

DEVELOPMENT OF LOCAL ADMINISTRATION IN BOHEMIA, MORAVIA AND SILESIA UNTIL 1990

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Abstract: Development of local administration in Moravia, Silesia and Bohemia by the year 1990. The text deals with the administration of municipalities, districts, regions and countries.

Keywords: Local administration; Moravia; Silesia; Bohemia.

1 Era of monarchy until 1918

1.1 Towns

In the Middle Ages, mainly the town self-administration developed in our country. From that, the most important was self-administration of the **towns belonging to the monarch** (governor) which were represented in the country assembly. Originally, there were many such towns but gradually their number was decreasing, mainly due to permanent pledging.

In Moravia, there were originally more than 30¹ governor's margrave² towns. However, they gradually lost their position (e.g. by pledging to nobility), as of 1848 only seven towns were represented in the Moravian country assembly – Brno (town right in 1243), Olomouc (1253), Jihlava (1240), Uherské Hradiště (1257), Znojmo (1226), Kyjov, Uničov (1213).³ These towns usually originated

¹ As of the year 1300 there were 21 governor's towns – Brno, Bzenec, Hodonín, Ivančice, Jemnice, Jevíčko, Jihlava, Litovel, Moravská Ostrava, Krnov, Opava (the Opava region and Krnov regions were then part of Moravia although they were not subject to the margrave abut Opava duke as a direct feudal tenant of the Bohemian king), Podivín, Pohořelice, Přerov, Telč, Uherský Brod, Uherské Hradiště, Uničov, Velká Bíteš, Zábřeh and Znojmo. In the territory of today's Silesia, the governor's towns as of the year 1300 were Bruntál, Fryštát, Hlučín and Těšín. Rudolf Procházka: *Město – fenomén doby posledních Přemyslovců*, in *Sága moravských Přemyslovců*, Olomouc, Brno 2006, p. 153.

² Sometimes also in Moravia, some governor's towns are called royal towns if the town right was granted to them by a margrave who was also the Bohemian king. However, the king carried out the direct ruling powers in Moravia on the grounds of the title of margrave, not the king. Subordination of these towns to the margrave and not to the king is clear at the times when the functions of the king and the margrave are held by different persons. These towns also took part in the country assembly of the Moravian Margraviate and not the Bohemian Kingdom.

³ František Čapka: *Dějiny Moravy v datech*, Brno 2001, p. 140.

before obtaining the town right from the original settlement at important castles of princes. A special privilege belonged to Brno which obtained a status of an **imperial town** from the Roman king Rudolph II Habsburg in 1278, i.e. a status of a town not subjected to the local monarch but only to the roman king (emperor) with the right to participate in the Imperial Assembly. However, Brno did not use this right, it was never confirmed by another Roman king and Brno accepted its subjection to the Moravian margrave.⁴ Governor's towns were seen as an independent estate with the right to participate in the country assembly (the fourth estate after clergy, higher and lower nobility). Large towns gradually strengthened their position by gaining more privileges. Thus apart from the election of the council, it also had the right to elect its mayor.⁵ Administration of the governor's towns in Moravia in representation of the margrave was performed by the chancellor, in his absence it was the country chamberlain and starting from the early 15th century the country vice-chamberlain.

The monarch's power started to be strengthened again in the period after the battle of White Mountain. From the monarch's order dated May 3, 1621, in all the governor's towns in Moravia, except Kyjov, besides the function of the town vogt, also a function of the governor's (emperor's, king's) reeve was established who on the grounds of his function was the most important member of the town council. He was appointed by the monarch and protected his interests. After him, there was a so-called first alderman, called the city mayor. Gradually, the position of the vice-chamberlain was getting weaker and towns were partially subjected to the regional sheriff according to the order from the royal tribunal dated January 7,

⁴ František Šujan: Dějepis Brna, 2nd edition, Brno 1928, pp. 115-116.

⁵ In 1340, Brno gained from the margrave Karel the right to elect a mayor who replaced the reeve in the head of the town self-administration. The reeve kept the right of supervision and police. Brno then obtained from the margrave Jošt the right of free election of 12 new councillors (a small council) through their predecessors in the old council. Both councils then formed the full council with 24 members. However, the margrave had the right of final approval of the council. On April 15, 1376 the margrave Jošt gave Brno also the right to elect the reeve who became a pure executor of the decisions of the town council and the main police officer. The council thus was not elected by townspeople but chosen by the former council, which resulted in creation of the town oligarchy and disputes between the council and townsmen. Starting from the 16th century, beside the acting council with 12 aldermen selected by the previous council every year which was approved by the monarch or vice-chancellor, also the old council and its predecessor, the second old council, took part in some acts. František Šujan: Dějepis Brna, Brno 1928, pp. 200, 204-206, 212, 216, 237, 250, 256, 263.

1659.⁶ On January 16, 1710, Josef I. ordered that in governor's towns in Moravia, beside the council members there should also be two representatives of townsmen appointed by a committee elected by townspeople, which was the first step to disturbing exclusiveness of the richest town oligarchy controlling the council. On September 17, 1710, he then determined that he appointed councillors himself and thus he restricted the rights of the vice-chancellor even more.⁷ Brno, which was an important centre in the Middle Ages for interpretation of town rights, also had special requirements for education of the members of the town council in the new age when starting from 1731 the membership in the town council was conditioned by legal education unless an exception was granted by the margrave.⁸ Self-administration of royal towns was strengthened in the reign of Josef II. by the court decree dated August 4, 1783 when the monarch gave the towns the right to elect the municipal council from the proposals of the country guberniya and court of appeal (the towns had powers of the court of first instance). The townsmen first elected the committee and after it was approved by the country guberniya, it elected the municipal council led by the mayor. The mayor was confirmed by the monarch. The members of the municipal council got fixed salary. New elections of a member of the committee or municipal council were only performed in case of a vacant position. The functions of the vice-chamberlain, imperial and municipal reeve ceased to exist. However, the mayor gradually started to be appointed in some towns even without election, sometimes even for life.⁹ In Brno, the council

⁶ In Brno they cancelled the second old council and the individual councillors alternated in the function of the mayor in the intervals of 4 weeks. By the monarch's rescript dated December 16, 1684, a council with 17 members was established in Brno. Subsequently on August 11, 1689 the vice-chancellor was ordered that if he did not want to confirm the councillors elected by the preceding council under the supervision of the royal reeve, he had to turn to the monarch in this matter. František Šujan: *Dějepis Brna*, Brno 1928, pp. 271, 296-301.

⁷ In 1726 it was ordered that the council would comprise the royal reeve and 12 councillors (aldermen) and it started to be called a municipal council. The economic administration was then transferred to the economic directory subordinated to the ruling authorities. The directory was chaired by the royal reeve and its members were two aldermen with 1 substitute, 2 representatives of townspeople with 1 substitute and 1 assessor elected by the directory. The members of the directory were approved by the higher royal directory for Moravia in Brno. Gradually, the number of members was extended by new officials. František Šujan: *Dějepis Brna*, Brno 1928, pp. 311, 313-317, 332. Jiří Brňovják: *Erb a přídomek – atributy českých nobilitací císaře Karla VI.*, Genealogické a heraldické informace 2005, p. 38.

⁸ Jiří Brňovják: *Erb a přídomek – atributy českých nobilitací císaře Karla VI.*, Genealogické a heraldické informace 2005, p. 38.

