General Principles and Challenges of Public Administration Organization in the Slovak Republic

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ABSTRACT

The organization of public administration in the Slovak Republic has undergone significant changes over the last 30 years. Following the fall of the communist regime, it became necessary to adjust public administration in accordance with democratic principles and the rule of law. Various nonlegal aspects, especially social, geographical, historical, and economic determinants, have also affected its formation. The chapter therefore examines each of those influences that have both shaped and continue to shape the current form of public administration organization. Public administration is part of the exercise of state power, the limits of which are set by the Constitution. Therefore, it is necessary to examine the implications of constitutional law and its principles for public administration. Public administration depends on the political management of the state by the legislative and executive branches of state power. Simultaneously, it was controlled by the judiciary. Therefore, it is also necessary to reflect on the relationships between the bodies representing these branches of power and public administration. Public administration is conducted by several entities with different roles and responsibilities. Therefore, we focused on examining these entities. The primary focus is on public administration bodies, that is, the bodies of the state and entities derived from the state. In this context, we refer to the principles of their construction and integration into the organization of public administration. Finally, the current challenges facing the organization of public administration in the Slovak Republic are formulated, and certain trajectories of its development are outlined.

KEYWORDS

public administration, public administration bodies, constitutional principles, principles of public administration construction, self-government

1. Basic social, geographical and economic overview

Several factors influence the development of public administration systems in countries These factors have a social, political, historical, geographical, and economic basis. These interactions give rise to public administration. However, the public administration system varies not only in space, but also over time. Different factors may prevail at different times, and some may be sidelined. Similarly, different factors may operate in different states or even in different territories of the same state. This

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chapter analyses the determinants that have been, are, or will influence the formation of the public administration system in the Slovak Republic.

The Slovak Republic is one such unit, characterised as a parliamentary democracy. It is headed by a President, who is elected directly by the country's citizens. The National Council of the Slovak Republic, a unicameral Parliament, is a supreme legislative and constitutional body. The Government of the Slovak Republic, consisting of the Prime Minister, Deputy Prime Ministers and Ministers, is the supreme body of executive power. The executive body guides the state's political direction. The tasks of political governance are subsequently carried out through public administration and its apparatus at the national and local levels, either through direct implementers of public authority (state authorities) or indirect implementers (local government units and public corporations). The historical development and traditions related to the organization of the state and public administration, as well as negative development tendencies and reform efforts, have also had influenced the current form of the creation of the system of public authority.

The Slovak Republic was a part of the Austro-Hungarian Empire until 1918. In 1918, it became a part of the newly formed state of Czechoslovakia, which included the Czech Republic and Podkarpatska Rus. During the Second World War, from 1939 to 1945, a totalitarian state influenced by Hitler's Germany was established in Slovakia. In 1945, the territory was reintegrated into Czechoslovakia. However, after the 1948 elections, it came under the control of the Communist Party, which was linked to the Moscow regime. Non-democratic elements were introduced into the organization and functioning of the state, while democratic principles, based on the rule of law, were eliminated. The regime collapsed in 1989, when the foundations of a democratic state were rebuilt. In 1993, the independent Slovak Republic was established, adopting international standards of human rights protection and the basic principles of the rule of law, thereby bringing public power closer to its originators—citizens—which was also related to the gradual decentralisation of public administration. All these historical milestones were manifested in the sphere of the territorial and administrative organization of Slovakia, the exercise of public authority in its territory, the organization of public administration, and its activities.

The Slovak Republic has been a member of the North Atlantic Treaty Organization since 29 March 2004 and a member of the European Union since 1 May 2004. Entry into these organizations was preceded by extensive preparations that inevitably included the field of public administration, including its activities, processes, and organization. It is also a member of other international organizations of a global (e.g. the United Nations) or regional nature (Council of Europe, Organisation for Security and Cooperation in Europe, and Organisation for Economic Cooperation and Development). Membership in these organizations implies an obligation for the Slovak Republic to uphold and protect the democratic principles of the rule of law, which certainly also applies to the organization and activities of public administration.

The Slovak Republic is a landlocked country located in Central Europe. It covers an area of 49,036 km^2, and has a population of approximately 5,449,265 inhabitants.[1] It is bordered by the Czech Republic in the northwest, Austria in the southwest, Poland in the north, Ukraine in the east, and Hungary in the south.[2] The Slovak Republic has an elongated shape from west to east, which has influenced the need for zoning in this direction. Additionally, there are mountain ranges in the central part of Slovakia, which, in turn, influence the need for north-south zoning.

These geographical and historical contexts have influenced the final form of the territorial and administrative divisions of the Slovak Republic. Thus, the administrative units are organized into regions that are further subdivided into districts. Currently, there are 8 regions and 79 districts. The need for territorial and administrative subdivisions also determines the territorial scope of public administration entities operating within these units.

The diverse relief divisions of the Slovak Republic, influenced mainly by distinctive mountain ranges and forests, has also impacted the defragmentation of settlement formations. There are many municipalities in the Slovak Republic; as of 31 December 2021, there were 2890 municipalities. Of these, 2,452 municipalities had fewer than 2,000 inhabitants. A total of 141 municipalities had fewer than 100 inhabitants. By contrast, the largest city in the Slovak Republic is the capital Bratislava with a population of 475,577.[3] The town is located in the western part of the state on the border between Hungary and Austria. The second-largest city, with a population of 229,040, is Košice, located in the eastern part of the state. Other major cities, with populations under 100,000 inhabitants include Prešov, Žilina, Banská Bystrica, Nitra, Trnava and Trenčín.[4] These cities are also administrative centres for wider territorial units in their vicinity.

There was a significant reduction in the number of municipalities between 1970 and 1989. However, this was not a natural trend towards municipalities mergers; rather, this was a dictated, often artificial, merger of municipalities based on the instructions of the central communist administration. After 1990, however, the opposite effect emerged: the division of municipalities into smaller units. This process was halted by a legislative change in 2003, which prohibited the division of municipality with fewer than 3,000 inhabitants. Currently, there is still an aversion in society to voluntary mergers of municipalities, even though legislative conditions for this exist.

1 Census 2020. Statistical Office of the Slovak Republic [Online]. Available at: https://www.scitanie.sk/ (Accessed: 6 March 2023).

2 Statistical data on national borders. Ministry of the Interior of the Slovak Republic [Online]. Available at: https://www.minv.sk/?statisticke-udaje-o-statnych-hraniciach (Accessed: 6 March 2023).

3 Bratislava. Wikipedia: the free encyclopedia [Online]. Available at: https://sk.wikipedia.org/wiki/Bratislava (Accessed: 6 March 2023).

4 Size groups of municipalities – SR, regions, counties, districts, city, countryside. Statistical Office of the Slovak Republic.

Another factor influencing the development of the public administration system and its activities is economic development within individual territorial districts. The changes in political conditions and transformation after 1990 have significantly affected the economic structure, performance, and competitiveness of Slovakia, and its regions. After 2000, integration efforts, EU membership, the beginning of restructuring processes, price deregulation, and changes in the tax system significantly impacted economic development. In the following period, the impact of the economic and financial crisis of 2008-2012, and the subsequent positive developments in the post-crisis period, were significant.

In western Slovakia, an almost continuous territory with high economic performance has developed, including not only districts of Bratislava but also easily accessible districts connected by infrastructure and economic links surrounding their immediate vicinity. The districts in the north of Slovakia, dominated by the agglomeration of the city of Žilina, represent the second economically strongest region. In Central Slovakia, the Banská Bystrica and Zvolen agglomeration have also achieved relatively good economic performance. In eastern Slovakia, the urban districts of Košice are leaders, whereas the other districts exhibit below-average economic performance. The marginal districts of Eastern and Southern Slovakia have long been among the least economically developed.[5]

All these factors, whether political, historical, social, economic, or geographical, have in some way influenced the activity of public administration and its organization, thus shaping its final form, which will be explored in more detail in later sections of this chapter.

2. Public administration and constitutional order

2.1. Constitutional law and its impact on public administration

As a branch of law, constitutional law regulates only a certain portion of the social relations that form the subject matter of public law. In general, these are relations concerning the organization and functioning of state power within the state, including the regulation of relations between the state (state power) and its citizens.[6] For this reason, constitutional law is the starting point for all other branches of law that are part of public law, as well as those that belong to private law.

The regulation of the principles governing the functioning of the relationship between public authorities, on the one hand, and natural and legal persons, on the other hand, contained in constitutional law, is also fully applicable in the field of public administration. This follows from the constitutional definition of the principle

5 Comparison of the socio-economic level of Slovak regions according to selected indicators in 2001 and 2018. Department of Regional Geography, Faculty of Natural Sciences, Comenius University in Bratislava [Online]. Available at: http://regionalnageografia.sk/upload/katedra/postery/DOD/socioeko_uroven_regionov_SR-text.pdf (Accessed: 6 March 2023).

6 Paluš and Somorova, 2004, p. 14.

of legality, according to which state authorities may act solely based on the Constitution, within its limits, and to the extent provided by law (Article 2, paragraph 2 of the Constitution of the Slovak Republic). This principle also implies that the processes of public administration conducted by administrative authorities should be carried out only on the basis of the Constitution, within its limits, and to the extent and manner prescribed by law.

