

Katarína Staroňová
editor

TRAINING IN DIFFICULT CHOICES



5 public policy case studies
from Slovakia

**TRAINING IN DIFFICULT CHOICES:
5 PUBLIC POLICY CASE STUDIES
FROM SLOVAKIA**

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Published by ADIN, s.r.o.
Bratislava, 2007.

Copyedited by Miroslav Kollár

Translated by Michael Frontczak, Ivan Lacko, Tatiana Hičárová

Production: ADIN, s. r. o.
Bratislava, 2007.

Published with assistance from Local
Government and Public Service Reform
Initiative of the Open Society Institute.



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ISBN 978-80-89244-16-4

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The Institute of Public Policy (IPP) has been part of the Faculty of Social and Economic Sciences of the Comenius University since 2005. As a scientific and educational institution focused on study of Public Policy, it offers master's-level education in day-student and distance-learning forms. The IPP is the first university-based institution with an interdisciplinary concentration in modern theory and practice in public policy and good governance. It emphasises analysis of public administration policies at national and European as well as regional and local levels. IPP cooperates in research with many academic institutions with similar focus, both domestically and abroad. More is available at www.fses.uniba.sk.

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FOREWORD

The pressure to modernise educational programs in the areas of public administration, public policy, and public management and financing has arisen for a number of reasons. It is the result of this field of study having become a standard part of university education in Slovakia in recent years. Yet even more importantly, it is a reaction to the conspicuous disproportion between the theory that is taught and the practical abilities that these programs' graduates need in their work. Indeed, the goal of these subjects is to prepare professionals with conceptual and analytical skills in public policy, who are able to analyse the sector's policy as well as cross-disciplinary public policy issues, and present and promote fresh knowledge and opinions in harmony with European standards.

The purpose of *Training in Difficult Choices: 5 Case Public Policy Case Studies from Slovakia* is to react to the current need to enhance the quality and modernisation of the educational process in the wider region of central and eastern Europe. The authors have attempted, through use of case studies, to acquaint students with the difficult decisions made by public sector politicians and employees. This meant to them that, while every decision has its advantages and disadvantages, there are always influences of which deciders must be aware: i.e., even deciding not to act has its consequences. The case study form should thus help students to simulate real life and decision-making internally, i.e. as if the student was in the place of the mayor, state employee, public interest employee, politician or advisor.

The publication introduces five original case studies from the Slovak setting, developed by the authors based on their own research, real experience and data, and forming the core of the individual chapters. Each chapter consists of an abstract presenting the case study's basic decision-making dilemma and background, the case study itself, questions for students at the conclusion, and instructions for the teacher that provide recommended usage and theoretical framework, including study literature.

The teacher's instructions are meant to assist in class preparation. They are a guide that can be varied and adapted to the specific educational objective and outcome of the respective educational program or subject, the knowledge and skill level of the students, and the lesson objective. Apart from the five case study chapters themselves, the introductory chapter first presents the means of teaching with a case study in general. This part is primarily intended for teachers little experienced in teaching case studies, who would like to include this new and interactive tool in their teaching process.

The first case study address the issue of public finances at the local level of public administration, and brings a perspective on local government after financial decentralisation. How did city leadership adapt to the new system of fiscal rules? How did this influence the political economy of creating the city's budget?

The second case study also occurs at the level of local government, undertaking the method and form of providing for public services, specifically the towing service in a mid-sized town. This study brings to light discussion and decision-making between privatising, contracting and directly providing this public service. What are the facts the mayor needs to remember in order to ensure a high-quality public service? What is the real issue?

The third and fourth case studies address the new system of responsibilities and their financing, describing municipalities with a high percentage of Roma citizens. One of them describes possibilities of a primary schools board's utilising tools of state policy at the local level, for the purpose of improving educational services for citizens of ethnically mixed localities. Students are required to resolve the problem of organizing the municipality's education, based on data and school financing knowledge.

The fourth case study poses the question of housing as an economic, social and cultural right, and of how a municipality with an existing segregated Roma settlement can grapple with this at the time, when municipalities have been given responsibilities for housing. Housing has become unattainable for socially disadvantaged groups unable to rent or buy new homes at market prices. Is this about resolving the issue technically with resources available from state housing policy, or is such a solution insufficient?

Finally, the last case study shows the setting of public administration to be a space with many actors of various interests, wherein it becomes important to determine what the legitimate interests are.

Each case study was prepared by two authors, who performed both primary research and data collection. Thus each was written in a different style of writing, formulation of issues and recommended lesson procedure. Some case studies preserve the primary research's original place name and data, others have changed these. Despite this variation, all the studies are based on the real events and decision-making dilemmas faced by public administration personnel at the given time. Therefore, in the name of the authors I would like to thank to all the representatives of the municipalities and other institutions for their time and assistance during interviews and primary research (the names are listed alphabetically): Juraj Bulík (financial unit of Bratislava), Branislav Hochel (vicemayor of Bratislavy), Ján Fiolek (headmaster of the Elementary School

in Rakúsy), Jaroslav Kováč (head of the municipality owned firm Dopravný podnik Bratislava a.s.), Tatiana Kratochvílová (head of the division for transport and infrastructure, municipality Bratislava), Marta Kulíková (Roma information centre, Kežmarok), Vladimír Mikuš (transport management unit, municipality Bratislava), Martin Molčan (headmaster of the Elementary School in Petrová), Iveta Orgoníková (head of the office, municipality Trenčín), Ladislav Petrtýl (head of the division for environment and transportation, municipality Trenčín), Peter Pleva (spokeperson of the Municipal police in Bratislava), Štefan Šarkózy (Milan Šimečka Foundation), Radoslav Ščuka (head of the office, municipality Bystrany), Bystrík Václav (social unit, District State office Kežmarok), Milan Vajda (spokeperson of the mayor of Bratislava), Alojz Vdovjak (mayor of the municipality Rakúsy).

The research and work on the case studies took place as part of the Developing Innovative Teaching/ Training in Public Policy and Administration project, of the Local Government and Public Service Reform Initiative organization.

I trust this publication will help you enjoy teaching public policy and other related subjects. We would be very happy to hear of your experience in using these case studies in your teaching process, or of your experience in using your own case studies.

Katarína Staroňová

Editor

March 2007

THE CASE STUDY AS AN INNOVATIVE TOOL OF THE TEACHING PROCESS

BY KATARÍNA STAROŇOVÁ

Case studies are stories that give students the chance to experience, through the lens of real participants, problems and dilemmas they may later face in their professional lives after finishing studies. Thus, case studies acquaint students with specific situations as did their actors in public administration (the elected or employees); their objective is to capture the decision-making, responsibility or tasks that arise from the given function or institution. This means that students can, in a safe environment and under supervision from the teacher, step into the shoes of participants and try to resolve the dilemma, weigh up pros and cons in every decision, and discuss the effects with their colleagues.

From the teacher's perspective, case studies are an innovative tool being used more and more in various scientific disciplines, and demanding development of skills and the application of knowledge gained. They originated in the medical and law schools of the USA's Harvard University, and gradually have been taken on by all social science disciplines and many countries. Teaching with case studies focuses on the student; active interface between teacher and student, or among students, occurs. Thus instead of passive reception in a lecture, the student is forced to actively discover a problem, construct possible means of resolving it, and explain, evaluate, synthesize and apply a concrete solution for a concrete situation. The knowledge students gained through study of literature is actively applied, using skills such as active listening, persuading, arguing, presenting, writing and so forth. Biggs (1999) calls these activities and skills that contribute to deep learning and not just surface perceiving.

Case studies provide information that help students quantitatively or qualitatively resolve a problem or analyse a situation. They may be *retrospective*, or such that *require decisions or activity*. Case studies requiring decisions put the student in the role of a public administration actor (in our case a mayor or civil servant, or advisor), who has been given information up to the point of making a decision. The basic question is: "What would you do in X's place?" Retrospective case studies tell a complete story, including the decision made by the public administration officials. Here, the students must take a different, evaluative approach, with the assistance for instance of the question "What do you think of X's decision, and why did he take it?" This is about assessing a real measure taken, and considering possible alternatives. Our publication offers studies of both types, of course including the information corresponding to each.

Data provided and information given for individual case studies may sometimes frustrate students. On the one hand are studies where there is a great deal of provided information and data, which may seem hard to understand; on the other are studies where there is little information, and it would be quite impossible to apply formal quantitative methods. This, too, is the purpose of case studies, to accustom students to the real world, where they have to select relevant information from a huge mass, or on the contrary decide based on work with limited data. Thus the teacher must frequently assess the knowledge and skill base of the students in applying these case studies, and decide either to leave some out or to supplement it. All this depends on the teaching objectives and outcomes the teacher has in sight.

Overall context is an important aspect of case studies. Often, a technical solution is insufficient, if there are actors' values, ideologies or influence at play in the given situation. Even the best theoretical solution may just not work, and fail in implementation. Here again case studies push students to consider "irrational factors" such as cultural variations and customs, political goals, individuals' and overall community values, political influences, symbolic behaviour etc. Though these aspects must be contemplated in every case study, and the teacher should recognize this side of it, our publication includes one study specifically focused on these factors (Case Study No. 5: *Institutions, interests and media: Public policy and the case of Andrea B.*).

A further significant point in teaching case studies is the means of presenting outputs. This is another place where the teacher may to a much greater extent simulate the real setting, and require students to present technical solutions in an understandable way, as if to their superiors or to the public. Such outputs may take the form of a classical essay, analysis, memo to the boss, press release, oral presentation using visuals, public hearing, negotiations, council meeting etc. It is once more up to the teacher to choose a type of output and presentation appropriate to the teaching objectives.

Case studies, like real life, do not have correct or incorrect solutions, but rather solutions based on consideration of many effects and various perspectives. Students are required to:

- choose between key and secondary information;
- identify the core problem, its context and main aspects;
- identify possible alternative solutions and their effects;
- formulate appropriate strategy and recommendation for intervention or activity by local government;
- decide and identify barriers in implementing individual recommendations.

HOW TO TEACH A CASE STUDY

As has been mentioned earlier, case studies are designed to apply knowledge, and develop skills and attitudes. The following hints may assist the teacher in teaching case studies as discussed in numerous articles and literature (some of which is given at the end of this chapter). Case studies can be utilized for:

- **Discussion.**

The teacher can assume various roles in the discussion, ranging from “mentoring” to “facilitation”, where he/she leaves the discussion to the students and only directs with support questions the overall direction towards the learning outcomes. Whatever style is taken by the teacher, it is important that the students cover the various issues and problems, possible solutions, and consequences of action in the case study. The teacher can utilize various visual aids, the board and other devices to clarify any outstanding issues from the discussion.

- **Debate.**

Debating style is derived from moot trial competitions where there are two opposing sides, each arguing for its solution. Here presentation and argumentation skills are emphasised.

- **Simulation / role play.**

Students can simulate individual actors from the case study and take their roles. The role can receive only limited information and eventually conflict situations may arise. Thus, simulation and role play is suitable for better awareness of conflict issues, extreme situations and acceptance of different view points.

- **Group work.**

The advantages of group work are substantiated in many documents. However, when using case studies one has to think of the composition of the working group for optimal results.

- **Individual research work.**

Case studies can be a starting point for further research outside the classroom, on the internet, in the library, using interviews with experts on the issue, etc.

- **Data gathering and analysis.**

Students are confronted by problems, questions, or dilemmas they need to solve by analysing complex environments and data.

- **Presentation.**

Students are given the assignment of presenting their results in any possible format the teacher might think of as beneficial: oral/written, formal documents/academic essays/posters. The teacher should determine the format based on learning outcomes.

- **Practical Skills.**

Working on a case study teaches many other practical skills, such as working in a team, coordination, persuasion, etc. – all skills required in real life.

When teaching case studies, one cannot forget the importance of the environment. Conversation is best facilitated if you can create a semi-circular or circular seating arrangement in the room, in order to make it easier for students to talk when facing each other. The maximum number of students when using case studies is 20, as discussion and interaction is the vital element of the learning process. It is crucial for the teacher to prepare prior to the teaching on several levels:

- **Substance:** to know the details, facts and nuances of the case study and accompanying theoretical literature that is utilised as an analytical framework.
- **Overall aims and discussion path** (do not forget that discussion simulates the learning process): it is advisable to prepare questions that relate to the core thesis and issues of the case study that you want students to cover.
- **Students:** it is good to know your students, their level of engagement and participation, and be prepared to involve less active students.
- **Learning outcomes:** this is the most important part. What do you want to achieve with the case study method? What are the students to learn, understand and apply?
- **Techniques and methods of teaching:** How and in what way are we about to achieve learning outcomes and objectives? How to maximise student participation?

Defining the learning outputs is an important part when designing a class with case studies. It helps to break down overall goals into 3 components of what specifically is to be achieved:

- 1) **Knowledge:** theories, concepts, information about new legislation, EU programs, tools, policies, etc.
- 2) **Skills:** new methods to fulfil tasks, such as communication, critical thinking, interpretation, and assessment.
- 3) **Attitudes:** student awareness of and sensitivity to different cultures, ethics, confidence, negotiations, and so forth.

Depending on the course, more than one of these areas will be addressed in the learning outcomes. When preparing learning outputs one has to keep in mind that some can be acquired very rapidly while others need some time to be implemented,

learned or accomplished. Some helpful verbs frequently used to define learning outcomes and objectives are: arrange, build, calculate, classify, compare, construct, contrast, define, describe, design, explain, identify, illustrate, list, measure, name, organise, perform, recite, solve, sort, use and write.

Recommended Literature

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CASE STUDY 1

REACTION OF LOCAL GOVERNMENTS TO FISCAL SHOCK

BY MIROSLAV BEBLAVÝ AND EMÍLIA SIČÁKOVÁ-BEBLAVÁ

(Case study of Bratislava, capital city of Slovakia)

Abstract

On the first of January 2005, Slovak municipalities experienced a pronounced fiscal change, which for some larger cities became an absolute shock. At issue is the fact that four new measures came into force simultaneously:

- restructuring of local tax legislation, associated with the greater freedom of local governments to set real estate tax as the main source of income for those local governments affected most significantly;
- a new system of shared taxes, in which the state distributes to local administrations the bulk of personal income taxes, based on criteria depending primarily on the number of potential clients for services for which local governments are responsible;
- elimination of some types of funding for local governments (e.g., funding for operating public transportation in the largest cities);
- new rules of local administration management, intended to prevent insolvency of local administrations, and indicating ways to resolve this.

This case study examines the situation in Bratislava, the Slovak Republic's capital city, and how city leadership came to terms with the new system of fiscal rules. Methodologically, it draws on analysis of state-wide and local legislation, fiscal data, records of proceedings of the city council and other local organs, and interviews with certain key players.

CASE STUDY

BACKGROUND – LAWS, GOVERNMENT DIRECTIVE, GENERALLY BINDING DECREES

Fiscal decentralization in Slovakia was part of the wider reforms in public finance, approved in 2004 and realized primarily from 2005. Four acts and one government directive formed its legislative basis:

- NR SR (Slovak abbr. for National Council of the Slovak Republic, i.e. parliament) Act 564/2004 on budgetary determination of income tax revenue from local governments, and changes and amendments to certain acts;
- Slovak government directive on distributing revenues from income tax to local governments;
- NR SR Act 582/2004 on local taxes and fees for local waste removal and small-scale construction;
- NR SR Act 583/2004 on budgetary rules of local governments, and changes and amendments to certain acts;
- NR SR Act 523/2004 on budgetary rules of public administration, and changes and amendments to certain acts.

The Ministry of Finance of the Slovak Republic (abbr.: MF SR), the agent of these changes, saw the introduced laws as part of its public finance reform strategy, focused on “seven key institutional elements, unavoidable for effective control of public expenditures....”¹

- medium-range fiscal framework,
- conservative predictions,
- ‘top-down’ budgeting, according to priorities,
- transparency,
- loosening of central control of inputs,
- orientation on results,
- modern financial management processes”.

The reform came in the context of commitments from the 2002 declared program aims by the Mikuláš Dzurinda government, in relation to municipalities and fiscal decentralization, to strengthen, by decentralization of public finances, both the status of local governments and their responsibility in providing services to citizens. Finance reform had, according to MF SR, the following 5 goals:²

- Independence,
- Accountability,

¹ <http://www.finance.gov.sk/Default.aspx?CatID=3571>, access 27/7/2006

² <http://www.finance.gov.sk/Default.aspx?CatID=3513>, access 27/7/2006

- Justice,
- Transparency,
- Stability.

The most important steps to be realized within these changes include:

- a new fiscal framework for the municipality, which in order to introduce strict budget thresholds places a limit on deficit financing and debt amounts, and dictates limitation/loss of municipal financial autonomy if solvency is threatened;
- reform of non-earmarked subsidies for the municipality, and in particular of the mix of shared taxes, subsidies calculated based on historical amounts and other financing, into a system using a share of personal income tax;
- local tax reform, in particular the liberalization of real estate tax.

BASIC DATA ON FISCAL DECENTRALIZATION

a) Regarding overall fiscal decentralization

The income of municipalities from fiscal decentralization surpasses the expectations of both MF SR and the municipalities.³ As for personal income tax, the state guaranteed the municipalities 23.5 billion Sk; municipalities actually received 28.2 billion Sk, i.e. 20% more. Regarding real estate tax, municipalities expected 4.9 billion Sk, and in the end saw revenue of 5.98 billion Sk, which is 22.1% more. This trend is expected to continue in the coming years.

b) Specifically regarding Bratislava

The agreeable personal income tax trend in Slovakia generally did not materialize in Bratislava. The 2005 budget assumed income of 1.64 billion Sk, and income was in fact 1.485 billion Sk. Real estate tax, on the other hand, represented a substantially higher revenue than the city budget anticipated – 1.025 billion Sk instead of 633 million Sk.

c) State guarantees

- Overall: if the amounts for local governments should drop below the guaranteed level of 33,418,078,000 Sk in 2005, the state guaranteed a minimum of this

³ This relies on government material, “Report on realization of fiscal decentralization until now, and anticipated trends in subsequent periods”, approved by the government on 25 January 2006, in resolution 69/2006.

amount⁴. Considering the much better tax revenues, this guarantee was not applied;

- Individually: if the amount for a specific local government should, as a result of the new system, drop below 87% of the resources obtained through shared taxes in the preceding year. A few dozen municipalities utilized this guarantee, but not Bratislava, which did not meet its requirements;
- Bratislava, based on political negotiation, obtained in 2005 an unrestricted one-time subsidy from the state budget of 130 million Sk, as partial compensation of the effect of fiscal decentralization.⁵

BASIC POLITICAL STRATEGY OF BRATISLAVA – ATTITUDE TO FISCAL DECENTRALIZATION

After the finance minister and the government's decentralization appointee presented the fiscal decentralization proposal in spring 2004, City of Bratislava leadership and other political participants had to decide on a political strategy. Basic alternatives included:

- complete refusal, with attempts to retain the existing system;
- conditional agreement, with attempts for fundamental changes;
- unconditional agreement, with attempts for slight adjustments in the city's interest.

