

**THE CONNECTION BETWEEN THE DEPARTMENTS OF THE STATE
ADMINISTRATION AND THE LOCAL UNITS DEPARTMENTS OF THE SELF-
GOVERNMENT IN THE REPUBLIC OF SERBIA IN DOING ITS TASKS DUE TO
THE ORIGINAL JURISDICTION**

Abstract: *The author in this work considers the connection between the departments in the state administration and the local units departments in self-government of The Republic of Serbia and the units of the local self-government in doing its tasks from original jurisdiction, because it implies the most precise intensity of fulfilled decentralization of a country and the establishment of the units in the local self-government. The works from the original jurisdiction to the units of the local government make its essence, but the level of the independence according to the central power by its realisation put us a question if the decentralization of any country is only formal or in the same time it can be formal and factual.*

Showing up the connection between the departments in the state administration and the departments of the local units, the author stressed the attention to the mechanisms which can be taken over by the central power to the units of the local government, in order to make the control of the constitutionality and legality. The special turn was put on in the realization of the right in dissolution of the representative body units of local government by the central authorities. The department, being so meaningful, the inadequate its using can make the independence of the local units pointless and lead them up to the direct supervision of the central power, the comparative legal representation of the legal solution have been done in few countries due to the dissolution right of the representative body local units government by the central authorities.

Key words: *the departments of the state, the units of the local self-governments, original jurisdiction of the units of the local self-governments, the decentralization, the central power.*

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INTRODUCTIONARY NOTES

The connection between units of local self-government and the units of state authorities, reflect the correlation of the units of local self-government and the state where those indicated units are already quoted. That correlation is the eternal question if the units of the local self-government ought to have more or less independence according to the departments of the state which are related, as to the departments of the state administrations.

The departments of the local self-government allow for the citizens to attain local self-government lawfully. By that law we consider the law of the citizens to analyze the questions implying everyday's life and solving the problems within local level i.e including their settlement and department help which is consisted of their elected presenters or the persons which are elected by those presenters.

Since the local self-government was formed, the interest has been kept for a long time for clearing up of her connection with the central power. Their independence is pretty high rated according to the control extent of the state by which they are. The main question is: When and in which measure the departments of the state administration can be involved in the performance of primary activities of the department's of local units?

The answer is completely shown in intensity of independence of local units self-government in the terms of central power. Such independence creates suspicion (particularly on the territory of the Balkans) in creating the certain territorial areas which by the time become totally independent areas in order to central power i.e. into the independent states. Over dependence and influence of the units of state government in order to the departments of local self-government which make pointless their existence, because they can become only areal center of the state government but not having any primary supervision and working independence, too.

Within such working, the connection of the departments of state self-government and local units department of the self-government will be shown in the Republic of Serbia. The chart of those correlations will be based on positively legal regulations, including some solutions to be particularly observed and which allows a great deal of interference in business taken from the primary supervision of the local units department and also implying comparative legal presentation.

1. THE UNITS OF LOCAL SELF-GOVERNMENT IN THE REPUBLIC OF SERBIA

In order to have a name as a local self-government, any territorial community needs to possess certain independence in doing such activities which are always connected to common interests of each member of that community. The local self-government in the time of original community started „when the first forms of the common lives the inhabitants are shaped and common needs are showed up, also and who are need to be solved within the certain organization“.² The period of the Middle century meant that the activities which implied the jurisdiction of the towns and being autonomous in order to the ruler, were:“ controlling the roads and the bridges, giving permissions for opening taverns, the concern about poor people, prisons building, landmark controlling and many other activities which have jurisdiction within local authorities.“³ "All inhabitants, according to the personal and families interest and worries, will have time for analysing and also to take care about general and common opportunities, to carry out general questions, problems and need, to help the society and in fact to show quality working for their own municipality."⁴ "Such working and creating for common goal within the smallest legally recognized territory, is called territorial administration or local government".⁵

Thus, local self-government consisted of working out duties who were connected with the interests of all members of a territorial community, "where the local government was the only organized model of the administration itself."⁶

