

The Influence of Local Government in the United Kingdom on the Local Self-Government in Lithuania

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Received 14 February 2014; accepted 11 May 2014

Published online 26 May 2014

Abstract

In this article it is outlined what influence the local government system existing in the United Kingdom (UK) had on the Lithuanian local self-government in the different historical periods: in 1918 – 1926, 1990 – 2000 and since 2000 until nowadays. It can be stated that the UK experience accumulated in local government as well as the theoretical and legal framework of the past and present local government systems in the UK had and continue to have big influence on the Lithuanian local self-government system.

Key words: Local government; Local self-government in Lithuania; Local government in United Kingdom

Algirdas, A. (2014). The Influence of Local Government in the United Kingdom on the Local Self-Government in Lithuania. *Studies in Sociology of Science*, 5(2), 67-73. Available from: URL: <http://www.cscanada.net/index.php/sss/article/view/4660> DOI: <http://dx.doi.org/10.3968/4660>

INTRODUCTION

Naturally, each country has a unique public government system, including local government subsystem. Yet for all its uniqueness, each country's local government system at the same time meets all the general characteristics of such systems. This allows to compare and evaluate different local government systems taking advantage of their good practices and creatively adapting them to specific environment of a country.

The same is true about the Lithuanian local self-government system and its past and present exposure to the influence of the local government system existing in other countries and namely -- in the UK.

In this article it will be outlined what influence the local government system existing in the UK had on the Lithuanian local self-government in two historical periods. Different yet similar periods were chosen because both in 1918–1926 and 1990–2013, Lithuania, having had its independence restored, was building a new national architecture for the state (public) government system and surely was looking for a good example to be followed. The famous Lithuanian lawyer, interior minister and author of the first law on local self-government Petras Leonas wrote in his book (Leonas, 1991) that the model (the good example) for Lithuania was in the past and would be in the future the countries standing at the forefront of civilised states: the UK and France.

The purpose of this article – to present what influence the local government system existing in the UK had on the Lithuanian local self-government in 1918–1926, 1990–2000 and since 2000 until nowadays.

1. WHAT INFLUENCE THE LOCAL GOVERNMENT SYSTEM EXISTING IN THE UNITED KINGDOM HAD ON THE LITHUANIAN LOCAL SELF-GOVERNMENT IN 1918–1926

Due to historical and other factors in 1918–1926, the theoretical and legal framework of the UK local government seemed particularly attractive and acceptable to Lithuania (Scheme N.1).

Scheme N. 1
Local Government in UK and Lithuanian Approach in 1918 –1926 (Factors Determining the Adoption)

Factors Determining the Adoption of Experience of UK in Lithuania in 1918–1926

- 1) Historical factors;
- 2) The acceptability of some theoretical statements on local government in UK;
- 3) The attractiveness of some elements of local government in UK to Lithuania at the time.

The architects of the Lithuanian local government system favoured the approach towards local government as a decentralised part of public administration decided by state authorities -- that is the approach that state authorities:

- 1) Grant legal status to local authorities,
- 2) Decide what self-governing administrative units exist,

- 3) Decide what activity areas and what affairs local authorities manage,
- 4) Decide what kind of relationship among state and local authorities exist and etc.
(See Scheme N.2) .

Scheme N. 2
Local Government in UK and Lithuanian Approach in 1918 –1926 (Theoretical Statements)

Some Theoretical Statements on Local Government

A municipality is a corporation-type residential territorial community (*outlook on local government in France*) or a local government institution (*outlook on local government in UK*), the establishment, discretion (competence), relationship with the state (national authorities) of which depend on decisions by state (national authorities) (i.e. a municipality is a legal consequence of national authority).