As indicated in the other sections, in the new system Bratislava would, in contrast to most other cities and municipalities in Slovakia, lose state support for public transportation, and require some pronounced fiscal action. At the same time, if Bratislava decision-makers were to disagree with the proposal in a unified and outspoken manner, then passage of the proposal would become difficult, since many of them were among the political leaders of government coalition parties (particularly KDH and SDKÚ).

However, neither city leadership nor other decision-makers opted for this strategy. To the contrary, Mayor Ďurkovský even became a public advocate of the proposal, at a time when he still had no general political support from the local government.⁶

⁴ Par. 7, Act 564/2004 on budgetary determination of income tax revenue from local governments, and changes and amendments to certain acts.

⁵ Government resolution 222/2005.

⁶ Andrej Ďurkovský: I see further than 10km from Bratislava, 3 August 2004, Trend magazine.

The reasoning went as follows:⁷

- it meant the end of the so-called “jug” method of policy, where the city often had to orchestrate an outcome of the redistribution system (or other decisions) desirable for local governments, based on personal and political contacts;
- the new system included a clear formula, by means of which it was possible to estimate revenue sources for 3-5 years, and to plan better;
- the system of local taxes was being standardized, and the autonomy of cities strengthened
- the political cost of increasing local taxes was not dramatic, thanks to the favorable economic situation.

BASIC FISCAL STRATEGY OF BRATISLAVA – ATTITUDE IN ADJUSTING TO FISCAL DECENTRALIZATION

Bratislava, together with a few other larger cities, in connection with fiscal decentralization faced significantly greater changes than other cities and municipalities in Slovakia. This was because Bratislava, apart from switching from shared taxes to a share of personal income tax (where potential losses were at least temporarily limited by state guarantees), had to manage the loss of state support for mass transportation. In 2004 this represented 914 mil. Sk.⁸ The political reason why city leadership, despite this, took a strong stand for fiscal decentralization is described in section 4. Here we concentrate on how the city dealt with this fiscal shock.

City fiscal strategy in 2005-2006, in reaction to this challenge, can be summarized in the following points:

- **Pronounced increase in real estate tax, and its new format as a key to the solution.** In relation to new legislation, the local government was given a significantly freer rein – not only in the rate that could be set for this tax, but also in the structuring of the tax, and other aspects of tax policy. It thus became the main instrument of city tax policy. Details on how the new tax was set in Bratislava are given in later sections.
- **Limited possibilities in using waste fees.** Another city tax/fee, which represents significant income for the city (667 mil. Sk in 2005), is the local fee for waste removal. The option to increase this, and use the greater revenues to ease

⁷ Interview, Milan Vajda, Bratislava mayor’s spokesman, June 2006.

⁸ State budget of Slovak Republic for 2004.

fiscal shock, was however restricted by the earmarking of this fee for expenses associated with waste removal and liquidation, and by the fact that the maximum permitted amount of this fee was given by law.

- **Limited fiscal relevance of other taxes/fees other than waste fee.** Although the new Act 582/2004, on local taxes and fees for local waste removal and small-scale construction, brought with it significant changes, it gave little space to Bratislava in terms of fiscal maneuverability in fees and taxes modified by this law (with the exception of the two resources already noted). This is because they represent very small amounts in comparison with the overall budget. Even after pronounced increase, in 2005 housing tax went up by 37 mil. Sk, and fees for use of public space by 30 mil. Sk. Thus these will not be studied here, though they did change.
- **Absence of political will to markedly decrease expenditures.** Significant decrease of expenditure was not part of the city's fiscal strategy. This reflected several factors. Most importantly was the opinion that the political cost of decreasing expenditure would be much greater than the political cost of increasing revenues by raising real estate tax. Other factors included the abruptness of this fiscal shock, since reducing expenditures usually shows results only in the longer term. At the same time it should be noted that city leadership in 2005-2006 was trying to limit increase in low-priority expenditure, but the effect on overall fiscal policy was limited. Also, a restructuring of city institutions was under way, as three informational and cultural organizations were being merged into one.⁹
- **Unwillingness to raise taxes, with the exception of a one-time shock.** It is interesting that, despite the fact that political cost of pronounced real estate tax increase was seen *ex ante* and *ex post* as limited, no one in city leadership nor among individual city council members showed much appetite for further increase of this or other tax as a means to create fiscal maneuverability for the popular expenditures. To the contrary, there could perhaps be seen rather attempts (unsuccessful on the part of the city) to selectively reduce tax burdens via various tax exemptions. In other words, it was politically acceptable to increase substantially the tax burden once, if the alternative was to limit services substantially; yet it was unacceptable to trade higher taxes for better/more extensive municipal services.

Now let us examine the consequences of this fiscal strategy for the tax that above all absorbed this fiscal shock – real estate tax. Because tax increases were meant to compensate for loss of state support for public transportation, the main political question was not how much to obtain via the increase, but how to obtain the defined

⁹ Interview, Branislav Hochel, first deputy of Bratislava's mayor, May 2006.

income ex ante. City leadership decided for the widest tax base and the smallest number of exemptions possible, which made it possible to limit the extent of the shock for individual taxpayer groups. The speed of the whole process surely aided the success of this move, as individual special interest groups had little time to get organized.

Politically and technically, the most complicated issue was setting the rate for individual city districts and taxpayer groups. Real estate tax in many countries is collected **ad valorem**, i.e. as a percentage of property value. This approach has several advantages:

- tax payable relates to the taxpayer's ability to pay it, as taxpayers with greater property values usually also have greater wealth overall (although pensioners can be an exception; but on the other hand the pressure on them to harmonize the value of their real estate with wealth overall is an instrument of mobility in the real estate market);
- it is politically acceptable, and creates only limited space for promotion of narrow special interests.

However, since Bratislava does not have a price map or other trustworthy mechanism for determining market price of individual properties, this approach could not be utilized.

Therefore the strategy selected simulated, in a simplified form, the ad valorem approach, by combining three elements:

- determining the tax rate per square meter (as the law itself assumes);
- differentiating rates into three groups according to city districts, by their profitability and economic strength;
- differentiating according to type of building: the lowest rate for residential buildings, significantly higher for non-residential buildings used for other purposes (gardens, garages and the like) and the highest for non-residential buildings used for business, administrative or non-profit purposes.

The proposal included exemptions for select groups: citizens over 70, citizens with serious physical impairments, and buildings used for church purposes.

With two exceptions (re-classification of the Lamač city district to a lower tax category, and reduction of the initially-proposed rates for some types of property used for business) the proposal was not significantly modified at any time in the approval process.¹⁰ Even upon its re-approval a year later, no specific

¹⁰ In addition, during city council debate on generally binding tax regulations, a decreased tax rate for agricultural land was accepted. However, this can hardly be seen as a significant intervention, considering how little land of this type there is in city territory, and how low the original tax rate was.

special interest groups succeeded in achieving significant relief. Records of city council debate show that this was thanks to council members realizing that every crown of tax reduction would have to be substituted by increased tax for someone else.

On the other hand, national government organs are to bear little consequence from their decision on distributing real estate tax, as this is now in toto income of the local government. Shortly before general elections, the National Council of the Slovak Republic on 2 February 2006 passed Act 120/2006, a supplement to Act 582/2004 on local taxes and fees for local waste removal and small-scale construction in the wording of later regulations. With this law, parliament exempted from property tax “land and buildings or parts thereof, which serve for purposes of education, scientific research, religious ceremonies, or which are in the ownership of state universities or of the state (including those under administration by the Slovak Academy of Sciences) or of churches or state-registered religious organizations, or used by state universities, as well as land and buildings or parts thereof serving secondary schools, vocational schools, practical training centers and school facilities under administration of regional governments or schools and school facilities under administration of regional school boards.”

Of course, this law touches all cities and municipalities, but its effect was by far the most acute in Bratislava, because a significant percentage of all universities and research institutions function there, and secondary schools of the Bratislava region are also concentrated there. The City of Bratislava, together with the Slovak Association of Cities and Municipalities, lobbied unsuccessfully against the draft law. Thus it was shown that the Olson’s problem of collective action was exacerbated in one dimension, as state-wide decision-makers can successfully be lobbied by interest groups without bearing fiscal and political consequences – even when city leadership was of the same political make-up as most of the government coalition.

ADAPTING TO THE SHOCK – THE POLITICAL PROCESS AND ITS AGENTS

Preparation for fiscal decentralization occurred in Bratislava throughout most of 2004. It began in spring 2004, when the Slovak finance ministry presented its first draft of the new system, and climaxed in December 2004 with the approval of the 2005 city budget and associated documents, including generally binding real estate tax regulations.

From the perspective of process, the following phases can be distinguished:

- the mayor's office prepared a draft budget and generally binding real estate tax regulations;
- the city's executive committee debated the draft;¹¹
- subsequently city council debated and approved it.

Although the city's executive committee and council extensively debated on the proposals of the mayor's office and modified it, there were no fundamental changes. The only exception was the re-classification of the Lamač district into a lower-tax category, which decreased its tax obligation by 10%, resulting in insignificant fiscal losses for the city. This was an initiative of KDH and council member Keltošová. Another exception concerned lower rates for certain property used for small and medium business, promoted by SDKÚ.¹² Thus it might seem that city leadership and its machinery had almost exclusive control of the new system's creation, with the two most important political caucuses pushing more or less symbolic changes. In reality, other players had significant roles as well.¹³

Specifically, the city formed a task force for preparation of the new real estate tax. This task force consisted of representatives of both the mayor's office and city districts, and became a forum where basic concepts of tax parameters were decided and agreed.

Another problem in Bratislava was the question of the authority of the city versus the city districts in local tax collection. Under the old system, city districts handled collection, while the fiscal decentralization proposal gave this authority to the city. In this connection, a conflict arose between the city and city districts, where each side pushed for control of this collection. The result was a compromise; in reality, however, the city came away the winner: the compromise consisted of a one-year transition period when the city districts would continue to collect local taxes, while from 2006 the city would collect. Additionally, the entire income became income of the city as a whole.

QUESTIONS FOR THE FUTURE

The city of Bratislava after fiscal decentralization has a far more predictable and stable income structure than before, based mostly on a combination of local taxes and fees and a share of personal income tax. Revenue from sale of property is still

¹¹ The city's executive committee consists of the mayor and his deputies, city district executives, and political party caucuses. It is thus the forum wherein the political will of most city decision-makers is actually formed and manifested.

¹² Interview, Vajda number 2, 16 August 2006.

¹³ Interview, Hochel, interview Vajda.

considerable (512 mil. Sk in 2005, i.e. 12% of operating expenses and 28% of capital expenses), more than double revenue from rents (196 mil. Sk in 2005). Revenue from sale of property is by definition unsustainable in the long run (unless the city was to obtain an equivalent amount of property, which is not true of Bratislava). This is not to suggest that property sale is an incorrect decision, but rather that this type of income cannot be relied upon in the long term; this begs the question of how to resolve it in the future, and local government representatives are starting to look into this.¹⁴ This is particularly true given that, despite significantly higher-than-expected nationwide revenue from personal income tax, Bratislava enjoyed no real increase. System changes made by the government and parliament were to the disadvantage of local governments; they either decreased the amount of taxes (by increase in personal tax bonuses) or redistributed them to Bratislava's disadvantage (with a changed formula that benefited municipalities in the countryside). This all meant that the city's long-term sustainable income would not significantly increase from the one-off change at the beginning of 2005.

It is also necessary to note that Bratislava exceeds the maximum values of indebtedness, and therefore will not be able in the coming years to finance its activities from loans, until such time as it drops below the limit set by law.

At the same time, there exists significant room to increase property tax revenue by objectivizing property values from which the tax derives. The current system benefits from its simplicity, but also means that the tax as a percentage of real property value can vary by up to hundreds of percentage points. There are two reasons for this. First, differentiation of rates by square meter varies by about 30%, while the market value of a square meter in the city has a much greater range. The second reason lies in the fact that properties in a single location can have strikingly different market values per square meter because of real estate quality. A worthy price map would therefore resolve the first problem, and thus from the political and social perspective enable simple increase by a more just taxation of more lucrative properties, which today usually yield much lower taxes as a percentage of their real value.

Apart from these directly fiscal themes, it is important to mention two broader ones that may influence fiscal policy.

The first is the organization of local governments in the city. Today, the regional government, the city and 17 city districts all operate within city limits. This is despite the fact that, throughout the ten-year-long discussion on decentralization, Bratislava was always considered an independent and autonomous region; and the number of city districts is relatively high for the number of inhabitants.¹⁵ Merging

¹⁴ Interview, Hochel.

the city with the region, and reorganization of city districts, would not only lead to savings of expenses but also bring to the city tax from motor vehicles, collected by the regional government administration. It would also increase Bratislava's share in personal income tax, which would have a further significant impact on fiscal stability.

The second theme is city's functioning in an environment where the central government is made up of political parties which are in opposition in Bratislava's local government. This situation last existed in 1994-1998, which is the very time the city took on significant debt. Although today, thanks to the very extent of decentralization fiscally and otherwise, there exists a greater extent of local autonomy from the state, there are examples of intervention in fiscal decentralization even under the government of Mikuláš Dzurinda, showing how fragile this autonomy can be.

CONCLUSION

The new system of financing local governments meant a fiscal shock for the City of Bratislava, considering the loss of state support for public transportation. Despite this, city leadership supported the new system, because the advantages of the new model's stability and predictability were greater than the political cost of decreased revenue. City leadership chose to resolve the resulting problem primarily by increasing revenues through the newly liberalized real estate tax, because it expected (as confirmed by subsequent reactions) lower political cost compared to an equally pronounced decrease in expenditure, which was the alternative solution. The new real estate tax system has a simple set-up, and decision-makers proved capable under fiscal pressure of resisting the proposal to prepare an extensive list of tax exemptions or reductions. After a one-time shock in early 2005, it can be said that Bratislava's fiscal management proved itself to be firm, and can continue without further significant changes.

TEACHING INSTRUCTIONS

1. Approach

This case study is dedicated in the broader sense to public financing at the local level of public administration. Therefore, it is appropriate for a course focused on public finance, decentralization and local government, fiscal decentralization or political economy. Specifically, it is suitable for the later part of a course, in

¹⁵ Interview, Vajda č. 2.

order for students to exercise what they have learned throughout the course. The case study can also be used as part of subjects devoted to analyzing public policy in general, or the process of creating public policy, as well as decentralization subjects. However, in such a case we recommend focusing on select aspects of creating public policy, such as the political economy of creating a city budget. Thus instructors in working with this case study can not only build on students' knowledge of a country's tax system, with more particular focus on the local government's tax system, but also discuss issues of budgeting and the political economy of creating budgets. The case study is meant to take 120 minutes of teaching time, but can be significantly shortened if only a few aspects are stressed.

Basic reading students should have completed before working with this case study are:

- Staroňová, K. – Sičáková-Beblová, E. (eds.): *Verejná politika a miestna samospráva: štyri princípy spravovania*. Kapitola 2, kapitola 4.1 a 4.2. Bratislava: Ústav verejnej politiky, 2006.

Should this literature be unavailable, the following literature, accessible on the Internet, can be used as an alternative:

- Bahl, R. 1999. "Implementation Rules For Fiscal Decentralization", Working Paper No. 1/99, Andrew Young School of Policy Studies, Georgia State University, Atlanta, Georgia, available at <http://siteresources.worldbank.org/INTDSRE/Resources/3p.pdf>
- International Monetary Fund. "IMF Code of Good Practices on Fiscal Transparency", available at <http://www.imf.org/np/fad/trans/code.htm>
- Ministry of Finance SR: Webpage on fiscal decentralization, available at <http://www.finance.gov.sk/Default.aspx?CatID=3571>

2. Recommended approach to work with the case study

We recommend using this case study as part of subjects or courses that deal with:

- fiscal decentralization – its strengths and weaknesses
- Slovakia's tax system – central and local
- forms of budgeting
- political economy in budget creation – actors and processes

The case study's format assumes that students will read it outside of the lesson/ seminar/ class meeting. Subsequently, it can be used via several methods, which are not mutually exclusive:

- writing a short essay corresponding to some of the questions below
- discussion within the study group, either on the case in general or one of the specific questions below

- oral presentation by students of one of the themes listed below

Questions/themes which can be applied to the case study:

- Did the given changes represent, in your opinion, real fiscal shock, or is this too strong an expression? Give your reasons.
- Do you think the mayor made the correct political decision when he sided clearly with fiscal decentralization? Give your reasons.
- How do you assess the means by which city functionaries adjusted to the situation? In their place, what would you do differently?
- Based on the text, what do you consider the greatest challenge for long-term sustainable city management? Give your reasons.

CASE STUDY 2

A PUBLIC SERVICE DILEMMA: TOW-AWAY SERVICES

BY KATARÍNA STAROŇOVÁ AND ANDREJ SALNER

(This case study is based on documentation and interviews made with employees of the Bratislava City Council and the Trenčín City Administration Office. For the purposes of the study, the fictitious town Korenice is used, a composite of the experience of both cities.)

Abstract

The case study deals with the issue of providing public services with regards to discussion on the privatisation and contracting of public services. In particular, it deals with cities' practice in towing away personal motor vehicles violating regulations. The objective of the case study is for students to decide, based on available information, on the most suitable way of performing this service as part of comprehensive traffic and road services, and then to consider which type of information is necessary to monitor the effectiveness of various institutional solutions for this service.

CASE STUDY

One rainy morning in 2004, when the mayor of the town of Korenice came into his office, he realized this was the day when one of the town's long-lasting dilemmas would finally be settled: how to resolve the issue of tow-away service be solved. In two hours, he would meet municipal office employees in order to draw up a recommendation for the town council, as to whether the town should continue performing the tow-away services itself, or whether it should contract a private company for this purpose.