⁹ On the basis of the decree, in 1784 a committee with 24 members and municipal council with 9 members were established in Brno. František Šujan: *Dějepis Brna*, Brno 1928, p. 347, 360-362.

with 24 members was elected for the first time in 1784 and subsequently it elected the municipal council comprising 8 municipal councillors and the mayor. The mayor was appointed for the function for 4 years.

In Bohemia, within the scope of **royal towns**, further structuring occurred into **privileged towns**, i.e. towns subjected directly to the king or governor (from the 14th century – Prague Old Town and Prague New Town and Kutná Hora administered by the master of the mint, also Budějovice in 1623, Plzeň in 1627, Prague Lesser Town in 1628, Locket and Karlovy Vary in 1749, Prague Hradčany in 1756, Cheb in 1759 and Chomutov in 1780). Besides them, there were other royal towns called as **vice-chancellor's towns** subjected to the office of the vice-chancellor. Then there were **dowry towns** used as material securing of queens and administered by them, **protecting towns** – pledged by the monarch to nobility as a result of which they lost temporarily their right to take part in the country assembly.

In the era of Habsburg monarchy, a legal regulation of municipalities of the new era was approved as a result of the liberal revolution in 1848. Besides the constitutional regulations, starting from 1849 there was also a general imperial act on municipalities which was implemented by the individual country acts in Moravia, Silesia and Bohemia.¹⁰ This self-administration trialism survived thanks to the reception of the Austrian imperial law *de jure* until the national committees originated after the 2nd world war. The legal regulation was based on and explicitly mentioned the principle '*A free state is based on a free municipality*' and it also

¹⁰ The first modern legal regulation of municipalities was approved on the basis of section 57 of Pillersdorf's Constitution dated April 25, 1848. It was followed by section 33 of the March Constitution No. 150/1849 of the imperial code (it followed the proposal of the Kroměříž Constitution which was not approved) which was implemented by provisional municipal act No. 170/1849 of the imperial code. This act, in the introductory charter of which there was a famous principle "*The basis of a free state is a free municipality*", described local, district and regional municipalities, but only local municipalities were established. This municipal establishment was changed at the time of Bach's absolutism by decrees of the Ministry of Interior No. 115 and 496/1850, 17 and 214/1852 of the imperial code. After the fall of Alexandr Bach, by means of a patent for all the countries in the monarchy, general imperial act No. 58/1859 of the imperial code was issued but with the exception of the provision on domestic law it did not come into force. On the basis of the February Constitution issued by patents No. 20-22/1861 of the imperial code, municipal establishment (system) was made dated March 5, 1862 No. 18/1862 of the imperial code. Municipal Regulations of the Moravian Margraviate dated March 15, 1864 No. 4/1864 of the Moravian country code. Municipal Regulations of the Silesian Duchy dated November 15, 1863 No. 17/1863 of the Silesian country code. The municipal country code of the Bohemian Kingdom dated April 16, 1864 No. 7/1864 of the Czech country code. Martin Kopecký: Právní postavení obcí, Prague 1998, pp. 13-18.

divided the general competence into natural (self-administration) and delegated (state administration).

The municipality was led by the **municipal committee** elected by the municipality members on the basis of non-equal voting power given by the property census. The municipal committee decided in presence of the absolute majority of all its members.¹¹ Resolutions were approved by the absolute majority of the present members. From its members, the municipal committee elected the **municipality council** led by the **chairman and municipality superiors**. The members of the municipal council performed the function for free, they were entitled to compensation of costs and the committee could only give remuneration to the chairman.¹² During a war, the country governor could decide that municipal elections would not be held which was used during the World War I.¹³

Municipalities in one political district were allowed to conclude public law contracts for joint performance of their competence or establishment of common institutions. Such contracts had to be approved by the country authority.¹⁴ If a municipality was not able to ensure performance of its competence, such a connection could also be enforced by means of a country act approved by the country assembly and signed by the monarch.¹⁵

A special status belonged to the so-called **statutory towns** which originally were only Brno (1849) and Olomouc (1849) in Moravia and Opava (1849) in Silesia. After the new municipal establishment was introduced, the new statutory towns were Jihlava (1864), Znojmo (1867), Uherské Hradiště (1867) and Kroměříž (1870), in Silesia it was Frýdek (1869) and Bílsko. In Bohemia it was Prague

¹¹ The absolute majority of all the members of the municipal committee were counted from the legitimate number according to the electoral regulations in municipalities, not from the temporary, accidental number of the members of the council. Decision of the imperial-royal administrative court (Budw. A.6463/1909).

¹² Section 24 of the Moravian Municipal Establishment. Section 24 of the Silesian Municipal Establishment. Section 25 of the Czech Municipal Establishment.

¹³ Decision of the Moravian Country Governorate dated August 6, 1914. František Šujan: Dějepis Brna, Brno 1928, p. 486.

¹⁴ Article VII of Act No. 18/1862 of the imperial code, sections 93 and 95 of Moravian Municipal Establishment No. 4/1864 of the Moravian country code, of Silesian Municipal Establishment No. 17/1863 of the Silesian country code, of Czech Municipal Establishment No. 7/1864 Coll. of the Czech country code

¹⁵ Section 94 of Moravian Municipal Establishment No. 4/1864 of the Moravian country code, of Silesian Municipal Establishment No. 17/1863 of the Silesian country code, of Czech Municipal Establishment No. 7/1864 Coll. of the Czech country code.

(1849), Plzeň and Liberec (1850)¹⁶. Their legal regulations were stipulated by the acts of the country assembly. The statutory towns performed the activities of the district political administration (district office) within the scope of their delegated competence and election of the mayor required confirmation from the monarch (margrave, duke, king). In the statutory towns there could be a special self-administration of town districts. In Brno, after the town was extended by suburbs in 1850, there was a town council with 48 unpaid members elected for three years in the whole town territory with 16 representatives in three property groups according to the tax census. Every year, one third of members withdrew and complementing elections were held. From its ranks, the committee elected the mayor for three years, a vice mayor and nine councillors who were paid. The mayor was approved by the monarch and his oath was taken over by the vice-chancellor. Besides the town council, there were also committees and 4 paid representatives of 5 town districts elected by them which managed the property of the original municipalities which was transferred from the districts to the town as late as in 1864. Thus, in reality the most property was not in the city of Brno but in the internal district of historic Brno. It also elected a district committee with 18 members while the other districts only with 9 members. District committees then elected their representative and his deputy. Districts were divided even in more detail into 21 quarters where the town appointed quarter administrators with two deputies.¹⁷ Starting from 1905, the number of deputies of the mayor increased to two, the number of councillors increased to 12 and in the committee to 57 by the introduction of a new fourth election group with 9 members where all the voters voted. The municipal election law in Brno thus became general for men but not equal.¹⁸ The term of office of the committee members was 6 years, provided that half of them were elected every three years. Also the term of office of the mayor was 6 years, of his deputies then 3 years. District committees were cancelled.

¹⁶ Decree of the Ministry of Interior dated December 15, 1850.

¹⁷ František Šujan: *Dějepis Brna*, Brno 1928, pp. 406-407, 409.

¹⁸ Municipal Regulations for Brno approved by the monarch on May 3, 1905. František Šujan: *Dějepis Brna*, Brno 1928, pp. 447, 456-457.

