of all, the law on property of local self-government, this solution remains with no direct application in practice.

When it comes to the establishment, abolition and territorial change of a local self-government unit, the new Law stipulated the prior holding of a consultative referendum in the territory of the local self-government unit concerned. Such a solution in the new Law presents significant progress in strengthening democracy as well as reinforcing direct participation of citizens in local public life. However, this does not mean that the previous law disregarded the opinions and desires of local population but that its regulated them in a different manner. The establishment and abolition of local self-government unit, the definition of its territory and seat, any changes of its boundaries and seat were prescribed by previous law, with before obtained opinions of citizens, assemblies of local self-government units concerned with these changes, as well as the body of Territorial Autonomy competent for the local self-government units in its territory.

The legal status of local self-government units is now explained in much more detail compared to the previous law. The municipality is no longer just the basic territorial unit where local self-government is exercised but its definition is supplemented by the requirement that it must have at least 10,000 inhabitants (exceptionally, when there are particular economic, geographic or historical reasons, a new municipality may be established with fewer than 10,000 inhabitants).

Regarding the competences of the municipality, the new law not only introduces four new areas of its activities but also supplements and improves some of the existing ones. The first innovation relates to the determination of the rate of municipality's own revenues as well as to the manner and standards for determining the level of local fees and charges. The second new competence of the municipality refers to the adoption of programmes and implementation of projects of local economic development and improvement of the general business framework in the local self-government unit. The municipal competence for establishing the institution in the field of social care and monitoring and providing its functioning existed in the previous law as well, but now it is explained in more detail. Another innovation is the municipality's assistance to persons with special needs as well as persons that are essentially in an unequal position to the other citizens. Partial changes in the municipality's competencies include the management of municipal property (according to the previous law, it was state-owned property), provision of funds for financing and co-financing pro-

grammes and projects in the field of culture that are of interest to the municipality and in the field of public information.

The previous law defined the town as a territorial local self-government unit that was determined by the law and in whose territory two or more town municipalities were established, while the present law defines the town as a local self-government unit which presents an economic, administrative, geographical and cultural centre of a wider area and has over 100,000 inhabitants (exceptionally, when there are special economic, geographic or historical reasons, it can be determined that the town is a territorial unit with fewer than 100,000 inhabitants). As for town municipalities, the previous law was much more precise in defining them than the current law. Today the law completely leaves to the town statute the freedom of deciding on the formation of the town municipality as well as the regulation of the bodies and the manner of electing the bodies of town municipalities. An innovation in the law is also the fact that the town establishes the communal police.

In addition to the municipal assembly, mayor and municipal council, the new Law for the first time includes municipal administration in the municipal bodies.

The municipal assembly is no longer just a representative body but, according to the new Law, presents the highest municipal body as well. For the municipal assembly to be constituted, it is necessary to fulfil two conditions - to elect the mayor and appoint the assembly secretary. The competencies of the municipal assembly and town assembly are also changed to a certain extent, so now, among other things, the assembly elects and dismisses the mayor. In addition to the statute, the highest municipal by-law, now the adoption of municipal budget and urban plans is also decided upon by the majority of votes of the total number of councillors. Naturally, there are other new legal solutions, mostly of procedural nature, but they are not presented in this analysis.

A mayor is a municipal or town body that has undergone the largest changes in the new Law. In contrast to the previous legal solution, which provided for a direct election of the mayor, now he/she is elected from among the councillors by the absolute majority of votes of councillors upon the proposal of the mayor. The issue of termination of the term of office of the mayor is now presented in much more detail and much more precisely. By electing him/her to the position of mayor, his/her term of office as a councillor is terminated, and an innovation is also that he/she must be employed full-time with the municipality or town. The mayor is also a member of the municipal council and its chairman. As regards the mayor's competencies, they are reduced significantly under the new law compared to the previous, so he/she is no longer in charge of a direct execu-

tion of decisions and other by-laws of the assembly, nor of delegated activities within the scope of rights and duties of the Republic or territorial autonomy, nor does he/she propose the appointment or dismissal of the head of municipal administration. From now on, the municipal or town council is in charge of exercising these competencies.

Under the new Law, the municipal or town council has got wider competencies concerning the proposing of the statute, budget and other decisions and by-laws of the assembly as well as making decisions on provisional financing in case the assembly fails to pass the budget before the start of the fiscal year. With the mayor's dismissal, the terms of office of the deputy mayor and of municipal council are also terminated.

The head of municipal administration and his/her deputy are no longer appointed by the municipal or town assembly upon the mayor's proposal; instead, it is done by the municipal or town council, based on public advertisement, for a five-year period. Hence it is logical that the head of the administration is responsible to the municipal or town assembly and to the municipal or town council and not, as previously, to the mayor. The possibility of appointing chief architect or manager, which presented an innovation in the previous Law, is no longer provided for by the present Law. Instead of them, assistants to the mayor may be appointed, maximum three of them for a municipality or five for a town. The Statute stipulates that the assistants may be appointed for economic development, urban planning, primary health care, environmental protection, agriculture and other fields.

The new Law on Local Self-Government also introduced certain changes in the part concerning the direct participation of citizens in exercising local self-government. Although all three forms of direct participation of citizens in exercising local self-government remained the same, there have been certain changes in some of them. For launching a citizens' initiative the number of citizens' signatures may not be lower than 5%, while under the previous Law it was 10% of the voters. The referendum is defined more precisely under the new Law, so, among other things, for a referendum to be scheduled it is necessary for the proposal to be submitted by minimum 10% of voters of the total electorate in the local self-government unit. Also, the decision made at the referendum is obligatory and may not be changed or invalidated for a one-year period. The obligation of the bodies and services of local self-government units to inform the public of their activities through the media is a complete novelty, which did not exist in the previous law.