In line with the recent and very ambitious Plan of Economic and Social Development, the town made an effort to stress "the freedom of individuals, responsibility, competition, private initiatives of individuals and property rights": public procurement was to apply free market principles wherever possible. Many technical services, such as winter maintenance, municipal waste removal, and public lighting, were performed by private providers based on new contracts concluded with the town. Korenice is one of very few Slovak towns that had also used a private contractor for public transportation. In many cases, contracting services in accord with the plan meant savings for the town: private contractors' bids were frequently substantially cheaper than the town's having to perform the services at the same level of quality using its own resources, once real costs were calculated.

The principle of a competitive environment and market prices

Competition is a state in which everyone has the chance to realize their own property interests. Competition does not necessarily imply a large number of service or goods providers; **it means free entry into a specific area/field of business.** Only then can businesspeople be motivated to seek the optimal model of serving consumers. The businesspeople who earn a higher profit – and are thus more successful – are the ones that better satisfy the needs of individuals. At the same time, they are motivated to lower their prices. Market prices are also the best regulatory mechanism for the individual conduct. They ensure a balanced use of the goods in question, and reveal information about quality and quantity and individual needs, while at the same time motivating businesspeople to provide additional services. Therefore, creating a competitive environment and market prices results in:

- lowering the tax burden (taxes do not draw off the resources of businesspeople and individuals for their priority projects)
- eliminating the privileged position of some businesspeople
- ending regulation and limitation of business subjects' entry to the relevant market.

The town of Korenice's Plan of Economic and Social Development for 2004–2006 and 2007–2015.

However, the question of the tow-away service remained open. The small historical centre of the town attracted tourists, and was often also visited by town inhabitants who took their cars to do shopping or run errands. For lack of parking spaces, people often parked their cars on sidewalks, making life difficult for pedestrians and public transportation bus drivers. Recently, citizens and town representatives had been angered by an episode when a careless driver parked his large off-road vehicle directly on a tram line, blocking tram traffic for several hours and forcing the town to use reserve buses – resulting in costs of tens of thousands of crowns. The town’s tow-away service had no equipment to tow away such a large off-road vehicle. Furthermore, taking into account the high costs of such equipment, the mayor did not want to even consider this option, in case the town decided to contract.

Like most of the town’s citizens, the mayor was also looking forward to 8 June, the day when the town was to celebrate an historic 700th anniversary. Quite naturally, the central location of the celebration was to be the main square and streets adjacent. Everybody was arranging for the celebrations and the centre of the town was in the process of preparation.

Because of the celebrations, the mayor wanted to find a solution to coordinate services related to smooth and safe traffic flow, parking and tow-away of obstructing vehicles, as several thousand visitors were expected. The dilemma was whether to invest millions into more equipment for the town’s tow-away service, or whether to contract the entire service – in line with the town’s strategic plans – to an external subcontractor. Apart from passable roads and orderliness in the town centre, the mayor was also concerned with the satisfaction of citizen-drivers and voters, who would not be happy to find their car towed away to a remote location or to be fined for illegal parking.

The mayor thought more effective services in this area would not only support smooth celebration and citizen satisfaction, but also lower tow-away service costs. If it were to save the town money or bring new income, savings could be used for citizens’ benefit in the form of social services and other areas.

In this case, public administration is governed by the Act of the National Council of the Slovak Republic No. 135/1961 on surface roads, the so-called road act, and by the Act of the National Council of the Slovak Republic No. 315/96 on traffic on surface roads, effective as of 1 April 1997. According to Section 3d, par. 5, item d) of the Act on surface roads, municipalities (or legal entities established or instituted by them for this purpose) administer road sections, surface roads and purpose-built roads owned by the municipality. Based on Section 40, pars. 1 and 4, of the Act on road traffic (the so-called “Road traffic obstruction” section), responsibility for removing obstructions to road traffic lies with the road authority, i.e. the town of Korenice.

The Slovak capital has had experience with subcontracting tow-away services: for many years, vehicles were towed away to a location at Čierny les by the private company Aster. Drivers and citizens in general complained a great deal about the service, which worked only limited hours (during the day) and sometimes focused only on cars close to where they were towed. More remote city districts could not get through to get vehicles towed even in imperative cases. The towing fee of SKK 2,000 also annoyed many drivers. According to many complaints, the private company preferred vehicles that were easy to tow to those that obstructed the traffic the most.

What is more, the matter had already been dealt with by the prosecutor's office: in response to a citizen's complaint (Appendix 1), the district prosecutor filed a protest against procedures of the city administration¹ (Appendix 2). The prosecutor charged that public authority could not be assigned to another party, even on a contractual basis.

Moreover, in early 2005 the mayor received a Supreme Court ruling² (Appendix 4), making it clear that according to Section 40, motor vehicles can be removed only by the road authority, even if the removal of the vehicle is ordered by a policeman. According to this ruling, vehicles may be towed away only by a legal entity whose founder (institutor) and subsequently also owner (e.g. partner or shareholder) is the municipality (town) in question. It must also be such legal entity as has been founded or instituted for the purpose of local road administration, part of which entitles it to tow vehicles.

¹ In Slovakia, the prosecution is responsible for overseeing lawfulness. The prosecutor can revoke decisions made by local administration bodies, and/or issue a Prosecutor's objection against such decision based on Act No. 153/2001 on Prosecutor's objections. Basic provisions on the prosecutor's objection, Section 22 (1) The prosecutor is entitled to issue an objection against

- a) a generally binding legal regulation issued by a body of public administration, namely
 - 1. a decree, edict and provision made by a central body of state administration, a state authority or another legal entity which was authorized by a specific law to issue a generally binding legal regulation,
 - 2. a generally binding legal regulation of local government,
 - 3. a generally binding legal regulation of a body of local state administration,
- b) a provision,
- c) a decision,

which breached the law or another generally binding legal regulation.

² The ruling of the Supreme Court of the Slovak Republic is binding for the participants, but it is not a source of law, and thus has the character of a recommendation for courts in other similar cases.

The mayor's thoughts were interrupted by a knock at the door: the head of the Town Office entered, followed by the heads of the Town Office's Traffic Department, the department for contact with citizens, and the legal unit, and the town police superintendent and the director of Technical services.

Those assembled started discussion with few introductions. The head of the legal unit read out the capital city's Prosecutor objection, claiming that there was in fact nothing to discuss: the town must manage all tow-away activities itself. The Town Administration Office head, however, had a trump card: the expert opinion requested of a private lawyer regarding the objection. According to this opinion, the prosecutor "fails to distinguish between public administration on the one hand, and the physical execution of vehicle towing on the other – there are substantial differences, and nothing prevents the city from contracting the performance of these activities with any company whatsoever" (Appendix 3).

The pragmatic head of the citizen contact department just grinned, knowing that lawyers always read the law as it suits them. She made a convincing argument that the law can be interpreted both ways and that the decision ought to be based on the real needs of the town and its citizens.

The mayor himself believed in the power of the market and in means of making services more effective by subcontracting public services to commercial subjects. He said to himself, the road administrator can in fact assign the towing of vehicles, wreck disposal and parking to a legal entity or an individual authorized to perform these activities as part of its business.

The director of Technical services expressed a counter argument, namely that they can perform towing much cheaper than any external entity. As long as the town buys equipment needed for towing large vehicles, the problem will be solved and the town could even make some extra money.

The mayor was interested in this possibility, and so he asked the director to calculate potential costs and benefits. The superintendent of the Town police pointed out that policemen's time spent assisting the towing procedure also costs something, besides the fact that meanwhile they might be needed somewhere else.

TASKS FOR STUDENTS

Task List A:

1. Study the town of Korenice's Plan of Economic and Social Development, and assess its assumptions from the perspective of various approaches to public administration management (Weber, NPM and Governance). What is the influence of these approaches on the document presented and how is it manifested?
2. Assess the activities of the town administration related to the provision of tow-away services. Define market and non-market activities related to the provision of this service, and determine which can be contracted and which cannot.
3. Prepare options of how services can be made more effective according to an objective you define. For each option, define the founder, provider and user, as well as the financial provisions for the service in question. Define specific goals and criteria for choosing between options, and prepare a recommendation.
4. Prepare an analysis of the political acceptability of contracting the service in question and discuss the implementation possibilities from the perspective of political and bureaucratic barriers rather than technical solutions.
5. Study the Supreme Court Ruling in Appendix 4 and analyse it from the perspective of institutional service procurement.

Task List B:

1. How should the director of Technical services proceed, if he wants to calculate as precisely as possible the real costs of public resources used for providing tow-away services?
2. If you were to draw up a cost-benefit analysis comparing two alternative options of providing tow-away services, what data would you require, and from whom would you get the data?
3. Design a system for data collection and for monitoring the implementation effectiveness of your recommendation.

APPENDIX 1:

A citizen's complaint to the prosecutor

RE: Examination of a decision made by the Capital City Police concerning the tow-away of a motor vehicle

Dear Mr. Prosecutor,

On, my personal motor vehicle Škoda Favorit was towed away. In my opinion, it was towed away wrongfully. I protested against the decision made by the City Police because I think that the decision to tow away my vehicle was downright targeted, as I was in no way obstructing the road to other motor vehicles. The road is not heavily frequented.

Furthermore, I protest against the fact that the City Police officer instructed a private company to tow away my vehicle, putting me into a legal relationship with this company without my consent. The vehicle was returned to me not by the City Police, but by an employee of this private company. In my view, the city's administration is not authorized to assign authority that interferes with the rights of the citizens to a private company. This power rests solely with the organization whose administrator is the city.

I further protest against the following fact, as stated in the Protocol on the towing. I think that the paragraph regarding the reason for the towing should include the decision of the City Police, including the name of the policeman, and not a list of offences, because a private company is not authorized by law to make a decision about breaches of the law committed by a citizen.

I thank you in advance for the timely settling of my complaint.

In the capital city

Jozefína Nováková

APPENDIX 2:

Prosecutor's objection

District prosecutor's office
Pd 4021/2001-11

12 July 2001

City Council
.....

In accordance with Section 22, par. 1, item a) of Act No. 153/2001 on prosecution, I hereby submit this

prosecutor's objection

to generally binding regulation No. 3/97 adopted by the City Council in on 26 July 1997 concerning traffic on surface road within the territory of the city of, in line with which the towing of vehicles is performed by a legal entity and/or individual authorized to do so at the expense of the registered possessor of the vehicle in question.

Article 31, par. 1 of the cited regulation constitutes a breach of the law, in particular the provision of Section 3d, par. 4, item b) of Act No. 135/1961 on surface roads, as amended.

According to Section 22, par. 1, item a) of Act No. 153/2001 on prosecution, the prosecutor shall submit an objection to generally binding regulations adopted by an organ of public administration that constitute a breach of the law, or of other generally binding regulations.

According to Section 25, par. 2 of Act No. 153/2001 on prosecution, the organ of public administration shall make a decision about the objection within 30 days after the objection is delivered. In line with Section 25, par. 3 of Act No. 153/2001 Coll., I suggest that the organ of public administration revoke the questioned generally binding regulation in Article 31 within the above limit and on the basis of its unlawful nature.

In accordance with the provisions in Section 27, par. 2, item 2 of Act No. 369/1990 on municipalities, I request that the time of the City Council's meeting be announced in due time, in order to ensure that the prosecutor take part in the hearing and discussion of the objection.

Reasoning:

On 15 June 2001, the local prosecutor’s office was urged by to examine the lawfulness of a decision made by the City Police concerning the towing of a motor vehicle.

According to Section 37, par. 1 of Act No. 153/2001 on prosecution, I asked the mayor of the city of to submit the relevant materials related to the matter in question, and to provide an explanation of individual parts of the claim.

On 11 July 2001, the District Prosecutor’s Office in received the relevant materials, which included the generally binding regulation in question.

According to the provision of Section 6, par. 1 of Act No. 369/1990 on municipalities, as amended, a municipality – in order to fulfill its tasks of government, or if stipulated by law – issues generally binding regulations valid for the territory of the municipality. Regulations of a municipality must not contradict the constitution or the law. In matters in which the municipality fulfills tasks of state administration, a regulation can be issued only based on an authorization provided by law and within its limits. Additionally, such regulations must not contradict any other generally binding regulation.

According to the provision of Section 3d, par. 4, item b) of Act No. 135/1961 on surface roads, as amended, the administration of surface roads owned by municipalities is performed by the municipalities or legal entities founded or instituted by the municipalities for this very purpose.

The aforementioned thus implies that towing vehicles can be done solely by the road administrator, which in the case of local roads is, in accordance with Section 3d, par. 4, item b) of Act No. 135/1961 on surface roads, either the municipality (city), or a legal entity established or instituted by the municipality in order to administer surface roads.

The removal of vehicles thus cannot be done by a “tow-away service” as a legal entity that was established solely in order to tow away vehicles. The road administrator cannot authorize another legal entity or natural person to tow away vehicles based on a commercial relationship, because the execution of public powers defined by law cannot be assigned to another person, not even on a contractual basis. All such legal acts, agreements or authorizations to perform tow-away services for any other person than a legal entity founded (instituted) by the municipality are beyond the scope of law, in contradiction with the law and thus are, according to Section 39 of the Civil Code, absolutely invalid, as their content and purpose contradict the law.

Due to the above, I regard the prosecutor's objection as legitimate and suggest that the generally binding regulation No. 3/97, Article 31, par. 1 be revoked and harmonized with the law, as well as with other generally binding legal regulations.

.....
Deputy district prosecutor

APPENDIX 3:**Expert opinion**

File No.: Ke – 20/2000

Košice, 27 July 2001

City Administration Office

.....

Mierové námestie

.....

Subject: Expert opinion on the letter from 24 July 2001

Based on your written request and the agreement made over the telephone, we have studied the attached documentation, the relevant legislation and literature, and on the basis of the above, we present the following

expert opinion:

The City Council in adopted a generally binding regulation concerning traffic on local roads.

According to the provisions of Article 31 of this regulation, the decision about the towing away of vehicles is made by the administrator of local roads and the act of towing away of a vehicle will be executed by a person authorized for this activity at the expense of the registered keeper of the vehicle.

The prosecutor filed an objection to the above regulation, claiming that this particular case constitutes a breach of legal regulations, because the road administrator cannot authorize any person other than a legal entity founded or instituted by the municipality to remove vehicles – due to the fact that public authority is stipulated by law and cannot be assigned to another person, not even on the basis of an agreement. The prosecutor concludes that such agreements are in contradiction to the provisions of Section 39 of the Civil Code.

We hold that the aforementioned action of the prosecutor does not correspond with valid legislation, mainly because of the following:

- the prosecutor *fails to distinguish between public administration on the one hand, and the physical execution of vehicle towing on the other* – there are substantial differences, and nothing prevents the city from contracting the performance of these activities with any company whatsoever,

- we would like to note that if the prosecutor's conclusion were legal, then even the state police could not tow away any vehicles, because its activities constitute the performance of public administration for which even the state police could not authorize any other person!!!

Based on the aforementioned assertion, it should be concluded that in this case the procedure contained in the generally binding regulation

does not contradict

valid legislation.

On the contrary, it contains detailed instructions as to how the entire legal relationship can be resolved.

In this sense – even if the regulation did not include description of authorising persons to perform the towing away of vehicles – it has no effect as to whether the city was and is entitled to conclude agreements on the performance of this type of activities. (In legal practice there are a number of cases where legislators directly assume and stipulate this – for example, in the execution of the decision in line with Act No. 71/1967 on correct procedure, it is possible to perform work at the expense of the obliged party; similarly according to Act No. 511/1992 on administration of fees and taxes, as amended.)

Best regards,

.....

JUDr. Jozef

APPENDIX 4: Ruling of the Supreme Court

Ruling on behalf of the Slovak Republic

The Supreme Court of the Slovak Republic, in a senate made up of JUDr. Daniela Sučanská, and members of the senate JUDr. Emil Franciscy and JUDr. Elena Siebenstichová, in the legal case between plaintiff **JUDr. Marek Tomašovič**, residing at Gajova 7, Bratislava, represented by JUDr. Anna Direrová, attorney residing at Gajova 7, Bratislava, and defendant **ASTER, s.r.o.**, registered address at Mramorová 7, Bratislava, represented by JUDr. Igor Huna, attorney residing at J. Poničana 1, Bratislava, concerning the payment of SKK 1,300 and appurtenances, held at the District Court Bratislava II, under File No. 19 C 234/98, upon appeal on the part of the plaintiff against the ruling of the Regional Court in Bratislava from 7 September 2002, File No. 16 Co 339/02,

has decided as follows:

The court of appeals on points of law **revokes** the questioned judicial ruling and returns the case to the Regional Court in Bratislava for further proceedings.

Reasons for the decision:

The District Court Bratislava II, by means of its decision from 28 September 2000, No. 19 C 234/98-28, obliged the defendant to pay to the plaintiff the sum of SKK 1,300 within 3 days, including interest of 17.6% applicable from 21 May 1999 until the day of payment, and within the same term to compensate for the Court's proceedings costs in the amount of SKK 200; the rest of the complaint was dismissed. The Court's reasons for its decision included that on 28 October 1998, the plaintiff parked his motor vehicle incorrectly on Hviezdoslav Square in Bratislava, on a surface road administered by the City of Bratislava – the Capital of the Slovak Republic. As a result of this, the plaintiff's vehicle was towed away by the employees of the defendant who acted upon instructions of a city policeman – the vehicle was returned to the plaintiff only after he had paid SKK 1,300, which is the flat rate paid for towing away a vehicle in accordance with Act No. 24/1998 on prices and in line with price assessment No. 24/1998 issued by the District Office Bratislava II on

10 June 1998 under File No. A98/02325-034. In this particular case, however, the vehicle was not towed away by the road administrator who would be solely entitled to interfere with the plaintiff's rights (according to Section 40, pars. 1 and 4 of Act No. 315/1996 on traffic on surface roads, and Section 3d, par. 4, item b) of Act No. 135/1996 on surface roads), but by a different entity (the defendant) who was not entitled to perform this action. The agreement on "the performance of tow-away services" from 20 June 1997, by means of which the administrator authorized the defendant to tow vehicles on roads maintained by the administrator, is invalid (Section 39 of the Civil Code) because the road administrator assigned – in contradiction to the law – a part of its public authority to a business entity (the defendant). The consequence of the fact that the plaintiff paid this entity the amount of SKK 1,300 was that the defendant acquired property which ought to be considered a benefit acquired without any legal reason (Section 451 of the Civil Code) and unjustified gain which the defendant is obliged to pay back to the plaintiff. Therefore, the court obliged the defendant to pay back to the plaintiff the required amount. However, the interest on overdue payment was granted up to the rate of 17.6% and the claim exceeding this rate was dismissed. The decision on cost compensation was made according to Section 142, par. 3, of Civil Court Procedure.