Municipal regulations issued in the form of country acts enabled the municipalities to issue orders within the limits of law but without an explicit legal authorisation for the territory of the municipality in the police area (public order – fire protection, market, slaughterhouse, cemetery, street and police regulations) if the relevant area was not reserved to other offices.¹⁹ The orders were approved by the municipal committee and in urgent situations by the municipal representative (mayor). However, such an order had to be approved additionally by the municipal committee. Special regulations could stipulate that issuing of an order must be approved by another body. This was the case with the market regulations issuing which had to be approved by the country politic administration (governorate).²⁰ Municipalities could issue ordinances also for stipulation of extraordinary obligations – e.g. for census in January 1891.²¹

Breach of the relevant orders was punished by the municipalities themselves by a fine of up to 10 gulden²² and in case the fine was not paid, by imprisonment for up to 48 hours. The punishment was decided by the criminal senate of the municipality comprising the chairman and two municipality representatives (councillors).²³ The legal theory was based on the standpoint that if a municipality issues an order in the area of its self-administration, except the police area, then its breach cannot be punished by fines or imprisonment in case of non-payment.²⁴

If an order was illegitimate, the district office could ban its execution, the municipality could appeal to the country office and the appeal did not have a suspensory effect.²⁵ When the municipality organisation was applied, frequent theoretical disputes occurred. When applying the Austrian law, the Czechoslovak

¹⁹ Section 34 of Moravian Municipal Regulations, section 34 of Silesian Municipal Regulations, section 35 of Czech Municipal Regulations. Otakar Klapka, Jaroslav Flögel: *Obecní zřízení v Čechách, na Moravě a Slezsku*, Slaný 1927, p. 96-98. Jiří Pražák: *Rakouské právo veřejné*, 1. díl – *Právo ústavní*, Prague 1895, p. 320.

²⁰ Section 70 of Trade Regulations – Emperor's Charter No. 227/1859 of the imperial code.

²¹ Ordinance of Rožnov pod Radhoštěm on census in January 1891 from December 1, 1890. Available in Wallachian Open Air Museum (Wooden Townlet) in Rožnov pod Radhoštěm.

²² After gulden currency was abandoned and crown currency was introduced in 1892, the pecuniary penalty was 20 crowns, as 1 gulden equalled 2 crowns (exchange rate 1 : 2, even nowadays 10 crowns are called a "fiver", i.e. former 5 gulden).

²³ Section 57 of Moravian and Silesian municipal regulations. Section 62 of Bohemian municipal establishment. Otakar Klapka, Jaroslav Flögel: *Obecní zřízení* pp. 137-138.

²⁴ Jiří Pražák: *Rakouské právo veřejné*, 1. díl – *Právo ústavní*, Prague 1895, p. 321.

²⁵ Section 102-103 of Moravian municipal regulations, section 91-92 of Silesian municipal regulations, section 102 of Bohemian municipal establishment. Otakar Klapka, Jaroslav Flögel: *Obecní zřízení* p. 162-164.

Supreme Administration Court decided that the self-administration competence is not given by the municipal establishment by enumeration but only demonstratively.²⁶ On the contrary, Jiří Hoetzel differentiated the self-administration competence of establishment where the municipality can determine obligations authoritatively and which must be enumerated and the non-establishment competence which can be stipulated demonstratively.²⁷ However, this understanding was earlier confirmed indirectly by the Austrian Imperial Supreme Administrative Court when it stated that the monitoring activities of the state only relate to a breach of administrative acts (i.e. public administration, lordly, establishment), not private law acts.²⁸

1.2 Districts

Within the countries, on the basis of the monarch's decision from 1849, districts were established as of January 1, 1850 which were led by the district sheriff, with the district central office (in 1850-55 also called as sub-region office) as the state administration body to which the basic performance of administration was transferred after serfdom was cancelled from the original establishment administration.²⁹ Originally, there were 25 districts in Moravia, 7 in Silesia and 79 in Bohemia. As of May 12, 1855 district sheriff offices were joined with courts within the scope of small court districts, of which there were 76 in Moravia, 22 in Silesia and 208 in Bohemia. By the act dated December 21, 1867, the district sheriff offices and courts were divided again and it resulted in establishment of 30 sheriff offices in Moravia, 7 in Silesia and 89 in Bohemia. New ones were established gradually and in 1908 the final situation was 34 in Moravia, 9 in Silesia and 98 in Bohemia. The district sheriff offices did not control the statutory towns.

²⁶ Decision of the Czechoslovak Supreme Administrative Court, Bohuslav's collection – Boh. A 1990/1923, A 4500/1925.

²⁷ Jiří Hoetzel: *Československé právo správní, část všeobecná*, Prague 1937, pp. 193-194.

²⁸ Finding of the Austrian Supreme Administrative Court from May 4, 1896, No. 25, Budwinsky's collection – Budw. No. 9187. It also corresponds to the decision determining that determination of the police hour is not in the competence of the municipality self-administration (finding of Austrian Supreme Administrative Court dated April 13, 1888, No. 1287, Budw. No. 4044).

²⁹ The actual districts originated in 1850, separately as larger political (administrative) districts and smaller court ones. In 1855-1868, the political state administration and judicial organisation was unified temporarily in the size of small court districts. After 1860, there were 30 political districts in Moravia, 7 in Silesia and 89 in Bohemia.

Besides the district sheriff offices, there supposed to be also an independent district council led by the district superior. However, self-administration of districts was fully applied starting from 1864 only in Bohemia within the scope of self-administration districts which covered the same territory as small court districts. The authority of the self-administration district was a district council with 18-36 members, a district committee with 7 members, a district mayor and a committee. In Moravia starting from 1877 and in Silesia³⁰ as late as from 1898 there were only road districts managing the roads.³¹ In Moravia, the district road committee had 11 members and 6 substitutes and it was led by the chairman.

1.3 Regions

The regions³² in Moravia were established in 1527 in the number of 5 (Olomouc, Brno, Hradiště, Znojmo and Jihlava) mainly for the purpose of protection against the Turks. Starting from the year of 1637, the Olomouc region was divided into Kolšdtejn-Třebová and Přerov districts which was transformed into the Přerov region in 1735. Also in Silesia, 4 defence regions were established, starting from 1744 only 3 (Nisa, Opava, Těšín). After a larger part of Silesia was lost definitely in favour of Prussia, there were only two regions: Opava and Těšín. In Bohemia regions originated from the former system of castles at the beginning of the 15th century, at first 12 (Prague, Kouřim, Slané, Žatec, Litoměřice, Boleslav, Hradec, Chrudim, Bechyně, Prácheň, Plzeň ad Rakovník) and later in the reign of Jiří from Kunštát and Poděbrady there were 14 (Podbrdsko from Rakovník and Vltava from Bechyně). In 1714, the Vltava and Podbrdsko regions were unified in the Beroun region and Slaný was included in the Rakovník region and Locket and Cheb were included in the Žatec region. Thus, there were again 12 regions in Bohemia. However, in 1751 the Žatec region was divided into the Žatec and Locket parts, and Plzeň region was divided into Plzeň and Klatoy parts, the Bechyně region was divided into Tábor and Budějovice parts and the Hradec region was

³⁰ Act No. 133/1898 Silesian country acts. Rudolf Cogan: Krajské zřízení, Prague 2004, pp. 69-70.

³¹ Stanislav Kadečka: Právo obcí a krajů v ČR, Prague 2003, p. 103.

³² Karel Schelle: Z historie diskusí o velikosti a počtu územněsprávních celků, collection Reforma veřejné správy, Brno 2002, pp. 11-24.

divided into the Hradec and Bydžov parts. The parts became independent regions and in total there were again 16 of them. The Bohemian regions had the most advanced self-administration in the form of **small assemblies** and at first one and later two **regional sheriffs** elected by the small assemblies, but this self-administration was gradually cancelled by the Battle of White Mountain and the regions became a tool of Hapsburg centralisation as administrative units against self-administration of country assemblies.