Constitutional laws regulate fundamental rights and freedoms. This is also true for the conditions of the Slovak Republic, where the basic regulations are contained in the second chapter of the Constitution of the Slovak Republic.[7] This section of the Constitution of the Slovak Republic includes a catalogue of fundamental rights and freedoms and their possible limitations. However, the specification of the implementation of individual fundamental rights and freedoms is already the subject of the regulation of administrative law and within the competence of public administration bodies (e.g. the right to free education is detailed in the Education Act, which belongs to administrative law[8]). Thus, administrative law concretises the fundamental rights and freedoms guaranteed by the Constitution and gives them a practical dimension.

The norms of constitutional law also establish a legal basis for the existence of certain public administrative entities. For instance, the fourth chapter of the Constitution of the Slovak Republic provides for the existence of territorial self-governing entities—municipalities and higher territorial units—while the specific regulations of their status and activities are handled by administrative law. Similarly, the legal basis for the establishment of central and local state administrative bodies is found in Article 122 of the Constitution of the Slovak Republic, while the details are specified in the statutory regulation of administrative law.

In addition, the norms of constitutional law contain authorisations for public administration entities to issue normative administrative acts as the result of the normative administrative process (e.g. in Article 68 and Article 71 of the Constitution of the Slovak Republic regulate the authority of municipalities and higher territorial units to issue generally binding regulations in the exercise of self-government competence, as well as in the exercise of delegated state administration; according to Article 123 of the Constitution of the Slovak Republic, ministries and other state administration bodies may, on the basis of laws and within their limits, issue generally binding legal regulations if they are empowered to do so by law).

From the provisions of the Constitution of the Slovak Republic, it is possible to deduce the basic principles applicable to the activities of public administrative bodies. These principles include particularly, (i) the rule of law, including the principle of legal certainty, (ii) the principle of legality, including the obligation of public authorities to act in accordance with the law and to proceed in the manner prescribed by law, (iii) the principles of due process (including the right of access to the administrative authority, the right to have the decision of the administrative

7 Constitution of the Slovak Republic No. 460/1992 Coll. as amended.
8 Act No. 245/2008 Coll. on education and on amendment and supplementation of certain acts.

authority reviewed by a court, the right to compensation for damage caused by an unlawful decision or maladministration of the administrative authority, the right to refuse to give evidence, the right to legal aid, the right to an interpreter), including the principle of equality, and iv) the principle of the administrative authority's acting without undue delay. Violation of any of the above principles in the procedure of an administrative authority (by action or inaction) results in such a procedure becoming unconstitutional.

These constitutional principles were subsequently developed and regulated in detail in the laws regulating the individual proceedings of public administrative bodies; that is, administrative proceedings. The principles of administrative procedure that have developed from the above constitutional principles include: (i) the principle of legality, (ii) the principle of cooperation, (iii) the principle of expediency, economy, and speed of proceedings, (iv) the principle of substantive truth, (v) the principle of legitimate expectations, (vi) the principle of information, and (vii) the principle of procedural equality of the parties to the proceedings, (viii) the principle of disposability and the principle of officiality, (ix) the principle of acting personally or the principle of acting in writing, (x) the principle of publicity and the principle of non-publicity, (xi) the principle of the free evaluation of evidence, (xii) the principle of two instances, and (xiii) the principle of unity of proceedings and the principle of concentration of proceedings.[9]

It is particularly crucial to respect the rule of law and constitutional principles, especially in the area of administrative liability—that is, in the case of punishing administrative offences. Certain principles typical of criminal liability apply in the case of administrative liability. Such fundamental principles which also govern administrative liability include (i) the principle of legality, (ii) the principle of subsidiarity of administrative punishment, (iii) the principle of nullum crimen sine lege, (iv) the principle of nulla poena sine lege, (v) the principle of non-retroactivity, (vi) the principle of ne bis in idem, (vii) the principle of termination of the case by decision, (viii) the principle of inquisitoriality, and (ix) the principle of reviewability.[10]

2.2. Constitutional bodies and their impact on public administration

The definition of the system of supreme state bodies in the Slovak Republic, the relations between them, and their status and competence are the subjects of the Slovak Constitution.[11] The specific structure of the separation of powers and relations between the supreme state authorities under the Slovak Constitution notes certain typical features of the form of government, on the basis of which it can be stated that the Slovak Republic is a state with a parliamentary form of government.[12] The essential feature of this form of government is that it, as the supreme body of executive

9 Jakab and Molitoris, 2018, p. 52.
10 Jakab, 2020a.
11 Constitution of the Slovak Republic No. 460/1992 Coll. as amended.
12 Paluš and Somorova, 2004, p. 208.

power, is politically accountable to the Parliament. The government is formed based on the results of parliamentary elections; then, a vote of confidence must be sought, and finally, the Parliament can vote no confidence in the government at any time. Although citizens directly elect a President, his or her position is not strong enough to speak of a presidential form of government.

The system of supreme state authority in the Slovak Republic reflects the division of power into legislative, judicial, and executive powers. Legislative power is represented by the Parliament. Within judicial power are the Judicial Council of the Slovak Republic as the constitutional body of judicial legitimacy, the Constitutional Court of the Slovak Republic, the Supreme Court of the Slovak Republic, the Supreme Administrative Court of the Slovak Republic, and other courts. The executive branch includes the President of the Slovak Republic and the Government of the Slovak Republic, which is the supreme body of executive power that ensures political management of public administration. The spectrum of constitutional bodies also includes the Public Prosecutor's Office of the Slovak Republic, the Public Defender of Rights (Ombudsman), and the Supreme Audit Office of the Slovak Republic. All these bodies also influence the performance of public administration activities and public authorities. In the following, we refer to these interactions with public administration.

2.2.1. Legislative authorities

Legislative power in the Slovak Republic is vested in the Parliament of the National Council of the Slovak Republic. According to the Constitution of the Slovak Republic, this is the only constitutional and legislative body in the country.[13] Thus, only this body can adopt the Constitution, its amendments, and laws. It represents the sovereignty of the people as it is created by elections through which citizens indirectly exercise public power.

The National Council of the Slovak Republic is a unicameral Parliament comprising 150 members elected for a four-year term in general, equal, and direct elections by secret ballot, according to the principles of proportional representation. It is a permanent body whose activities begin with the constituent assembly and end with the expiration of the term office, or dissolution.

The competencies of the National Council of the Slovak Republic can be broadly divided into the following categories: i) constitutional and legislative competence, ii) competence in the field of control, iii) creative competence, iv) competence in the field of foreign and internal policy of the state, and v) internal competence (the field of parliamentary autonomy).[14]

Ad i) Constitutional and legislative competence. The basic activity of the National Council is to adopt the Constitution, laws, and amendments. In this capacity, it most intensively influences the operation and organization of public administration. Based on the principle of legality, the scope and method of public administration must be

13 Article 72 of the Constitution of the Slovak Republic.
14 Palúš and Somorová, 2004, p. 211.

laid down in the legislation (law). Thus, the National Council has set limits on public administration and its directions.

Ad ii) Control competence. The controlling power of the National Council of the Slovak Republic is primarily directed towards the Government of the Slovak Republic and its members; it is a manifestation of the system of checks and balances in the structure of public power. However, this does not imply that public administration is completely exempt from parliamentary control.[15] According to Hendrych, in a democratic state, there can be no public administrative activity that is subject to the control of representative assemblies at all levels.[16] The instruments of control are, specifically, the possibility of a vote of no confidence in the government, interpellations in relation to the government, members of the government, or heads of other central government bodies, the possibility of asking questions during the so-called Question Hour, or submitting proposals, suggestions, or comments to members of the government or heads of other central government bodies. The approval of the state budget and, subsequently, the state's final accounts are also important instruments for the control of the government and state administration.

Ad iii) Creative competence. The National Council has a significant influence on the creation of other constitutional bodies (it elects and dismisses the chairman and deputy chairman of the Supreme Audit Office, the Public Defender of Rights, elects candidates for judges of the Constitutional Court of the Slovak Republic, candidates for the Public Prosecutor, from among whom the President subsequently chooses; it may decide to announce a people's vote on the dismissal of the President, etc.). In relation to public administration, the National Council established ministries and other state administrative bodies through law. This implies that the National Council decides what the organization of the state administration will be, which state administration bodies will exist, and what their competences will be.

Ad iv) Competence in the field of foreign and domestic policy of the state. The National Council is responsible for a range of tasks related to fundamental economic, social, and other state policies, which are subsequently implemented by public authorities. In addition, it also plays a role in foreign policy; for instance, in changing state borders, entering into a state union with another state, major international treaties, the declaration of war and the conclusion of peace, and the deployment of armed forces outside the territory of the state. These major foreign policy decisions were then transferred to the actions of the public authorities.

Ad v) Internal competence. Various other activities related to the administration of the body and its internal operations (e.g. the adoption of electoral rules, the decision on disciplinary proceedings against members, the referral for prosecution of members) may be included in this competence.

