
THE LEGAL STATUS OF THE MAYORS OF LITHUANIAN MUNICIPALITIES AFTER CHANGES TO THE MUNICIPAL STRUCTURE MODEL IN 2023

Algirdas Astrauskas

*Mykolas Romeris University
Ateities str. 20, LT-08303, Vilnius, Lithuania*

Kristina Čelkė

*University of Applied Social Sciences
Kalvarijų str. 137E, LT- 08248, Vilnius, Lithuania*

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Abstract. The purpose of this article is to present the results of a qualitative study conducted using a questionnaire in February 2023, which aimed to reveal the peculiarities of the legal status of the mayors of Lithuanian municipalities in the presence of two different municipal structure models (the model that was applied from March 2015 to April 1, 2023, and the model that has been applied since April 1, 2023). The idea of conducting this research arose just a few weeks before the regular municipal council and mayoral elections took place on March 5, 2023, a few months before the new Local Self-Government Law came into force on April 1, 2023. This law introduced a new municipal structure model and changed the dominant role of the mayor in Lithuanian municipalities. This research is unique because of the target group chosen for it – only the ten mayors of Lithuanian municipalities who have served in these positions for four or more terms (20 or more years) were consulted. The results of the research show that: the mayors have a good understanding of the specifics of the new municipal structure applied since April 1, 2023; and the mayors are essentially prepared to take on a new role (the role of the municipal executive institution), replacing their previous role (the role of the chairman of the municipal council). However, the fact that the mayor of the municipality, who continues to be the organizer of municipal council meetings (the other role of the mayor of a Lithuanian municipality), will not have the right to vote when the municipal council makes decisions at its meeting is cause for concern. Mayors are also worried about the different interpretations regarding the possibility of transferring part of their powers to vice mayors (political appointees). The results of this research could be useful for improving the legal regulation of the powers of municipal

institutions (both municipal councils and municipal mayors, in terms of the scope, composition, transfer and delegation of powers to other municipal entities) and the relations between these institutions.

Keywords: *municipality; municipal structure model; mayor of the municipality; legal status of the mayor; transfer of the powers.*

Reikšminiai žodžiai: *savivaldybė; savivaldybės struktūros modelis; savivaldybės meras; mero teisinis statusas; galių perdavimas.*

Introduction

Both Lithuanian society and local municipalities faced significant changes and challenges after April 1, 2023. These changes and challenges were prompted by a decision of the Constitutional Court of the Republic of Lithuania in April 2021. In its decision, the Constitutional Court declared that certain provisions of the Laws on Municipal Council Elections and Local Self-Government (adopted in 2014) were unconstitutional. These provisions were related to the direct elections of the mayor of the municipality and the additional powers granted to the mayor. The Constitutional Court found that these provisions contradicted Article 119 of the Constitution, which establishes the constitutional principles of local self-government.

In order to address the situation that had arisen before the regular municipal council and mayoral elections of 2023 (otherwise, there would have been a need to revert to the municipal structure model that had applied in Lithuanian municipalities since 2003), a bill to amend six articles of the country's Constitution was registered in the Parliament of the Republic of Lithuania in June 2021. The procedure for considering this bill in parliamentary committees was initiated in October 2021. Alongside efforts to amend the country's Constitution, projects to amend the Law on Local Self-Government and other related laws were also prepared. This entire process culminated in three significant events:

1. In April 2022, the second vote took place regarding the amendment of six articles of the country's Constitution related to the status and powers of the municipal mayor, which came into force in May 2022.
2. In June 2022, the Election Code was adopted, which came into force in early September 2022.
3. On June 30, 2022, the Law on the Amendment of the Law on Local Self-Government was adopted, which came into force on April 1, 2023.

In this way, Lithuania achieved a result that had been deliberately pursued since 1998 – a municipal structure model with a directly elected municipal mayor, which was legalized through the Law on Local Self-Government and which complies with the country's Constitution.