Considering the Law of the local self-government in the Republic of Serbia, the municipality is defined as a fundamental territorial unit where the local self-government is achieved to have realisation by its departments and do all legal rights and duties from its own jurisdiction only if there are at least 10.000 inhabitants, but if there are some special economical, geographical and historical reasons municipality is also the territorial unit which has less than 10.000 inhabitants.⁷

The municipality, as a unit of the local self-government, differs from the state "as the state rules all round the state territory, municipality exists only on one of its part; and to that

² P. Dimitrijević, D. Vučetić, *Sistem lokalne samouprave*, Niš, 2011, p. 5.

³ W. Wade, C. Forsyth, *Administrative Law*, Oxford, 2004, p. 110

⁴ L. Kostić, *Administrativno pravo Kraljevine Jugoslavije – Prva knjiga – Ustrojstvo uprave*, Beograd, 1933, p. 52.

⁵ *Ibid.*

⁶ Ž. Đurić, *Lokalna uprava u Srbiji i Crnoj Gori*, Beograd, 2005, p. 87

⁷ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 18.

part only the municipality is not becoming independent but subordinate to the state".⁸ It is the "cornerstone of the whole self-government at all."⁹ The legislator has foreseen the possibilities of foundation of municipalities in some special cases where there is not enough number of inhabitants, which is in his opinion unnecessary for independent functioning of the basic unit within the local self-government, only if there are reasonable grounds and accept the existence of the other municipalities which completely have economical, geographical and historical reasons to be called like that. In this way, the imperfection of the elemental and quantitative conditions for municipality to become, are eliminated. Therefore, the possibility for creating municipalities is not able to realize which would have certain number of inhabitants and possess disproportionately big territory according to the named minimum number of inhabitants which is very important for their foundation, including the mountainous area where they are situated, and generally is known that such areas have very small number of inhabitants, too.

Having in mind the law of the local self-government, any town is a unit of the local self-government established legally and shows economical, administrative, geographical and cultural center in wider area and numbers more than 100.000 inhabitants, but if there are some special economical, geographical and historical reasons then it helps to define that the town is a town and also the territorial unit which has less than 100.000 inhabitants.¹⁰

Defining the town as a unit of the local self-government, the legislator formed quantitative criterion i.e. the number of the inhabitants. However, he has foreseen the additional criterion for town's definition and formation which should enable the deficiencies of the elemental one, and in that way territorial unit which has less than 100.000 inhabitants can also become a town, if there are reasonable grounds pointed out in the Law of the local self-government.

Also, according to the lawfully and positively regulations of Serbia, we can't forget that the system of the local self-government in Serbia is single-stage, and the town and the municipality are equal as units of the local self-government to their mutual hierarchical connection. "If we consider the town's duties and position, it can't be said for the town that

⁸ S. Jovanović, *O državi*, Beograd, 1922, p. 426.

⁹ I. Krbeč, *Upravno pravo FNRJ – I Knjiga*, Beograd, 1955, p. 67.

¹⁰ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 23.

it is the unite of the local self-governement with the multistage, because it does the same activities as the municipality“.¹¹

The departments of the local unites in the Republic Serbia in case as a municipality are: municipal assembly, mayor, common councele and municipal administration.¹² The departments of the town as a units of the local self-governement are: the assembly of the town, mayor, municipal administration and city council.¹³

2. ORIGINAL JURISDICTION UNITS OF THE LOCAL SELF-GOVERNEMENT IN THE REPLUBLIC OF SERBIA

The units of the local self-governement are established and exist in order to do activities within their original juristiction. So, doing such works offer to many inhabitants to enjoy their rights on local self-governement that is in fact the essence of the decentralization. “In decentralization the people found more guaranees for their freedom, for their economical development and prosperity.“¹⁴ Original jurisdiction of the units of local self-governement is determined according to the regulation of each state, separately. The state determined an extent of the original jurisdiction and also the activities which are within the jurisdiction, too.“The local authority implying the law, have their own autonomy, their own obligations and authority“.¹⁵ “The forms of the local authorities-which reflect the human needs and wishes in the community-exist from the time when the first human community was formed and precede the beggining of the central authority.“¹⁶