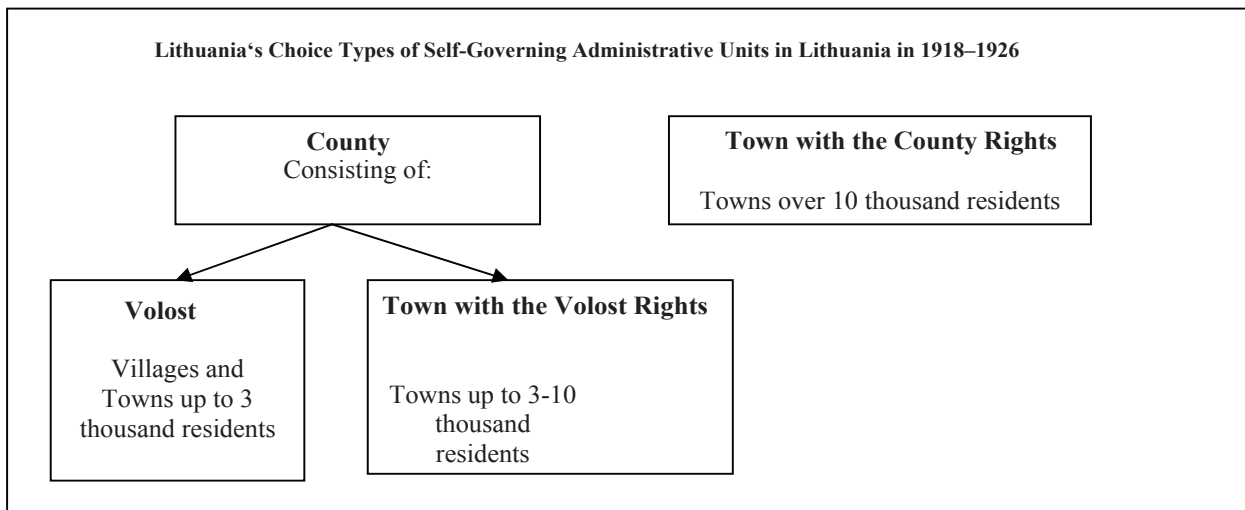
A municipality is a corporation-type territorial community or a local government institution:

- 1) Which has the status of a legal person granted by state (National Authorities);
- 2) Which may take the forms established by state (National Authorities);
- 3) Which may have discretion (competence) granted by state (National Authorities);
- 4) Which has such a relationship with the state (National Institutions) as it is established exclusively by state (National Authorities).

The scheme N. 3 informs what self-governing administrative units were set up in Lithuania in

1918–1926. They were formed following the principles reminding those applied in the UK.

Scheme N. 3
Local Government in UK and Lithuanian Approach in 1918 –1926 (Administrative - Territorial Units)



The same is true about the powers (competence) of local authorities: Delegation of a part of executive powers and principle of the positive legal regulation with

the *ultra vires* rule were well-understood in Lithuania and rooted in the Law on Local Self-Government in 1919 (Scheme N. 4).

Scheme N. 4 Local Government in UK and Lithuanian Approach in 1918 –1926 (Competence)

Theoretical Statements on the Discretion (Competence, Powers) of Territorial Communities or Local Government Institutions

1) State (national) authorities delegate a part of executive powers to territorial communities (*outlook on local government in France*) or to local government institutions (*outlook on local government in UK*) and thus give them the defined discretion;

2) Competence of territorial communities or local government institutions is established adhering to:

2.1) Principle of positive legal regulation and the ultra vires rule : only prescribed actions are allowed (actions within established rules of state (national authorities). *This principle was used in UK*

or

2.2) Principle of negative legal regulation (general competence) and prescribing the state tasks (special competence). *This principle was used in France.*

Lithuania's Choice

Competence of Lithuanian local self-government institutions in 1918–1926 :

- 1) Competence is defined by the law on local government (in 1919) and other legal acts;
- 2) Competence of local government institutions is established adhering to principle of positive legal regulation;
- 3) Competence of volost authorities (32 positions) is specified and corresponds to competence of authorities of town with volost rights;
- 4) Competence of authorities of county emerges when county institutions take over a part of competence of authorities of volosts and towns with volost rights (with the consent of the local authority department of the ministry of the interior);
- 5) Authorities of towns with county rights have formally the same competence as volosts authorities and the competence is not transferable.

Though from 1918 to 1926, the relationship among the authorities of different levels in Lithuania was constructed combining the typical features of both British and French systems, it should be stated that, until coming to power of an authoritarian regime in 1926, the elements

characteristic of the British administrative tradition were more pronounced. This is proved by the legally defined relationship between local authorities, on the one part, and the Interior Ministry and courts, on the other (Scheme N.5).