Upon the defendant's appeal, the Regional Court in Bratislava issued a ruling on 7 November 2002, File No. Co 339/02, changed the ruling of the first-instance court on the claim – which granted the plaintiff's claim and which obliged the defendant to pay to the plaintiff a compensation of costs of the first-instance proceedings – and dismissed the plaintiff's claim. Simultaneously, the court obliged the plaintiff to pay to the defendant – within three days – the costs of the first-instance and appellate proceedings in the amount of SKK 2,900. The court's argumentation led to the conclusion that by means of the agreement in question the road administrator did not assign part of its authority to the defendant (i.e. to tow vehicles that are parked illegally), but only authorized the defendant to perform technical procedures related to this activity by the defendant's employees, based on instructions given to them by authorized employees of the administrator, or by policemen of the Police Corps of the Slovak Republic. The agreement in question is not invalid, even though the costs for towing away vehicles by the towing service is contractually stipulated in such a way that the costs are paid not to the administrator, but directly to the defendant, who is the contractually authorized party. Because the plaintiff made the payment based on a valid legal act, the defendant did not make an unjustified gain that must be returned to the plaintiff. In conclusion, the appellate court also said that in this case, even invalidity of the above mentioned agreement would not substantiate the claim made by the defendant demanding a payback of the amount in question, because for the purposes of considering the legitimacy of the asserted claim the relation between the road administrator (the City of Bratislava – the Capital of the Slovak Republic) and the defendant (as the entity contractually authorized to tow away

vehicles) is legally inconsequential – what matters is the mutual legal relationship of the participants of the legal proceedings. This relationship should be assessed in accordance with Section 454 of the Civil Code, taking into consideration the fact that the plaintiff made an unjustified gain, when the defendant paid for what the plaintiff should have paid (Section 40, par. 1 of Act No. 315/1996). In light of the aforementioned, the appellate court changed the appealed ruling in the challenged part by dismissing the complaint.

The plaintiff appealed against the appellate court ruling, reasoning that the decision was based on an incorrect legal assessment of the matter, because the defendant had had no authority to even touch the vehicle and perform an act (towing away the incorrectly parked vehicle) which can only be performed by the entitled road administrator and by nobody else, as the road administrator cannot assign its public administration powers to another entity. For an assessment of the matter, it is crucial that the defendant had no right to tow away the plaintiff's vehicle and for it charge him the amount in question. If the defendant accepted the payment of this amount, she made an unjustified gain, which she must pay back to the party at the expense of whom she received the gain. The proceedings did not prove the defendant's eligibility to tow the plaintiff's vehicle, and the appellate court reached an incorrect conclusion regarding the defendant's right to compensation (for performing an act bearing the marks of unauthorised self-interest and the transfer of authority to infringe on plaintiff property as a person who is obliged to suffer this infringement, but only from bodies of public authority).

The defendant did not make any comments to the appeal.

The Supreme Court of the Slovak Republic as the court of appeals (Section 10a, par. 1 Civil Court Procedure) – upon finding that the appeal had been made in time by a participant of the proceedings (Section 240, par. 1, Civil Court Procedure), who had been duly represented (Section 241, par. 1, Civil Court Procedure) and who appealed against a ruling which can be challenged by this remedy (Section 238, par. 1, Civil Court Procedure) – examined the questioned ruling of the appellate court without ordering appellate proceedings (Section 243a, par. 1, Civil Court Procedure) to the extent specified by Section 242, par. 1 of the Civil Court Procedure, and came to the conclusion that the questioned ruling must be revoked.

The appellant justified this remedy by asserting that **I.** the decision of the appellate court was based on a finding which does not have any substantial support in the adduced evidence [Section 241, par. 2, item c) of the Civil Court Procedure in the wording effective until 1 September 2003 (hereafter referred to as “CCP”)] and that **II.** it contains an incorrect legal consideration of the matter (Section 241, par. 2, item d) of CCP).

I. The finding that is not supported by the adduced evidence is the result of the court's evaluation of evidence which does not correspond to the procedure based on Section 132 of CCP, in accordance with which the court evaluates evidence according to its consideration, namely each piece of evidence individually and all pieces of evidence in mutual connection, while paying careful attention to all that has emerged during the proceedings, including the testimonies of the participants. The finding is not supported by the adduced evidence if the court takes into account facts that have not resulted from the adduced evidence and have not emerged either in the proceedings or otherwise, or if the court does not pay attention to crucial facts proved by the adduced evidence or emerging from the proceedings, or if there is a logical contradiction in the court's evaluation of adduced evidence or facts that have emerged from the proceedings. The finding is not substantially supported by the adduced evidence if it relates to such substantial facts as are significant from the point of view of material and legal consideration of the matter.

The finding by the appellate court that the plaintiff's vehicle, which was parked on a parking place reserved for residents of the pedestrian zone (on Hviezdoslav Square in Bratislava), obstructed road traffic is not fully supported by the adduced evidence (written protocol, Sh. No. 3 of the materials gives a different reason for towing the vehicle). Nevertheless, when considering whether this is a finding substantially supported by the adduced evidence, the court of appeals based its assessment on the fact that Act No. 315/1996 on traffic on surface roads as amended (hereinafter referred to as "Act on road traffic") in the matter in question authorised the plaintiff's vehicle to be towed away in any case, as it was left on a place where stopping or standing (by a vehicle of a person other than a resident of the pedestrian zone) is prohibited (see Section 40, par. 4, item c) of the Act on road traffic). Taking this into account, and in reference to the objection made by the appellant, the court of appeals concludes that the conclusion reached by the appellate court, namely that the plaintiff's vehicle obstructed road traffic, is probably based on a finding which is not supported by the adduced evidence, and which is not related to a fact that would be significant from the point of view of material law, as the road administrator had the right to tow away the plaintiff's vehicle in any case.

However, if the appellant maintains that the appellate court's finding, which is not substantially supported by the adduced evidence, relates to the amount that belongs to the entity that was entitled to tow away his vehicle, the appellant must be agreed with. The court of appeals notes that Section 40 of the Act on road traffic (i.e. in pars. 1, 4 and 5) assumes in any case that a vehicle be towed away at the expense of its registered possessor. Because this expense is different in each individual case when a particular vehicle is towed (depending on the distance between the location from where the vehicle is towed and the location to which it is transported, as well as on transport technology and the means used for towing away the vehicle), under

no circumstances can the definition of a “flat rate paid for towing away a vehicle” be applied, but rather it is necessary to determine specific costs, i.e. costs truly, demonstrably and in the particular case directly undertaken for towing the vehicle (see ruling of the Supreme Court of the Slovak Republic, File No. Cdo 108/01).

In the matter regarding the reimbursement costs to which the entity authorized to tow the plaintiff’s vehicle was entitled, the appellate court did not examine the amount of these costs at all. Taking this into consideration, the plaintiff must be agreed with that the questioned ruling, from the perspective of the amount of costs for the towing of the vehicle, is based on a finding which is not substantially supported by the adduced evidence (Section 241, par. 2, item c) of CCP).

II. A legal ruling is an activity performed by the court during which the court uses findings to make legal conclusions and to apply a concrete legal standard to the state of facts as observed. A legal ruling is incorrect if the appellate court considered the matter according to a standard which does not affect the state of facts in question, or if it determined the legal standard correctly but interpreted or applied it incorrectly to the given state of facts. In case of an appeal justified by the claim that there has been an incorrect legal consideration of the case (Section 241, par. 2, item d) of CCP), the task of the court of appeals is to consider whether the appellate court used a correct legal provision and whether it was correctly interpreted.

In line with the provision of Section 4b of Act No. 135/1961 on surface roads (hereinafter referred to as “road act”), local roads mean all generally accessible and used streets, parking lots owned by municipalities, and public spaces serving local transportation purposes and included in the network of local communications; according to Section 3d, par. 5, item c) of the road act, administration of surface roads is performed by municipalities, or legal entities founded or instituted by the municipalities for this specific purpose.

In this case, the defendant is not a municipality or a legal entity founded or instituted by the municipality in question (The City of Bratislava – Capital of the Slovak Republic) (see extract from the Commercial Register of District Court Bratislava I – Section Sro, File No. 2440/B). Therefore, it remained to specify whether the act of towing the plaintiff’s vehicle by the defendant could – as part of the considered matter – be deemed an act of towing performed by the municipality (The City of Bratislava – Capital of the Slovak Republic).

The removal of a vehicle without the consent of its registered possessor is a major infringement of ownership rights which is permissible only on the basis of law. Because Section 40 of the Act on road traffic is part of public (administration) law, the administration of roads constitutes public legal relations, not private. The

removal of a vehicle is not a private legal act which would allow representation by a business entity or contractual authorization according to which the business entity would be entitled to act in the area of public legal relations. When towing away a vehicle, the road administrator acts as a body of public authority (administration) bearing full responsibility for the execution of this power and cannot contractually assign this power to another entity, not even as far as its technical execution (the actual towing away of vehicles) is concerned. This measure, considering the nature of the relationship within which it is to be constituted, can be carried out only by the authorized municipality itself, or by a legal entity founded or instituted by the municipality for this very purpose (compare Section 3d, par. 5, item c) of the Act on road traffic).

Taking into account the aforementioned, the legal conclusions based on which the appellate court decided to grant the plaintiff's complaint do not bear up. The City of Bratislava – Capital of the Slovak Republic was not in this case entitled to assign the powers of the road administrator to the defendant, and so the defendant was not entitled to tow away the plaintiff's vehicle and request from the plaintiff to pay the costs of this action.

For the aforementioned reasons, the Supreme Court has come to the conclusion that the appeal is justified. Taking this into account, the Supreme Court has revoked the ruling of the court of appeals in line with Section 243b, par. 1 CCP and has returned the case for further proceedings (Section 243b, par. 2 CCP) in which its legal opinion shall be binding for the court of appeals.

In a new decision, the court will decide on the costs of the first-instance and appellate proceedings (Section 243d, par. 1. CCP).

Instruction: No remedy can challenge this ruling.

In Bratislava, on 26 February 2004

JUDr. Daniela Sučanská [autograph], chair of the senate

Responsible for correctness:

The Supreme Court of the Slovak Republic

TEACHING INSTRUCTIONS

1. Approach

The broader context of this case study focuses on the issue of deciding on appropriate provision of public services. Therefore it would be suitable in teaching courses related to public policy instruments, microeconomics, analytical approaches and decision-making in the public sector, and public administration. The case study is meant to help understand the essence of deciding on appropriate forms of providing public services; the difference and relationships existing between the submitter and the supplier of public services; and how effectively to define provision of public services. The students are to recognize key factors, discussed in course readings, which block the implementation of service delivery. Moreover, the aim of the case study is to sensitize the problem of accountability when services are privatized. In discussion, the instructor should build on theories of providing public services through various means and forms, from direct provision by the government/administration, through contracting or outsourcing, to new forms of public-private partnership (PPP).

The length of time given to studying the case depends on students' experience, thus we recommend applying it in a gradual way, or selecting individual questions based on suitability.

The key literature students should have mastered before working with this case study is:

Beblavý, Miroslav - Sičáková – Beblavá, Emília. *Institutional Dilemmas in Provision of Public Services*. Bratislava: TIS, 2006.

Friedman, Lee S.. *The Microeconomics of Public Policy Analysis*. Princeton, NJ: Princeton University Press, 2002.

Osborne, David - Gaebler, Ted. *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*. Plume, 1993.

Salamon, Lester (ed). *The Tools of Government: A Guide to the New Governance*. Oxford: Oxford University Press, 2002.

Staroňová, Katarína – Sičáková-Beblavá, Emília (eds.): *Public Policy and Local Administration: Four Principles of Behavior*. Bratislava: Ústav verejnej politiky, 2006.

Wood, Len - Baker, Joe. *Tales from the Trenches*. Rancho Palos Verdes, CA: The Training Shoppe, 2003.

Weimer, David – Vining, Aidan. *Policy Analysis: Concept and Practice*. 3rd ed. New Jersey: Prentice Hall, 1992.

2. Recommended work with the case study

Task List A Questions

Task A1

Answering this question requires consideration of basic theoretical approaches to administering public issues, and trends in public administration reform. Students should contemplate the public administration approaches of Weber, New Public Management and Governance. Students are urged to identify the elements of each approach in official documents as well. The goal is to understand that preferring a particular approach may be based on ideology, but there exists no one correct model for determining the suitability of a specific form of providing public services; the relevant organizational form depends on the public sector's goals.

Task A2

Prior to any decision on subcontracting services, it is important to examine the activities that comprise the service or public policy in question (and which of these activities are suitable for contracting). When examining the activities performed by the local government, it is necessary to distinguish between the following:

- market activities: mostly support activities aimed at performing key tasks;
- market activities with a necessary level of regulation (ensuring a quality standard);
- non-market activities: so-called key activities, such as conceptual, controlling, monitoring and regulatory functions.

David Osborne describes the difference between “steering” and “rowing” as follows: “Does the activity by its nature require the making of policy, or is it an activity that involves the implementation of policy that has already been established.”

Although it is often difficult to decide on the specific type of activity, students ought to attempt to divide the “towing away of vehicles” policy into smaller units. One of the ways activities can be analysed is their division into one of the five categories³ listed

³ *Rebuilding State Structures: Methods and Approaches* UNDP/RBEX Policy Advocacy Papers UNDP 2001.

in the table below. This is useful because the table earmarks various activities and responsibilities that will be included. It is likely that the new public policy will require more than just one activity. The individual activities may then be organized in various ways, or can even be assigned to various organizations (public, private or mixed).

Table 1
Examination of activities

Creation of public policy		Supporting (market) activities			
Key (core) activities	<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">I. Police (decision on towing away)</td> <td style="width: 50%;">II. Accounting, human resources</td> </tr> <tr> <td>III. Monitoring service quality</td> <td>IV. Technical towing</td> </tr> </table>		I. Police (decision on towing away)	II. Accounting, human resources	III. Monitoring service quality
I. Police (decision on towing away)	II. Accounting, human resources				
III. Monitoring service quality	IV. Technical towing				
Implementation of public policy					

The most important thing for students to realize is that the effectiveness of providing public services is brought about by market pressure and not by the private sector per se. Thus it is possible to have a market within the public sector, or alternatively no market within the private sector (a monopoly, etc.). Activities in sectors II, III and IV are potential candidates for a market solution. Sectors II and III are more suitable for the public sector (as they are more central activities), but can also be covered by the market. It is important that when preparing their analyses, the students do not forget the necessity of monitoring public services, particularly if they were contracted (preparation of contracts, contract performance, assessment of quality of the provided services, drawing up reports, etc.).

Task A.3

The students ought to be able to prepare several options of their solutions and assess them according to selected criteria. Here the instructor can underline the difference in options relative to the differing goals defined (is the problem in the quality of the towing service, the number and accessibility of parking spaces in town, traffic safety and flow, etc.).

The basic literature relates to ex ante analysis of individual options, using criteria that make it possible to compare the options. These criteria focus on the extent to which the individual options suggested contribute to the solution of a specific problem (achieving the goal defined). In general, two types of criteria can be distinguished:

- a) regarding content objectives of a specific public policy, i.e. efficiency and quality of the service provided;
- b) regarding general objectives of the creation of a public policy, i.e. relevance, transparency, effectiveness, equality, legality, political acceptability, etc.

After evaluating the potential options of the problem's solution or the strategy of exploiting opportunities, it is useful to show all available information in a visual form. One method is to use a matrix in which the students can develop each option both quantitatively (calculate financial, time and property aspects, work performance demand, etc.) and qualitatively, i.e. by description (assumed risks, problems) in relation to the individual objectives specified. For example, when assessing the possibilities of operating a tow-away service in a fictitious town, the first option presented by the students should be the current public policy (the so-called "zero option"), i.e. that tow-away services are provided and performed by the town itself. The other two options assume contracting this service to a private company (option 2), or setting up a town-owned company for this purpose (option 3); students would then compare these with the current status (see proposed result in Table 2).

Table 2
Instructions to evaluation of options – tow-away service

Overview of options Evaluation criteria	Option 1: the town performs towing internally by town administration employees. This is the current status and so-called zero option	Option 2: service contracted to a private company	Option 3: service performed by a town-instigated company
Qualitative criteria Define individual quality standards of the service performed. Clear quality standards are necessary for each option.	Decision of the local government.	Subject of bid (public procurement); when selecting a service provider can also include quality standards.	Decision of local government when assigning the task.