In the Republic of Serbia, the activities which are in the original jurisdiction of the units of self-governement determined by the Constitution¹⁷ and by the Law of the local self-governement.¹⁸

The Constitution of the Republic of Serbia determined: ordering, providing, transanction and development of the communal activities; ordering, providing, transanction of the building land and office space; building, observing, reconstruction, servising and using the local roads, streets and other public objects which are of municipal importance; ordering and

¹¹ P. Dimitrijević, D. Vučetić, *op. cit.*, Niš, 2011, p. 238.

¹² Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 27.

¹³ *Ibid*, Art. 65.

¹⁴ F. Nikić, *Lokalna uprava Srbije u XIX i XX veku*, Beograd, 1927, p. 364.

¹⁵ W. Wade, C. Forsyth, *op. cit.*, Oxford, 2004, p. 109.

¹⁶ H. Barnet, *Constitutional & administrative law*, London – New York, 2009, p. 289

¹⁷ *Official Gazette of the RS*, 98/2006.

¹⁸ *Official Gazette of the RS*, No.129/2007, 83/2014

providing the local transportation; taking care about education, culture, health and social care, children care, sport and physical culture, too; tourism improving and development, craftsmanship, trade and catering trade, the care about human environment, the protection of the natural and other disasters and the protection of the cultural heritage which are very important for the units of the local self-government; the protection, ordering and improving agricultural grounds; doing all other activities regulated by the Law. Also, in the Constitution of the Republic of Serbia, it is said that the units of the local self-government, according to law, independently bring their own budget and final account, urban plan and programme of development, determine its symbols and its using. The units of the local self-government is taking care about the realization, protection and improving of human and minority rights and also about the public information within its own territory. The units of the local self-government independently is taking care of that territory, according to the law. It also gives itself offences for breaching the law¹⁹

The law about local self-government concretize the original jurisdiction of the units of the local self-government determined by the Constitution of the Republic of Serbia. "Those are local activities whence the local self-government is manifesting itself".²⁰ As the jurisdiction of the local units of the local self-government is determined, in the law of the local self-government a system of enumeration is used.²¹ In the law, 39 groups of activities which are connected with the original units of the local self-government.²² The town has the original jurisdiction more than the municipality, just because the town is able to form communal police. It also provides and organizes the activities for the communal police.²³ Generally, in the world, there is a trend about strengthening of local self-government. That trend has come into the Republic of Serbia, too. There is an opinion that on the local level any kind of activities are realized on the most efficient way about the citizens' everyday life. The jurisdiction of the local self-government is expanding by applying such methods. And, it can be also connected with the reforms in the public sector. However, decentralization and strengthening of the local

¹⁹ Constitution of Republic of Serbia, (*Official Gazette of the RS*), 98/2006, Art. 190.

²⁰ P. Dimitrijević, *Upravno pravo opština*, Niš, 2013, p. 146.

²¹ In determining the original jurisdiction of the local self-government unit can be used three systems. The first is a system of enumeration, another system of general clauses and the third is a combination of the two. When enumerates the jurisdiction of local self-government, jurisdiction is determined by the system of enumeration. In the event of a system of general clauses, jurisdiction of local self-governments is determined by the jurisdiction of local self-government units include jobs that do not fall within the jurisdiction of the central government. On the basis of the third system of jurisdiction is determined by the general clauses and exceptions from her principle enumeration. S. Kristić, *op. cit.*, Beograd, 2012, p. 46.

²² Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 20.