The search for a municipal structure model with a directly elected municipal mayor was not an easy task. The option that was ultimately chosen and enshrined in the Law on Local Self-Government (in its revised version) passed by the Parliament in June 2022 emerged as only one of a number of possible compromise solutions. It implements the provision of Article 119, Part 1 of the Constitution of the Republic of Lithuania, which declares that the right to self-government, granted by law to state territory administrative units, is exercised (starting from May 2022) by not one, but two municipal institutions – the municipal council and the mayor of the municipality. Both of these municipal institutions have been directly elected since 2023, and have the powers of a municipal government (local authority) and a public administration. Being a compromise and having been developed hastily, this municipal structure model, as a whole and in its individual elements (including the legal status of the municipal mayor, the scope and composition of their powers, the transfer of certain powers of the mayor to a deputy mayor(s) or a director of the municipal administration, etc.), could not and cannot fully satisfy the diverse perspectives, experiences, interests, and goals of different individuals and groups. Therefore, the local municipal structure model (and its elements) has received and continues to receive a fair amount of criticism and scrutiny. There are concerns about its sustainability, and challenges that may arise during its implementation are identified. In order to respond to all of these issues and help find rational solutions to address real-world problems, it was decided to conduct a study (surveying municipal mayors with substantial knowledge) and present the results in the form of an article.

The purpose of this article is to present some of the results of research conducted in February 2023, which aimed to reveal the peculiarities of the legal status of Lithuanian municipal mayors in the presence of two different municipal structure models (the model that was applied from March 2015 to April 1, 2023, and the model that has been applied since April 1, 2023).

Literature review

In order to better understand which of the elements of the municipal structure models implemented in Lithuanian municipalities since April 1, 2023, are the most commonly debated, and which roles (dominant and others) of the municipal mayor are most contested, it is appropriate to describe the municipal structure models applied in Lithuanian municipalities from March 2015 to April 2023 and from April 1, 2023, onwards. This is best achieved using the provisions of the textbook by A. Astrauskas (2022) and the statements from the article prepared by A. Astrauskas, K. Čelkė and K. Vilkauskas (2023).

From March 2015 to April 1, 2023, the following municipal structure model was applied in Lithuania (Figure 1):

- 1) **Municipal structure model** – a parliamentary republic-type dual municipal structure model, also known as the “Municipal Council–Administrator” model.

- 2) **Municipal council** – an elected, representative, and decision-making municipal institution; the right of self-government is implemented exclusively through it, and it possesses and exercises the powers of a municipal government (local authority) and a public administration.

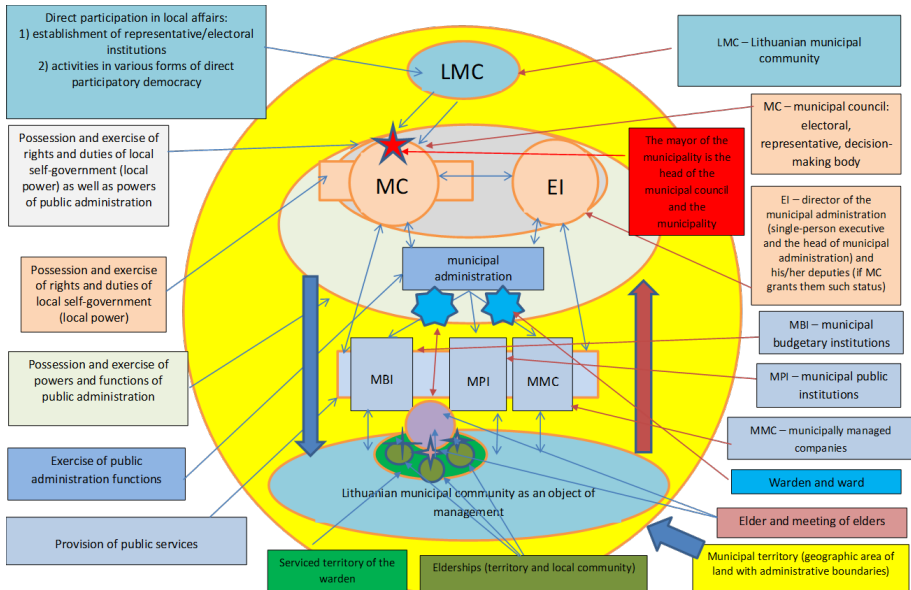


Figure 1. Municipal governance model applied in Lithuanian municipalities in March 2015–April 2023