In the 19th century, until 1860 the regions in Moravia and Bohemia were superior to districts and subordinated to the country governorates with a possibility of direct management by the government. As the result of the revolution in 1848-49, self-administration of the region was planned in the form of a council with 24-60 members led by the regional sheriff and his deputy. Execution of its decision was supposed to be ensured by the regional president as a representative of the state. This form of regions was not implemented and administration was performed by the regional office led by the chairman represented by the commissioner.³³ In Moravia, in 1849-55 there were Brno and Olomouc regions, in 1855-60 Brno, Olomouc, Uherské Hradiště, Jihlava, Nový Jičín, Olomouc and Znojmo regions. In Silesia in 1849-55 there was only one region – the Opava region, starting from 1855 there was none. The region administrative organisation was cancelled in 1860.³⁴ In Bohemia in 1849-55 there were 7 regions and Prague and in 1855-62 there were 13 regions. Centralists consider renewing of regions within monarchy in 1918 with the planned effect from January 1, 1919 when everything finished due to the fall of the monarchy.³⁵ The aim was to weaken countries and the connected efforts for federalisation. Even after the administrative regions were cancelled, the court district still continued to exist where region courts operated (in Brno, Opava and Prague there were country courts). Starting from 1855, there were 6 court regions in Moravia (Brno, Jihlava, Nový Jičín, Olomouc, Uherské Hradiště,

³³ Decision No. 335/1949 of the imperial code

³⁴ Act No. 142/1860 of the imperial code. In Bohemia, regional offices were cancelled by ordinance No. 73/1862 of the imperial code. RUDOLF COGAN: *Krajské zřízení*, Prague 2004, pp. 68-69.

³⁵ Ordinance of the Ministry of Interior dated May 12, 1918.

Znojmo), 2 in Silesia (Opava, Těšín) and 15 in Bohemia (České Budějovice, Česká Lípa, Hradec Králové, Cheb, Chrudim, Jičín, Kutná Hora, Liberec, Litoměřice, Mladá Boleslav, Most, Písek, Plzeň, Prague).³⁶

1.4 Countries

After Lusatia was lost, there are three Czech **countries** – **Bohemia** (kingdom), **Moravia** (margraviate) and **Silesia** (duchy). The governors of Moravia and Silesia were feudal tenants of the Bohemian king. Except for the personal dependence of the feudal tenants, all three countries were legally separate and each of them had its own country bodies (country assembly, country court, country authorities).

In **Moravia** the governors were the Moravian Margrave, Olomouc bishop and Opava duke. The Olomouc bishop and Opava duke did not depend on the Moravian Margrave but they were direct feudal tenants of the Bohemian king.

In connection with the tradition of Moravian-Pannonian archdiocese, **the Olomouc bishopric** was renewed in 1063. The bishopric was not part of the destiny principality and the right of investiture belonged directly to the Bohemian king, this was maintained also after the Moravian Margraviate was established in 1182. King Charles IV confirmed the independence of the Olomouc bishop of the Moravian margrave and granted him the title of prince, subsequently on May 1, 1365 the title of count of the royal chapel.³⁷ The Bohemian title of prince was confirmed by Rudolf II on August 10, 1588. Administration of the Episcopal fief was situated in Kroměříž³⁸ when also the principality Episcopal court (vassal court) operated for its fiefs (vassals). In the course of time, the Olomouc bishop was becoming more and more included in the Moravian margrave country organisation, as regards frequency it was the first representative of nobility in the Moravian country assembly and after serfdom was abolished, the territory of the Olomouc

³⁶ COLLECTIVE: *Dějiny českého soudnictví do roku 1938*, Prague 2005, pp. 98-100.

³⁷ Count of the Royal Chapel. The title of count was not used then by aristocracy. Aristocracy was legally unified then and only after the Battle of White Mountain it started to be divided internally to lords, counts and princes.

³⁸ Olomouc was the seat of church administration. Olomouc was part of the margraviate and it was subjected to the Moravian Margrave. Therefore the bishop concentrated administration of his fief in Kroměříž which was its part.

archbishopric³⁹ was fully integrated in the territorial administration of the Moravian margraviate.

The **Opava Duchy** established in 1269 as a domain by the Bohemian king and Moravian margrave Přemysl Otakar II for his illegitimate son Mikuláš remained part of Moravia but it was set aside from the margravian country administration and it was a direct fief of the Bohemian king. Use of the Moravian country law was maintained and in case of a dispute, the Opava country court was supposed to look for advice at the Moravian country court in Olomouc. In 1288 it was granted the title of duchy (princedom) by the Bohemian king Wenceslas II. From the Opava princedom, still as part of Moravia, in 1377 the **Krnov princedom** was separated. A part of the Opava region – **Hlučín region** – became part of the Ratiboř princedom and it was joined to Czechoslovakia only in 1920.⁴⁰ Gradually there was bigger and bigger cooperation of both units with Silesian princedoms. The princes and towns were for Silesia, on the other hand the nobility supported the Moravian affiliation and use of the Moravian law when the Opava country court obtained legal advice from the Moravian margrave country court in Olomouc. In 1613, the Bohemian king, Moravian margrave and Silesian duke Matyáš gave the Opava region to Princely Family of Lichtenstein who in 1623 obtained also the Krnov region and got into the group of Silesian princes.⁴¹ Separation of the Opava region and Krnov region from Moravia and their connection to Silesia was legally confirmed by decision of the local estate in 1659.⁴² Nevertheless, the whole territory of the Opava region, Krnov region and

³⁹ The Olomouc bishopric was promoted by Pope Pius VI to an archbishopric by his bill dated December 5, 1777. At the same time the Brno bishopric was established. However, the Brno bishop did not have a position of the direct feudal tenant of the king and the prince position. The territorial assets of the bishopric were in full administration of the Moravian margraviate. Until 1918 the Olomouc archbishop and Brno bishop were members of the Moravian country assembly. The archbishop was also a member of the House of Lords of the Imperial Council.

⁴⁰ Article 83 of the peace treaty between the powers connected and united and Germany from June 28, 1919 (Versailles Treaty No. 217/1921 Coll.).

⁴¹ Until nowadays, the Opava region and Krnov region emblem is part of the family crest of the princely family of Lichtenstein and the duke titles are part of the family titles of the princely family of Lichtenstein. In 1523 the Krnov region was given in the fief to Hohenzollern family and in 1623 it was taken away from them due to their unfaithfulness. The Hohenzollern family later based their claim for Silesia on their possession of the Krnov, Ratiboř and Bytom princedom.

⁴² Exceptionality of the Opava region is proved by the fact that its emblem was placed on the big state emblem of the Czechoslovak Republic used until 1939 together with the country emblems of Moravia and Silesia and on the standard of the president of the republic until 1960. From the Silesian princedoms, the big state emblem also

Hlučín region, including the areas transferred to Prussia in 1742, remained part of the Roman Catholic Church province until 1972.⁴³ After a significant part of the Krnov region was left to Prussia, the offices of the Krnov principedom united with the Opava country offices in 1746.

In **Silesia** the individual country administrative units were practically created within the scope of the partial Silesian principedoms. They were ruled by individual princes from the noble families or directly the Bohemian king (immediate principedom). In these principedoms, individual country municipalities and their bodies were created. The princes then comprised the Silesian princely country assembly. The other estates met in the assemblies in the individual principedoms. Nowadays, Moravian Silesia comprises part of the Lower Silesian **Nisa principedom**⁴⁴ (Jeseník), Upper Silesian **Těšín principedom** (Český Těšín) and originally Moravian **Opava duchy** and the **Krnov principedom and Hlučín region** separated from it. The Nisa and Těšín regions were part of the Roman Catholic Silesian Diocese until 1978 when they were transferred to the Moravian church province.