²³ *Ibid.*, Art. 24.

self-government “are just a step made in a public sector. The problems of being informed and motivated ,which follows the activities of the central power, become transported in the local level authorities.”²⁴

3. THE COMPARATIVE LAW NOTICE OF THE STATE DEPARTMENTS AND THE DEPARTMENTS OF UNITS IN LOCAL SELF-GOVERNEMENT IN ITS ACTIVITIES FROM THERE ORIGINAL JURISDICTION

In spite of the units of the local self-governement which have their original jurisdiction, a certain form of the state departments control is always there, and that’s way it is somehow limited to the control of the legality.²⁵ Except the control of the legality which is followed by this original jurisdiction, the connection departments of the state and departments of the local self-governement, in all states where the local self–governement is established, collaboration and the exchange of the informations are very important and characteristical for both side and their activity. The control of the legality means the control of the harmonized legal file which the departments of the local self-governement carry out, with the Constitution and the laws where local units have already been formed. “Annulment can be foreseen as an intervention from the center, i.e. recession of the files of the local self-governement, appoitment and dismissal of the officials, dissolution of the local representative body, various forms of the controlling and etc.”²⁶

The instruments which are used by the state departments during the intervention within the activities which are the component of the original supervision in the departments from the unit of the self-governement in order to have a total control as an important part of the work, become numerous and varied. Those instrument have their beginning from the warning, up to the delegations and substitution of the activities and finally to the dissolution of the local representative body of the local self-governement.²⁷ The relations of the state departments and the departments of the local self-governement depends on specifically legislation of each country, by itself. Legislation in many countries predict the possibility of the authorised central department that from the time of its accomplishment, stop the legal act of the local power. In Slovenia, according to the proposal of the authorized ministry, the

²⁴ J. E. Lane, *The public sector – Concepts, Models and Approaches*, London – New Delhi, 2000, p. 156.

²⁵ I. Milinković, *Mehanizmi zaštite prava na lokalnom nivou, sa posebnim osvrtom na Bosnu i Hercegovinu*, Banjaaluka, 2011, p. 119.

²⁶ M. Vlatković, *Izazovi lokalne samouprave u Srbiji 1990-2006*, Beograd, 2006, p. 96 – 97.

²⁷ M. Ilić, *Upravno pravo*, Niš, 2006, p. 651

Government is able to initiate proceedings for assessing the constitutionality of the legislation of the units of the local self-government and to stop its execution implying situations which are legally predicted up to the decision of the Constitutional court.²⁸ In some countries, the departments of the central power, confirmed general legal act issued by the departments of the local self-government. This legal solution has been applied in Austria whereby there is a powerful means in case of substitution of the jurisdiction in the departments of the state administration.²⁹ In England, a central power in carrying out some of their activities are able to transfer from units department of the local self-government into the department of the central power unless the indicated activity from the original jurisdiction from the departments of local units, is not carried out correctly.³⁰ The ultimate aim, which can be used from the department of central power to the department of the local self-government at the situation when the controlling of the jurisdiction is applied from the original jurisdiction of the units in local self-government, an opportunity for dissolution of representative body emerges, from the local unit self-government.

In England „the freedom“ of the departments of the local self-government in order to do the original activities is widely presented. The supervision of the central power over the activities within the units of the local self-government who are to be done, belongs to their original beginning in England and has been shown the weakest, as to the other states in the world.³¹ The supervision in Sweden is somehow higher. However, the departments of the central power do not possess any kind of important authorization that would jeopardize communal autonomy. The central departments in Sweden doing their supervision over the units of the local self-government is performed indirectly, for example by indirect help when all conditions are fulfilled in forming certain regulations, carrying out some certain activities and something like that.³² In Swiss, the supervision of the units in local self-government is performed by cantonal government. That government has an opportunity according to the legally designed cases, to dissolve the Assembly of the local self-government, and their

²⁸ D. Dubajić, *Lokalna samouprava u Sloveniji*, Hrvatska i komparativna javna uprava, br. 2, 2010, p. 481.

²⁹ I. Milinković, *op. cit.*, Banjaluka, 2011, p. 130 – 134.

³⁰ *Ibid.*

³¹ P. Dimitrijević, *op. cit.*, Niš, 2013, p. 149 – 153.