15 Tekeli and Hoffmann, 2013, p. 214.
16 Hendrych, 2003, pp. 154–155.

2.2.2. Judicial authorities

The democratic rule of law is inconceivable without an independent judiciary. Humankind has not devised effective mechanisms to protect the law. The judiciary acts as a guarantor of the rule of law. Most importantly, its actions assert the dominance of the law.[17] Ensuring the independence and impartiality of courts is essential for the protection of rights. Related to this is the requirement that the judiciary be exercised at all levels separately from the other bodies of the state. State administration may interfere in the judiciary only in terms of ensuring the conditions for its proper functioning (personnel, organizational, material, and financial conditions); however, it may not interfere with the administration of justice itself.[18]

The Constitution of the Slovak Republic recognises the following components of judicial power: i) the Judicial Council of the Slovak Republic, ii) the Constitutional Court of the Slovak Republic, and iii) the General and Administrative Courts.

Ad i) Judicial Council of the Slovak Republic. The Judicial Council is the constitutional organ of judicial legitimacy. It is a collective body comprising 18 members. Half of the members are judges from general and administrative courts, and the remaining are appointed by the President, the Government, and the National Council (three members each). The primary task of this body is to ensure public control over the judiciary's activities. It is also tasked with examining and expressing opinions on the judicial qualifications of candidates for the office of judge and subsequently submitting recommendations for the appointment of judges to the President. It also provides comments on the judiciary's draft budget when the state budget is drawn.

Ad ii) Constitutional Court of the Slovak Republic. The Constitutional Court of the Slovak Republic is an independent judicial body that protects constitutionality. The Constitutional Court comprises 13 judges appointed by the President, based on the recommendation of the National Council. Their term of office is 12 years and they are not eligible for reappointment. The Court exercises the standard powers of the constitutional judiciary. These include deciding on the compliance of legal regulations with higher legal force, deciding on constitutional complaints of natural and legal persons seeking the protection of their fundamental rights and freedoms, deciding on the so-called municipal complaints by which the subjects of territorial self-government seek protection against unconstitutional or unlawful interference in the affairs of territorial self-government, and resolving disputes of competence between central state administration bodies. It also has jurisdiction to rule over the unconstitutionality or illegality of elections, with the exception of elections to local government bodies.

Ad iii) General and administrative justice. The general judiciary consists of the Supreme Court of the Slovak Republic, regional courts, district courts, and municipal courts in the cities of Bratislava and Košice. At the regional court level, the Specialised Criminal Court has jurisdiction limited to selected criminal agendas. The system of administrative courts comprises the Supreme Administrative Court of the Slovak

17 Palúš and Somorová, 2004, p. 267.
18 See details in Bröstl et al., 2021.

Republic and three other administrative courts. General courts are responsible for deciding civil and criminal cases. However, the role of administrative courts is essential from the perspective of public administration. Administrative courts decide on a review of the legality of the decisions of public administration bodies, in the cases of their inaction, and on other factual interventions of public administration bodies. Administrative courts are also tasked with adjudicating competence disputes between public authorities or between a public authority and an entity. They also examine the conformity of regulations issued by local self-government bodies with a higher legal force. However, this did not exhaust the enumeration of all administrative court activities. The administrative judiciary is an indispensable instrument of public administration control.

2.2.3. Executive authorities

In states with a parliamentary form of government, the executive branch includes both presidents and governments. These bodies have different names in different countries. Under the conditions of the Slovak Republic, executive power consists of the President, who is characterised as the head of state, and the government, which is defined by the Constitution of the Slovak Republic as the supreme body of executive power. There is no hierarchy between these bodies. Each has its own authority and competencies. However, there are interrelationships, shared competencies, and even the necessary synergies between them.[19]

2.2.3.1. President of the Slovak Republic

Today, in several democratic states, the head of state has both executive and political powers, enabling them to act as an arbiter in constitutional and political disputes.[20] This is also the case in the Slovak Republic. The Constitution of the Slovak Republic defines this body as follows: 'The head of the Slovak Republic is the President. The President represents the Slovak Republic externally and internally and ensures the proper functioning of the constitutional bodies through his or her decision-making. The President shall exercise his office according to his conscience and convictions and shall not be bound by orders'.[21]

After an amendment to the Constitution of the Slovak Republic in 1999, citizens introduced the direct election of the President. The President is elected by the National Council of the Slovak Republic. The term office of the President is five years. The same person can be President for a maximum of two consecutive terms.

In principle, the scope and content of the President's powers correspond to the traditional or usual powers of the head of state in a parliamentary republic. The existence of an institution of countersignatures for some of its acts by government members corresponds to this. This deprives the President of autonomy in the exercise

19 See also Koudelka, 2011.
20 Orosz and Šimuničová, 1998, p. 21.
21 Article 101 paragraph 1 of the Constitution of the Slovak Republic.

of his decision-making powers on the one hand, but on the other hand, it holds him unaccountable for such acts. The government is responsible for this. Presidents' powers can be divided into the following groups:

a) Competence in relation to foreign countries: The President represents the Slovak Republic externally, negotiates and ratifies international treaties, and accepts, authorises, and dismisses the heads of diplomatic missions.
b) Competencies in relation to the National Council of the Slovak Republic: The President convenes the constituent assembly of the National Council, has the right to veto laws passed by the National Council—which is related to his competence to sign laws, reports to the National Council on the State of the Slovak Republic, and has the power to dissolve Parliament in defined cases.
c) Competencies in relation to the Government of the Slovak Republic: The President appoints and dismisses the Prime Minister and other members of the government, entrusts them with the management of ministries, and accepts their resignations. They have the power to dismiss the government or its members. In addition, the information necessary for the performance of tasks may be requested from the government or its members.
d) Creative competencies: The President appoints and dismisses the heads of central public administration bodies, higher state officials, and other officials in cases provided for by law. They also appoint and dismiss the rectors of universities, university professors, generals, judges, judges of the Constitutional Court of the Slovak Republic, the Public Prosecutor, and three members of the Judicial Council of the Slovak Republic.
e) Competencies in the field of national defence and security: The President is the Commander-in-Chief of the Armed Forces, although his or her acts in the exercise of this power are subject to a counter-signature by a member of the government. The President can declare war based on previous decisions of the National Council and likewise make peace. A proposal from the government may order the mobilisation of the armed forces and declare a state of war or extraordinariness.
f) Other competences and prerogatives: The traditional powers of the Head of State include the granting of amnesties and pardons, as well as the conferring of honours. It can also declare a referendum and, before it is declared, it may refer the matter to the Constitutional Court to assess the constitutionality of the subject matter.[22]

2.2.3.2. Government of the Slovak Republic

In the Slovak Republic's constitutional system, the government is defined as the supreme body of executive power.[23] These characteristics reflect the position of the government as one of the supreme bodies of executive power and highlight the

22 See also Giba, 2019.
23 Article 108 of the Constitution of the Slovak Republic.

government's managerial position in the system of state administration.[24] However, it should be noted that the government is not a public administration authority,[25] as the bulk of its activities do not involve the exercise of public administration. The government is a political executive body. The relationship between the government (executive) and public administration (administration) is based on the principle that the government represents the political leadership of public administration.[26]

The government is a collective body comprised prime ministers, deputy prime ministers, and ministers. The government is headed by a prime minister, who is appointed and dismissed by the President. The other members of the government are appointed and dismissed by the President at the recommendation of the Prime Minister, who also entrusts them with the management of individual ministries.

The government should establish advisory bodies to perform its tasks. Advisory bodies include plenipotentiaries (for specific tasks, such as Roma communities, youth, sports, or national minorities). Advisory bodies are permanent or temporary government councils that coordinate, consult, and perform expert tasks. Permanent Councils include the Security Council, Legislative Council, and Economic Council of the Government. Finally, the category of advisory bodies includes the so-called Inter-Ministerial Bodies of the Government, whose members are members of the government (e.g. the Council of Economic Ministers). Tasks related to professional, organizational, and technical support of the government's activities are performed by the Office of the Government of the Slovak Republic.

In a state with a parliamentary form of government, the government is accountable to the Parliament—specifically the National Council of the Slovak Republic. This accountability is also reflected in the requirement for the government to request a vote of confidence from the National Council within 30 days of appointment. Additionally, the National Council can also vote for no confidence in the government at any time or in any member of the government. In the event of a vote of no confidence, the President dismisses the government. Similarly, the President also dismisses the government if there was a vote of no confidence in the Prime Minister. If a vote of no confidence is cast against a member of the government, the President dismisses that member.

The government is the collective body that decides on the assembly, and its decisions take the form of resolutions. The government shall have a quorum if the majority of its members are present. A valid resolution requires the consent of the supermajority of all the government members. However, the competence of the government is not exhaustively defined in the Constitution of the Slovak Republic. Other government roles may also arise from these laws. In any case, its role is to decide on the major issues of domestic and foreign policy and to take significant measures to ensure economic and social policy. These orientations materialise in the

24 Palúš and Somorová, 2004, p. 259.
25 Similarly, Machajová, 2014, p. 95; Kosičijarová, 2022, p. 120.
26 Tekeli, 2020a, p. 66

government's programme statement, which it presents to the Parliament. In addition to this competence in national policymaking, the government also makes decisions in the following areas:

a) Legislative: Decides on draft laws, government regulations, state budgets, and state budgets.
b) International relations: Decides on international treaties whose negotiations have been delegated to the government by the President upon the submission of a petition to the Constitutional Court to review the constitutionality of a negotiated international treaty.
c) Defence and state security area: Decides on proposals to declare a state of war, a state of extraordinariness, and mobilisation; it also decides on the proposal to end them, declares a state of emergency, on the deployment of armed forces outside the territory of the state, on the consent to the presence of foreign armed forces on the territory of the state, and on the consent to the passage of foreign armed forces through the territory of the state to the extent that this competence does not fall within the competence of the National Council of the Slovak Republic.
d) Creation area: Appointment and dismissal of state functionaries in cases provided by law and the three members of the Judicial Council of the Slovak Republic.[27]

However, as noted above, the government is the political management of public administration. It follows that the government develops goals and objectives for public administration in accordance with its policy direction, which reflects the political majority in Parliament. The public administration subsequently conducts these tasks using the methods and forms entrusted to it by law.