(Source: Astrauskas 2022, 86)

- 3) **Mayor of the municipality** – a state politician, a member of the municipal council, the chairman (leader) of the municipal council (the dominant role of the mayor), and the head of the entire municipality:
- 3.1) until 2015, the mayor of the municipality was elected by the municipal council from among its members for the duration of their term; since 2015, they have been directly elected;
 - 3.2) since 2015, the mayor of the municipality has been granted powers typical of the municipal executive institution (the mayor possesses and exercises the powers of municipal government/local authority).

In cases where a motion of no confidence is expressed by the council or in other situations specified by law, the mayor can be dismissed from office before their term ends.

- 4) **Deputy mayor(s) of the municipality** – state politician(s) and member(s) of the municipal council. The number of deputy mayors ranged from 1 to 3, depending on

the number of municipal council members. They were appointed to their positions by a decision of the municipal council for the duration of their term, following the mayor's nomination. Deputy mayor(s) carried out functions and tasks set by the mayor and acted as a substitute for the mayor when they could not perform their duties (e.g., due to temporary incapacity, etc.). Deputy mayor(s) could also hold the position for public reasons.

- 5) **Director of the municipal administration and deputy director** – the director of the municipal administration was the single-person executive institution of the municipality, and served as the head of the municipal administration (the municipal budgetary institution). While lacking the powers of municipal government (local authority), the director had executive (public administration) powers. The director was appointed by a decision of the municipal council following the mayor's nomination, and served for the duration of their term as a political appointee. The director was required to resign at the first meeting of the newly elected municipal council, at the mayor's initiative, upon a motion of no confidence by municipal council members, or in other cases specified by law. The director could have from 1 to 3 deputies, who were appointed to their positions by a decision of the municipal council following the mayor's nomination as political appointees. Starting from 2011, the Local Self-Government Law allowed the municipal council to grant executive institution status to the deputy director(s) of the municipal administration, specify their areas of activity, and provide executive (public administration) powers.

Since April 1 2023, a new municipal structure model has been applied in Lithuania (Figure 2):

- 1) **Municipal structure model** – a presidential republic-type model with “one power center” of municipal governance, also known as the “Municipal Council–Directly Elected Mayor” model.
- 2) **Municipal council** – an elected, representative, and decision-making municipal institution; one of the two municipal institutions through which the right of self-government is implemented, it possesses and exercises the powers of municipal government (local authority) and public administration. The municipal council does not have its own leader (specifically, the chairman of the municipal council).
- 3) **Mayor of the municipality** – a state politician, the executive institution of the municipality (with the dominant role of the mayor), the head of the entire municipality. The mayor is also responsible for organizing municipal council meetings, presiding over them, and signing, announcing, and potentially vetoing adopted decisions. The mayor does not have a voting right during municipal council meetings, and serves as one of the two municipal institutions through which the right of self-government is implemented. The mayor possesses and exercises the powers of municipal government (local authority) and public administration; in cases where

a motion of no confidence is expressed by the council or in other situations specified by law, the mayor can be dismissed from office before the term ends.