³² S. Montin, E. Amma, *Zakon o lokalnoj samoupravi i reforma lokalne samouprave u Švedskoj*, u: *Uporedna iskustva lokalnih samouprava* (ed. Mijat Dmajanović), Beograd, 2002, p. 101-102.

representatives have fully right to assemble them and to attend the meeting of the local self-governement.³³

In certain countries, the law over the working supervision of the departments in local self-governement is performed by ministries. This legally solution has been accepted in Slovenia.³⁴ In Federations, certain controlling authorisation is given to the departments of federal units. The member states are performing their supervision in the cases which are predicted by the law over the departments of the unit in local self-governement, in order to carry out the original activities. In this way the relation of the departments of the units in local self-governement and the state departments has been regulated in Switzeland, Canada , Australia and Austria, too while in regional states the supervision is performed by the departments of the region. The situation of that is in Italy.³⁵

4. THE RELATION BETWEEN THE DEPARTMENT OF THE STATE ADMINISTRATION AND THE UNITS DEPARTMENTS IN LOCAL SELF-GOVERNEMENT IN THE REPUBLIC OF SERBIA, IN PERFORMING ITS DUTIES FROM THE ORIGINAL SUPERVISION TO THE UNIT OF THE LOCAL SELF-GOVERNEMENT

The relation between the unites of the local self-governement and the departments of the state administration, first of all represent collaboration and mutual help for the issues for the common interes. The departments of the Republic, and the departments of the units in local self-governement, are working together according to the Constitution, the Law and other regulations.³⁶ As well, the departments and the services in the local self-governement represent the relation of the cooperation in placing its jurisdictions: they give to the departments of the Republic and the theritorial authonomy initiatives for relation to be worth and become of imortance into the local self-governement and to take some valuable strategies in solving the law issues and the units duties of the local self-governement; submit assumption and make a suggestion in terms of Republic appliences and territorial authonomy for the law to be applicated and other regulations which are indirectly important for the development and realization of the local self-governement and they also take part,

³³ M. Jovičić *Lokalna samouprava*, Beograd 2006, p. 498 – 499.

³⁴ S. Setnikar-Cankar, S. Vlaj, M. Klun, *Decentralizacija: Eksperimenti i reforme lokalne uprave u Sloveniji*, u: *Uporedna iskustva lokalnih samouprava* (ed. Mijat Dmajanović), Beograd, 2002, p. 218.

³⁵ I. Milinković, *op. cit.*, Banjaluka, 2011, p. 125 – 129.

³⁶ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 78.

independently or by its own in preparing the law and other regulations whose contents is very significant for development and realization of the local self-government.³⁷

There are authorities in department's collaboration of the local units self-government and the departments of the state authorities parts. That's way the legislator enabled for the state authority to do as it follows: to inform the departments and the unit services in the local self-government, either to the personal initiative or on their request, about the measures they intend to take or have already taken over for implementation of the law and other regulations, about the protection of legality and constitutionality, for some situations which are able to disturb and also the measures how those disturbances can be solved, about the realization of the citizen's right in the local self-government, as for the few more questions which are directly important and valuable in such a system and for the working of the departments of unites in local self-government; they give professional help to the departments and to the units services of the local self-government implementing system of information and informatization of the duties done by them, they need to have reports, explanations and facts of the realized duties from law activity and unit duties of the local self-government and also about some other questions being significant for the part and the work of the department Republic and territorial autonomy into the field of local self-government including some other dutis according to the regulations and laws, too.³⁸

Besides the possibility of cooperation between state authorities and local self-government is regulated by law, public administration bodies in relation to the organs of local self-government when they are engaged in the performance of tasks that fall within their original jurisdiction and have some supervisory powers. In particular organs of state bodies to the local governments in performing tasks that fall within the original jurisdiction of the authority of local governments have control powers with "modern development tends to tighten the controls on the question of legality."³⁹

Hereupon, the positive law of the Republic of Serbia to the departments of the state authority, implement within the jurisdiction how some duties ought to be done in order to make such control efficient and useful. The control authority which are in the state departments, can be headed to the general legal act or to the individual legal act, which are

³⁷ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 79.