2.2.4. Constitutional bodies with special status

Among the supreme state bodies that are established in the Constitution of the Slovak Republic, there also exist those which cannot be unambiguously included in any branch of power (legislative, judicial, or executive). As a rule, they perform a supervisory function over the activities of the executive branch, particularly to protect public and private interests. These bodies include the (i) Supreme Audit Office of the Slovak Republic, (ii) Public Prosecutor's Office of the Slovak Republic, (iii) Public Defender of Rights, and (iv) National Bank of Slovakia.

Ad i) Supreme Audit Office of the Slovak Republic. The Supreme Audit Office of the Slovak Republic is a state body bound only by law during its audit activities. It does not have the status of a public administration authority but is independent of it. It is also independent of other constitutional bodies. According to the Constitution of the Slovak Republic, the Supreme Audit Office of the Slovak Republic is an independent body responsible for control over the economic management of constitutionally

27 As in Cepek, 2018, pp. 151–152.

and legally defined funds, property, property rights and claims, and its control competence relates to exhaustively defined subjects in the Constitution of the Slovak Republic. The Supreme Audit Office of the Slovak Republic audits both state and local government entities.[28]

Ad ii) Prosecutor's Office of the Slovak Republic. The Public Prosecutor's Office of the Slovak Republic has a special place in the state system. The Constitution of the Slovak Republic defines the role of the prosecutor's office in protecting the rights and interests of natural and legal persons and the state. The Public Prosecutor's Office is an independent, hierarchically organized, and unified system of state bodies headed by the Prosecutor General, in which prosecutors operate in relation to subordination and superiority.[29] Within the scope of its competence, the Public Prosecutor's Office is obliged to take measures in the public interest to prevent, detect, and eliminate violations of legality, restore violated rights, and hold perpetrators accountable for their violations. In exercising its competence, the prosecutor's office is obliged to use legal means to ensure consistent, effective, and prompt protection of the rights and legally protected interests of natural persons, legal persons, and the state, without any external influence.[30]

The prosecutor's office has an indispensable place in criminal proceedings, with prosecutors acting as public prosecutors. However, the work of the prosecutor's office is broader. One of the most important competences is the supervision of legality in public administration. Prosecutors, on their own initiative or upon motion, review the legality of the decisions, measures, and procedures of public administration bodies, as well as the legislation adopted by these bodies. In the event that an illegality is found, the prosecutor has tools to ensure redress, specifically through a protest of the prosecutor, a warning of the prosecutor, the right to file an administrative action or a petition to initiate proceedings on the compliance of legislation before the Constitutional Court of the Slovak Republic.

Ad iii) Public Defender of Rights (Ombudsman). According to the Constitution of the Slovak Republic, the Public Defender of Rights is an independent body of the Slovak Republic that protects the fundamental rights and freedoms of natural persons and legal entities in proceedings before public administration bodies and other public authorities if their actions, decision-making, or inaction are contrary to the legal order. The Public Defender of Rights is established as a body for the protection of subjective rights, that is, the fundamental rights and freedoms of natural and legal persons against such actions, decision-making, and inactions of public administration bodies that are contrary to the rule of law or the principles of a democratic and legal state. The basic function of the Ombudsman is to review decisions, procedures, recommendations, and inactions that are contrary to law, rules, or are made with malicious intent, to review inconsistency, failure to comply with deadlines,

28 Tekeli, 2020b, p. 183.
29 § 2 of Act No. 153/2001 Coll. on the Public Prosecutor's Office, as amended.
30 § 3 paragraph 2 of Act No. 153/2001 Coll. on the Public Prosecutor's Office, as amended.

incompetence in the exercise of public administration, or the performance of duties and responsibilities in the field of public administration.[31]

Ad iv) National Bank of Slovakia. The Constitution of the Slovak Republic characterises the National Bank of Slovakia as an independent central bank of the Slovak Republic. The primary objective of the National Bank is to maintain price stability. To this end, it participates in the common monetary policy set by the European Central Bank for the Euro area, issues euro banknotes and coins, promotes the smooth and efficient functioning of payment systems, manages, coordinates, and ensures money circulation, maintains and disposes of foreign exchange reserves, conducts foreign exchange operations, and supervises the financial market.[32]

3. Organizational principles and structure of public administration

3.1. Definition of public administration entities

Administrative law has a so-called managerial character; that is, it regulates the activities, tasks, and procedures of entities that are entrusted with public administration and the rights and obligations of entities to whom public administration is carried out. Based on this, it is possible to differentiate between administering entities—subjects of administrative law that perform public administration—and administered entities—subjects of administrative law against whom public administration is performed. The first group of administrative entities includes the so-called public administration entities, and the second group includes natural and legal persons.

The subjects of administrative law are the so-called administrative subjects of public administration or subjects of public administration. These are the most organizationally significant components of public administration, as well as the bearers. As a rule, they are not organizationally intertwined by legitimation and governance relationships; therefore, they are separate and distinct (but this is not always the case).[33] The subjects of public administration in this sense are i) public corporations (the state, subjects of territorial self-government, and subjects of interest self-government); ii) public institutions (establishments); iii) public institutes and public enterprises; iv) natural and legal persons, if the law entrusts them with the exercise of public administration; and v) other administrative entities with a special status.

i) Public corporations. A corporation is an association of persons pursuing a common objective as a separate legal entity to which (i.e. not individual members) it is subject to rights and obligations. This is the form of a legal entity. Public corporations are special types that perform (primarily) public interest functions.[34] Only a member-organized

31 Posluch and Cibulka, 2003, p. 113.
32 § 2 paragraph 566/1992 Coll. on the National Bank of Slovakia, as amended.
33 Vrabko, 2012, p. 11.
34 Sládeček, 2009, p. 238.

governing body of public administration can be designated as a public corporation. Only a member-organized governing entity of public administration is democratically legitimised; thus, only such an entity can claim a status completely independent of other public administration entities.[35]

Under the conditions of the Slovak Republic, the Basic Public Law Corporation exists in the state. Thus, the state is a basic subject of public administration. State membership is formed on personal and territorial bases. It comprises citizens of the Slovak Republic (personal principles) and the state territory of the Slovak Republic (territorial principles). The state administers matters concerning its citizens, territory, and the people within it.

The existence of other public law corporations is derived from the state; that is, the state may delegate the performance of its tasks to other non-state entities. These other public corporations are primarily territorial self-governing municipalities and higher territorial units (self-governing regions). They apply the membership principle based on the definition of the permanent residence of natural persons in a certain territory. Municipalities and higher territorial units are independent legal entities with their own legal subjectivity, separate from that of others. They are the holders of power and simultaneously provide public services.[36]

Another category of public corporations is self-governance. These are also built on the membership principle, with membership linked to the performance of a specific activity (e.g. lawyers and sole traders). These include professional chambers and associations. Additionally, they possess the status of legal persons established by law, to which the state has entrusted the performance of certain public tasks.

Public law corporations act as public administration entities through bodies that have their own administrative-legal personalities for such acts, regardless of whether they also possess a general legal personality (whether they are legal persons). The bodies through which these public law corporations act are the so-called administrators of public administration (individual state administration bodies, bodies of municipalities, higher territorial units, bodies of chambers and associations, etc.). For instance, if the state is a public administration entity, then the ministry is an administrator of public administration acting on behalf of the state.

ii) Public institutions (establishments). Public institutions are partially separate from the state-administering bodies of public administration established by law for the purpose of providing for the needs of the public, thus fulfilling the public interest through the performance of organizational activities, provision of public services, and creation of material conditions for achieving the desired status of the object of public administration.[37] These institutions primarily aim to provide public services and related organizational activities. In contrast to public corporations,

35 Vrabko, 2012, pp. 13–14.
36 Cepek, 2018, p. 37.
37 Vrabko, 2012, p. 15.

the prescriptive character of the administrative activity they perform (issuing legal regulations and decisions) does not prevail (although it is not excluded); rather, it has an organizational character.

Unlike public corporations, public institutions are not built on membership principles (unlike public corporations). They are established by law to meet certain public needs. In terms of their territorial scope, they are generally not limited to a certain part of the national territory (region, city); rather, they operate nationwide.

Public administration entities that can be classified as public institutions include Radio and Television of Slovakia, the Social Insurance Institution, public universities, and the Slovak Academy of Sciences.

iii) Public institutes and public enterprises. For both these types of public administration entities, it is true that they are established for the purpose of fulfilling a certain public interest or for the purpose of fulfilling services in the public interest. In these entities, the prescriptive character of the activity is absent, and only the organizational character of the activity is given. These entities (such as public corporations) are not built on membership principles. As a rule, they do not even have a national scope but operate regionally and locally. They are established either directly by law or by statute, by the decision of another public authority to which they are accountable and subject to its control.