<p>Required technical equipment</p>	<p>Does the town have the technology and equipment needed to tow away all types of cars? If not, can it afford to buy such equipment?</p>	<p>Will the necessary technical equipment be provided by the service provider?</p>	<p>Will the town rent the technical equipment to the town-owned company? For how much, how long and how will the price be set?</p> <p>Will the town-owned company take a bank loan to purchase the equipment? What impact will this have on the town?</p>
<p>Speed of service provision</p>	<p>It is the decision of the town what standards the service should comply with. It is necessary to enable monitoring and evaluation of the service.</p> <p>Consider what speed of service the town can afford to provide.</p>	<p>Offers are received through public procurement procedures. Quality standards can be pre-defined by the town.</p> <p>Standards should be defined precisely in the contract.</p> <p>It is also necessary to consider the difficulty of preparing the contract and its subsequent enforceability.</p>	<p>The town will specify a minimum standard in order to enable monitoring and evaluation of the service.</p> <p>Consider what speed of service the town can afford to provide.</p>
<p>Equality (proportional towing from all streets)</p>	<p>It is necessary to direct the proportional towing from all town streets, and monitoring whether this is performed.</p>	<p>It must be clearly defined in the contract and execution must be monitored.</p>	<p>It must be clearly defined in task instructions and execution must be monitored.</p>

<p>Distance of vehicle storage.</p>	<p>Distance of vehicle storage affects fees as well as citizen satisfaction/dissatisfaction. On the other hand, land in the centre of the town is more expensive than on the periphery. This is a political decision which affects the level of satisfaction with the service.</p>	<p>Distance of vehicle storage affects the fees as well as citizen satisfaction/dissatisfaction. On the other hand, land in the centre of the town is more expensive than on the periphery.</p> <p>Therefore, it is also important to consider these issues when selecting the service provider as part of public procurement.</p>	<p>Distance of vehicle storage affects the fees as well as citizen satisfaction/dissatisfaction. On the other hand, land in the centre of the town is more expensive than on the periphery. This is a political decision which affects the level of satisfaction with the service.</p>
<p>Financial criteria – means of financing the service</p>	<p>Several alternatives are available related to the quality of the provided service, as well as to the town's financial possibilities.</p> <p>The town can decide to subsidize the service, to set a fee that would cover all costs, or to set a fee that would bring extra income. The town makes the decision on the amount of the fee following a decided analysis.</p> <p>It is necessary to consider the number of people who take part in the performance of the service at the office, number of field workers, technical equipment, storage area costs, overhead costs, etc.</p>	<p>Alternative suggestions can be included in the submitted offers. The town decides on the manner of financing the service, which is then specified in the contract.</p> <p>Apart from direct costs related to the definition of standards, selection procedures and contracting, it is also necessary to consider the costs of monitoring and evaluation of the service by the town office.</p>	<p>Several alternatives are available related to the quality of the provided service, as well as the financial possibilities of the town-owned company and the town.</p> <p>When considering costs for service provision, it is necessary – apart from direct costs related to the definition of standards, selection procedures and contracting – to take into account the costs of monitoring and evaluation of the service by the town office. Moreover, it is important not to forget costs related to the set up and administration of the town-owned company (also depending on the manner of its financing).</p>

Lawfulness criterion	no risk	There is risk due to the ruling of the Supreme Court of the Slovak Republic regarding the impossibility of providing this type of service via a private company.	no risk
Criterion of political acceptability	Political acceptability is influenced by, for example, the ideological preferences of the decision-makers.	Political acceptability is influenced by, for example, the ideological preferences of the decision-makers.	Political acceptability is influenced by, for example, the ideological preferences of the decision-makers.

Source: Staroňová – Sičáková-Beblavá (2006).

This display/analysis is also transparent for other agents, and enables demonstration of each advantage and disadvantage of individual solution options. At the same time, other visual aids can be used (colours, highlighting, font) to show the level at which each option meets the set criteria and objectives, and to find the optimal option. If there are several decision-making criteria, it is necessary to set up a system of prioritisation or weighting, aimed at expressing the relative importance of individual criteria. For example, when deciding on the type of the towing service, the following significance can be assigned to individual criteria: speed of service provision, and/or 24-hour coverage – 50%, proportional towing from all streets – 30%, and extra income – 20%. This transparent method also enables the assessment of each option’s impact – financial or social (on individual groups of citizens, minorities, etc.), as well as environmental and economic (on the business environment).

Task A.4

Students should be able to assess whether the chosen option can be carried or not in the environment of existing stakeholders. In doing so, it is important to realize that stakeholders in public policy are **individuals, groups** and **organizations** which (see Table 3 that can serve as a theoretical framework for analysis):

- play an important role in the decision-making/performance of public policy: include **participants in the decision-making and acting process** (mostly different public administration institutions, e.g. organizations subordinate to the ministry, courts, higher territorial units, local state administration, etc.);

- are interested in the solution of this issue, as part of the public policy programme: these are the so-called **interest groups** (business subjects, NGOs, professional associations, etc.);
- are influenced by the current state or a future solution, i.e. by the impact of public policy: **the public** (including its individual sub-groups), business sector, NGOs.

The key piece of information is that town administration has approved the Plan of Economic and Social Development of the town of Korenice for 2004-2006 and 2007-2015, which is strongly pro-market oriented (with an ideological rather than analytical emphasis). That is why strategy ought to be considered in this respect.

Weimer and Vining suggest various types of strategy, from co-opting, through awareness, all the way to commitment. However, this can include negotiation, use of information tools, awareness raising, lobbying, etc. Students ought to be able to create and apply relevant strategies.

Table 3
Political Assessment of the Actors

Objective	Attitude		Influence		Activity (strategy)
	Estimate	Estimate certainty	Estimate	Estimate certainty	
Individuals Groups Organizations	++ + 0 - --	✓ ? ?? ???	H S M		

Note: H-high, S – small, M – medium, ? – unknown, ++ high support, + support, - opposition – resistance, 0 - neutrality

Task List B Questions

Task B1

When analysing public sector activities, especially in situations when public costs must be compared with the costs of private providers, miscalculations frequently occur. Besides considering easily identifiable direct costs, estimating real costs requires the inclusion of a proportion of indirect costs.

Otherwise, when making comparisons with the private sector (which, apart from direct costs, has to calculate overall costs including the price of capital), an underestimate of costs in the public sector can lead to incorrect decisions.

Students should be able to identify the basic types of direct and indirect costs related to the provision of the service.

Table 4
Examples of direct and indirect costs

Examples of direct costs	Examples of indirect costs
Employees' wages (taking into consideration how much of their working time is spent directly on providing the service in question)	Buildings and physical infrastructure
Technical equipment, facilities, motor vehicles	Proportion of use of other services (accounting, payroll, cleaning...)
Consumer goods	
Office costs	
Energy, petrol, etc.	
Services (e.g. training of employees, maintenance and repairs of used facilities)	

The answer to this question therefore requires a consideration of other public sector costs as well, such as those related to the activities of the town police or employees of the town administration whose mutual collaboration is necessary at various levels.

Students and public sector employees often wrongly assume that adding new activities must be done within existing resources. If an organization really has a surplus of resources (human resources, space, etc.), then additional costs might be low. Generally speaking, however, it is important to realize that if unused resources do exist, there are probably real savings possible.

Task B2

Building on the previous task, the goal is to prepare a basic draft Cost-benefit analysis. This requires defining both alternatives and gradually considering both types of expected costs and benefits.

The task facilitates consideration of costs and benefits for individual groups of the stakeholders affected by the situation (Task 4 answers can be used).

Depending on the level of the students and goals of using the case study, the CBA can be prepared at various levels of detail. For estimating individual types of costs, the data used can for example involve information on wages in the public sector.

Task B3

In connection to the previous two tasks, it is possible to consider what data would be needed for optimal decision-making.

When working on this task, quantitative and qualitative data can be distinguished and different methods of data collection can be identified.

It is necessary to distinguish between the data collected in the monitoring process and the data needed for the evaluation process – what matters here is the purpose for which the data is collected.

Table 5
Examples of monitoring and evaluation data

Monitoring	Evaluation
Basic administrative data <ul style="list-style-type: none"> • number of towed vehicles • fines collected 	Impact of the service on traffic <ul style="list-style-type: none"> • estimated savings resulting from fewer public transportation delays
Cost data <ul style="list-style-type: none"> • work time of individual employees • fuel consumption • rate of wear on vehicles • costs of repairs and maintenance of equipment 	Impact on owners of towed vehicles <ul style="list-style-type: none"> • average time until vehicles are picked up • travel costs
Feedback from citizens and media reaction	Direct and indirect impact on the business environment, ecology, etc.

The key information is that monitoring is also costly – some data may be desirable for decision-making, but costs spent on its acquisition exceed the expected benefits of improving the programme through use of this data. A potential extension is the estimate of costs/burden of collecting individual data (administrative data collection, surveys, external evaluations, public assessment, etc..) and/or preparation of monitoring strategies.

CASE STUDY 3

EDUCATION OF ROMA CHILDREN: A CASE OF USING STATE POLICY INSTRUMENTS IN PROVISION OF LOCAL SERVICES

BY ŠTEFÁNIA KOŠKOVÁ AND ANDREJ SALNER

Abstract

Services provided by local governments should contribute to social cohesion – primarily through being equitable and accessible. The provision of services at the local level by villages and cities in Slovakia has, since the latest wave of fiscal decentralisation, reached a level where the local government can plan more effectively and manage the distribution of resources to improve the quality of services provided.

This case study looks at the possibilities for an ethnically mixed Slovak municipality as the overseer of local primary schools to use new instruments of state social policies based on the concept of incentives rather than coercion. The case study explores two fictional composite villages with a high percentage of Roma, drawing on features and experience of several specific Slovak villages and their differences in took on the new system of authority and financing. Although neither of them appears on the map, you will find many others dealing with similar problems, experiencing similar situations and achieving similar successes.

CASE STUDY

LIENKOVCE

Lienkovce has 1,075 inhabitants, 330 of them Roma. A few years ago there were two kindergartens in Lienkovce. The so-called Roma kindergarten was located directly in a Roma settlement and filled to capacity – there were plenty of children and parents were happy with the service.

In the other kindergarten, located in the centre of the village, the number of children has been gradually declining since the mid 1990s, threatening its very future. It shared a building with the primary school, and was financed through a normative formula-based system.

The mayor of Lienkovce was troubled, not only because of the hole in the budget created by financing two facilities but also because of the obvious ethnic segregation – he was of the view that it would be better for ethnic coexistence if the children were educated together from a young age. He also knew there were prejudices and fear on both sides, and was afraid of a boycott by one of the groups if the kindergartens merged. Under the pressure of changes in financing, placing kindergartens within the original powers of the local government including a fiscal transfer tied to the existence of a kindergarten, he decided he had to take the risk.

Parents of Roma and non-Roma children did not welcome the change, as he had expected. Yet together with staff at both schools and through patient reasoning about expected benefits for both groups he succeeded in getting a large share of parents in both groups to enrol their children. It probably helped that the mayor invested some funds from the municipal budget in new, modern equipment for the kindergarten, anticipating savings from the two former institutions' physical plant and administration.

The municipality successfully applied for a specific subsidy for capital repairs from the Ministry of Education, using a loan to co-finance the missing half of the costs. The mayor is trying to lead the kindergarten director and her staff to motivate pupils to ease their progress to primary school.

As a part of social reforms aimed at increasing incentives to work, a set of instruments was created at the national level to help low-income families and families receiving social benefits by providing children with a subsidy for school meals and a separate subsidy for school materials. This improved school attendance and increased by over a half the number of children progressing to secondary schools.

The school employs three teacher assistants to help Roma children with the transition. They help in the teaching process but also in communication with parents.

The school has applied for meal subsidies – since over 50% of its pupils are entitled to the subsidy; the benefit is automatically extended to all children to prevent animosities. Lunches for all are at a nominal cost manageable even for most families on social benefits. For many children the promise of a warm meal keeps them in school all morning, reducing absences. Some children have now joined the school's after-school programme, where with teacher assistants they work on their homework and engage in various learning activities. A separate subsidy for teaching materials for children from low income families and families on social benefits allowed the mayor to buy children coloured pencils, notebooks and textbooks. In the past, many children from poor families felt ashamed in front of their classmates, as they often did not even have a pen to write with, contributing to poor attendance.

The paperwork for the subsidies is significant, but in Lienkovce they say that if you see results there is no point complaining.

Some children require an individual learning programme, coordinated with special education teachers and psychologists. This helps them keep up with their classmates. It also keeps them attending Lienkovce's school rather than a special school run by the state directly through the Regional Board of Education. Select integration is also used for some children with good results, with great help from teaching assistants who have time to work with individually integrated pupils closely.

What in the mayor's opinion is the most interesting effect of efforts and investment in education? Over the last decade the number of non-Roma children has declined. Every year fewer and fewer showed up to enrol in primary school. The Roma children became a majority and many non-Roma parents saw this as a reason to enrol their children in another neighbouring municipality with fewer Roma. However, over the last two years the number of non-Roma pupils has bottomed out, and the mayor believes this is a result of gradually changing attitudes. During the enrolment period parents were shown around the whole school, learning about the school's activities, pupils' achievements and future plans. There is optimism in Lienkovce, and they believe that the numbers of pupils will keep rising.

HOVNIVÁLOVCE

Hovnivalovce is a village of 1,539 inhabitants, some 400 of them Roma. School conditions in Hovnivalovce have not changed since the early 1990s, when segregated schooling of the Roma became the norm in the village. The school constructed

a new building where non-Roma children attend, while Roma children remained on premises that have been deteriorating. The old school became known to all as the Roma School, as it was attended exclusively by Roma children from the settlement. At present it is in extremely poor condition, its operation costing a lot of money while it fails to meet standards in terms of equipment and facilities. The Hovnivalovce kindergarten has 27 children in attendance, all non-Roma.

Although a non-governmental organisation working with children from the Roma, the community has been active in the village for a long time. The activists have helped many children improve school performance, enrol in and complete secondary school, but at present no Roma children are enrolled in secondary schooling at all. The principal says that although eight Roma children enrolled in secondary school last year, they have all dropped out.¹ For the school year 2006/2007 no Roma pupils have enrolled in secondary school despite efforts by activists. In addition to a lack of interest in secondary school, absenteeism in special classes of the primary school is widespread – the mayor of Hovnivalovce says they have so far failed to find a way of addressing the problem. He believes the problem lies somewhere between the school's attitude and the attitude of pupils and their parents, but he does not see a way out.

The number of pupils in Hovnivalovce in the previous school year was 327, 86 of which are Roma. There are 42 Roma children at pre-school age not attending kindergarten, 22 of which are below three years of age and 20 over three. Nine Roma children are entering the first grade.

Public policy framework

The basic framework for thinking about the possibilities of local governments in providing education is determined by current legislation on the management and financing of primary and secondary schools. Measures and programmes of the Ministry of Labour, Social Affairs and Family serve as an additional instrument aiming to assist families in poverty. Their use can provide a much needed incentive for families and pupils.

The range of possibilities – manoeuvring room for local policy makers in the provision of education – is limited by the municipal powers given by education law². The municipality has served as the overseer for primary education institutions since

¹ Ten years of school attendance are mandatory in Slovakia. Primary school takes nine years. Children who do not repeat a grade in primary school must enrol in secondary school but can drop out after the first year.

² Law on State Administration and Self-Administration in Education, 596/2003.

2003. The municipality can establish and abolish primary schools in its territory and is directly responsible for their functioning. These are the powers transferred to municipalities by the state – the method of financing is described in greater detail below. Within its so-called original powers municipalities can establish and abolish kindergartens, school dining facilities for primary school children and kindergartens and other educational facilities such as primary afternoon art schools, free-time centres, etc. The municipality can also propose to the Regional Board of Education the creation of special classes for pupils and children with special educational needs and children with special talents.

Municipalities carry out these responsibilities by means of deciding on capital and current expenditure on individual schools and facilities within their auspices, using funds from the state budget and their own resources. Financing decisions are governed by strict rules. When municipalities make changes in the school network (e.g. merge schools, create special classes, create new schools) they must take account of the effects on the municipal budget. In practice, the effects are often left without analysis, especially the longer-term effects. Potential effects on interethnic relations, coexistence of communities and development of human and social capital are also often not explicitly analysed.

Education financing

Since 2005 municipalities have started receiving a new budgetary package to aid in carrying out their authority in the area of education – they receive a share of the proceeds of individual income taxes collected at the national level for their original powers in the area of education.³

The most visible impact has been on capital investment in school buildings and facilities. As communal property, these are a part of its original powers, and their repairs and upgrading are left up to the municipality, financed by municipal budgets which include the proceeds from individual income tax. In the case of primary schools, with power transferred to municipalities by the state, capital investment is also handled by municipalities, though the Ministry of Education may provide special subsidies for emergency repairs.

These new demands on municipal budgets and the need for investment in school buildings is reflected in the method of calculating each municipality's proceeds from income taxes – 40% of total receipts of individual income tax are distributed

³ Law on Budgetary Assignment of Income Taxes to Territorial Self-Governments, 564/2004.

to municipalities on the basis of the number of children in school facilities (not including primary schools, which are financed separately), depending on the number of children enrolled as of September 15 of the previous year. Every enrolled child is calculated at a special coefficient depending on the type of school facility attended (see table below).

This is an interesting factor in decisions on creating or abolishing educational facilities, as municipalities without kindergartens, primary schools, art schools and school facilities receive no share of the above-mentioned 40% allocation. Besides this, the more children enrolled the more money the municipality receives.

The demographic reality for most municipalities is a declining number of children at kindergarten age and age of enrolment in primary schools. In Roma communities, especially those living in segregation or separation, in the so-called Roma settlements, this trend has been slowed somewhat – municipalities with Roma settlements usually do not have to worry about not having enough children, only about getting them involved in education. In practice this means, thanks to high numbers of Roma children, that municipalities will continue to receive higher funding for education, with potential benefits for all children and the municipality itself. The share of income taxes can be budgeted by the municipality itself as it deems appropriate: for wages and operation of schools and investment in buildings, but also in areas other than education. In a sense, higher numbers of children represent a potential financial resource for municipalities allowing the existence of schools where they may not be viable otherwise.

Transfer of authority from the state now carried out by municipalities, in particular in primary education, is financed from the budget of the Ministry of Education through a normative (formula-based) system. The normative is the amount of funding corresponding to one enrolled pupil. It consists of an allocation for wages and another for operation – the philosophy being that the school needs both facilities and staff to provide education.

The portion of the normative for wages depends on the type of school, type of study field, form of study (full-time vs. part-time) and language of instruction. The operating expenses portion of the normative takes into account mainly the climatic conditions and costliness of the field of study.

Almost all funding for primary education from the Ministry of Education is allocated in this normative way, based on the number of pupils with individual coefficient adjustments. In 2005, 96% of the total budget for primary and secondary schools from the budget of the Ministry of Education was allotted based on normatives, 3% for other specific allocations and 1% for capital expenditure (see above).

Of the share not distributed through normatives, most (about 60%) is allocated to a system of education vouchers used by children to enrol in after-school activities – the vast majority of this money can find its way into the municipal budget if such activities are on offer. A further 26% goes to municipalities for school transportation and teaching assistants.

This overview of funding distribution for primary and secondary schools by the Ministry of Education suggests that municipalities can improve education services not only by optimising costs of schools (reducing the number of separate schools in operation) but also by providing other education services (kindergartens, art schools) beyond those mandated by law, providing room for development and innovation.

Schools receive funding either from the state budget allocation to municipalities or from other sources. 8% of the money spent by schools in 2005 came from sources beyond the allocation from the Ministry of Education, with some 40% of this amount coming from budgets of municipalities and regions (which operate secondary schools), mostly for capital expenditure.