³⁸ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 80.

³⁹ I. Krbek, *op. cit.*, Beograd, 1955, p. 63.

carried out by the state administration from the original jurisdiction as the duties must be fulfilled.⁴⁰

According to general legal acts, carried out by the units of the local self-government the government is having the control now, relevant ministries and the ministries for the local duties, too.⁴¹

After the general legal act is done, the government is obliged to suspend the file which is not agreed by the constitution or by the law which enters into force published in „The Official Gazette of the Republic of Serbia“. The decision on suspension since the execution stop to be valuable only if the government in time of five days from the decision was made, do not initiate the proceeding for assessment of the constitutionality and the legality of the general legal act.⁴² Also, the relevant ministry will start the proceeding for assessment of the constitutionality and the legality of the statute, regulation or other general legal act of the units local self-government in front of the constitutional court, if they consider that such a act is not in agreement with the Constitution, the law or some other republic regulation.⁴³ The control authority which the ministry has in their work and also is authorized for local self-government duties, are consisted of the ministry with the obligations within the local self-government duties i.e. the competent department of the territorial autonomy, claims that the general legal act of the departments in local self-government is not in agreement with its statute and need to indicate the assembly of the local government to take appropriate action. However, if the assembly of the local self-government do not act upon proposals of the ministries, the already mentioned departments will initiate the proceeding in front of the Supreme Serbian Court and at the same time it will suggest to the Government to suspend from the moment of execution the general legal act from the local self-government up to the decision of the Supreme Serbian Court.⁴⁴

The special authority of the state departments in the state administrations have been designed for individual legal acts.⁴⁵ And for those acts, being given from the local units of the self-government, the control authority is having the ministry authorized for the local self-government duties.

⁴⁰ N. Bačanić, *Upravno pravo – Knjiga I*, Kragujevac, 2011, p. 219 – 220.

⁴¹ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 81-83.

⁴² Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 81.

⁴³ *Ibid.*, Art. 82.

⁴⁴ *Ibid.*, Art. 83.

⁴⁵ D. Milkov, *Upravno pravo II Upravna delatnost*, Novi Sad, 2013, p. 178.

In accordance with the Law of the local self-government, the department of the state administration charged for the duties within the local self-government possesses the certain authorities to the individual legal act issued by departments of the local units self-government and belong to its authority, i.e. authorized departments of the state administrations directed to the legality in checking of the individual legal act which was brought by the department of self-government. If it happens that every single file of the departments, i.e. the services units of the local self-government, that the court protection hasn't been done is not in accordance with the law or with some other regulation, i.e. with the decision or to some other general legal act in the units local self-government, the ministry which is authorized for duties in local self-government will suggest to the unit's assembly of the local self-government to abolish or nullify a act like that. If the assembly do nothing in time of a month, the ministry which is authorized for local duties of the self-government will be able to abolish or nullify every individual legal act published by the department of the local self-government in doing their typical activities from their original jurisdiction.⁴⁶

The departments of the state administration are able to do their jurisdiction over the duties from the original jurisdiction departments, from the local unit self-government. "In order to do their jurisdiction, the department of administrations in doing its performance in their own area, by the departments of the towns or municipality is quite necessary that they be jurisdictioned in carrying out such obligations and to have supervisory authority."⁴⁷ The departments of the state administration, being the representatives of the central power, have plenty of jurisdictions. "In arsenal of the supervisory recourses, within central power, also the most powerful „weapon,, is the rightfulness in dissolving departments of the local power."⁴⁸ Such kind of central power must be carefully used as the existence of local self-government wouldn't make pointless.

5. THE RIGHT FOR DISSOLVING DEPARTMENT UNITS OF THE LOCAL SELF-GOVERNEMENT BY THE CENTRAL POWER

The body that can be dissolved by the central power, in most of the countries where those kind of interventions have been introduced in activities which imply the original

⁴⁶ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 84.