- 4) **Deputy mayor(s)** – political appointee(s). The mayor appoints the deputy mayor(s) to their position with the approval of the municipal council (and in cases specified by law, even without the approval of the municipal council). Depending on the size of the municipality (more precisely, based on the number of municipal council members), there can be from 2 to 4 deputy mayors, who carry out functions and tasks determined by the mayor. When appointed by the mayor, the deputy mayor can substitute for the mayor when the latter is temporarily unable to perform their duties due to vacation, temporary incapacity, or other justifiable reasons, or when the mayor’s authority is suspended by a court decision (the deputy mayor may perform not all, but only some of the mayor’s powers prescribed by law).
- 5) **Director of the municipal administration** – appointed unilaterally by the mayor (no approval from the municipal council is required) and serving as a political appointee for the term of office of the mayor. The purpose of the director is to serve as the head of the municipal administration (the municipal budget institution), but by law the director is also granted some other powers of public administration.

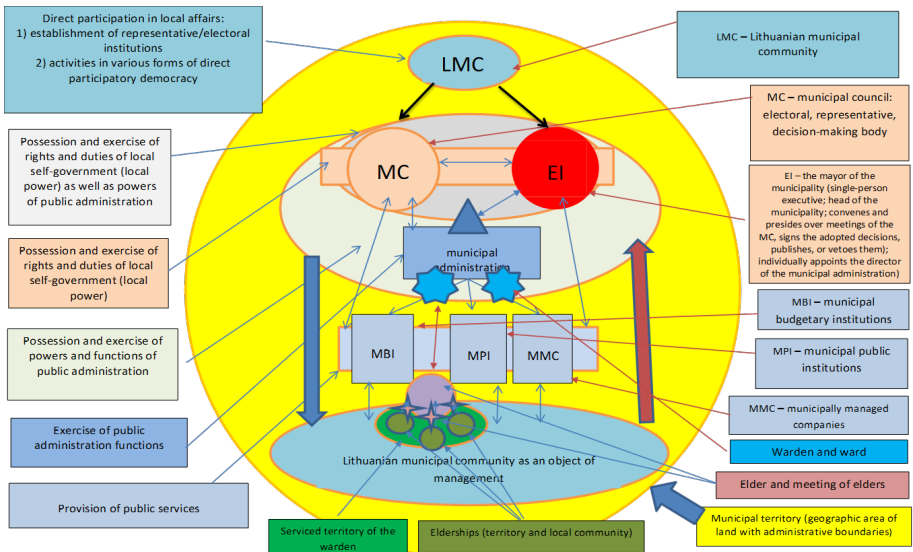


Figure 2. Municipal governance model applied in Lithuanian municipalities from April 2023

(Source: Astrauskas 2022, 87)

Methodology

An online structured questionnaire survey was chosen for this qualitative research. The questionnaire consisted of 20 questions, some of which were designed to ascertain the respondents' opinions on the mayor's legal status and roles (dominant and others) in the municipal structure models implemented in Lithuanian municipalities both before and after April 1, 2023. As mentioned previously, when conducting the research, the focus was on a specific target group: experienced mayors of Lithuanian municipalities who had held these positions for no less than four terms, i.e., 20 or more years. This group of respondents consisted of only 10 mayors of Lithuanian municipalities, of which 8 agreed to answer the questionnaires. The research was conducted in February 2023, and the results were summarized in March 2023. The authors of the article conducted the research.

Research results

In this paper, we present only some of the most interesting results of the research.

The first question aimed to determine the opinions of the respondents on the roles that should be performed by the mayor in a general theoretical sense (without specifically linking them to a particular municipal governance model). When formulating this question, we followed the theoretical approach outlined in the textbook by A. Astrauskas (2022), which suggests that in republic-type municipal structure models, 2 functional levels, 3 functional branches and 4 functional places can be identified. The functional places consist of: the head of entire municipality, the chairman of the municipal council, the single-person executive institution, and the director of the municipal administration. These places can be both institutionalized and non-institutionalized – i.e., if the decision is made not to establish a position in a particular municipal governance model corresponding to a certain functional place, then the functions of such a non-institutionalized functional place are transferred to another institutionalized functional place.