Public institutions have been established to provide public services and goods permanently under predetermined conditions. Public institutions include public libraries, theatres, museums, galleries, public archives, public schools (primary and secondary), school facilities, public health facilities, and public social service facilities.

Public enterprises are also involved in the provision of public services, but they conduct these activities to make a profit, which constitutes the income of the person who establishes the undertakings. They are usually established by law, by the decision of another public administration entity (state authority, municipality, city, or higher territorial unit), and are subsequently registered in the commercial register. They can take the form of a state-owned enterprise, but also ordinary commercial companies. Examples include the Slovak Water Management Company, Slovak Forests, Transport Company of the City of Košice, and Slovak Mail Office.

iv) Natural and legal persons, if the law entrusts them with the exercise of public administration. In certain circumstances, the subject of public administration may also be the entities against which it is normally conducted (the so-called extraen). In such cases, the law entrusts a natural or legal person with the exercise of public administration in a specific area and to a certain extent. Therefore, statutory entrustment is required.

In the conditions of the Slovak Republic, the laws entrust natural persons to carry out public administration, primarily consisting of supervising the observance of obligations in certain areas; for instance, in the fields of fishing, hunting, nature and

landscape protection, forest protection, etc. The law creates a special category with a common name 'guard'. Examples include fishing, hunting, and natural and forest guards. If a natural person fulfils the conditions laid down by law, he or she may be appointed to such a position by the competent authority of the state administration.

In addition, based on legal entrustment and subsequent authorisation by the competent state administration authority, natural and legal persons may also carry out activities within the scope of the operation of technical inspection stations, emission control, or originality control. Such entities may also include churches, religious societies, and health insurance companies, with certain exceptions.[38]

Ad v) Other special entities of public administration. The last category includes entities involved in the performance of public administration tasks but, for various reasons, cannot be subsumed under the categories already mentioned. This also stems from the fact that public administration is a dynamically changing system that responds to various internal or external stimuli.

The armed forces and corps were included in this category. They do not have their own legal personality; they are incorporated into the state or municipality (municipal police) but carry out public administration tasks, mainly in the field of internal and external security. This category also covers various public funds that are generally created by law (and, to a limited extent, by statutes). Within them, funds are accumulated to support public interests. These include the State Housing Development Fund, Environment Fund, and National Nuclear Fund for the decommissioning of nuclear installations and management of spent nuclear fuel and radioactive waste.

Finally, this category also includes the bodies and institutions of the European Union or other member states that influence public administration in the Slovak Republic through the vertical or horizontal application of European Union law. The actions of the public administration of one Member State may also have an effect on the territory of another Member State, that is, on the public administration of that state. For instance, the granting of a permit to carry out the activity of collective investment in transferable securities by a public administration entity of one state is valid throughout the European Union, in the territory of the Slovak Republic—and therefore also affects Slovak public administration. However, this is not the purpose of analysing these subjects of administrative law in detail;[39] rather the aim is to highlight that the subjects of public administration can no longer be defined exclusively within the boundaries of national public administration (in an organizational understanding).

3.2. Organizational principles of the construction of public administration entities

Administering entities in public administration include a number of entities that differ in terms of their number, nature of the activities they carry out, and competences. Perhaps the most significant position is held by public corporations, that is, the state, municipalities, higher territorial units, and self-government subjects of

38 Vrabko, 2012, pp. 16–17.
39 See details in Jakab et al., 2020; Handrlica, 2017.

interest. These public corporations are the most numerous actors in administrative law relations who exercise prescriptive powers. However, it should be added that they have their own legal subjectivity granted by the law, but in specific administrative law relations, they act through their own bodies, which have their own administrative law subjectivity (the capacity to be a party to an administrative law relationship), while they may or may not have their own legal subjectivity. These bodies are the public administration administrators. In the next section, we focus on public corporations as the basic subjects of public administration and their bodies, which have the status of administrators of public administration.

Within the organization of public administration, there are numerous administrators with varying statuses, compositions, and competencies. This results from applying the principles of the construction of a public administration organization. Different combinations of individual principles give rise to a particular body that has a place in the organization of public administration.

The science of administrative law[40] distinguishes three categories of principles for the construction of public administration organizations: (i) principles related to the structure of the organizational base of the public administration system, (ii) organizational-localisation principles, and (iii) organizational-structural principles.

Ad i) Principles related to the structure of public administration. This category includes (a) the principle of segmentation, (b) the principle of organizational-structural continuity, and (c) the principle of instances.

(a) The principle of segmentation. This principle asserts that the organization of public administration is generally, or at least at a certain level, subdivided into two or more segments, each characterised by a common feature. This commonality may pertain to the same organizational form (e.g. ministries), status (e.g. other central government bodies), or incorporation (e.g. specialised local government bodies, incorporation outside the general local government system). Each segment represents a number of public authorities and can, therefore, be further subdivided.[41] For instance, at the central level, two segments can be distinguished: one comprised ministries, the other of other central government bodies. Similarly, at the local level, a distinction can be made between two segments: general (integrated) local government bodies and specialised local government bodies.

(b) The principle of organizational-structural continuity. This principle states that there is a relationship of organizational continuity between the internal organization of the central government bodies and relevant local state administration bodies. Thus, the internal organization of local state administrative bodies replicates that of the central government body. This principle was particularly strong during the period when there was almost exclusively a specialised local government (2004-2013). At that time, the internal organization of the local state administration bodies closely adhered to the internal structure of the relevant ministry (e.g. the Regional

40 Gašpar, 1973, pp. 158–162.
41 Gašpar, 1973, p. 158.

Environmental Office and the District Environmental Office followed the internal structure of the Ministry of the Environment of the Slovak Republic). Currently, this principle has limited application, mainly because of the concentration of local state administrations within one body, – the district office – whose agenda falls under almost all ministries. In addition, many tasks are entrusted to local authorities, so they are not carried out by the district authority; therefore, they do not create corresponding organizational structures.

(c) The principle of instances. This principle is based on the certainty that public administration bodies are constructed in instances; that is, to ensure that another public administration body is superior in terms of instance. This implies that the public authority should also have an instance superior to the public authority so that decisions can be reviewed by the instance. In relation to ministries and other central government bodies, it is not possible to ensure that this principle is fulfilled (because there is no superior authority). However, this principle is applicable to local state administrative bodies (e.g. the Ministry of the Interior is institutionally superior to district offices).

Ad ii) Organizational-localisation principles. Within this category of principles, it is possible to identify the a) centralising, b) decentralising, c) concentrating, d) deconcentrating, e) delegating, f) territorial, g) and substantive principles.

(a) The centralisation principle. This principle reflects the tendency to concentrate on certain competences along a vertical line at the higher levels (grades) of administrative units. Specifically, this implies that the exercise of public administration is concentrated in the state as a basic public corporation, and not in local self-government entities as derivative public corporations. It would be a manifestation of the principle of centralisation if the law were to withdraw the competence of, for instance, a higher territorial unit in the field of self-government. For example, under the new legislation, this competence would be exercised by local state administration bodies as the exercise of state administration.

(b) Decentralisation principle. This principle is the opposite of the centralisation principle and consists of the transfer of competencies to lower levels outside the original organizational system, that is, in the transfer of competencies from the state to self-governing entities, whereby these competencies become their own. The transfer of competences necessarily entails the transfer of responsibility for their implementation, as well as the financial coverage of the possibility of their real provision. After 1989, in the Slovak Republic, this principle was mainly applied; competencies were transferred first to municipalities, then to higher territorial units, and this process is still incomplete.

(c) Concentration principle. This principle, as well as the principle of deconcentration, applies only to state administration. It consists of the concentration of competence in a higher or even the highest unit within the same organizational structure. The concentration occurs in two forms: horizontal and vertical. Horizontal involves the concentration of competences from several authorities at one level in the hands of one of them (e.g. the abolition of the former Ministry of Construction and Regional

Development of the Slovak Republic and its incorporation under the Ministry of Transport and Construction of the Slovak Republic). An example of vertical concentration is the creation of the Government Audit Office of the Slovak Republic, which combined the competences of local financial control offices. The financial control offices were three local state administrative bodies that exercised their competence in the territorial districts of Western, Central, and Eastern Slovakia. The Government Audit Office is the only body with nationwide coverage.[42]

(d) Deconcentration principle. This principle is also applied within one branch of government—in this study's context, only in the state administration. Deconcentration refers to separating related groups of administrative activities and making them relatively autonomous in the form of new organizational units of the same organizational structure.[43] Deconcentration can also be vertical or horizontal. Vertical deconcentration consists of the separation of competences into a separate organizational unit, which is at an organizationally lower level, while this lower organizational unit is subordinate to the organizational unit from which it has been separated (e.g. from the Ministry of Labour, Social Affairs and Family has been separated from the Central Office of Labour, Social Affairs and Family, etc.). Horizontal deconcentration consists of the separation of competence from one organizational unit to a new organizational unit at the same organizational level. Examples include the separation of the Ministry of Environment of the Slovak Republic from the former Ministry of Agriculture and Rural Development.

(e) Principle of delegation. The essence of this principle is the transfer of competences from the state to self-government entities, which, however, do not exercise these competences as their own but as delegated competences of the state (delegated exercise of state administration). The state remains responsible for the performance of these activities; it controls their performance and provides methodological guidance, but simultaneously finances them. For instance, this includes the delegation of the construction agenda to municipalities, which carry it out as a delegated exercise of the state administration.