These 2005 data show opportunities for municipalities to implement their own policies in education with potentially significant budgetary impacts.

Other financing instruments

Other measures aimed specifically at children from socially disadvantaged environment can be used to improve services for all.

In villages like Lienkovce and Hovnivalovce, which have inspired this case study, schools have access to additional resources in addition to those from the Ministry of Education and their own budgets through programs aimed at improving equity. These financial instruments – subsidies for food and learning materials and a separate subsidy for merit-based scholarships – were introduced by the Ministry of Labour, Social Affairs and Family in 2004.

In practice the municipality has to apply for these as the overseer of the school, on behalf of all children enrolled from families receiving social benefits or from those whose income over the past six months was below the state-defined subsistence level. If such children make up at least 50% of all pupils, the subsidy can be received for all children regardless of family income. The same principle applies for subsidies for learning materials and subsidies for school meals. For merit-based scholarships these are allocated individually according to grades, for children from the same group of families.

Annexes 1 and 2 contain detailed descriptions of financing of original and transferred powers, as well as information on the subsidies system.

Summary

Examples from Lienkovce and Hovnivalovce show the practical dilemmas for mayors stemming from the new systems of financing, as well as the fact that these additional funds can be obtained and used for general benefit where there is will and interest. In the past it was common for schools to try to “get rid” of Roma children and push them into the special education system of special schools or create separate classes for them in a separate building (as was the case in Hovnivalovce). This was beneficial for the municipality – it did not have to deal with specific needs and issues related to these children, who often spoke a different language, had different needs and habits and came from a group towards which the majority population often holds prejudices. Funding received by schools was not directly tied to the numbers of children and how they are being educated. From the municipal perspective it did not matter how many schools there were and whether “their” children attended special schools or the regular primary school.

All this has changed with the transfer of authority and fiscal decentralisation reform. Today these issues make a difference: in determining the share of income taxes received by the municipality and the amount of normative financing. If most children in the municipality attend a special school (run by the state Regional Education Office), kindergarten is attended by non-Roma children only, etc., then the municipality is giving up a significant portion of possible resources it could receive if these children were enrolled in its education facilities.

Indirectly, the financing system motivates municipalities to provide more inclusive education services.

TASKS FOR STUDENTS

Task A

1. Is the placement of Roma children in special primary schools, or special classes of standard primary schools, an agent of disadvantaging them? If education occurs in a segregated manner (by school, class or other means), what conditions must be fulfilled in order for this approach to be acceptable in terms of equal opportunity?

2. In your opinion, are there cases where integration might be disadvantaging? Should desegregation be instituted no matter what, or are there situations when it has to be weighed carefully? Name some factors that might be taken into account in desegregation.
3. What public policy instruments can guarantee integration in education?

Task B

How would you help the mayor of Hovnivalovce? He is in an unenviable position. NGOs, parents and school employees come to him all the time, accusing him of various deficiencies, from racism to laziness and incompetence.

1. You have the chance to become his education advisor for a day. What measures would you recommend to him to improve the educational situation and what would be their budgetary implications?

But be prepared – the mayor has years of experience and is very sceptical. As arguments, use not only numbers but also possible non-financial benefits for the municipality and its inhabitants.

2. Based on the data below and measures you propose, as well as available information on school financing mechanisms, estimate the following figures and use them to argue your case on how to organise the education system in *Hovnivalovce*:

Normative contribution for personnel expenses	
Normative contribution for operations	
Non-normative contribution requested from the Ministry of Education (annual estimate)	
Funding from share of income taxes of individuals	
Other subsidies the school may receive	
Overall 2006 education budget	

Some data required for the calculation are below. You may use outside sources to locate other information you may require.

This calculation shows the share of income taxes of Hovnivalovce given the current status of the education system:

Inhabitants as of 1.1.2005 (persons)	Inhabitants over 62 years as of 1.1.2005 (persons)	Coefficient-augmented number of pupils as of 15.9.2005 (persons - adjusted)	Share of personal income tax in 2006 in SKK thousands
1,539	199	1,319.0	6,280

And this is how they reached the coefficient-adjusted number of pupils:

Kindergarten								
Actual numbers			Coefficients		Coefficient-augmented numbers			
Original	Under age 3	Total	Under age 3	Over age 3	Under age 3	Over age 3	Coefficient-augmented total	
0	27	27	61.0	31.0	0	837	837	
Dining facilities – potential meal recipients								
Original			Coefficient				Coefficient-augmented total	
241			2				482	
Coefficient-augmented number of pupils as of 15.9.2005							1319.0	

Normatives for schools and school facilities for 2006 (In SKK)

Category: Primary schools	
Wage normative	18,422
Education normative	666
Operating normative other than heat	1,554
Further education of teachers normative	92
Heat normative for schools in the 3 rd group	2,585

Other specific normatives	Coefficient augmenting the standard normative
Wage normative and education normative for 0 th year pupil	1.70
All normatives for an individually integrated pupil	2.50

Primary schools – Personnel, Economic, Operating and Heating Intensity

Personnel intensity coefficient	1.323
Economic intensity coefficient	1.161
Operating intensity coefficient	1.000
Heating intensity coefficient in the 3 rd group	1.114

Task C

Based on the normatives outlined above, discuss the incentive structure the financing mechanism creates for individual municipalities. What are they motivated to do more of or less of?

TEACHING INSTRUCTIONS

1. Approach

The goal of the case study is to examine the results of various local government approaches regarding the use of state-provided instruments for educating children from socio-economically marginalized nationalities, using examples from real Slovak municipalities.

It can be applied to teaching subjects in three areas:

- *educational policy* to illustrate problems of educating children from marginalised groups;
- *local government* to illustrate local government decision-making, both regarding education and in general, for example in resolving ethnic discord through the local government;
- *public policy instruments* to illustrate the use of instruments offered by national policies in local education administration.

The length of the lesson depends on the purpose; if necessary, it can be supplemented with comparative real studies from other countries.

Literature recommended in support of this case study is:

Salamon, L. (ed.): *Tools of Government: A Guide to the New Governance*. Oxford, OUP 2002.

Salner, A. (ed.): *Rómske deti v slovenskom školstve*. Bratislava, SGI 2004.

Tomatová, J. *Na vedľajšej koľaji. Je proces zaraďovania rómskych detí do špeciálnych základných škôl znevýhodňujúcim činiteľom?* Bratislava, SGI 2004.

2. Recommended work with the case study

Task A

In educating Roma children, as in general in educating minorities, we can identify two contrary approaches: emphasis on integration as a means of erasing differences, versus emphasis on separate but equal education. There are philosophical, ethical and purely pragmatic arguments in favour of each of these approaches.

Roma children in Slovakia disproportionately attend special primary schools for the mentally impaired, even taking into account their increased risk factors. As education given in such a school is not the same as that given in standard primary schools, this limits the possibility of higher education and finding a place in the labour market for a significant part of the Roma population. Considering the demographic trends, this waste of Roma children's potential could have huge impact on the middle- and long-term development of the Slovak economy.

Here students should reflect on the main problems associated with educating children in primary education, particularly as it impacts the segregation or integration of Roma children. The teacher can demonstrate existing integrating instruments, or instruments that optimise conditions for segregation from the perspective of equal opportunity.

Task B

Assessment and selection of measures in this part should be governed by the following criteria:

Type of criteria	Questions
<i>Technical feasibility</i>	
Effectiveness	Will the policy goals be achieved? Does the proposed public policy have the desired effects?
Relevance	To what degree do the results resolve the problem? To what degree is the problem a priority for the community?
<i>Economic and financial efficiency</i>	
Efficiency	How much effort is required to meet the goals? How can the goals be achieved at minimum cost?
Economy	What are the expenditures on human resources and materials?
Profitability / rate of return	Will future revenues compensate current costs?
<i>Political feasibility</i>	
Equity	Are costs and benefits equitably shared among shareholder groups (groups by income, age, ethnicity, gender, marital status, geographical distribution)?
Response to problems	Do the policy goals correspond with the real needs and preferences of the given group?
Appropriateness	Are the desired goals appropriate and necessary? Is the given alternative politically feasible?
<i>Administrative feasibility</i>	
Institutional capacity and identification	Is the existing administrative system capable of implementing the public policy? Do we have the necessary equipment, resources and knowledge? What are the organisational barriers?

Students should focus on

- Physical organisation of the education process
- Beginning of school attendance
- Education of pupils from socially disadvantaged backgrounds
- Motivational elements

The following table can serve as a guide:

<i>Measure</i>	<i>Objective</i>	<i>Decisive criteria</i>	<i>Powers (transferred/ original)</i>	<i>Quantification (coef- ficient-augmented number of pupils)</i>	<i>Budget (analysis of fiscal impacts)</i>	<i>Feasibility (propose initiatives to increase feasibility)</i>
Merging schools	Reduction in operating and capital expenses	Efficiency	Original – investment expenditure, transferred – operating expenditure	327	Normative financing preserved with reduced cost of operating two buildings and necessary investment	Problematic, information campaign needed, parent involvement, consultation
Preserving two schools with significant investment in the school attended by Roma	Creating equitable education conditions	Appropriateness, Equity	Original – investment expenditure, transferred – operating expenditure	241/86	Normative financing preserved with investment expenditure redirected to “Roma” school	Problematic, but less so than with merger option, prepare project of school renewal, enumerate operating costs and forecast future student numbers

Kindergarten/0 th year	Increased school attainment of Roma children	Equity, Efficiency	Original – kindergarten, Transferred – 0 th year	<p><u>Kindergarten</u> - 22 children under three years of age x coefficient 61 = 1342</p> <p>20 children over three years of age x coefficient 31 = 620</p> <p>1342+620 = 1962 (increased basis for calculating share of personal income tax)</p> <p><u>0th Year</u></p> <p>9 first-graders x coefficient 1.7 = 15.3 (increased basis for calculating operating and wage norms)</p>	Increased share of personal income tax /increased normative contribution	Problematic for kindergarten, information campaign needed, parent participation, consultations, 0 th year – feasible
Integration of pupils with special educational needs	Increased school attainment of Roma children	Equity, Efficiency	Transferred	0-86 x coefficient 2.5 = ? (increased basis for calculating operating and wage norms)	Increased operating and wage costs	Mixed classes required to achieve true integration

Introducing merit-based scholarships	Increased school attainment and improved attendance of Roma children	Equity	Transferred	0-86 pupils in social need x (SKK 200 – 500)	Administrative costs connected with distribution of scholarships	Possibly unhealthy competition between pupils and envy
Employing teachers' assistants	Increased school attainment and improved attendance of Roma children	Equity	Transferred		Founder will request financing for assistants' wages from Regional Education Office	Selection of candidates

B

In this part students should attempt to identify in greatest detail possible the effect of measures on the municipal budget. Some measures can only be estimated, which is sufficient if the thought process is explained.

An important learning point focuses on making feasible range estimates with limited data.

C

Basic understanding of the financing system allows for discussion of incentives created by individual elements of the system and expected responses by municipalities.

Examples:

Measure	Incentive effects
Normative financing	Municipality motivated to increase enrolment
Merit-based scholarships	Possible incentive to avoid administrative costs by municipality
Separate financing of special schools not run by municipality	Municipality motivated to integrate students rather than support transfer to special schools
Individual integration coefficients	Municipality potentially motivated to individually integrate pupils who do not need it

ANNEX 1

Financing of original powers of local governments⁴

Table 1

Coefficients for primary schools and pre-schools with over 25 children

	Coefficient
Pupil of primary art school in individual education	13
Pupil of primary art school in group education	8
Pre-school child under three years of age	61
Pre-school child over three years of age	31
Pupil in (non-school) education facility*	5
Potential meal recipient in primary school**	2

Note:

* Pupil in a (non-school) education facility is a pupil in a school's children's club, free-time centre or school centre for after-school activities according to § 6 of Act 279/1993 on school facilities.

** Potential meal recipient is every pupil in primary school under auspices of the municipality or other authority located in the municipality, if the pupil can take meals in a dining facility of the municipality.

Table 2

Increase in coefficients for pre-schools if the total number of children in all pre-schools of the same authority falls below 25

Number of children in kindergartens (kindergarten)	Coefficients increased by
Up to 10	20.6
from 11 to 15	12.6
from 16 to 20	6.5
from 21 to 25	1.7

⁴ Annex 3 to Government Decree 668/2004.

ANNEX 2

Financing of transferred competencies⁵

WAGE NORMATIVE:

Basic wage normative (determined by the Ministry of Education) x number of pupils x coefficient of personnel intensity for the given category of schools

OPERATING NORMATIVE

Heat

Basic heat normative (determined by the Ministry of Education) x number of pupils x coefficient of heating intensity for the given locality

Operations other than heating

Number of pupils x coefficient of operating intensity

Teaching process

Number of pupils x coefficient of economic intensity

Further education

Wage normative x 0.005

The normative for a pupil with special educational needs who is not a pupil of a special school and is educated in an integrated fashion is 250% of the normative per pupil in full-time study. In calculating the above normative, the integrated pupil is calculated with a coefficient of 2.5.

SEPARATE – NON-NORMATIVE FINANCING:

Financing of objectively verifiable recurring costs, which cannot be reflected in normatives given their specific nature – Ministry of Education will allocate funding to the school authority.

Compensation subsidy – if there are fewer than 250 children in all schools

⁵ Government Decree SR 2/2004.

Pupil transportation costs

Expenditure on wages and mandatory social contributions of teaching assistants and 0th year teachers

Contributions by the authority for education of pupils from socially disadvantaged backgrounds

After-school programmes provided by schools are financed separately through education vouchers at a value set by the Ministry. Each pupil can decide where to use his or her voucher.

ANNEX 3

Subsidies of Ministry of Labour, Social Affairs and Family

- Meals can be subsidised at most in the amount of SKK 26 per each day the child took part in the education process
- For learning materials, the subsidy is at most SKK 1,000 per year, usually SKK 500 per school semester.
- In addition, for merit-based scholarship at most
 - SKK 500 per month, if the child achieved a grade point average (GPA) of up to 1.5 in the previous semester,
 - SKK 300 if the child achieved a GPA of 2.5,
 - SKK 200 if the child improved his or her GPA by at least 0.5 in the previous semester.

Glossary of Terms

Individual integration allows integration of pupils with special education needs in classes and education groups with other pupils and are educated according to an individual teaching programme, adjusting the curricula to their needs.

Teacher's Assistant is a teaching employee taking part in the teaching process in schools and pre-school facilities to help create conditions necessary to overcome language, health and social barriers of children in the education process.

0th year of primary school is a form of teaching of children as an integral part of primary school. Teaching in the 0th year can be organised with full-day education with acceleration programmes and exercises developing cognitive and non-cognitive skills with partial fulfilment of first-grade primary school curricula. The 0th year is intended for children who have reached the age of six years as of September 1 but are not mature enough to enrol in school, come from socially disadvantaged backgrounds and are not expected to master the curriculum for first grade in one year given their social and linguistic environment.

CASE STUDY 4

ILLEGAL SETTLEMENTS: ROMA HOUSING IN THE MUNICIPALITY RAKÚSY AS A CHALLENGE FOR THE POLICY MAKERS

BY KATARÍNA STAROŇOVÁ AND MICHAL VAŠEČKA

Abstract:

This case study explores Roma housing in the municipality Rakúsy. It primarily focuses on the diverse aspects of the solution to the illegal status of the majority of the Roma dwellings in the local settlement. In the study, a strongly adverse housing condition is seen as the sticking point of most of the Roma citizens' problems in Rakúsy. This perception is in line with the mayor's understanding. The municipality was chosen for the case study as an interesting example of a municipality originally stagnating, but becoming very dynamic upon the election of a new mayor in 2002, as a positive solution to widely understood Roma issues. The case study describes problems of the municipality and the mayor in dealing with the issue of Roma housing and legalization of Roma dwellings through a model situation of an experts' visit in the municipality. The aim of the case study is to start discussions on model solutions to illegal Roma housing in Slovakia and answers to this status quo.

CASE STUDY

Rakúsy – municipality at the foot of the Tatra Mountains

It is a nice, sunny day in June. A car with Bratislava plates hurries along a run down road in Eastern Slovakia. The district seat of Kežmarok disappears swiftly in the back, while the Tatra Mountains loom ahead, looking even grander from here. The good times of the road are gone and the new car from Bratislava seems decidedly out of place. So muse the two experts driving to Rakúsy municipality, even as they consider broader regional disparities in Slovakia. They were called to the municipality by its mayor, who has managed to do for the municipality, and particularly for the Roma part of it, more than all mayors combined since 1989. Upon overcoming almost insurmountable problems, he has come across something he never expected – the resistance of the Roma themselves to the change in a situation they have been justifiably unhappy about for many decades.

Rakúsy is now in sight. The two persons from Bratislava immediately note the changes – there are ditches along the main road, illegal dumping by the municipality has disappeared, and the defunct cooperative farm no longer stinks. This good feeling is confirmed in town – it is visibly cleaner, the municipal office has been rebuilt, and the municipal bulletin board boasts information. The mayor walks out to greet the people from Bratislava – who are obviously taken by surprise. Local hospitality can be overwhelming to city folk.

The mayor is a man of action, and has clearly brought the municipality good fortune. Until 2002 Rakúsy was, like many other municipalities in Slovakia, an example how things just “cannot be done”. The mayors neglected the outstandingly tricky issues of the Roma population, thus neglecting worries and problems of a vast number of inhabitants, Roma and non-Roma alike. The situation in the Roma settlement tended to unfold wildly, while many positive infrastructure improvements from before 1989 deteriorated. After 1989 the mayors were trying to find their way, or when it came to Roma issues rather waiting for incentives and interventions from the central government. Of course municipalities alone cannot solve the problems of the Roma in Slovakia, but on the other hand after 1989 municipalities have been gaining more and more power and authority. Yet it seemed as if in Rakúsy they had not noticed this.

Existing social relations between the Roma and non-Roma population in the municipality are only minimal. Non-Roma inhabitants disparage the Roma population for a high degree of social inadaptability, significant alcohol consumption,

drug taking, low personal hygiene, criminality, “limited knowledge” caused by low education, high birth rate in comparison with the non-Roma population, etc. Local non-Roma actually wanted to split from the Roma settlement in the 1999 referendum, but this intention did not work.