Scheme N.5 Local Government in UK and Lithuanian Approach in 1918 –1926 (Relationship Among the Authorities of Different Levels)

Theoretical Statements on A Relationship Among the Authorities of Different Levels

1) Local government institutions are not directly subordinate to the state (national) authorities (namely, cabinet of ministers) but the state (national) authorities (cabinet of ministers) and its commissioned state institutions (ministries) may, in accordance with the established by laws manner and procedure, influence local government institutions by methodical management, financial support for important matters, taking over of management of local affairs from municipalities in case they fail, etc).

2) Local government institutions are controlled and disputes as to management of local affairs (legitimacy of the decisions adopted) are solved by judicial authorities (courts) which are not subordinate to the state government.

Lithuania's Choice

1) The relationship between local government institutions and state (national) authorities has been established by the law on local government in 1919;

2) The combination of elements characteristic of great Britain's system and the French system was used to establish the relationship between local government institutions and state (national) authorities;

3) Elements characteristic of great Britain system implemented in Lithuania:

3.1) Establishment of a central state institution for regulation and supervision of local government institutions -- local authorities department of the ministry of the interior (methodical management, financial support for important matters, taking over of management of local affairs from municipalities, etc.);

3.2) Examination of, and taking decisions on, appeals and claims against county councils by the local authorities department of the ministry of the interior, and an opportunity to appeal against these decisions to a regional court and, against court decisions, to the chief tribunal.

To sum up the information on this period, it can be stated that, before the authoritarian regime was set up in 1926, Lithuania had made an actual use of UK local government practices for shaping the Lithuanian

local government and constructed its local government system in accordance with the then theoretical and legal framework of the UK local government.

2. WHAT INFLUENCE THE LOCAL GOVERNMENT SYSTEM EXISTING IN THE UNITED KINGDOM HAD ON THE LITHUANIAN LOCAL SELF-GOVERNMENT IN 1990–2000

Seventy years later, Lithuania again needed a good example to be followed for creating a democratic and decentralised public administrative system as it cast away the chains of totalitarianism, centralised administration and planned command economy. Over 50 years of control by the Soviet Union, undemocratic and centralised government deeply affected the body and spirit of Lithuania, yet the heart thirsty for democracy and freedom was still beating. Lithuania sought and took advantage of each opportunity to establish a more democratic system of

government. This is particularly obvious in how Lithuania made use of the *Law on Principal Provisions of Local Self-Government* adopted by the Soviet Union and drafted and passed a completely new type of the *Law on the Framework of Local Government* on 12 February 1990, even before Lithuania declared its independence on 11 March 1990.

The *Law on the Framework of Local Government* allowed to restore the western-type local government in Lithuania. Challenging old stereotypes, the definitions of local self-government and self-governing administrative unit were re-introduced or rather restored (Scheme N. 6), and the key principles of a centralised administration system were rejected: principle of subordination of representative institutions and principle of double subordination of executive institutions (Scheme N. 7).

Scheme N.6 Local Government in UK and Lithuanian Approach in 1990–2000 (Definitions)

The Lithuanian Law on the Framework of Local Government (12 February 1990) Introduces (to Be More Precise, Re-Introduces) the Following Definitions

Self-governing administrative unit is no longer a part of administrative units belonging to a hierarchical state government system but rather the unity of citizens residing on the territory of an administrative-territorial unit and local authorities (local government institutions) formed by and accountable to them.

Local self-government is no longer the execution of state policy formulated by central state institutions but rather an independent activity on resolving local issues and implementing the decisions adopted under law as carried out by the citizens residing on the territory of an administrative-territorial unit and by local authorities (local government institutions) accountable to them.

Scheme N.7 Local Government in UK and Lithuanian Approach in 1990–2000 (Withdrawal of Direct Subordination)

Withdrawal of Direct Subordination Between Councils of People's Deputies

A superior council of people's deputies is denied the right to overrule a decision adopted by an inferior council of people's deputies

Withdrawal of Double Subordination of Executive Committees

1) A superior public (state) executive institution is denied the right to give binding instructions to an inferior public executive institution that is body officially formed by, and accountable to, a council of people's deputies;

2) it is no longer possible to dismiss a head of an inferior public executive institution by the decision of a head of a superior public (state) executive institution;

3) It is no longer possible for a superior public (state) executive institution to overrule a decision adopted by an inferior public executive institution, etc..