(f) Territorial principle. On the basis of the application of this principle, the territorial boundaries of individual public administration bodies are defined within which they can exercise their competences. In terms of territorial principles, a public administration body may have national competence, regional competence, district competence, or competence in a special district within the territory of a municipality.

(g) Substantive principle. This principle involves defining the competencies of public authorities. Whether the authority in question exercises competences of a particular kind that are similar, related, or close, or exercises competences that cross-cut across the whole field of public administration. Based on this, bodies with specialised

42 Cepek, 2018, p. 54.
43 Machajová, 2009, p. 88.

competencies (e.g. district mining offices) and bodies with general competencies (e.g. district offices) were created.

iii) Organizational-structural principles. The internal structure of public administration bodies is built on the application of organizational-structural principles, including the following: a) the monocratic principle; b) the collegiate principle; c) the electoral principle; d) the appointment principle; e) the parity principle; f) the disparity principle; and g) the principle of proportional representation.

(a) Monocratic Principle. This principle arises from the way in which the will of the body in question is formed. If the monocratic principle is applied, then the will is shaped by a single subject, who is the head of the relevant public administration body (e.g. a ministry).

(b) The collegiate principle. This principle is similar to that of the previous method. In the application of the collegiate principle, the will of the body is shaped by the decisions of a particular college, a body consisting of several persons. As there are a number of decision-makers, it is necessary to have rules regulating their convening, meetings, quorum, etc., whether in the form of a law or internal regulation (rules of procedure). Such a body is, for example, a municipal council or a media services board.

(c) The principle of election. This principle is based on the fact that a competent public authority is created through elections either directly by citizens (inhabitants) or by a representative assembly. For instance, the principle of election is applied in the case of the municipal council, mayor, and presidency of the Slovak Bar Association. This does not mean that the principle of election must apply only to collegiate bodies.

(d) Appointment principle. It is also based on how competently the authority is created. The appointing principle arises from an appointment by another body stated by law. This principle applies, for example, to the government and its members (ministers), heads of district offices, and so on.

(e) The principle of parity. This principle is particularly relevant for collegiate bodies. Equal representation of persons within the body nominated or appointed by those empowered to do so. For instance, the Regulatory Board has six members appointed by the President; three are nominated by the National Council of the Slovak Republic and three by the Government of the Slovak Republic.

(f) Principle of disparity**.** This principle negates the principle of parity, that is, the equal representation of persons. Thus, it consists in the fact that there are persons in the collegiate body who have been proposed by different entities, and the number of persons proposed by the different entities is not even. For instance, the committee for the selection procedure of judges comprises one candidate recommended by the Judicial Council of the SR, two candidates proposed by the Minister of Justice, and one candidate proposed by the Council of Judges of the Court.

(g) The principle of proportional representation. The essence of this principle is that the composition of a public administration body (especially a collegiate one) reflects the proportional representation of certain groups, e.g. the proportional representation of political parties or movements, national minorities, etc. An example

of the application of this principle is the composition of the municipal board, which requires the composition of the municipal board to consider the representation of political parties, political movements, and independent candidates in the municipal council.

3.3. Organization of administrators of public administration

As mentioned previously, the basic entities of public administration are public corporations. These include the state, local self-government, and interest in self-governing entities. These entities enter administrative-legal relations through their bodies, which are the administrators of public administration. As mentioned previously, there is also a special category of entities called 'other public administrations'. The purpose of this chapter is to characterise the organization of public administration administrators, that is, to define public administration from a formal or institutional point of view.

Certain specific features apply to the organization of public administration in the Slovak Republic. First is the complexity of the organization of public administration. Slovak public administration is a complex, internally structured system consisting of several subsystems. The complexity of public administration increases continuously with the expansion of its tasks. The second feature is the dynamic nature of public administration organizations. Since 1990, Slovak public administration has undergone frequent changes at all levels. Third, the organization of public administration is often controlled by internal regulations. The basics of the organization of public administration are regulated by the law—the establishment and competence of public administration bodies. However, the internal organization and management of public administration are also regulated by internal regulations, such as statutes and rules of the organization.[44]

Additionally, it should be noted that the organization of Slovak public administration has been built on the so-called dual system of public administration organizations since 1990. This indicates that two systems of organization operate side by side—the system of state administration bodies forming the organization of administrators of state administration and the system of self-government bodies (territorial and interest). These systems operate both independently and in parallel. For the sake of completeness, it should be noted that until 1990, there was only one system within Slovak (or Czechoslovak) public administration, which is the system of state administration. Thus, public administration was made up only of state administration. After 1990, the principle of decentralisation began to be applied, consisting of the creation of public administration entities distinct from the state to which the performance of public administration was also transferred.

Given the existence of such a dual system in the organization of public administration, we characterise the organization of state administration on the one hand and the organization of self-government on the other.

44 Tekeli, 2020a, p. 65.

3.3.1. Organization of state administration

As a public administrative entity, the state has public rights and obligations. However, it does not exercise public administration. For this purpose, it sets up bodies which exercise directly on behalf of and in place of the state, which is part of public administration known as state administration. Public administrators are referred to as direct administrators.[45] The direct administrators of state administration are state bodies established by the state, usually as organizational units or bodies of the state, which directly carry out state administration instead of the state, but under its responsibility, in its interest, and on its behalf. They are also characterised by the fact that their employees are in a state service or in other similar relationships with the administrator of public administration.[46]

On the other hand, indirect administrators of state administration are those who do not have the status of state authority but are entrusted by law with the performance of state administration activities. This activity is carried out on behalf of the state, under its responsibility, and the state must provide financial coverage. These administrators do not conduct state administration for most of their activities. They can exercise public administration; however, this is not the nature of state administration. These are primarily local self-government bodies but may also include other natural and legal persons.[47]

The direct administrators of state administration in the Slovak Republic include: i) central state administration bodies, ii) state administration bodies with a national scope, and iii) local state administration bodies.

Ad i) Central state administration authorities

It is specific for the central state administration bodies in the Slovak Republic that they have nationwide competence; that is, they operate within the entire Slovak Republic. In terms of subject matter competence, they demonstrated partial subject matter competence. This means that they operate in a defined area of administration that may vary among authorities. However, it has a sectoral character (health, justice, competition, etc.). Similarly, a monocratic principle is applied to these bodies, consisting of the fact that a single entity, the head of the relevant central public administration body, makes the decisions. Finally, another characteristic of these bodies is that they are directly accountable to the government through which it implements its policies.

This category of central public administration bodies is further subdivided into two segments: (a) ministries and (b) other central public administration bodies. There were no fundamental differences between categories. However, only minor differences were observed. First, the other central state administration bodies have a narrowly defined subject-matter competence focused on very specialised areas

45 Machajová, 2009, p. 95.
46 Vrabko, 2012, p. 122.
47 Cepek, 2018, p. 147.

(competition, public procurement, and protection of classified information), while the ministries have a broader competence, sometimes cross-cutting (finance, foreign affairs, etc.). Another difference is who heads them. The ministry is headed by a minister who is also a member of the government. It is a political post that is also linked to how it is appointed (appointed by the President based on the proposal of the Prime Minister). On the other hand, other central state administrative bodies are headed by a chairman (or head and director) who is usually a specialist in the field. The latter are usually appointed by the government following a competitive selection process.

Currently, there are 14 ministries in the Slovak Republic, namely, the Ministry of Economy; Ministry of Finance; Ministry of Transport; Ministry of Agriculture and Rural Development; Ministry of Investment, Regional Development and Informatisation; Ministry of the Interior; Ministry of Defence; Ministry of Justice; Ministry of Foreign and European Affairs; Ministry of Labour, Social Affairs and Family; Ministry of the Environment; Ministry of Education, Science, Research and Sport; Ministry of Culture; and Ministry of Health.

There are also 11 other central state administration bodies: the Office of the Government, Antimonopoly Office, Statistical Office, Office of Geodesy, Cartography and Cadastre, Office of Nuclear Supervision, Office for Standardisation, Metrology and Testing, Office for Public Procurement, Industrial Property Office, State Material Reserves Administration, National Security Office, and Office for Urban Planning and Construction of the Slovak Republic.[48]

Ad ii) State authorities with national competence

State administrative bodies with nationwide competencies constitute a special category. This is a highly inhomogeneous group of state administrative bodies with different roles and positions in administrative-legal relations. They stand on the borderline between central state administration and local state administration; that is, they belong neither to central state administration nor to local state administration.

A common feature between state administration bodies with a nationwide scope and central state administration bodies is the extent of their local competence. The local competence of state administration bodies with national competence covers the entire territory of the Slovak Republic (as is the case with central state administration bodies). However, the legislator did not 'elevate' the state administration bodies with nationwide competence to the level of the highest central state administration bodies. They were not included in the exhaustive list of central state administrative bodies in the Competence Act.[49]

Although they are a nonhomogeneous group of distinct bodies, they can be categorised as (a) Regulatory and Supervisory Authorities, (b) Deconcentrated Authorities, and (c) Inspection Authorities.

48 The official name of the ministries and other state administration bodies contains suffix 'of the Slovak republic'.
49 Tekeli, 2020a, p. 83.