According to the respondents' opinions, the mayor in the municipal structure model, in a general theoretical sense, should perform three roles: serve as the head of the entire municipality; represent the municipality beyond the municipality's borders; and at the same time perform the functions typical of the municipal executive institution, while equally attentively carrying out the functions of the chairman of the municipal council (as a meeting/work organizer). A municipal structure model that assigns the mayor's responsibilities to three functional places is considered acceptable and rational.

The second question aimed to determine the opinions of the respondents regarding the requirements that are appropriate to be imposed on a person running for or holding the position of the mayor of a municipality.

The respondents selected (Figure 3) 6 out of the 8 possible requirements imposed on the directly elected mayor of the municipality, of which the most important are the residency requirement (supported by all 8 respondents) and the citizenship requirement, the requirement of an impeccable reputation, and the oath of office (supported by 7 out of 8 respondents). Of the 8 respondents, 4 agreed that there should also be an education requirement imposed on individuals aspiring to or holding the position of a mayor. None of the respondents proposed applying an age requirement.

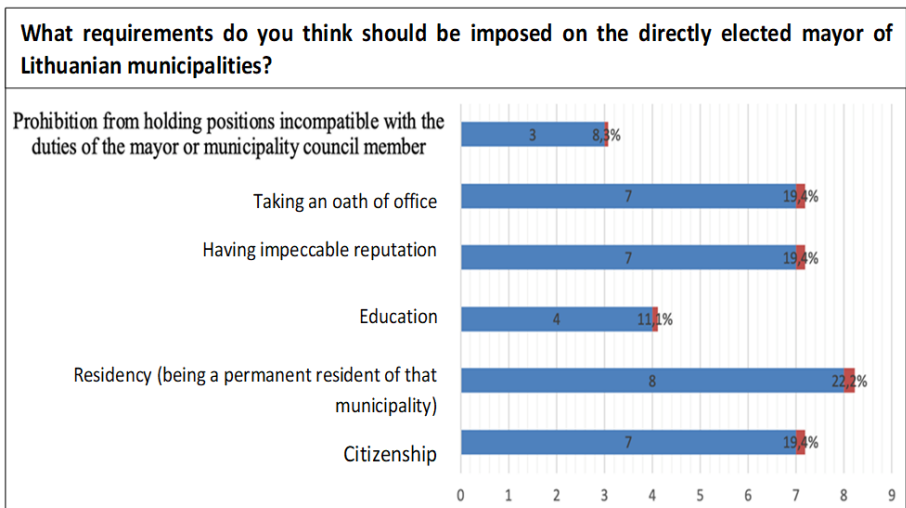


Figure 3. Responses to the question regarding the requirements to be imposed on a directly elected mayor of a Lithuanian municipality

(Source: compiled by the authors based on survey results)

The third question aimed to determine the opinions of the respondents regarding who should temporarily replace the mayor when they are ill, away on a business trip or otherwise unable to perform their duties.

In the respondents' opinions, when the mayor is unavailable they should be replaced or temporarily have their duties performed by the deputy mayor appointed by the mayor with the approval of the municipal council – i.e., a municipal council member (4 out of 8 respondents). Another possible option is that these duties could be performed by a political appointee (supported by 3 out of 8 respondents).

The fourth question aimed to determine the opinions of the respondents on what guarantees would best protect the municipal mayor and motivate individuals to take up these positions.

According to the respondents, the best way to protect the municipal mayor and motivate individuals to assume the duties of the mayor would be an official salary (with bonuses and allowances) that is commensurate with their responsibilities, and the right to return to former positions or choose new roles at the same or a lower level in the public sector.

The fifth question aimed to determine the opinions of the respondents on the order of priority for performing functions in the years 2023–2027, with the change in the mayor’s dominant role in the municipal structure model. The respondents’ opinions are presented in **Figure 4**.