In **Bohemia** a specific position belonged to the **Cheb region** but it was later integrated to the Bohemian country administration and the **County of Kladsko** which was transferred to Prussia in 1742. As a short attempt to establish an independent - subjected only to the Bohemian king but independent of the Bohemian country - administration, the **Principedom of Frýdlant** (1623-25) and **Duchy of Frýdlant** (1625-34) of Albrecht from Valdštejn with its capital in Jičín was established in 1623-34. The duke was represented here by the sheriff. The duke had the governor's right to grant the noble status, promote towns and mint

included the emblems of the Těšín and Ratiboř regions the original Opava part Hlučínsko of which was joined to Czechoslovakia. Section 2 and 6 of Act No. 252/1920 Coll. which issues provisions concerning the state flag, state emblems and the state seal, cancelled by Act No. 163/1960 Coll. on the state emblem and state flag.

⁴³ For this territory, in 1751 the Olomouc archbishop established a commissariat (an archpriest office, starting from 1924 an archbishop general vicariate) with the registered office in Ketř. The administrator was appointed by the archbishop with consent from the Prussian government. ZDENĚK BOHÁČ: *Atlas církevních dějin českých zemí 1918-1999*, Kostelní Vydří 1999, pp. 24-26.

⁴⁴ Nisa princes were Wrocław princes.

coins. He also introduced his own vassal system here and planned establishment of bishopric and university here.

The countries were not standard self-administration units, they had attributes of a member state association (federation), including the head of the state (Bohemian king, Silesian duke and Moravian margrave). In the country, the monarch was represented by the **vicegerent**,⁴⁵ who was assisted by the councillors. The law-making powers belonged to the **country assembly** led by the **country sheriff**⁴⁶ who also led the country committee. The **country committee** was elected by the country assembly and it was the executive body of the country. In the countries there were also **supreme country courts** which were superior to the regional courts (the country court in the capital of the country) and district courts. At the regional courts, the prosecutions operated which were subordinated to the main prosecutions. At the district courts there were no separate prosecution offices but only the individual officials of the prosecutions (district prosecutors) who were not in the position of state prosecutors). In Brno there was the joined supreme country court and main prosecution for Moravia and Silesia.

At the level of countries, the country assemblies had law-making rights together with the monarch, which was cancelled when the Czechoslovak state was established in 1918. The vicegerent representing the monarch could then issue ordinances.⁴⁷

2 Local administration 1918-1945

After the Hapsburg monarchy broke up as manifestation of revolutionary changes, country national committees were established in Brno for Moravia and in Moravská Ostrava for Silesia⁴⁸ and then in some self-administration court districts

⁴⁵ In Silesia, the governorate was replaced with the country presidium, originally led by the vicegerent as the region president and starting from 1854 with the country president.

⁴⁶ The country sheriff and his deputy were appointed by the monarch from the ranks of the members of the assembly. In Bohemia it was the highest country marshal. Originally, Moravian country sheriff was the highest officer at the times when the margrave was also the Bohemian king and thus he was not permanently present in Moravia.

⁴⁷ Ordinance of the governor in Moravia dated October 19, 1896 on determination of police hours. Available in the Wallachian Open Air Museum (Wooden Townlet) in Rožnov pod Radhoštěm.

⁴⁸ Originally, establishment of the Silesian national committee was planned in Opava but due to German majority it happened in Ostrava.

and municipalities as of establishment of district and local national committees in some municipalities. These national committees had a revolutionary, out-of-law nature, often they interfered in the powers of administrative offices which were maintained according to the reception of legal norm. Finally, they were dissolved by the government on December 7, 1918.⁴⁹ In some municipalities, mainly those with a German town hall, the self-administration bodies were dissolved and the town administration was led by the government commissioner with an advisory committee (Brno 1918-20).

After 1918 municipalities observed the existing country municipal regulations, changes of terminology of municipality bodies and financial rules were approved⁵⁰ – a municipal committee became a municipal council, board with the old council and superiors became the council with councillors and the chairman became the mayor. The mayor was represented by the first and second deputy.⁵¹ The council was elected on the basis of direct, equal and general right of vote (including women) in the proportionate system.⁵² The possibility to dissolve the municipal council belonged to the country political administration (country presidium). When the municipal council was elected, proportionate representation of elected parties was applied in the council.⁵³ Otherwise the current organisation of the municipality self-administration was taken over. The specific features of large statutory towns were maintained to which the surrounding municipalities were joined and on the basis of special acts, administration of town parts was established there in the form of local municipalities appointed according to the proportionate representation by the town council. The local committee elected its chairman and his two deputies.⁵⁴ The mayor of the statutory towns was confirmed

⁴⁹ Ladislav Vojáček: Národní výbory v roce 1918 a udržení klidu a pořádku, collection Reforma veřejné správo, Brno 2002, pp. 25-33.

⁵⁰ Act No. 76/1919 Coll. Act No. 329/1921 Coll. on temporary regulation of the financial management of villages and towns with the municipal right. Act No. 77/1927 Coll. on the new regulation of financial management of unions of the territorial self-administration as amended by Act No. 169/1930 Coll., Act No. 69/1935 Coll. on financial measures in the area of local administration.

⁵¹ Section 60 of electoral regulations in municipalities No. 75/1919 Coll.

⁵² Electoral regulations in municipalities of the Czechoslovak Republic No. 75/1919 Coll.

⁵³ Section 64 of electoral regulations in municipalities No. 75/1919 Coll. In Brno there was the city council with 90 members and the board with 30 members.

⁵⁴ Act No 278/1920 Coll. on composition and competence of local committees in Greater Brno.

in his function by the government to which the rights of the monarch were transferred if the constitution or law did not give it specifically to the president of the republic.

The Czechoslovak state joined the legally separated Christian and Jewish municipalities in one settlement unit. The merger was implemented in 1919 on the basis of an extraordinary legal authorisation of the government without any consent from other entities, including the affected municipalities.⁵⁵ Thus, the self-administration of Jewish municipalities as public law corporations was definitely cancelled - e.g. Boskovice.⁵⁶

The right to promote a village to a small town and a small town to a town belonged to the government upon a proposal from the Ministry of Interior. A significantly centralistic interference was the necessity to have the state consent with election of the mayor introduced in 1933 which was granted by the country office and for district towns by the Ministry of Interior.⁵⁷ Gradually, the towns of Opava and Liberec lost their competence of the district office,⁵⁸ even though they remained formally the statutory towns, and in 1928 the position of Jihlava, Kroměříž, Uherské Hradiště, Znojmo as statutory towns was cancelled in Moravia and of Frýdek in Silesia⁵⁹.

During the 1st Czechoslovak Republic, the country establishment was maintained but only in the standard form of a territorial administrative unit as the state was unitarian with the constitutional autonomy for Subcarpathian Rus which was, however, implemented in reality only in 1938.⁶⁰ Law-making and administrative activities of the country assemblies ceased to exist after the

⁵⁵ Section 23 of Act No. 76/1919 Coll. which changes and complements some provisions of the current municipality establishment and municipality statuses in the Czechoslovak Republic.

⁵⁶ Unification of Christian and Jewish Boskovice was implemented by the government by its resolution dated July 15, 1919 with force as of July 30, 1919. Jaroslav Bránský: *Židé v Boskovicích*, Boskovice 1999, pp. 123-124.