However, centralised government had affected the consciousness and mentality of Lithuanian politicians and leaders so strongly that within two to three years many of the former provisions were returned to legal acts and practice, including the principle of double subordination of executive institutions of different levels. In 1992

the Lithuanian Parliament even started considering the amendments to the Law on Local Self-Government, providing for the procedure of appointing and dismissing heads of local executive institutions (mayors and/or governors of the municipalities) by the Central Government's (Cabinet of Ministers) decision.

Scheme N. 8

Local Government in UK and Lithuanian Approach in 1990 –2000 (Theoretical Statements on Local Government in UK)

Major Theoretical Statements on Local Government in Uk

- 1) Residents of an administrative-territorial unit are not a corporation-type residential territorial community but rather residents of a territorial unit linked by neighbourly relations;
 - 2) The status of a legal person is granted not to territorial communities, but to local authorities (local government institutions), which are democratically elected by residents of an administrative-territorial unit and implement the right to self-government;
 - 3) Competence of local authorities (local government institutions), which implement the right to self-government, is established by the top level delegating functions to them and by enforcing the principle of positive legal regulation (ultra vires rule);
 - 4) local authorities (local government institutions), though democratically formed, are a part of single national (state) executive system.
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At this difficult transitional period from 1990 to 1995, the eyes turned on the UK practices in local government as well as on the theoretical statements on local government once again. Since Lithuania still held on the remnants of centralised government and did not figure out the essential differences between continental and Anglo-Saxon local government systems, it turned

again to the theoretical and legal framework of the then UK local government, which prioritised representative democracy in enforcing the right to local self-government and identified local self-government with independence of local authorities (Scheme N. 8). The provisions favouring this approach had been included in the Lithuanian national law and materialised in practice (Scheme N. 9).

Scheme N. 9

Local Government in UK and Lithuanian Approach in 1990 –2000 (Theoretical Statements on Local Government in UK)

Steps Taken to Adopt Great Britain's Practices in Lithuania in 1990-2000

- 1) The 1994 law on local self-government defines self-government as the right and actual power of local authorities (local government institutions) to act independently within established rules (guidelines);
 - 2) Signing the European Charter of Local Self-Government in 1996, Lithuania did the translation of this document from its English version rather than French;
 - 3) In 1995 the territorial administrative reform in Lithuania led to formation of administrative-territorial units which, by their size and principle of formation, reminded of their counterparts in Great Britain (England and Wales).
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3. IMPLEMENTATION OF UK EXPERIENCE IN CONNECTION TO LOCAL GOVERNMENT IN LITHUANIA SINCE 2000

However, since 1995 Lithuania has seen a new approach to local government – typical for countries with a continental legal system – becoming more pronounced and finally (from year 2000) taking over. The cornerstones of this approach are the dual, rather than state, theory of local self-government, territorial communities, rather than local authorities, as subjects of local self-government right and public legal persons, and separation of national interests from interests of territorial communities.

This new approach (Scheme N.10) which very slowly trickles into the consciousness of the Lithuanian politicians, leaders and general public, rests on the

Constitution adopted in 1992, constitutional doctrine of local self-government formulated on the basis of the rulings of the Constitutional Court, making municipal property a secondary form of public property, and understanding of the difference between the French and English texts of the European Charter of Local Self-Government.

In Lithuania, the new approach to local self-government is rooted in two versions of the Law on Local Self-Government adopted in 2000 and 2008.

As shown in the Scheme N. 11, despite the changed approach to local self-government, the UK experience in connection to local government remains relevant to Lithuania even from 2000 onwards. Take, for example, introduction of new public management principles and methods, imposing of property tax as a local tax or promotion of neighbourly communities and community centres.

Scheme N. 10 Most Modern Approach on Local Government in Lithuania

Most Modern Approach on Local Self-Government in Lithuania (Since 2000)

1) Understanding that local self-government means enforcement, through representative and direct democracy, of the right of a corporation-type local community to independently manage local affairs.

<Article 3. Definitions

1. “Municipality” means an administrative unit of the territory of the State, defined by law, the community of which has the right to self-governance guaranteed by the Constitution and implemented through a municipal council elected by the permanent residents of that administrative unit of the territory of the State and through an executive institution as well as other institutions and establishments of a municipality, which are formed by the latter and accountable to it. A municipality shall be a public legal person.