Kežmarok District

Kežmarok district has over 63.000 inhabitants, of which more than 20% are Roma: the highest ratio in the Region of Prešov, and the second highest in Slovakia. Of 41 municipalities and cities, only about 15 municipalities have a Roma inhabitant share of higher than 20%. Unemployment in the district is about 30%, while the District Office in Kežmarok estimates the Roma unemployment rate at 96%. Unemployed Roma have to live off social benefits as people in material need. The Kežmarok District Office reckons that the bad financial and social situation of the Roma is also reflected in their housing conditions – an estimated 70% of the Roma in the district live in shacks in Roma settlements. There is also a Community Centre in Kežmarok focusing on educational issues.

Rakúsy Municipality

Rakúsy is a municipality in the central Spiš area, 7 kilometres north of Kežmarok. It was established by German colonists in 13th century, while mixed Slovak-German inhabitants used to predominate in Rakúsy until 1945. The German influence is still visible in the municipality, though no Germans live there anymore. Rakúsy has 2,170 inhabitants, of which 540 are non-Roma. This ratio places it among one of the municipalities with the highest representation of Roma population in Slovakia. 230 Roma live directly inside the municipality in 14 houses. There are more than 1,400 Roma in the Roma settlement. With this number, the Roma settlement in Rakúsy ranks as the largest in Kežmarok district and one of the largest in Slovakia. There is a local kindergarten, elementary school, cooperative farm, three shops, three pubs and a few small businesses, along with the municipal office and a cultural centre. The municipality’s inhabitants are mostly employed in a nearby district city or in the Tatra mountain hotels. The biggest employer in the municipality is the municipal office and the local school, as is currently typical for this region.

Rakúsy Settlement

The Roma settlement itself offers a very heterogeneous picture, which makes it unique in comparison with other settlements in this area to a certain extent. It spreads over about 2 ha, where two apartment houses are now situated, officially handed over for use by the construction office in 1988. That act was a clear attempt to eliminate the settlement. There are 18 apartments in an apartment house, with 130 – 150 people living there. The rest of the settlement consists of 24 brick houses and 36 wooden ones. The remainder of the settlement consists of shacks constructed of boards, metal and pressed boards lacking any insulation, looking chaotic and temporary. They are not bigger than 20 square meters each. Most dwellings in the settlement are illegal, and the entire settlement including the two apartment houses lies on land with no registered owners as of 2002. Regarding infrastructure, the apartment houses have the best situation, as these inhabitants have access to electricity and running water. Electricity is installed, some households are not connected, while commonly multiple households are connected to one measurement device. In some of the houses, there is no running water and the shacks have no access to drinking water. Wood is used for heating, while in some households they cook on gas cylinders. The wood taken by the Roma for their heating is mostly taken from the nearby woods illegally. This very fact causes numerous disputes between the two communities. There are flush toilets in the brick houses and a separate septic system, while other households use wooden latrines. In the middle of the settlement household trash piles up. Due to an increasing population trend the problems have accumulated, and the housing issue has become increasingly important for the growing settlement.

Characteristics of the inhabited area

- Position of the settlement: 2 km from the municipality.
- Titles to property: unsettled.
- Accessibility of infrastructure in the Roma settlement: water pipelines (yes), sewage system (no), electricity (yes), gas (no), public lighting (yes), access road (other material).
- Accessibility of infrastructure for the majority: water pipelines (yes), sewage system (yes), electricity (yes), gas (yes), public lighting (yes), access road (asphalt).
- Share of dwellings connected to the infrastructure: in the municipality 100%, in the settlement (water pipelines 10%, sewage and gas 0%, electricity ???).
- Dwellings in the Roma settlement: total number of Roma dwellings (14 in the municipality, 178 in the settlement), share of legal dwellings (100% in the municipality, 12.4% in the settlement).

Housing of the Roma in Slovakia as a social problem

The key problem in the efforts to improve Roma housing in municipalities, especially in Eastern Slovakia, tends to be the issue of the legality or illegality of structures inhabited by the Roma. Solutions are usually complicated by two internal aspects – legality of housing in the context of the current legal framework, and regulations

and legality of housing in the historical context. Practically, Roma shacks and houses, or “chyžky” as they are called in Rakúsy, as well as standard family houses, are built on land not prepared for housing, constructed without necessary permits, and without regard for construction standards, norms, regulations etc. The Slovak government, by its 2002 decree on transfer of land of unidentifiable owners to the municipal administration, enabled municipalities to act on this issue. Thus were created conditions for settling land titles where illegal structures are built in settlements, via transfer of ownership or compensating an adequate size of land in a different part of the municipality. However, this did not resolve the problem of the shacks that can never be legalised. Standardizing Roma housing thus implies construction of individual houses or apartment blocks, and therefore it is crucial to create conditions under which the Roma have access to instruments for normal construction.

In April 2001, the Government of Slovakia approved a programme to support the construction of low-income social housing and to improve the infrastructure (public utilities) in Roma settlements. **The activities of the Slovak government implemented through the Governmental Plenipotentiary for the Roma Communities Ms. Klára Orgovánová**, oriented to improving the infrastructure in the Roma settlements (including a PHARE 2000 Project), focused on providing the following tools to municipalities for solving the relevant issues:

Long term housing strategy for marginalized groups:

- apartments with different (lower) standard, wherein municipalities can obtain coverage of up to 80% of the procurement costs of those apartments;
- loans (**State Housing Development Fund**): social housing programs (programs of construction of rental apartments, construction of institutions providing social services, renovation and reconstruction programs of apartment houses);
- allowances for low income households (the **Act on housing allowances** replaced by the Act on allowances for people in material need);
- construction of apartments for the public rental housing sector This category of rental apartments and funding includes:
 - rental housing in the public rental housing sector, including small-area apartment flats designated as flats for initial housing for young families, while only households with an income not exceeding a certain limit will be eligible; at-cost rent will be applied in those cases,
 - special forms of housing for low income households and groups with specific needs, such as flats for citizens with social needs, severe health impairment, single women caring for children, and post-institutionalised individuals; and flats of lower standard for loan defaulters, socially inadapted citizens and the homeless,

- flats for the elderly, to be constructed by regional governments, while their funding and selection of their inhabitants will be based on the property situation of the future users,
- solving the issue of housing debts through **community works and public benefit works**, with a set instalment calendar, using the instrument of a “**specially designated receiver**”.

The question of the subject who arranges public housing is still open. Currently, public housing is arranged by the municipalities, and nongovernmental organizations (or private sector) does not have a role at all in contrast to the experience of foreign countries. It is, however, envisaged that legal regulation will introduce legal public-benefit entities working in the construction sector and housing management on the basis of non-for profit activities (legal regulation will limit profit maximizing and its use exclusively for construction of new apartments or for improving the quality of existing housing).

Resolving the issue of Roma housing in Rakúsy since 2002

In 2002, Alojz Vdovjak became mayor, and fundamentally changed the approach of the town towards the Roma situation. He defined the housing issue as crucial, and maintained that steady improvements in Roma housing would resolve the Roma population's other problems as well. He argued that one could hardly expect Roma children to do well in school if they have no place to study, to sit, or to get proper sleep. The unfavourable health status of the Roma population in the mayor's opinion derives directly from housing; in fact he can demonstrate correlations between health and housing standards within the settlement. Indeed, housing even influences strongly the relations with the majority and employment opportunities. The mayor also notes tourism opportunities within reach once the visible marks of the Roma settlement have been removed. Here a thorny problem emerged: that which legally does not exist, or stands on land with an unknown owner, cannot be built or reconstructed.

The municipality's basic Roma policy has not been formulated, even in the Plan of economic and social development, the municipality was required to work up, and which is meant to resolve among other things issues of marginalised communities. Equal opportunity measures and positive discrimination are not welcomed by the majority; positive discrimination strategies have no chance of acceptance in the local council. The municipality's political philosophy is to keep to the status quo, to “irritate” the non-Roma as little as possible, and to treat Roma declaratively as the majority population is treated; in the final analysis this disadvantages the Roma, even discriminating against and institutionally segregating them. Projects initiated

in Rakúsy and oriented on the Roma community have a cultural dimension – this is the only dimension acceptable to the majority (developing Roma culture, traditions and the like).

From the first the mayor was in a difficult position, as his vision of a substantially reconstructed Roma settlement with infrastructure met with opposition, from non-Roma and Roma alike. A municipal policy relating to the Roma had never been formulated. Only the new mayor's arrival brought the delineation of a Residential Development Program¹, in which the municipality took its lead from binding legal standards. They also repeatedly consulted with the secretariat of the Plenipotentiary for the Roma Communities in drawing up minimum living standards. Activities seen by the majority as pro-Roma met with distaste, and affirmative action activities had little chance of approval by the local council. The mayor has stated that he sees no place for segregation and establishment of ghettos in a residential development program, and that he can't imagine communicating such themes within the municipal council. Local policy is based on "aggravating" non-Roma residents as little as possible, and declaring an approach to both the Roma and the majority based on the same principles. Furthermore, most non-Roma would despise having apartment flats for Roma from the settlement directly in municipality, and would likely protest more strongly than before. Therefore, Roma-oriented projects started in Rakúsy before the new mayor's election had been limited to a cultural sphere (development of Roma culture and traditions, etc.), as nothing else would have been accepted by the majority. Also, social workers have not been carrying out the work expected of them in Rakúsy in regard to the needs of a segregated community, though the mayor admits little more can actually be done; one worker has responsibility for all Rakúsy, so she cannot cope with the social field work of such a large group of socially dependant individuals.

Municipality residents, influenced by the decentralization process and the country's EU accession, have begun to realize to a much greater extent that no one is about to resolve issues associated with the Roma population; and furthermore that, contrary to what they used to think, the Roma are not about to depart in droves to the UK or other EU countries. They have begun to see infrastructure changes and improving the living standards for Roma as something that may be undeserved, but is nonetheless necessary, and that in the end will help the municipality develop in

¹ According to Act 369/1990 on Municipalities, local councils can establish local commissions to deal with social issues, including housing, but are not obliged to do so. Not every municipality in Slovakia has such commissions. Procedures related to the allocation of social housing therefore vary from municipality to municipality. Rakúsy municipality has established a housing committee that worked up the Residential Development Program.

the future to develop the Tatras-area tourism they hope to pursue. For now, however, it would be very hard for them to tolerate more Roma homes in the municipality. Direct contact between the Roma and non-Roma takes place only when waiting for a bus or standing outside the town hall, on a very sporadic basis. Thus there was compliance with boundaries between the Roma and non-Roma sections, with the Roma not even trying to buy land or homes in municipality and the refusal of municipality offers. The only alternative was building illegally and provisionally on the limited bits of land already occupied by a house (in building additions and trailers), or trying to find a place to live in another town.

Thanks to legislative changes and perseverance, the mayor has been able to overcome many apparently intractable legislative, technical and logistical problems, including the originally contrary public opinion of the non-Roma regarding assisting the Roma. The positive resolution started to falter once many Roma did not keep to the process leading to legalization of housing and introduction of infrastructure to their residences.

Further government measures in the interest of Roma issues and new social policy instruments have also proven helpful. Since 2003 a garnishing process called the **special receiver institution** has had a strong effect on resolving Roma housing. Before 2003 the incidence of usury was very high in the settlement; children went hungry in some families, Roma regularly stole from gardens and potato fields, families did not reimburse funeral costs, and rent arrears as of 1 January 2003 reached 473.000 Sk. By 2006 the picture was completely different – Roma had no arrears, usury had dropped substantially, there was much less field stealing by Roma, a functional funeral fund had been created, and the like. Thanks to a further measure, the introduction of an **activation contribution**, illegal scrap heaps were being eliminated, the town was looking better, flood-proofing had improved, and the Roma's work habits were getting much better. The mayor also instituted a **Personal hygiene centre**, offering those from hygienically unsuitable environments the chance to wash and launder, while also serving as an inspiration to participate in residential reconstruction programs. Today, the Personal hygiene centre serves both the Roma and the majority population, which has quickly come to appreciate it.

The process of putting in order land in the Roma settlement started in 2002–2003. First, the mayor convinced the local council (where only two of nine members are Roma, one from the settlement) to reconstruct the settlement. It is important to note that the mayor succeeded primarily thanks to a vision of drawing on EU structural funds (though these do not finance residential construction directly), and the promise of intensive investment in the municipality's central section mostly inhabited by non-Roma. Through 2003 Roma gradually began buying land, while only those with settled debts were eligible. The mayor made use of a stipulation allowing debtors to

work off debts, which he says was made use of to a greater or lesser extent by 55% of the debtors. Those in the settlement with proper land rights were able to connect to electricity. In 2004 an asphalt road was built in the settlement, with sidewalks by the apartment houses. Water and sewer lines were run to the settlement during 2005. A problem continues with connecting to individual residences, but those with land rights in order (and therefore also debts paid) are gradually getting connected. In a short time, one part may also be successfully linked to the sewer system, which is better than average for many municipalities in Eastern Slovakia.

The structural funds have become an exceptionally important impetus for further resolution. In financing the renovation and construction of infrastructure, the Rakúsy municipality utilized various measures. From 2002–2004 these were PHARE resources, while at the same time they got state funding to build rental units. EU resources from the Basic Infrastructure program were also used. This is one reason why the municipality has begun intensively making use of meetings of a Residential Policy Commission. So far, the commission has been settling the question of rental apartments, but is now initiating talks on housing support, which has been utilized more and more in Rakúsy (this support is given to a citizen in material distress to cover housing costs at the level of 1.130 Sk for an individual and 1.920 Sk for a family). According to the mayor, however, this creates some problems for the municipality, as the local government has no control mechanism. At present, Rakúsy has 28 recipients of this housing support.

Winning Roma over to the concept of legalization and new construction

Despite the mayor's intensive efforts, many inhabitants of the Roma settlement in Rakúsy have yet to start making use of the new opportunities. The conditions of settling debts, systematically paying for local services and successful use of the special receiver institution have proven too demanding for many. Even though 21 new buildings are in construction, with 3 apartments in each building, the mayor is having difficulties persuading more inhabitants of the settlement to engage in the change process.

The experts proposed a solution the mayor decided to implement, and the results a few weeks later surprised even the mayor. Apart from making use of process (explaining the entire program, and engaging only the willing), the mayor took the advice to organize an excursion for settlement residents to the Košice housing project Luník IX and to Žehra. By this means he accessibly demonstrated and clarified to these residents the dangers of the ghetto complex (Luník IX.) and the potential of reconstructing a Roma settlement into a neat village (Žehra). The number of those interested in the program dramatically increased after the

excursion, enabling the mayor to consider further use of structural funds for the benefit of before the December 2006 local elections inhabitants of the Roma settlement in Rakúsy. The indisputably positive results (a cleaner town, enhanced infrastructure, better relations between the Roma and non-Roma, improvement of the Roma settlement's infrastructure and so on, all from an activist approach) prevailed over opposition, and December 2006 local elections returned the incumbent Rakúsy mayor to office.

TASKS FOR STUDENTS

1. Is the so-called Roma housing issue a real problem? Why? Make your case for and against (for your argumentation, use the existing legislation, international covenants, unofficial documents, the focus of public services, so-called right to housing, etc.). Discuss the basic aspects of "Roma housing" from the perspective of Economic, Social and Cultural Rights.
2. Evaluate the solution's approach and instruments of national/local policy oriented on improving housing in general and as concerns the Roma in Rakúsy before and after 1989. What were the advantages and disadvantages of both approaches?
3. "The population's low average income and high unemployment create the most serious of barriers to acquire housing. Given this, the state and municipality must create appropriate conditions and take effective measures to provide the population with accessible housing." State housing policy concept of the Slovak Republic. Put yourself in the place of the two experts, and consider steps the mayor took in an effort to secure suitable housing for the Roma. Can the mayor's approach be considered systemic? If not, what should the mayor do for a more systemic solution? Discuss the instruments used. Would it have been possible to proceed otherwise, from the perspective of valid legislation? Discuss possible effects of other solutions.
4. Consider the mayor's alternatives for achieving a model that would both best prosper the Roma community and get the support of the non-Roma. Propose the best possible arguments, discussing among other things the ethical dimension.
5. What alternatives would you as an expert in participative methods use to resolve the unwillingness of some Roma in Rakúsy to participate in the residential legalization program? What kinds of participative methods would you use with non-Roma to increase support for the given solution? Propose both individual methods and an action plan to follow.

TEACHING INSTRUCTIONS

1. Approach

In the transformation from a planned to a market economy, the countries of central and eastern Europe have retreated from subsidised housing. The result has been a dramatic reduction in funds for building or reconstruction of existing housing. Responsibility for housing has gradually shifted from central agencies to the market and local government, or to citizens themselves. In these circumstances, new groups of citizens have emerged, unable to rent or buy new housing at market prices. One such group consists of the Roma. The status of unresolved land and Roma settlements is quite common in most municipalities in Eastern Slovakia, and is directly tied to three factors:

1. the socio-cultural development of the Roma community in each given site as a whole;
2. the willingness of local governments to actively resolve the status to the benefit of the Roma community;
3. the existence and availability of state policy for the given municipality and the marginalized group.

Ironically, the more important issue here is showing itself to be the local government's willingness to do something with the problem, not the development level of the Roma community itself. Municipalities often have a legal excuse for not resolving the desperate infrastructure of Roma habitations: without building permission, the houses do not de-jure exist, and therefore it is impossible to request state support for constructing infrastructure for them. On the other hand, the improper disposition of legal ownership of land makes it impossible to get building permission and so on. The result is residences to which no public roads, water mains, sewer lines, public lighting or the like have been introduced, even where they exist in the non-Roma sections. A separate chapter would be needed to describe the rubbish disposal situation – and the untidiness of Roma settlements is one of the most frequent arguments of the majority in criticizing the Roma's living standards.

However, this does not in essence resolve the Roma housing situation, as in repeated cases it was the mere effects and not the problem being addressed. The Slovak Government ought to undertake measures that would lead to making it realistic for Roma who show interest to acquire land. An active input to the process is envisioned, such as the use of the Slovak National Land Fund or via other institutions. The government ought to create such administrative conditions as would realistically enable the successful carrying out of the entire administrative process required for legal redevelopment construction without relying on networking (to simplify, accelerate, make cheaper etc.). Should this prove impossible, something we might

call “artificial networking” could be considered, i.e. institutions that would help the Roma and others to get through this administrative process successfully. It is necessary to create such conditions in financial support policy of residential construction as would give the Roma a real opportunity to directly receive the support provided.