In contrast to the previous Law which only gives a possibility, now local communities and other forms of community self-government are established

for the purpose of meeting the needs and interests of local population in villages. When forming or abolishing local communities and other forms of community self-government, under the new law, this is decided upon by the municipal or town assembly but with a previously obtained opinion of the citizens. The system of financing in the community self-government has been changed almost entirely, and an innovation is also the obligation of local communities to adopt a financial plan. The new law gives a possibility of organising the activities of municipal administration in local communities, which certainly presents a positive innovation.

Certainly, the relation between local self-government bodies and bodies of the Republic and territorial autonomy is always complex because the real independence of local self-government originates from it. The already existing relation between these bodies is defined more precisely by the new Law, emphasising that the legality of activities and by-laws of local self-government bodies are supervised by the bodies of the Republic and territorial autonomy, as well as that local self-government bodies are obliged to deliver required data, writings and documents to the bodies carrying out supervision while the mayor or the secretary of municipal assembly are responsible for the delivery. A significant innovation in the new Law is the obligation of the Government to suspend by its decision the implementation of the general by-law of a local self-government unit that it deems to be non-compliant with the Constitution or the Law. Such a decision ceases to apply unless the Government initiates the procedure for assessment of the constitutionality and legality of the disputed by-law within five days from the day of decision publication. In addition to the two already existing reasons for dissolving the assembly of a local self-government, the new Law has added the third reason: if the mayor and the municipal council are not elected within one month from the day of constitution of the assembly of local self-government unit or from the day of their dismissal or resignation. There has also been a change in the time limits for scheduling new elections after the dissolution of the assembly. A very significant innovation is the provision of the Law that specifies that the Government is to take into account the political and national composition of the dissolved assembly when appointing the mayor and members of the provisional body of the local self-government unit that performs activities until the assembly constitution and elections. Previously the provisional body reflected the identical picture of the Republic Government and not of the dissolved assembly of the local self-government unit.

In addition to the state symbols and the symbols of the local self-government unit, the innovation is that the symbols of the minorities whose language is in official use in the territory of the local self-government unit are also dis-

played. The display of the symbols of the autonomous province is regulated in accordance with the regulation of the autonomous province. An important innovation is that in the areas of local self-government units where a minority language is in official use, the opinion of the National Committee must be sought when changing the names of streets, squares, town quarters, hamlets and other parts of settlements.

The previous Law regulated the field of protection of local self-government more comprehensively and in more detail in procedural terms than the current Law, which does not go beyond the possibility of initiating the procedure for assessment of constitutionality or legality, and of lodging a complaint to the Constitutional Court. Compared to the previous Law on Local Self-Government, when the ombudsman was introduced for the first time as an optional body, the present Law, in addition to changing the name of this body (previously it was called citizen's counsel), slightly changes the formulation of its definition as well as provides for a possibility that two or more local self-government units may introduce a joint ombudsman. The Council for the Development and Protection of Local Self-Government, which was able to submit proposals to the assembly in connection with the improvement of local self-government and protection of constitutional and legal rights and duties of local self-government units, no longer exists under the new Law.

Dr Oliver Nikolić,
docent Akademije za diplomatiju i bezbednost, Beograd

ZAKON O LOKALNOJ SAMOUPRAVI U SRBIJI

Zakon o lokalnoj samoupravi je usvojen u decembru 2007. (Službeni glasnik RS br. 129/07) i jedan je od četiri osnovna zakona (ostala tri su Zakon o lokalnoj samoupravi, Zakon o izborima, Zakon o teritorijalnoj organizaciji RS i Zakon o glavnom gradu) koji uređuju pravni okvir lokalne samouprave. Obzirom da novine koje je uneo Ustav od 2008, nisu toliko brojne, proces usklađivanja Zakona o lokalnoj samoupravi sa najvišim pravnim aktom u zemlji nije bio težak. Zakonodavac je iskoristio priliku pa je u Zakon uneo neke nove elemente, u nastojanju da poboljša neadekvatna pravna rešenja

prethodnog Zakona a da li je u tome i uspeo, kroz izvesno vreme pokazaće praksa. Najznačajnija novina uvedena ovim Zakonom a na osnovu novog Ustava je pravo jedinica lokalne samouprave na svojinu kojom će nezavisno raspolagati pomoću odgovarajućih organa a što, kao što je ranije rečeno, još uvek nije sprovedeno.

U prvom delu članka, autor daje istorijiski prikaz lokalne samouprave u Srbiji, od njenih početaka pa do donošenja Ustava od 2006. godine, čime se uvodi u drugi koji govori o ustavnim načelima koji se odnose na lokalnu samoupravu. Treći deo je fokusiran na sažeti prikaz novog Zakona o lokalnoj samoupravi, pre svega na nove institute koji se njime uvode u pravni poredak Srbije. Četvrti i poslednji deo članka je ujedno nastavak dela koji obrađuje zakonska pitanja lokalne samouprave, samo u smislu komparativne analize u odnosu na predhodni zakon iz 2002. godine

Ključne reči: Ustav, lokalna samouprava; Srbija