⁵⁷ Section 63 (1) of electorate regulations No. 75/1919 Coll. as amended by Act No. 122/1933 Coll.

⁵⁸ Ordinance of Ministry of Interior No. 341/1922 Coll. on establishment of police station in Opava. Ordinance of the Czech president of the country political administration No. 68/1923 Coll.

⁵⁹ Government Decree No. 174/1928 Coll.

⁶⁰ Constitutional Act No. 328/1938 Coll. on autonomy of Subcarpathian Rus which followed Constitutional Act No. 299/1938 Coll. on autonomy of the Slovak country.

Czechoslovak state was established.⁶¹ Self-administration of the countries was restricted significantly when the Moravian country committee and Silesian administrative commission were appointed by the government, the country administrative committee in Bohemia by the National assembly. In the head of the country there was the country political administration led by the country president.⁶² The district sheriff offices were called district political administration led by the chairman. The district council bodies in Bohemia were dissolved and instead of them the district administrative commissions were appointed. In Moravia and Silesia, there were still road districts.

In 1920, the act on establishing župa and district offices was approved which introduced districts, 14 župas and Prague and 3 country župa unions (Bohemia, Moravia and Silesia, Slovakia) as units of local public administration above the municipal level. The **župa** was led by the **župa council** elected by the citizens for 6 years.⁶³ The župa council decided when absolute majority of all the members were present by absolute majority of the present members, unless determined otherwise. The chairman of the župa council was a so-called **župan** appointed by the state who also led the župa committee. Apart from the župan, the **župa committee** comprised 8 members elected by the župa council and also maximum 2 other members appointed by the župan from the ranks of the employees of the župa office. The župa council also could establish župa commissions for individual areas of its competence. The relevant župa councils elected country župa boards for 3 years and these boards subsequently elected 8 members of the country board committee. The župan was the chairman of the **župa administrative senate** which also consisted of another officer of the župa office and three assessors elected by

⁶¹ Section 4 of Act No. 37/1918 Coll. on provisional constitution. Section 7 (1) of the Constitutional document introduced by Act No. 121/1920 Coll.

⁶² In Moravia and Bohemia, the term “country political administration” was introduced already in December 1918, in Silesia only in 1922, until then in Silesia they used the term “Silesian country government”. Miloš Trapl: Svobodný stát a okupace, Vlastivěda moravská 9, Dějiny Moravy 4, pp. 19-20.

⁶³ Pursuant to section 12 of Act No. 126/1920 Coll. on establishment of the župa and district offices in the Czechoslovak Republic, up to 1/3 of members of the župa council in Slovak župas could be appointed by the government for a transition period until January 1, 1940.

the župa council. With the consent of the Minister of Interior, the župan could have been represented by another, a higher župa officer.

Also **districts** were regulated where apart from the **district office** also the **district committee** was established. Both these institutions were led by the **district leader** appointed by the state. Apart from the district leader, the district committee also comprised 8 other elected members and also maximum 2 members appointed by the district leader from the ranks of the employees of the district office. It was quorate when the absolute majority of all the members were present by the absolute majority of the present members. The district leader also led the **district administrative senate**, the leader could be represented, mainly in case more senates were established who either could have the competence according to the subject matter of the administrative decision or according to the local part of the district. The two remaining members were elected by the district council. The district senate decided on remedial measures against the decisions issued by the district office, with the exception of criminal police matters.⁶⁴

The Act on establishing the župa and district offices gave the župa council a restricted delegated law-making power for implementation regulations to acts on the basis of the government authorisation, statutes of župa institutes and facilities and within the limits of law and decrees, regulations for acts on administration of the assets of municipalities, districts and župas and on supervision of economic management of these assets. A condition of validity of the župa regulations was consent from the Ministry of Interior which was given after agreement with the relevant resort ministry, in case of 3 months of no activity from the ministry, an indisputable assumption of consent applied. The župa regulations were announced in the župa bulletin and they came into force on the 15th day after their announcement unless another date was specified.⁶⁵ Obligatorily, župas were united in the country župa units (Bohemian, Moravian-Silesian, Slovak). However, the

⁶⁴ Act No. 158/1920 Coll. on administrative judicature at district and župa offices.

⁶⁵ Section 56-57 of Act No. 126/1920 Coll. on establishment of the župa and district authorities in the Czechoslovak Republic.

župa organisation in Moravia, in Silesia and Bohemia was not implemented. District committees did not have the law-making powers.

In 1927, a change was approved which cancelled župas and country župa unions and instead of them it established **Czech country, Moravian-Silesian country, Slovak country and Subcarpathian Ruthenia country**. As regards countries, new bodies were established – a country president⁶⁶, a country council and country committees but they had a similar position as the preceding župa bodies. The **country president** was appointed by the president of the republic with his service subordination under the Ministry of Interior, he presided the country council and was in the head of the country authority. The **country council** was established for 6 years, 2/3 by election and 1/3 was appointed by the government⁶⁷ and it elected the **country committee**. The country bodies had the so-called independent and delegated competence. In the **districts** there was a newly established **district council** established for 6 years, 2/3 was elected by citizens and 1/3 appointed by the government. From its ranks, the **district committee** was elected. For the function of the district leader, the traditional term of the **regional sheriff** started to be used again and he was appointed by the Minister of Interior according to the proposal of the country president. The district sheriff presided the district council and it led the district office. District bodies had separate and delegated competence.

The same derived law-making capacity of the country council was after the implementation of Act No. 125/1927 Coll. on organisation of the political administration which cancelled the župas and confirmed existence of self-administration countries with the council and country president (Moravia and Silesia were unified into one Moravian-Silesian country). The country council was authorised to discuss the proposed legal regulations when 2/3 of its members were present. If there was not the required number of members, in two weeks a new meeting was called which was quorate when absolute majority of all the members

⁶⁶ Moravian-Silesian country presidents were Jan Černý 1928-38, Jaroslav Caha 1938-41, Jaroslav Mezník 1941, Karel Schwabe 1939-45 vice-president, starting from 1941 acting vice-president.

⁶⁷ Elections to the country council were held on December 2, 1928.

was present, if the council did not meet, when it was called again in two weeks, it was sufficient when 1/3 of all the members were present. For approval it was necessary to have consent of the absolute majority of the present members, the country president did not vote. Instead of the župa bulletin, a country bulletin was introduced. This regulation was valid until the establishment of national committees after World War II. However, political offices (country and district offices) were newly given a right to issue legal regulations to ensure public order, their breach was sanctioned with a fine of 10 - 5,000 crowns or imprisonment from 12 hours up to 14 days.⁶⁸ District offices could also issue orders in the area of local police if they were not issued by the municipality itself or if it was supposed to apply to the territory of more municipalities. If the territory exceeded the district boundaries, such an order could be issued by the country office.⁶⁹ If there was a danger of delay, the affected municipalities had to be given an opportunity to issue the required order or to comment on it within a reasonable period of time, minimum 15 days.

Already during the 2nd Czechoslovak Republic and subsequently during the Protectorate of Bohemia and Moravia, self-administration was weakened significantly and the state got centralised. The country authorities were dissolved on January 13, 1939 and the country committees also ceased to exist in 1941, the competence of both these country collective bodies was transferred to the country presidents. Instead of the country administration committees, country councils were established as advisory bodies of the president. District authorities were also gradually dissolved by the Ministry of Interior and their competence was taken over by the district office. The state could appoint its secretary in municipalities who performed the delegated competence and sometimes also the independent competence of the municipality and many elected councils were dissolved and

⁶⁸ Articles 2 and 3 (1) of Act No. 126/1920 Coll. on organisation of political administration, as amended by Act No. 125/1927 Coll. Original Act No. 126/1920 Coll. on establishment of the župa and district offices was changed significantly by Act No. 125/1927 Coll., including the change of the name of the act. This act cancelled the non-established župa organisation in Bohemia, Moravia and Silesia and confirmed the functioning country organisation.