(a) Regulatory and supervisory authorities. A characteristic feature of this category of bodies is their independence from other state administration bodies and sometimes even from the government. It follows that they have no superior authority within the organizational structure of the state administration. The requirement of independence is due to the fact that their agenda includes activities that should not be subject to political influence (e.g. regulation of network industries, protection of personal data). The creation of this group was mainly conditioned by the need to implement European Union law into the legal order of the Slovak Republic at the pre-accession stage, as the European Union law stipulated the requirement of independence for some of such bodies.[50] Such bodies include the Electronic Communications and Postal Services Regulatory Authority, Media Services Council, Office for Personal Data Protection, Office for Regulation of Network Industries, Office for the Protection of Whistleblowers of Anti-Social Activities, and Office for the Regulation of Gambling.

(b) Deconcentrated Authorities. The essence of these bodies is that they were created as a result of the separation of a part of the competence of a ministry or other central state administration body and its attachment to a separate body; that is, so-called deconcentration was implemented. It also follows that these bodies have superior authority: the relevant ministry or other central state administrative bodies. Such bodies include the Financial Directorate, the Transport Authority, the Main Mining Authority.

(c) Inspection Authorities. This group of authorities is characterised by the fact that they have competencies focused on the exercise of specialised administrative supervision in a particular area of public administration. As a rule, these bodies are subordinate to a ministry or other central state administration body (e.g. the Slovak Environmental Inspectorate, the National Labour Inspectorate), or are an intra-organizational component of a central state administration body (e.g. the Office of the Inspection Service of the Ministry of the Interior).

Ad iii) Local state administration authorities

Local state administrative authorities are direct implementers of state administration with limited territorial jurisdiction. This territorial competence is either linked to administrative units in accordance with the territorial-administrative division of the Slovak Republic (districts and regions) or has a specially defined perimeter of its territorial competence. Their main task is to carry out decision-making activities towards the addressees of administrative and legal action (natural and legal persons) and to ensure the implementation of state policy in the defined territory. They also legislated to a limited extent.

These bodies can also be internally differentiated into (a) integrated local state administrations, (b) specialised local state administrations, and (c) corpora.

50 See in Jakab, 2020d.

(a) Integrated local state administration. The essence of this category of authority is that the state has sought to integrate all the competences of local state administration into one category, which may not be exercised by specialised authorities. The district offices exercised these competencies. The territorial scope of the district office reflects the territory of the district in accordance with the territorial-administrative division of the Slovak Republic (in Bratislava and Košice, only one district office was established for all districts in these cities). However, not every district office possesses all these competencies. Some were carried out only in the larger district offices, and others only in the district offices in the seat of the region (eight district offices).

(b) Specialised local state administration. Due to certain specificities, it has not been possible to integrate all the competencies of state administration at a local level into one category of local state administration. Therefore, specialised local state administration bodies remained. They either operate in specific territorial districts (e.g. district mining offices), operate only at the regional level (regional public health offices), or carry out a specific activity that is subject to the direction of a special state administration body with national competence (e.g. labour, social affairs, family offices, or tax offices).

(c) Corps. These are special bodies of the state which operate throughout the territory of the state, as well as their components within certain limited territorial units. Their primary activity is not the performance of state administration, but the provision of other tasks in the state. However, the state has also entrusted them with certain state administration tasks. These corps include the police force and the fire and rescue corps of the Slovak Republic. The district and regional headquarters operate locally. For instance, the primary task of the police force is to ensure a state's internal security. Only to a limited extent does it carry out state administration; for example, in the form of issuing various documents, registering motor vehicles, etc.

3.3.2. Organization of self-government

In the field of public administration, self-government is exercised by public administration bodies, which are characterised by the fact that they are not state bodies but non-state legal entities, that they are established by law, and that their self-government tasks are defined by law.[51] Under the conditions in the Slovak Republic, the right to self-government was self-evident. This means that even if the state did not enshrine it through legislation, self-government would develop in a certain way. Self-evident nature of self-government, whose material basis is the need to manage one's affairs within the limits of the law, is a prerequisite for subsequent institutionalisation.[52]

Although self-government is separate and independent from state administration, it was created by means of separation—decentralisation from state administration based on the will of the state. Thus, the existence of self-government and the scope of its competencies and powers are determined by the state's will. Under the modern

51 Cepek, 2018, pp. 172–173.
52 Tekeli, 2020a, p. 97.

conditions of the Slovak Republic, self-government began to take shape only in 1990. During the communist regime, public administration was concentrated in the hands of the state and there was only a state administration. The creation of self-government occurred only after the collapse of the regime. Self-governance at the municipal level was established in 1990.[53] This was supplemented by regional self-governance in 2001.[54] Simultaneously, self-government is also beginning to be created, with the formation of self-government in various professions (e.g. attorneys,[55] commercial lawyers,[56] notaries,[57] authorised surveyors, cartographers[58]), as well as the self-government of universities.[59]

Public authorities are vested by law and have the power to conduct public administration. They carry out this public administration on their own, in their own name, from their own resources and are accountable for its performance. This is the self-governing competence of self-government entities. However, in addition to such competencies, the state may delegate the performance of part of the state administration to self-government entities. This is the so-called competence in the delegated exercise of the state administration. In this case, they are the so-called indirect administrators of state administration. However, they do not carry out such delegated state administration on their own behalf, but on behalf of the state. The state is also obliged to ensure financing for the implementation of delegated state administration by self-governing entities. Finally, the state is responsible for the implementation of the state administration and is thus delegated.

Public self-government entities can be divided into (i) territorial entities and (ii) self-government entities of interest.

Ad (i) Territorial self-government entities

The establishment of territorial self-government in Slovakia was conditioned by profound social changes after 1989. There is no doubt that territorial self-government is a constitutional matter because it is one of the fundamental social relations that form part of the functioning of a democratic society, and the principle of territorial self-government is one of the founding principles of modern constitutionalism.[60] The Slovak Constitution[61]

53 Act No. 369/1990 Coll. on Municipal Establishment, as amended.
54 Act No. 302/2001 Coll. on self-government of higher territorial units (Act on self-governing regions) as amended.
55 Act of the National Council of the Slovak Republic No. 132/1990 Coll. on Advocacy, as amended.
56 Act of the National Council of the Slovak Republic No. 129/1991 Coll. on Commercial Lawyers, as amended.
57 Act of the National Council of the Slovak Republic No. 323/1992 Coll. on Notaries and Notarial Activities (Notarial Regulations), as amended.
58 Act of the National Council of the Slovak Republic No. 138/1992 Coll. on Authorised Architects and Authorised Civil Engineers, as amended.
59 Act of the National Council of the Slovak Republic No. 172/1990 Coll. on Higher Education Institutions, as amended.
60 Palúš et al., 2010, p. 14.
61 Constitution of the Slovak Republic No. 460/1992 Coll. as amended.

also regulates the existence and status of local self-government, as discussed in the fourth chapter. It distinguishes between municipal self-government, which is based on a municipality, and regional self-government, which is based on a higher territorial unit (self-government region). In the following section, we discuss the division of territorial self-government entities into (a) municipalities and (b) higher territorial units.

(a) Municipalities. Based on its statutory definition, a municipality is an independent territorial, self-governing administrative unit in the Slovak Republic. This brings together the people who permanently reside in their territory. A municipality is a legal entity that manages its own property and income independently under the conditions laid down by law.[62] The municipality independently decides and performs all acts related to the administration of the municipality and its property and all matters that are regulated by a special law as part of its self-governing competence, unless such acts are performed by the state, another legal person, or a natural person according to the law. Similarly, the state also transfers competence in the field of state administration (e.g. the activities of the building office and the registry office) to the municipality. The municipality exercises its power through its bodies, the mayor and the municipal council. The Municipal Council is a collective body consisting of members directly elected by the inhabitants of the municipality, who decide on the most important issues of the municipality. The mayor is the statutory body of the municipality, elected directly by the inhabitants, and performs all activities that are not entrusted to the municipal council.[63]

(b) Higher territorial unit. A higher territorial unit or self-governing region is an independent territorial, self-governing, and administrative unit. It is a legal entity which, under the conditions laid down by law, manages its own property and income independently and ensures and protects the rights and interests of its inhabitants. The territorial district of a higher territorial unit is the territory of the region in accordance with the territorial-administrative division of the Slovak Republic. It follows that eight higher territorial units exist in Slovakia. It is also true that this entity provides both tasks in the exercise of its self-governing competence and tasks delegated to it by the state during the exercise of state administration. The bodies of the higher territorial unit are the council and the chairman. The Council decided on the most important issues in the self-governing region. The chairman is the statutory body of the self-governing region and decides all other matters not reserved for the council. Both bodies were elected directly by the inhabitants of the self-governing region.[64]

Ad II) Interest self-government entities

Interest in self-government is characterised by the alignment of group interests with public interests. To be considered a part of public administration, the bodies of interest

62 Article 64a of the Constitution of the Slovak Republic, Article 1 of the Act No. 369/1990 Coll. on Municipal Establishment, as amended.