⁴⁷ N. Bačanin, *Odnosi organa uprave i organa jedinica lokalne samouprave i koncepcija lokalne samouprave*, u: *Slobode i prava čoveka i građanina u konceptu novog zakonodavstva Republike Srbije*, (ed. S. Bejatović), knj. 3, Kragujevac 2004., p. 143.

⁴⁸ I. Milinković, *op. cit.*, Banjaluka, 2011, p. 134.

jurisdiction of the local self-government is a representative body unite of the local self-government i.e. unites assembly of the local self-government. The representative body of the local unit self-government is consisted of the representative who is a citizen chosen by voting ,“because the citizens have very different behaviour to the officials appointed by the central power, to those who were chosen by themselves“ .⁴⁹

Hereupon, the representative body is the essence of the local self-government. It usually chooses other unites of the local self-government (mayor, chairman, city or municipal council, municipal or city government). So, any possibility of its dissolution by the central power is a direct attack on the local self-government and a kind of centralization, too. „Historically, the uncontrolled centralization became the enemy of the democracy.“⁵⁰ That’s why it is unnecessary carefully to approach the central power for dissolving of the representative body of the unites local self-government (the assembly, the council and etc) as for the other body which will have its duties and functions until the time when the new representative body of the units of local self-government need to be formed, and the question of existence the local self-government wouldn’t be misunderstanding.⁵¹

The right for dissolution of the representative body are being defined by the various positive legal regulations defined in each country. From country to country legal solutions are numerous in the terms of reasons which can make out dissolution of the representative body and also according to the state department whereas the representative body can be dissolved, too.

In certain number of the countries, the representative body of the unites local self-government is able to dissolve the National parliament from some certain reasons. A solution like this has been accepted in Lithuania, Poland, Slovenia⁵² and Hungary.⁵³ Of course, the models of all those solutions exist in the quoted countries. On the territory of ex -SFRJ a dominant solution is that the representative body of the unit local self-government is the only able to dissolve the government. This is also accepted in Macedonia, Croatia and Montenegro and it can be said that those two solutions are very dominant today.⁵⁴ However,

⁴⁹ B. Davitovski, A. Pavlovska-Daneva, Z. Lončar, *Nauka o upravi*, Podgorica, 2012, p. 89.

⁵⁰ F. Zakarija, *Budućnost slobode – Neliberalna demokratija kod kuće i u svetu*, Beograd, 2004, p. 97.

⁵¹ P. Dimitrijević, D. Vučetić, *op. cit.*, Niš, 2011, str. 113.

⁵² T. Antić, *Komparativni prikaz sustava lokalne samouprave u nekim europskim državama*, Politička misao br. 4, Zagreb, 2002, p. 65, 71 i 74.

⁵³ I. Tenesi, *Lokalna samouprava u Mađarskoj*, u: *Uporedna iskustva lokalnih samouprava* (ed. Mijat Dmajanović), Beograd, 2002, p. 187.

⁵⁴ I. Milinković, *op. cit.*, Banjaluka, 2011, p. 134 – 136.

there are some original solution as in Italy, where the representative body of the unit local self-governement is dissolved by the President of the Republic.⁵⁵

All reasons have in common in terms of dissolution the representative body of the unites local self-governement that represent violation of the Constitution and/or the law by the unite local self-governement. Functioning of these unite which is opposite to the constitution and/or to the law, causes dissolution of the representative body, and the concrete reasons differ from country to country. After the dissolution of the representative body by the department of the central power which has jurisdiction, that department setting the commissioner or specially temporary body who will do representative body activities of the units local self-governement, all of them or some of them, until citizens of the units local self-governement on the elections choose new representative body.⁵⁶