⁶⁹ Article 5 of the Act on organisation of political administration as amended by Act No. 125/1927 Coll. Martin Kopecký: Právní postavení obcí, Prague 1998, p. 21.

representatives were appointed by the state.⁷⁰ In 1940, part of the territory of eastern Bohemia was joined to Moravia⁷¹ and in 1941 Ostrava became a new statutory city in Moravia⁷².

Regions continued to be territorial units for regional courts and prosecutions of the second instance. In Bohemia there were originally 12 and starting from 1941 10 regional courts, the seats of which were in Prague, Mladá Boleslav, Kutná Hora (from 1941 Kolín), Hradec Králové, Chrudim, Jičín, Písek, Plzeň, Tábor, České Budějovice (from 1941 Vodňany) and also in Jičín and Klatovy which were cancelled in 1941.⁷³ In Moravia, there were 5 regional courts – in Brno, Uherské Hradiště, Olomouc, Moravská Ostrava and Jihlava (from 1940 Třebíč).⁷⁴

3 National committees 1945 - 1990⁷⁵

In 1945, local, district and country⁷⁶ national committees were established as revolutionary administrative bodies which continued the current competences of municipalities, districts and countries.⁷⁷ In Bohemia, there were 110 districts, in

⁷⁰ Government Decree No. 17/1939 Coll. on municipal (local) secretaries. Government Decrees No. 108/1940 Coll., 420/1942 Coll., 160/1943 Coll. and 27/1945 Coll. on simplification of public administration. Government Decree No. 51/1944 Coll. on office administration of municipalities. Martin Kopecký: *Právní postavení obcí* pp. 24-27.

⁷¹ Government Decree No. 388/1940 Coll. on some changes in district of country offices in Prague and Brno.

⁷² Government Decree No. 236/1941 Coll. by means of which Moravská Ostrava is declared a city with a special status.

⁷³ Government Decree No. 150/1941 Coll. on changes of organisation of courts in the Protectorate of Bohemia and Moravia.

⁷⁴ Regional Court and Prosecution were moved from Jihlava to Třebíč by Government Decree No. 249/1940 Coll. on organisation changes of some regional courts in the district of the Supreme Court in Brno. Ordinance of the Minister of Justice No. 256/1940 Coll.

⁷⁵ See Bohumil Voženilek: *K všeobecně závazným nařízením národních výborů*, *Správní právo* 3/1974. A. Sojka: *K problematice obecně závazných nařízení a jiných usnesení národních výborů*, *Právník* 1974. J. Filko – P. Kusenda: *Normotvorná pravomoc národních výborů*, *Právnícké štúdie* 1980. Štefan Grman: *Normotvorná pravomoc národních výborov z hľadiska noviel zákona o národných výboroch*, *Správní právo* 6/1983. Ivana Bláhová, Vladimír Sládeček: *Normotvorba národních výborů*, collection *Studie a informace*, year 20, State Administration Institute Prague 1986, pp. 130-138.

⁷⁶ The chairman of the Moravian-Silesian country national committee in Brno was František Loubal (Czechoslovak National Socialist Party, 1945-46), František Pišek (Communist Party of Czechoslovakia, 1946-48), Karel Svitavský (Communist Party of Czechoslovakia, 1948). The chairman of the Ostrava branch and the first vice chairman of the country national committee was V. Chamrád (Communist Party of Czechoslovakia).

⁷⁷ National committees were established on the basis of political negotiations of London and Moscow exile even though the illegal country national committee for Moravia was established in Brno under the chairmanship of prof. V. Helfert already in April 1939. The legal basis was Constitutional Decree dated December 4, 1944 No. 18/1944 of the Official Czechoslovak Bulletin, on national committees and provisional National Assembly (republished under No. 43/1945 Coll.), Government Decree No. 4/1945 Coll. on elections and powers of national committees and Government Decree No. 49/1945 Coll. on first elections in district and country national committees. The number of the deputies of national committees varied according to the number of inhabitants. The Moravian-Silesian country national committee had 80 members and the Bohemian country national committee had 120. Karel Bertelmann: *Vývoj národních výborů do Ústavy 9. května (1945-1948)*, Prague 1964.

Moravia and in Silesia 44.⁷⁸ A special feature of the Moravian-Silesian country national committee established on May 12, 1945 with 12 members the number of which was increased to 16 on July 3, 1945, was establishment of its branch in Ostrava for the area of Silesia and part of Northern Moravia on the basis of the government resolution dated May 16, 1945. The Moravian-Silesian country national committee was re-established, as a council with 80 members, on October 14, 1945 in Brno at the congress of 1,260 delegates. The Ostrava branch had its chairman and of the total number of 80 members it had 20 members, and after June 12, 1946 it had 19 members due to reintroduction of the national committee composition depending on the result of parliament elections.

National committees were based on the unified public administration and therefore they dealt with both the local administration matters as well as the relevant state administration in its territorial competence. Originally, national committees had a radically democratic nature of general public administration bodies in the territory instead of formerly excessively bureaucratic bodies of the specialised state administration.⁷⁹ But gradually, on the basis of the theory of democratic centralism, a system of hierarchical subordination and superiority within the unified state mechanism prevailed, even though it was proclaimed that the principle of subsidiarity was also applied here through the requirement that competence of national committees was supposed to solve all the matters of public administration if they did not concern interests of higher units.⁸⁰ National committees had their own juridical subjectivity and gradually the legal entity of the corresponding public law corporation ceased to be used. However, for the whole time of existence of national committees, also existence of the municipality as an independent legal entity continued as it had never been cancelled by law. All the gradually approved civil codes acknowledged in their temporary provisions the continuing juridical subjectivity of legal entities which were established according

⁷⁸ Decree No. 121/1945 Coll. on territorial organisation of administration.

⁷⁹ President Edvard Beneš saw them as an opportunity of taking over of the English model of complete self-administration within the scope of the public administration in the territory. Karel Bertelmann: *Samospráva a sebespráva*, *Právník* 6/2000, p. 589.

⁸⁰ Section 130 of the Constitution No. 150/1948 Coll. Articles 89 and 92 of the Constitution No. 100/1960 Coll.

to the previous legal regulations. *De jure* the juridical subjectivity of the municipalities also continued even though it was not used in reality.⁸¹ Weakening of local self-administration was documented by the fact that in the years of 1951-67 the towns and villages could not use their emblems in their stamps but only the state emblem.

The most important part of the national committee was a plenum comprising the members elected for 5 years in the absolute majority system.⁸² From its members, the plenum elected a council presided by a chairman, a vice chairman and a secretary⁸³ by the national committee. The administration of the national committee consisted of individual departments which were subject to both the council but also the corresponding department of the superior national committee and in case of the country (regional) national committees to the government (dual subordination). As regards the country national committees, the department was led by a member of the council – an officer (officer-based system). Originally, national committees were generally managed by the Ministry of Interior but the Constitutional Act from the year of 1953 transferred it generally to the government.⁸⁴

The Constitution - constitutional act No. 150/1948 Coll., in its section 90 (3) enabled national committees to make the secondary and tertiary legislation on the basis of a legitimate authorisation in law as well as government decrees. It did not

⁸¹ Martin Kopecký: In *Právní postavení obcí* p. 33 he states that the actual judicial subjectivity of municipalities, districts and countries was maintained also after national committees were established but already at p. 43 he claims that after 1948 municipalities lost their position of a legal entity in the public and private law but without stating by means of which legal act and as of which date. It is rather a conclusion of the fact that municipalities lost their economic basis of self-administration by Act No. 279/1949 Coll. on financial management of national committees cancelling the funds and the owner's capital of self-administration but section 149 (2) of Constitution - constitutional act No. 150/1948 Coll. still knew the term of municipal possession.