In your opinion, which functions should the municipal mayor directly elected for the 2023–2027 term focus on in 2023? Please provide your response in order of priority from 1 (least important) to 4 (most important)		
	Place	Points
Municipal executive institutions	1	36
Head of the municipality (for duties related to representing the municipality outside its borders, in relations with state institutions, courts, LSA, etc.)	2	29
Organizer of the work of the municipal council (making the meeting agenda, convening meetings, presiding over meetings, etc.)	3	27
Supervision and vetoing of decisions made by the Municipal Council	4	18

Figure 4. Responses to the question regarding the order of priority for performing functions in 2023–2027, with the change in the mayor’s dominant role in the municipal structure model

(Source: compiled by the authors based on survey results)

According to the respondents, as stipulated in the Local Self-Government Law, which entered into force on April 1, 2023, the mayor of the municipality should focus on implementing the functions of the executive institution (the first role). It is equally important for the municipal mayor to properly perform the functions of the head of the entire municipality (the second role, including duties related to representing the municipality beyond its borders) and the functions of the organizer of the municipal council’s work (the third role). The newly assigned function related to the oversight and veto of decisions made by the municipal council is considered to be the lowest priority.

The sixth question aimed to determine the opinions of the respondents on the most significant challenges that municipal mayors elected in 2023 could face.

According to the respondents, from 2023 to 2027, mayors are likely to face the same challenges as in the period from 2019 to 2023, including: imperfections in the legal

environment (all 8 of the respondents believe this); and a lack of financial resources (7 out of 8 respondents). Of the 8 respondents, 3 did not rule out the possibility of conflicts between the municipal council (or the majority thereof) and the mayor in local affairs. This concern has already been confirmed in practice with the example of the Anykščiai District Municipality in 2023.

In response to **the seventh question** concerning the three most important tasks that mayors elected in 2023 should begin their activities with, the following were identified: forming their team (all 8 of the respondents believe this); seeking help and engaging in constructive communication with municipal council members to form a stable working relationship with the council majority and reach an agreement on mutual communication/collaboration (5 out of 8 respondents); and getting acquainted with the economic/financial situation and identifying and anticipating the most important issues and how to address them (4 out of 8 respondents).

Conclusions

1. In the opinions of the mayors of Lithuanian municipalities who have held these positions for four or more terms, a municipal structure model in which three functional places are assigned to the mayor's responsibilities is considered acceptable and rational. These functions are: serving as the head of the entire municipality; representing the municipality beyond the municipality's borders; and at the same time performing the functions typical of the municipal executive institution, while equally attending to the functions of the municipal council leader (as a meeting/work organizer). It can be concluded that the respondents were essentially satisfied with both the municipal structure model applied before April 1, 2023, and that applied since April 1, 2023, although the actual municipal structure models and the dominant role of the mayor in these models differ significantly. This means that, despite much criticism, the municipal structure model applied since April 1, 2023, will not undergo significant change (i.e., the model itself will not change, but only specific elements of the model will be adjusted when necessary and based on practical needs).
2. For the respondents, the most significant source of stress is the fact that, with the change in the municipal structure model and adjustments to the role of organizing council meetings/work, they will no longer have voting rights when the municipal council makes decisions. However, the legislator has compensated for this loss by granting the municipal mayor the right to veto decisions made by the municipal council. After experiencing and mastering these new types of power, it is expected that the mayors of Lithuanian municipalities will psychologically come to terms with the loss of their voting rights, and the stress they experience will decrease.

Thus there will be less interest in initiating changes to the Law on Local Self-Government related to the regaining of voting rights.

3. It is likely that there will be a more intense search for more acceptable legal regulation for the mayors of Lithuanian municipalities, creating opportunities for them to transfer some of their power to vice mayor(s) and/or to the directors of the municipal administration. This search could potentially lead to amendments to the provisions of Law on Public Administration (a General Law) and the Law on Local Self-Government (a Special Law) that regulate the procedure and cases for transferring the power (or functions) of public administration. In the opinion of the respondents, transferring some of the mayor's power to vice mayors would meet with less resistance if vice mayors were not political appointees, but, like municipal mayors, members of municipal councils (elected local politicians). On the other hand, municipal mayors, who understand the possibilities of signing administrative decisions remotely, can significantly mitigate their willingness to share powers with other subordinate entities by using a modern digital document management system.