63 See in Tekeli et al., 2021a.

64 See in Tekeli et al., 2021b.

in self-government must have the power and competence conferred on them by law. Professional self-government in the Slovak Republic is represented by chambers that bring together individuals based on their professional focus, such as attorneys, notaries, patent attorneys, doctors, nurses, and midwives. Within chambers, a distinction is made between compulsory and optional membership. Specifically, the exercise of certain licences is subject to compulsory membership in the relevant chamber.[65] Chambers act through their bodies and there is no uniformity in their designation. First, it is a collective body that brings together all the members of the chamber (e.g. conference, assembly, congress, and general assembly). A collective executive body is referred to as the presidency, board of directors, or managing board. This body is usually headed by a chairperson who is also a statutory body (or President). Control over the activities of the chamber is exercised by a collective control body (e.g. a supervisory board or review board). As the chamber exercises disciplinary jurisdiction over its members, a collective disciplinary body (e.g. a disciplinary committee) is also established as a standard practice.

Special self-government is also part of self-government interests. It is a special kind of self-government that cannot be classified as either territorial or professional self-government in a narrower sense. This occurs in areas where the state has delegated the right to decide on certain issues in public administration to separate entities. This type of self-government is found in education (self-government of universities as well as primary and secondary schools), justice (self-government of judges), and prisons (self-government of prisoners).

4. Current challenges in public administration

The European Union and its laws also have an impact on the way public administration is organized in each Member State. European Union law requires Member States to ensure that they have a sufficient apparatus of public authority to ensure compliance with obligations arising (directly or indirectly) from European Union acts and to hold perpetrators accountable in the event of breaches. However, the European Union does not specify the requirements for the category, the status of such a body in the public administration organization of a Member State, or the public administration organization as such.

However, there are some exceptions to the statement in the previous paragraph. In particular, European Union law requires the creation of so-called national regulatory authorities, exercising their competence particularly in relation to markets where competition is not sufficiently developed (especially network industries), or regulating pan-European issues (e.g. personal data protection, media services). In addition to the requirements for the existence of such bodies, European Union law imposes further requirements on their independence, power, and procedures.

65 Seman, 2020, pp. 44–45.

In the context of the Slovak Republic, the expansion of the category of state administration bodies with nationwide competence has become increasingly evident. These bodies possess an independent status from other public administration bodies, including central state administration bodies. Under the influence of European Union law, whether after the Slovak Republic's accession to the European Union or in the process of law approximation in the pre-accession period, several bodies in this category were created (e.g. the Office for Personal Data Protection, the Office for the Regulation of Network Industries, the Office for the Regulation of Electronic Communications and Postal Services, etc.).

As integration processes deepen, European influence on the organization of public administration is also expected to grow. It will therefore be the task of Member States, including the Slovak Republic, to respond adequately to these trends and implement them appropriately in national legislation.

One of the policy objectives of governments in the Slovak Republic is to stabilise public finances by increasing state budget revenues and reducing state apparatus spending. For this reason, various ways of 'slimming down' and streamlining public administration are being considered politically. These trends also apply to the organization of public administration. While this approach may achieve the aforementioned fiscal objective, it may also lead to serious disruptions in existing processes, thus generating serious negative consequences. Therefore, the application of re-organizational changes within public administration at any level requires prior scientific and professional examination, setting out both legal prerequisites and legal consequences.

One such method is merging ministries, other central state administration bodies, or bodies with national competence. Although the merger of central state administrative bodies or bodies with a national scope requires prior scientific examination, the actual situation is different. Whether there will be a merger or split of the central bodies is more of a matter of politics and agreement between the political parties that form the government. Often, this process is not influenced by professional arguments regarding the appropriateness of combining the performance of certain agendas and processes. However, political parties' parochial interests control certain areas. This is why disparate areas are sometimes combined (e.g. transport and construction). Based on this, it is evident that the current state of learning and streamlining of the organization of public administration at the central level is at an early stage. Whether there will ever be a shift in this area remains questionable, as political tendencies are more prevalent than professional or scientific ones. This change cannot be expected in the near future.

However, the situation is different at the level of the local state administration organization in the Slovak Republic. Starting in 1990–the fall of the communist regime–the country was subject to turbulent changes. One reform of the local state administration organization succeeded in another. Owing to the very short duration of a particular model of a local state administration organization, it has not been possible to test the viability of that model. Every political party that came to power after

1990 had their own idea of what the public administration model should look like. Therefore, frequent changes occur. Much more than changes in the material understanding of public administration, political representation has focused on changes in the formal organization of public administration.[66]

Between 1990 and 1996, a mixed model of local state administration was established. Within it were bodies of general local state administration (district offices and county offices), as well as bodies of specialised local government. This change occurred in 1996 when the general local state administration model was introduced. The performance of local state administration was integrated into the regional and district offices. Another change occurred in 2004, when the opposite trend was observed. Specialised local state administration bodies exercising partial competencies in a specific area have disintegrated from the local state administration bodies. The most recent change occurred in 2013 when the integrated local state administration model was reintroduced, with some exceptions. This status of affairs persists today. The aim of this latest reform was to provide citizens with a single authority to handle all necessary matters, thereby simplifying their contact with the state. Simultaneously, this should be in line with the interests of transparency, accountability for decision-making, efficiency in the use of public funds, and effectiveness of control.[67] This model was described in the previous section.

The established model of the local state administration organization should be maintained in the future to properly test its functionality. Considering the increasing computerisation of the performance of state administration activities and the increasing level of the population's ability to use electronic state administration services, this model has the potential to be effective. However, at the same time, it allows for the achievement of the goal. First and foremost, to simplify the contact of citizens with the authorities, as well as to ensure savings in the fiscal expenditure of the state, while fully providing all services of the state.

However, greater challenges await the organization of local self-governments in the future. As mentioned in the first chapter, between 1970 and 1990, the political regime attempted to artificially merge municipalities into larger administrative units. However, the opposite trend was observed after 1990. Individual municipalities have begun to become independent. Currently, there are almost 2,900 municipalities in the Slovak Republic, with populations ranging from a few dozen to almost 500,000 inhabitants. Regardless of the number of inhabitants, each municipality performs essentially the same tasks, both self-government tasks and tasks, in the delegated exercise of state administration (some exceptions shall apply, for example. when acting as registry offices). In this context, it is not surprising that small municipalities with few inhabitants do not have sufficient staff, professionals, and, above all, the financial capacity to perform all tasks. In the case of small municipalities, it is

66 Tekeli, 2020, p. 88.
67 Hrtánek, 2013, p. 122.

not unusual for them to be unable to staff even the basic bodies of the municipality, namely, the office of the mayor and members of the municipal council.

Smaller municipalities are trying to eliminate the lack of professionals, personnel, and financial capacity by creating joint municipal offices. However, these common offices are mainly used for the performance of the competences of the delegated state administration (construction agenda, road administration, and school agenda). However, local self-government competencies are usually provided by the municipalities themselves (e.g. local taxes and fees, management, and maintenance of green areas). Second, the degree of intermunicipal cooperation should intensify.

It is also necessary to address the possibility of voluntary or involuntary mergers among municipalities. Municipalities should be motivated to merge voluntarily through financial considerations. On the expenditure side, they save costs, and on the revenue side, the state provides a subsidy to the merged municipalities for this purpose. Involuntary merger should apply where a municipality is unable to fulfil its tasks or where it is unable to constitute its bodies. Even today, an institute for municipal annexation exists.[68] However, this was limited to municipalities that did not have a municipal council or mayor after two consecutive elections. I believe it is necessary to broaden the grounds for the compulsory annexation of a municipality. Such reasons include the municipality's failure to perform its tasks properly and in a timely manner, whether municipal or delegated by the state administration.

It would also be advisable to change the state's approach to transferring the competencies of state administration to municipalities. Currently, the model assumes that the state transfers the competencies of state administration equally to all municipalities. They do this within their territory and towards their inhabitants. However, the state could transfer these competences only to some municipalities (usually larger ones), which would also exercise them in relation to the territory and inhabitants of other municipalities, especially neighbouring municipalities. This model is also currently applied to the competencies of the registry office. The same can be applied to other devolved competencies of the state administration. This would ensure that state administration tasks are carried out with sufficient staffing, expertise, and funding.

The second level is regional self-government, represented by higher territorial units (self-governing regions). Currently, eight of these regions have territorial boundaries. First, these territorial districts did not copy the historical formations that existed in the territory of the Slovak Republic. However, it is questionable whether it is necessary to have eight regional self-governments of the size of the state and population. I believe that these three regional self-government units are sufficient. For example, Poland is six times larger than the Slovak Republic and has only 16 voivodeships (twice as many as the Slovak Republic).

Simultaneously, it is also necessary to consider whether self-governing regions have been entrusted with sufficient competence. If the full potential of regional self-government is fully exploited, it would be appropriate if several or even all

68 § 2aa of Act No. 369/1990 Coll. on Municipal Establishment, as amended.

competences of the general local state administration, where it is not expedient to delegate them to municipalities, were transferred to it. These are the tasks of integrated local state administration bodies (district authorities). However, the State is cautious about the transfer of competence. However, this results in the coexistence of local state administrations and regional self-governing bodies.

As can be inferred from the above discussion, the organization of public administration is a dynamic system that reflects societal changes and expectations. However, it is desirable to make changes to the organization of public administration when changes are made to the processes and tasks that public administration is supposed to perform. Changes in the organization of public administration (changes in form) are intended to respond to changes and streamline public administration activities and processes (changes in matter/content). A mere renaming of the office is unnecessary.

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