⁸² At the end of World War II, local national committees were established in the liberated territories in a revolutionary way, regional committees were then established by means of indirect election through elected electors from the local national committees and the country national committees were elected by means of delegates elected by the same electors (government decree No 49/1945 Coll. on first elections of district and country national committees). In 1946, the composition of national committees was adjusted depending on the results of elections of the constituent national assembly in the particular area. Act No. 14/1954 Coll., Act No. 39/1960 Coll., Act No. 114/1967 Coll., Act No. 54/1971 Coll. on elections to national committees.

⁸³ The secretary of the national committee had a similar position as nowadays the secretary of the municipal office and he ensured operation of the national committee and fulfilled the tasks of the employer in labour-law relationships. However, he was a member of parliament and an active member of the board of the national committee. Section 49 and 52 of Act No. 69/1967 Coll. on national committees.

⁸⁴ Constitutional Act No. 81/1953 Coll. on controlling of national committees by the government.

have a general character but there were only special authorisations for approval of concrete legal regulations of regional and district national committees.⁸⁵ The constitutional act and the implementation act on national committees from 1954⁸⁶ the law-making competence was extended where it already stipulated a general right of national committees within their competence to approve generally binding regulations for fulfilment of their tasks. Such a regulation had to be in compliance not only with the Constitution and acts but also with the regulations of ministers, ministries, central authorities and national committees of higher degree. The announcement was conditioned by prior consent of the superior national committee or its council and in case of regional national committees and central national committees in Prague and Bratislava it was consent from the government; this did not apply if the regulation was issued directly on the basis of authorisation from law or a government decree. The regulation was signed by the chairman and the secretary of the national committee. The regulation was approved by the national committee at the plenary meeting, in necessary and urgent cases the regulation could also be approved by the council of the national committee but such a regulation had to be approved additionally by the plenum at the nearest meeting, otherwise it lost its validity. If it was necessary and purposeful, the regulation of regional national committees was announced in the Collection of Acts.⁸⁷

Also, the Constitution from the year of 1960 confirmed the right of national committees to issue generally binding regulations, originally even of the tertiary legislation on the basis of authorisation from government decrees.⁸⁸ A concrete

⁸⁵ Regional National Committees issued generally binding legal regulations pursuant to section 1(4)(a) of Government Decree No. 301/1948 Coll. on safety departments of regional national committees. District national committees and the Central National Committee in Prague could issue legal regulations determining allowances on the legislative basis – see section 3(1)(c) of Government Decree No. 139/1949 Coll. on organisation of people's administration in districts, section 1(1)(1) of Government Decree No 80/1949 Coll. on internal organisation of Prague bodies of people's administration.

⁸⁶ Section 5 of Constitutional Act No. 12/1954 Coll. on national committees. Section 11(1)(f) and section 13 of Act No. 13/1954 Coll. on national committees. Between both regulations there was a difference in terminology when the constitutional act uses the term of a decree and the ordinary act uses the term of a binding decree as well as a decree.

⁸⁷ Section 2(e) of Act No. 77/1959 Coll. on Collection of Acts and official note, a non-constitutional term of an ordinance is used instead of a decree.

⁸⁸ Article 72 of Constitutional Act No. 100/1960 Coll., Constitution of the Czechoslovak Socialist Republic, cancelled by Constitutional Act No. 144/1968 Coll.

stipulation was in the earlier new act on national committees.⁸⁹ The change was in cancellation of the maximum time of force of the generally binding regulation of two years and necessity of the prior consent from the superior national committee or government for its announcement, otherwise the existing regulations were maintained. All national committees thus could issue generally binding regulations for fulfilment of their tasks which could not be in contradiction with acts and other legal regulations, including generally binding regulations of national committees of a higher degree. For some time it was stipulated that generally binding regulations and ordinances of regional national committees would be announced in the Collection of Acts if it was necessary or purposeful.⁹⁰

In 1967, a new act on national committees was adopted which did not mean any significant turn in the existing regulations of national committees. For the members of national committees, the term of deputies of national committees was enacted.⁹¹ As a result of political changes in 1968, a special legal regulation was approved temporarily for the cities of Brno, Ostrava and Plzeň.⁹² There was significant stipulation of independent competence of national committees within which national committees only observed the legal regulations and starting from 1983 also government decrees.⁹³ The Act from the year of 1967 did not bring any significant turn in the given law-making competence of national committees.⁹⁴ As regards regional national committees, the government decided about suspension of performance and the National Assembly (starting from 1969 the Czech National

⁸⁹ Article 94 of Constitutional Act No. 100/1960 Coll., Constitution of the Czechoslovak Socialist Republic. Section 12 and 22(4) of Act No. 65/1960 Coll. on national committees.

⁹⁰ Section 2(d) of legislative provision No. 4/1962 Coll. on announcement of acts and other legal regulations. Section 2(d) of Act No. 3/1969 Coll. on announcement of acts of Czech National Council and other generally binding legal regulations of the Czech Socialist Republic, cancelled by Act No. 172/1989 Coll. Both legislative regulations used a non-constitutional term of an ordinance of regional national committees.

⁹¹ Section 1(2) of Act No. 69/1967 Coll. on national committees.

⁹² Act No. 175/1968 Coll. on the city of Brno. Act No. 40/1969 Coll. on the city of Ostrava. Act No. 41/1969 Coll. on the city of Plzeň. These acts were changed by legislative provision No. 126/1971 Coll. on national committees in the cities of Brno, Ostrava and Plzeň. Later cancelled by Act No. 146/1971 Coll.

⁹³ Section 38 of Act No. 69/1967 Coll. on national committees, as amended by Act No. 137/1982 Coll.

⁹⁴ Section 39(2)(k) and (o), section 45, section 46(3) and section 73 of Act No. 69/1967 Coll. on national committees, as amended by Act No. 137/1982 Coll. More detailed regulations which, however, did not have a nature of a legal regulation, were stipulated in principles for issuing of legal regulations of a general nature by national committees of the Ministry of Interior (Bulletin of the Government of the Czechoslovak Socialist Republic for national committees, part 2, No. 3/1978).

Council) about the cancellation. By amending the Act on national committees,⁹⁵ the current regulations were specified in more detail as regards announcement of a generally binding regulation in the official notice board for the period of 15 days and obligatory availability of generally binding legal regulations at the relevant national committee, while the local (municipal) national committee had also to make the generally binding regulations of higher national committees available for examination. The legal theory was based on the standpoint that generally binding regulations of national committees issued in the area of their self-governing competence were non-derived subordinate legal regulations.⁹⁶

⁹⁵ Section 24(a) of Act No. 137/1982 Coll.

⁹⁶ Eduard Kučera: *Základy obecné teorie státu a práva, část B – Základy teorie socialistického práva*, Prague 1986, p. 18. Stanislav Zdobinský: *Československá ústava, Komentář*, Prague 1988, p. 173.