By the aid of this case study, students should take cultural diversity into consideration in suggesting technical solutions. This case study introduces a great number of possible hard-to-solve dilemmas. The teacher will thus be presenting students with cases to solve for which multiple approaches are possible, and it is important to distinguish whether the problems described in the case study is being addressed and resolved from a short-term or long-term perspective. Often, the means of communicating and engaging the target group is more important to overall success than the technical solution itself (see Figure 1).

As this is a multi-discipline case study, it is suitable for use in courses related to sociological, legal and/or economic aspects of public policy, sociology, social work, public policy instruments, or participative methods or conflict prevention in local administration.

The length of teaching time for this case study is at least 120 minutes, but we recommend applying it in a gradual way, emphasising only one particular aspect or question.

Key literature with which students should have worked before and during work on this case study:

Forrest, Ray (2003). *Housing and Social Change*. Routledge.

Centre on Housing Rights and Eviction (COHRE), European Roma Rights Centre (ERRC) and Milan Šimečka Foundation (MSF) (2004). *Defending Roma Housing Rights in Slovakia: A Training Manual on International Law and the Right to Adequate Housing*.

Fearn, James (ed.) (2004). *Too Poor to Move, Too Poor to Stay: A Report on Housing in the Czech Republic, Hungary and Serbia*. Budapest: LGI.

Creighton, James (2004). *The Public Participation Handbook: Making Better Decisions Through Citizen Involvement*. Jossey Bass Publisher.

Vašečka, Michal (ed.) (2003). “Roma Housing,” *Čačipen pal o Roma: Súhrnná správa o Rómoch na Slovensku (Roma/Slovak bilingual title, Eng. version: A Global Report on Roma in Slovakia)*. Bratislava: IVO.

Vašečka, Michal et al, (2002). *Roma Voices*.

If the teacher chooses, the existing legislation and documentation can be used as an appendix to the case study. Of primary interest are the current versions of the following official documents:

- UN International Covenant on Economic, Social and Cultural Rights
- State housing policy concept
- Housing development programs (Government directives et al)
- Laws on decentralisation (e.g. Act 416/2001 on transfer of certain authority from state administration agencies to municipalities and regional governments; also laws on financing local governments, municipal property, etc.)
- Documents relating to hygienic minimums (e.g. Act 272/1994 on protecting individuals' health; also the Ministry Decree setting the minimal hygienic requirements on apartments in apartment houses, ...)
- Laws on ownership of homes and land (e.g. the Law on land-owning associations, the Law on ownership of residential and non-residential space, Act 189/1992 on modification of certain relationships connected with renting housing and with substitute housing, Act 330/1991 on land modification, etc.)

2. Recommended work with the case study

Work with students can be divided into two basic parts. The first focuses on objective assessment of the situation and the problem, as well as its resolution from the technical or legal perspective. The second cluster of questions requires subjective evaluation of the specific situation from the mayor's point of view, or that of his advisors, and students can take on these roles. Both parts can be taught through discussion, work in groups, or allocation of tasks. When working with groups, it is important for students to write their solutions and procedures on a flipchart and subsequently present them. When working with allocated tasks, for example, the students could be divided into multiple groups, with one group playing the role of the dissatisfied majority residents, a second Roma settlement representatives, and a third local government representatives (it would also be possible to include non-governmental organization activists, the federal government, etc.). The objective is to demonstrate how compromise steps can help satisfy all sides, and to achieve change at the local level.

A) Students endeavour objectively and subjectively to evaluate (construct) the perception of the problem of social housing, with the emphasis on so-called Roma housing.

The teacher should get the students first to find positive gains and losses and negative gains and losses in the decentralisation process, as related to resolving so-called Roma housing issues. Discussion should focus on the understanding of the

concept of “housing”, from the perspective of economic, social and cultural rights. The right to housing in the European context is understood to imply conditions that would allow all citizens to obtain adequate housing. This is defined in international documents, particularly in *General Commentary 5: right to adequate housing* to the International Covenant on Economic, Social and Cultural Rights, of which the Slovak Republic is a signatory and thus bound by these documents. Housing is also a special case because it is an expensive product. For this very reason, there will in society *always* exist groups of people (whether their position is *permanent* or *temporary*) for whom securing appropriate housing by their own means will be very problematic, or almost impossible. The declaration of housing as a basic human right thus creates a commitment for public administration (the state, and depending on the system of decentralisation the municipality) to get involved in this area. The issue of segregated Roma, living in these “segregated settlements”, is all the more serious because housing problems are often associated with poverty, discrimination, open or latent racism and exclusion.

In this part the teacher should also develop the discussion in the direction of desegregation efforts vs. efforts to improve social status. In most towns and villages where infrastructure, including housing, is starting to change, there is an inability or even impossibility of fostering desegregation, based on spontaneous events or unsuitable state interventions in the past. The teacher should be able to achieve the evaluation of individual instruments from the perspective of their accessibility by thus marginalized groups; e.g., people in illegal housing and those in arrears cannot receive housing support, i.e. these instruments are still inaccessible for many settlement Roma. Therefore, students should be guided to try to project the municipality’s long-term future. This will help point up the danger of one-dimensional perception of processes initiated by local governments aimed at improving infrastructure.

The so-called Roma issue tends to be highly ethnicised, and the Roma’s ethnicity is often inappropriately and with racist overtones regarded as the behaviour of impoverished, excluded or strongly marginalized citizens. Through flipchart work, students should attempt to distinguish so-called Roma behaviour characteristics from those that are typical of people of lower social classes in general. The objective is to show that there are few attributes actually typical of the Roma, and that positive solutions bring a change to such attributes, saturated in prejudice. The high degree of social distance, and the conviction that the Roma don’t deserve help, lead to the majority’s reacting hypersensitively to whatsoever “investment” for the Roma. Thus, all attempts to improve the social standing of Roma from Roma settlements must go hand in hand with changes and investments in the “majority’s” part of town.

B) Students endeavour to assess the technical instruments applied in resolving housing vs. civil participation as a means of engaging citizens in common decision-making.

The changes currently occurring are mostly focused on technical solutions, as connected with investing in infrastructure. Many mayors fail to realize that, without the Roma's strong civil participation, the chances of promoting changes are very small. The teacher will use SWOT analysis to try and show students the problems entailed in attempting change without the involvement of the Roma themselves. However, here too it is important to realize that using participative methods is effective only if used in an environment that has been prepared.

The International Association for Public Participation – IAP2 – has developed a Participation Spectrum, in order to demonstrate possible types and phases of involving citizens and communities in common decision-making at the local level. The Spectrum thus shows the levels of civil participation as they increase from being 'informed' to being 'empowered'. The teacher focuses student tasks and subsequent discussion on types of civil participation used in the case study, and evaluates their suitability and subsequent possibilities.

Figure 1: Continuum of Participation
IAP2 Public Participation Spectrum (Developed by the International Association for Public Participation)

Increasing Level of Public Impact				
Inform	Consult	Involve	Collaborate	Empower
Public Participation Goal:	Public Participation Goal:	Public Participation Goal:	Public Participation Goal:	Public Participation Goal:
To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
Promise to the Public:	Promise to the Public:	Promise to the Public:	Promise to the Public:	Promise to the Public:
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influences the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example Tools:	Example Tools:	Example Tools:	Example Tools:	Example Tools:
<ul style="list-style-type: none"> • fact sheets • web sites • open houses 	<ul style="list-style-type: none"> • public comments • focus groups • surveys • public meetings 	<ul style="list-style-type: none"> • workshops • deliberate polling 	<ul style="list-style-type: none"> • citizen advisory committees • consensus-building • participatory decision-making 	<ul style="list-style-type: none"> • citizen juries • ballots • delegated decisions

CASE STUDY 5

INSTITUTIONS, INTERESTS AND MEDIA: PUBLIC POLICY AND THE CASE OF ANDREA B.

by MIROSLAV BEBLAVÝ

Abstract

This case study concerns the case of six-year-old Andrea from a children's home, taken from her foster family under unclear circumstances. The study focuses mainly on how individuals in the public sphere may have legitimate interests in her case, what those interests are, and how they can promote them as regards the needs of a defenseless child. This case study is meant to develop the ability of students to become familiar with the environment of public policy. In this connection, the case study above all enhances students' ability to **recognize** when a problem becomes subject to public policy, **analyze** the mission and interests of individuals active in the public sphere, and **find their own** answers to the dispute between promoting legitimate interests and the protection of individual rights. The case study is founded on understanding that public agents are not the only actors in the public sphere, and on acceptance of communication with the public as an everyday part of public policy and public administration. It is particularly appropriate for students who have already formed some impressions, about either the professional aspect of foster care or public policy issues.

CASE STUDY

ATTACHMENT 1 – participants

- Journalist of influential daily.
- Director of the local branch of the Bureau of Labor, Social Affairs and the Family.
- Minister of Labor, Social Affairs and the Family.
- Director of Media Department, Ministry of Labor, Social Affairs and the Family.
- Representative of nongovernmental organization focused on children's home issues.

Journalist: you are a new reporter of one of the two most significant daily newspapers in the country (e.g. SME, Pravda). You were hired primarily to cover social and employment issues. You have heard nothing of this case until now.

Director of the local branch of Bureau of Labor, Social Affairs and the Family: you are aware the case took place under your branch, because you had to sign relevant documentation. Because your primary experience is in employment, and the documentation was presented to you as a routine decision in a pile of dozens of other things to sign, you have until now not given it serious attention.

Minister of Labor, Social Affairs and the Family: you were named to your function as a politician whose name was made on pension reform themes, and you have only a vague picture of child and foster care. Public opinion surveys indicate that you are unpopular, and perceived as insensitive. You have heard nothing of this case until now.

Director of Media Department of Ministry of Labor, Social Affairs and the Family: besides leading the ministry's media department you are also ministry spokesperson, and are therefore after the minister you are best known face of the ministry. You have heard nothing of this case until now.

Representative of nongovernmental organization focused on children in children's homes: for 5 years, you have headed a nongovernmental organization that promotes finding new families for children from children's homes, mainly in the form of adoption and foster care. You have heard nothing of this case, but through your contacts you know you can relatively quickly discover where it took place.

ATTACHMENT 2

A weekly periodical, concerned with political and social issues and highly critical of the current government, featured the following article:

Cruel Fate – the case of Andrea B.

A small town in central Slovakia has in recent months become the scene of one of many everyday dramas, destroying the lives of people, while deemed unworthy of the attention of those we have put in power. Andrea B. is a little girl afflicted by a cruel fate. She's never seen her father, and it is probable that her mother wasn't even sure who he was. The mother committed suicide when Andrea was two, and since then she's been in institutions. If such a child is not adopted within a year, its future is dark and desperate. Years in an orphanage lie ahead, to be followed in adulthood by homelessness, prostitution or drug addiction. Into little Andrea's life, however, after three years a ray of light appeared, by the name of Lucia. 17-year-old Lucia, a cook in the children's home, clicked with Andrea, and wished to take care of her. Yet because she wasn't of adult age, her parents became Andrea's official guardians. Andrea had found a home, with a mother and grandparents. Then, however, a personal grudge intervened. After a year, a worker from the Bureau of Labor, Social Affairs and the Family, who had quarreled with Lucia's family, arranged to have little Andrea taken back to the children's home. Lucia, now a legal adult, immediately applied in her own name for guardianship, and the court granted this after a few months. The spiteful bureaucrat, though, was unable to leave the little family in peace, and put in an appeal. During this process, Andrea B. is back in the children's home, crying for her mama. Despite this, the bureau is adamant: we won't give up the child until the court orders us to. In court Lucia has been told that if the bureau is stubborn and obstructive the appeal may last a year, maybe longer, as this is one of the most overloaded courts in Slovakia. This is what compassion and an improved social policy looks like in the hands of today's government – not in its strategy, but in reality.

-Nk

ATTACHMENT 3**Information on the cases of Lucia Holíková, Andrea Bátoriová and Petra Šťastná**

To: Ing. Holeška, Director of Banská Bystrica Branch of Bureau of Labor, Social Affairs and the Family

From: Mgr. Lasecká, Chief of Department of Social-Legal Protection

Further to your request, I submit to you information on the case of Lucia Holíková, Andrea Bátoriová a Petra Šťastná. This information has four parts, A to D. I would like to alert you that this is confidential material, containing personal data and case histories of the parties mentioned.

A. Problems in the Holík family:

On 8 July 2002, the police were called to resolve physical contact between the daughter Lucia and the father, Mr. Holík, but Mr. Holík's wife called off the police. Mr. Holík wishes to return Andrea to the children's home in Banská Bystrica.

Problems with Lucia Holíková's care of the minor child have resulted in a worsening of the relationship between her parents = the Holík couple

Problems between father and daughter – not speaking to one another

Mr. Holík has requested in writing, of the director of the pre-school which the minor Andrea attended, that the pre-school employees not release the child to Lucia Holíková.

Continually changing position of Lucia Holíková's parents: which child to give to their daughter for foster care, how many children to give to their daughter for foster care, to whom else to give the minor Andrea, to find a different family for the minor Andrea, return her to children's home

B. Problems with the health of Lucia Holíková:

Lucia's father arranged psychiatric treatment for his daughter in Bytčica, with admittance to take place on 8 July 2002, but Lucia's mother halted the proceedings.

Lucia Holíková, as her father asserts, has been diagnosed with Asperger's syndrome¹

C. Lucia Holíková's problems in caring for Andrea Bátoriová:

Lucia's parents – the Holík couple – requested the medical assistance of MUDr. Padovská. Their daughter Lucia was locked in the apartment flat with the minor Andrea, having hysterics. MUDr. Padovská calmed Lucia Holíková with the aid of medication. Lucia threatened to jump out the window. On 10 July 2002, Mr. Holík telephoned to inform the Banská Bystrica Department of Social-Legal Protection of Lucia Holíková's threats to jump out the window.

At the recommendation of the field commission of the Diagnostic Center in Banská Bystrica on 4 June 2004, Andrea should attend a special primary school, but in the village where Lucia Holíková resides no special primary school exists.

Methods of bringing up children used by Lucia Holíková: shouting when the children are meant to learn something

D. Problems with foster care of another child:

The director of the children's home in Krásno pod Hradom on 4 February 2002 took Petra Šťastná from the residence of Lucia Holíková, based on a call from Lucia Holíková's parents that something was not right with the child. Upon visiting, the director found the child traumatized, having vomited repeatedly, and soiled herself on several occasions. The minor Petra had these problems only while living with the Holík family, not before or after. The parents asked that their daughter not be told that the visit by the director of the Krásno pod Hradom children's home took place at their initiative, and the director promised to respect this.

¹ A mild form of autism, with a high rate of diagnosis – epidemiological research puts it at about 1 in 250 individuals showing symptoms of the syndrome

TASKS FOR STUDENTS

Questions after reading the article for all participants

- What will you do after reading this article?
- Should you concern yourself with the whole case? Is it the task of people in your position to get involved with these issues? Why or why not?
- If you were to get involved, from whom should you seek further information, since the article does not make it possible to identify the town?
- What is the interest of you and your institution in this case? What do you hope to get from it? What risks do you see in it for your institution?
- What steps in obtaining information, and fostering the interests of you and your institution, do you consider correct and ethical?

Instructions for written work

Write an essay on the case, in which based on the available information you give your own answers to the following questions:

- How would you assess the approach of the Bureau of Labor, Social Affairs and the Family in the case of Andrea B.?
- If you were to decide about foster care, would you give Andrea B. to the foster care of Lucia H.?
- What do you think will happen with Andrea B. if she is in the foster care of Lucia H./remains in the children's home?
- Do the individuals in the situation have a moral responsibility to resolve this case? Which individuals have, and which do not? Why?
- How should the ministry approach similar cases?
- What would you do with this documentation? Would you use it, or some information in it, publicly? If yes, how?
- Is it reasonable for some of the other individuals to use publicly the information in the documentation? If yes, which information, and why?

TEACHING INSTRUCTIONS

1. Approach

Expected length

90-minute lesson:

- introductory information, role definition, reading the article, question distribution (10 min);
- preparation of presentation (20 min if done individually, 30 – 40 min if done in groups);
- presentation – 5 minutes per presenter (total of 25 – 30 min);
- reading of documentary material from the Bureau of Labor, Social Affairs and the Family, assignment of written work and questions about it (10 min).

Supplementary activity during following lesson:

- informing students on content of written work and final discussion: 20 – 45 min

Materials

- Cards defining roles – attachment 1.
- Document: article – attachment 2.
- Document: position of Bureau of Labor, Social Affairs and the Family – attachment 3.
- Tasks for students - questions after reading the article.
- Tasks for students - questions after reading the position of Bureau of Labor, Social Affairs and the Family – instructions for written work.

2. Recommended work with the case study

The teacher will provide introductory information about the case of Andrea B. This should describe how six-year-old Andrea from a children's home was taken from her foster family under unclear circumstances. The study focuses mainly on how individuals in the public sphere may have legitimate interests in her case, what those interests are, and how they can promote them as regards the needs of a defenseless child. Case study participants will play the roles of journalists, government employees, the minister, or representatives of nongovernmental organizations involved with this issue. If there are students who have not had experience with case studies, it is recommended to explain this type of technique in general.

In the next step, the teacher should distribute cards defining roles, and the article about Andrea B's case. It is up to the teacher whether roles should be given by chance or according to students' interests. Also, primarily based on the number of students, it must be established whether the roles will be played by individual students or by teams. If it is to be in teams, they must first be created at this point, in order to begin work immediately after reading the article.

After students have had the chance to know their roles and read the article, we suggest passing out "Questions for each participant after reading the article", and informing students that they should prepare brief presentations in reaction to them. Presentations should take 5 minutes, and include students' answers to the questions and their reasoning. After presentations, the teacher or other students may ask follow-up questions if time allows.

After presentations, the teacher should pass out documentary material from the Bureau of Labor, Social Affairs and the Family, and inform students of instructions for the written work, to be completed individually and submitted by a given deadline. If the class schedule permits, we suggest a deadline in the near future, so the final part takes place as soon as possible.

After written work is submitted and evaluated, the teacher can return students' work with written commentary. Time permitting, we recommend adding a final discussion, during which the teacher can inform students of individual participants' opinions, and the students can discuss them.