2. “Local self-government” means the self-regulation and self-action, in accordance with the competence determined by the Constitution and laws, of the permanent residents’ community of a law-defined administrative unit of the state territory, where the community enjoys the right to self-government guaranteed by the Constitution. By the State.>

(Law on Local Self-Government in the Republic of Lithuania, 2008)

2) Conclusion of the constitutional court that Lithuania has a public government system composed of two separate parts: state government and local government;

3) Municipal property is the economic basis of local government (in 1995 a part of state property was transferred to municipalities and thus a secondary form of public property – municipal property – emerged in Lithuania);

4) According to decision-making freedom, competence of the municipalities is divided into autonomous (general competence) and delegated by the state (state tasks);

5) The principle of double subordination of executive bodies of local community (municipalities) is fully withdrawn; the body for administrative supervision of local authorities is put in place and disputes between state and local authorities are settled by the court.

Scheme N. 11 Local Government in UK and Lithuanian Approach (Elements Transposed in 2000-2012)

Elements Transposed From Great Britain’s Local Government System Into the Lithuanian Counterpart in 2000-2012

1) Methods and measures of new public management in Lithuanian municipalities;

1.1) Provision of public services separated from administration of public services;

1.2) Provision of public services following public procurement procedure;

1.3) Establishing health care institutions as public institutions rather than budgetary institutions (i.e. specific legal status with a view to increasing the independence, including economic, of these institutions, etc.);

2) Introduction of a real estate property tax as a real local tax;

3) Promotion of neighbourly communities, community centres, etc..

CONCLUSIONS

(1) Due to historical and other factors in 1918–1926, the theoretical and legal framework of the UK local government seemed particularly attractive and acceptable to Lithuania. The architects of the Lithuanian local self-government system favoured the approach towards local government as a decentralised part of public administration decided by state authorities (the same outlook on local government as in UK). Self-governing administrative units were set up in Lithuania in 1918–1926 following the principles reminding those applied in the United Kingdom. The same is true about the powers (competence) of local authorities: delegation of a part of executive powers and principle of the positive legal regulation with the *ultra vires* rule were well-understood in Lithuania and rooted in the Law on Local Self-Government in 1919. Though from 1918 to 1926, the relationship among the authorities of different levels in Lithuania was constructed combining the typical features of both British and French systems, it should be stated that

the elements characteristic of the British administrative tradition were more pronounced.

(2) Seventy years later (in 1990), Lithuania again needed a good example to be followed for creating a democratic and decentralised public administrative system as it cast away the chains of totalitarianism, centralised administration and planned command economy. At difficult transitional period from 1990 to 1995, the eyes turned on the UK practices in local government as well as on the theoretical statements on local government once again. Lithuania turned again to the theoretical and legal framework of the then UK local government, which prioritised representative democracy in enforcing the right to local self-government and identified local self-government with independence of local authorities. The provisions favouring this approach had been included in the Lithuanian national law and materialised in practice.

(3) Since 1995 Lithuania has seen a new approach to local government – typical for countries with a continental legal system – becoming more pronounced and finally (from year 2000) taking over. The cornerstones of this

approach are the dual, rather than state, theory of local self-government, territorial communities, rather than local authorities, as subjects of local self-government right and public legal persons, and separation of national interests from interests of territorial communities. This new approach which very slowly trickled into the consciousness of the Lithuanian politicians, leaders and general public, rests on the Constitution adopted in 1992 and constitutional doctrine of local self-government formulated on the basis of the rulings of the Constitutional Court. Despite the changed approach to local self-government, the UK experience in connection to local government remained relevant to Lithuania even from 2000 onwards (for example, introduction of new public management principles and methods, imposing of property tax as a local tax, promotion of neighbourly communities and community centres).

(4) To sum up all the above mentioned, it can be stated that the UK experience accumulated in local government as well as the theoretical and legal framework of the past and present local government systems in the UK had and continue to have big influence on the Lithuanian local self-government system. They are a fresh spring watering the roots of the young oak tree of the Lithuanian local government and allowing it to grow and become stronger.

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