In the Republic of Serbia, the representative body of the local units self-governement is The Municipal Assembly i.e. City Assembly.⁵⁷ The representative body of the local units self-governement in Serbia is being dissolved by the Governement in cases predicted by the law. The Governement bring the induced decision on ministry's proposal which has jurisdiction for the duties of the local self-governement. For two month's time, from the date of entry into force the Governement's decisions about the dissolution of the assembly units of the local self-governement, the president of the National Assembly call elections for councilors from the unites local self-governement. In case, that the assembly units of the local self-governement be dissolved, The Governement shall appoint the temporary body which administre ongoing and urgent duties till the constitution of the unit assembly is carried out. The temporary body which is formed by the Governement is consisted of the president and four members. In forming such a group, the Governement is oblige to take care about political and national structure of the dissolved units in the local self-governement.⁵⁸

The reasons for dissolved of the assembly units in local self-governement are introduced in the Law about the local self-governement. The assembly of the units in local self-governement can be dissolved only if: the assembly is not in session more then three months; if it doesn't choose the mayor and the common council within the month from the day of the unit assembly constitution in local self-governement or from the day of their

⁵⁵ T. Antić, *op. cit*, Zagreb, 2002, p. 62.

⁵⁶ I. Milinković, *op. cit.*, Banjaluka, 2011, p. 137 – 138.

⁵⁷ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 27-65

⁵⁸ *Ibid*, Art. 86.

dissmissal, i.e. the day of resign; so the statute or budget which is not brought till the term confirmed by the law.⁵⁹

Also, the dissolution of the assembly units of the local self-governement can happen unless in the units the election are not conducted for the concelours or after the conducted elections the assembly is not formed in two- months term, from the date when elections' results were announced. The President of the National assembly is oblige to announce the decision about to call new elections in a month time, since the day when the elections should have been conducted ,i.e. to constitute the unite assembly of the local self-governement.⁶⁰

CONCLUSION

Today's situation of the local self-governement characterizes an increasing number of jobs which fall into the original jurisdiction units of the local self-governement. Generally speaking, the unit indipendence of the local self-governement and also for their departments, is strengthening day after day, and it shows tendency which is totally presented in all types of the legal systems where the local self-governement exist. It is obvious that the influence of the state is getting weaker and freedom is giving to them, at all. Such tendency is a part of the reality in Serbia country. However, it is unnecessary to keep the possibilities of the central power over the unit working in the local self-governement and to their departments ,too. Although units of the local self-governement, have a certain indipendency, they are certainly the part of the legal system in country where they exist, and according to that fact there are relations with the central power which usually become connected over the departments within the state administations.

The relation of the departments in state administration and units department of the local self-governement in the Republic of Serbia are essentially different. Those relation start from mutual collaboration and help up to the control of the doing the activities legally from the original jurisdiction of the units in local self-governement, and also legitimated cases done by the law. In regard to legal theory or between those departments, the relation of collaboration is not to be discussed. Certainly, the collaboration between the different departments need to exist. It creates the result which are positive for both sides. The only thing which is dispute is the essence of the relation between depaetments of the state administration and unite departments in the local self-governement. As to our legal system,

⁵⁹ Law on Local Self-Government, (*Official Gazette of the RS*), Art. 85.

⁶⁰ Law on Local Self-Government, (*Official Gazette of the RS*), No.129/2007, 83/2014, Art. 87.

also in other legal system the mechanisms were always the way to create the possibility of the supervision over the jurisdiction of the duties from the original jurisdictions units in local self-government, as the freedom of existence and content will not bring into the question while the duties are being done from their original supervision.

The departments of the state administration have to supervise the duties realization which are part of the original departments units in local self-government, but that supervision need not oversized. Unless it happens that things with the supervision turn to be exaggerated, the independence in administering original duties will not exist at all, hereupon the local self-government will be pointless and reduced to mere form. However, the mechanisms of influence of the central power need to be kept on the unit departments of the local self-government in order to provide legality and constitutionality in the whole territory.

Also, the supervision of the state departments in local self-government over the unit departments in the local self-government is necessary just because they are not personnel institutionally and financially capable to do an increasing number of duties provided by the will of the principal into the original supervision. That's why the collaboration between departments of the state and department units of the local self-government in order to carry out all their duties in quality, efficiently and economically.

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