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Algirdas Astrauskas, Kristina Čelkė

LIETUVOS SAVIVALDYBIŲ MERŲ TEISINIS STATUSAS PAKEITUS SAVIVALDYBĖS STRUKTŪROS MODELĮ LIETUVOJE 2023 METAIS

Anotacija. Straipsnio tikslas – pristatyti 2023 m. vasario mėnesį atlikto mokslinio tyrimo, kuriuo siekta atskleisti Lietuvos savivaldybių merų teisinio statuso reglamentavimo ir jo tobulinimo galimybes, svarbiausius rezultatus. Sumanymas atlikti tokio pobūdžio mokslinį

tyrimą kilo likus vos keliems mėnesiams iki įsigaliojant 2022 metų birželio mėnesį priimtam Vietos savivaldos įstatymo pakeitimo (naujos redakcijos) įstatymui, kuriuo buvo įtvirtintas naujas savivaldos modelis ir pakeistas savivaldybės mero dominuojantis vaidmuo, taip pat likus kelioms savaitėms iki eilinių savivaldybių tarybų ir merų rinkimų (rinkimai vyko 2023 metų kovo 5 d.). Atsižvelgiant į 2022 metais vykusias diskusijas dėl naujo savivaldos modelio principinių nuostatų ir savivaldybės mero naujo vaidmens tame modelyje, dėl šių pokyčių sukeltamų pasekmių ir atsirandančių iššūkių tirti pasirinkta ypatinga tikslinė grupė – Lietuvos savivaldybių merai, ėję šias pareigas keturias ir daugiau kadencijų (tyrimo metu jie vadinti „patyrusiais“ merais). Tyrimo rezultatai parodė, kad merai gerai supranta 2023–2027 metais numatyto taikyti naujo savivaldos modelio specifiką ir iš esmės yra pasiruošę vietoj iki tol turėto statuso ir vykdyto savivaldybės mero – savivaldybės tarybos vadovo – vaidmens atlikti naują savivaldybės vykdomosios institucijos vaidmenį. Vis dėlto paaiškėjo, kad nemažai nerimo kelia ta aplinkybė, kad savivaldybės meras, kuriam ir toliau numatytos atlikti savivaldybės tarybos posėdžių organizatoriaus pareigos, neturės iki tol turėtos balso teisės savivaldybės tarybai posėdyje priimant sprendimus. Merus taip pat neramina ir skirtingos interpretacijos dėl subjektų, galinčių juos pavaduoti, taip pat dėl galimybės, esant poreikiui sumažinti merui tenkančią milžinišką darbo krūvį, dalį jų įgaliojimų perduoti (deleguoti, suteikti teisę atlikti) vicemerams (politinio pasitikėjimo tarnautojams). Tyrimo rezultatai gali būti naudingi tobulinant savivaldybių institucijų (savivaldybės tarybos ir savivaldybės mero) įgaliojimų (apimties, sudėties, jų perdavimo (delegavimo) aspektais kitiems subjektams) ir šių institucijų tarpusavio santykių teisinį reglamentavimą.

Algirdas Astrauskas – prof. dr., Viešojo valdymo ir verslo fakulteto Viešojo administravimo institutas,

Mykolo Romerio universitetas, Vilnius, Lietuva.

E. paštas: algirdas.astrauskas@lrs.lt

Kristina Čelkė – lektorė, Socialinių mokslų kolegijos Aukštoji mokykla, Vilnius, Lietuva.

E. paštas: kristina.celke@gmail.com

Algirdas Astrauskas – professor at the Institute of Public Administration at the Faculty of Public Governance and Business at Mykolas Romeris University in Vilnius, Lithuania.

Email: algirdas.astrauskas@lrs.lt

Kristina Čelkė – lecturer at University of Applied Social Sciences in Vilnius, Lithuania.

Email: kristina.celke@gmail.com

