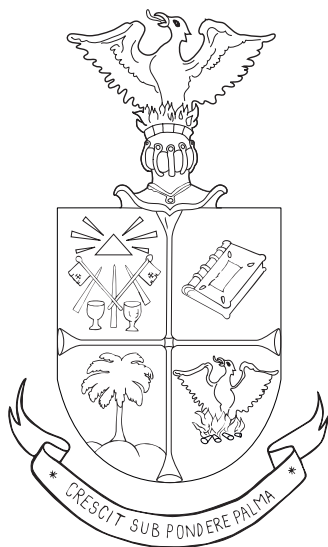


# **Karoli Mundus I.**



# KAROLI MUNDUS I.

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Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar

# ANOMALIES IN THE FUNCTIONING OF LOCAL AUTHORITIES IN HUNGARY FOLLOWING THE CHANGE OF REGIME, WITH PARTICULAR REGARD TO THE FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND THE EXPANSION OF E-GOVERNMENT

## 1. Introduction

In our study we aim to point out the difficulties caused by the characteristics of regulation concerning local municipalities in the period following the regime change, especially from the perspective of efficiency. We also intend to present the significance of greatly broadened independence that municipalities received following the deconstruction of the socialist regime. However, in the course of the twenty years following the regime change, not only did this freedom fail to expand, but – due to the Hungarian characteristics – it became virtually dysfunctional in most settlements. Despite the many European examples, Hungarian political parties and the administration were unable to act effectively against the issues arising from the lack of resources and a fragmented settlement structure. Meanwhile, technology and, as a consequence, administration and state management underwent major changes. As the result of these changes, among other things, significant regional reform started in 2010 with the introduction of a new law on municipalities that took effect in 2013. Responsibility for task performance changed significantly and the former wide level of independence decreased greatly because fundamentally centralised performance of various tasks appeared in several public services. From a democratic perspective, this may present an ideological problem. However, from the perspective of efficiency, these changes portend grand possibilities. Moreover, with the appearance of new information and communication technologies (ICT), the logic of subsidiarity and regional organisation was also transformed to a significant extent. Bringing decision-making “closer” to citizens means something quite different today than it did 20 or 30 years ago.

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## 2. Municipalities in Hungary and the regime change

The Hungarian system of municipalities – transformed in 2013– was established at the time of the regime change, and its characteristics can in a large part be understood from the context of that regime change. As Gajduscsek writes, “The intellectual context of the regime change can mostly be understood as the radical rejection of the former <communist> system. The most important characteristic of the former council system is that it operated basically as part of a centralised system, therefore, in the case of these bodies, there could be no actual autonomy of municipalities. The negative feelings of the population concerning the council system were increased by the establishment of joint community councils.”<sup>5</sup> This happened around the 1970s. During this period, such communities were forced into a single joint council, between which century-old conflicts existed, sometimes ethnical or religious, usually traced back to long-forgotten reasons. Units created in this way of course could not be interpreted as actual communities for the people living in the individual settlements. Besides, peripheral settlements in the joint councils felt that the central authority condemned them to gradual decline. Standing in contrast to all this, the municipality act, created during the course of the regime change (Ötv.)<sup>6</sup> established new rules and regulations for the municipality system. This act made it possible for all settlements to set up municipality organisations. In this way, the number of municipalities doubled, and the average number of residents per municipality became one of the lowest in Europe.<sup>7</sup>

The most spectacular change is that in the place of the joint council system, a system of municipalities was established based on settlements alone. In this way, the number of operators doubled, and one of the most fragmented systems within the member states of the Council of Europe was established. The number of budgetary bodies in the local municipality system was about 13 000 – 14 000 in the years following the regime change. This legal solution was created despite knowing the international experience of applying mandatory municipality task performance partnerships. However, political considerations prevented their introduction, several times, and the act created more than 3 100 independent “republics” with total equality from a legal perspective.<sup>8</sup>

Granting autonomy for the municipalities was a definitive element of the new regulation.<sup>9</sup> However, the development of the municipality system is not only a matter of constitutional context.<sup>10</sup> The two most important institutional changes of the regime

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5 Gy. Gajduscsek, ‘Változások az önkormányzati rendszerben, egy értelmezési kísérlet’ (2012) 2 Fundamentum 61.

6 Act LXXV on local government 1990.

7 *ibid* [1].

8 A. Vigvári, ‘Decentralization without Subsidiarity Some Additions to Modernization of Hungarian Model of Local Government System’ (2008) 22 Tér és Társadalom 143.

9 *ibid* [1] 62.

10 T. Horváth M., ‘Kiszervezés – visszaszervezés: a helyi közszeaktor változása’ (2012) 2 Fund-

change were the deconstruction of state property (privatization) and the establishment of a democratic political system. Hungary was in the vanguard among transforming Central European countries in deconstructing centralised power.<sup>11</sup> As the result of all this, the tasks and competences, most of which all municipalities were entitled to, were determined rather widely. A significant part of public services and the dominant part of so-called human public services became the responsibility of the municipalities. For example, just like organising healthcare, elementary and secondary education and the dominant part of social care also became tasks of the municipalities.

The primary political goal of the Ötv. was to establish an independent municipality system responsible to voters. Every settlement could exercise this right, and that was how the fragmented system of settlement municipalities, which was later widely criticized, and which has been – as we will see – the source of several problems to this day, was established.<sup>12</sup>

Several conflicts occurred in the operation of municipalities in the two decades after the regime change. Changes of such magnitude result in friction and institutional conflicts in both the economy as a whole and in the operation of the local municipality system. Local public services were reorganized along such conflicts, where severe social inequalities and supply-related tensions formed between the individual settlements.<sup>13</sup> Many times, however, these problems were not caused by the fragmented municipality system but by the deficiencies of the financing system.<sup>14</sup> The essence of the problem is that, with regard to most public services, the size of the regional unit required for financially efficient performance of tasks was not the same as the size of the political-administrational regional units. Additionally, the optimal size was different according to the nature of the task to be performed.<sup>15</sup> Local tasks, due to their nature, meant too large a budgetary burden for most municipalities. Most of the services categorised as citizen's rights were mandatory tasks, to be performed on-site, concerning which the municipalities had no opportunity to deliberate with regard to the quality of care. Therefore, appropriate-quality service was typically granted only in larger, city-level local authorities.<sup>16</sup>

The settlement municipalities had a great level of independence in performing “local public matters”, a term that became differently interpreted by various parties.

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11 J. Hegedüs, G. Péteri, ‘Közszolgáltatási reformok és a helyi önkormányzatiság’, (2015) 2 Szociológiai Szemle 90.

12 *ibid* [7] 94.

13 Gy. Gajduschek, T. Horváth M., K. Jugovits, ‘Hungarian Public Administration: Last Thirty Years, Waves in the Story’ in P. Kovač, M. Bileišis (eds), *Public Administration Reforms in Eastern European Union Member States. Post-Accession Convergence and Divergence* (Ljubljana, Vilnius, 2017) 251.

14 *ibid* [7] 91.

15 T. Horváth M., G. Péteri, P. Vécsei, ‘A helyi forrásszabályozási rendszer magyarországi példája, 1990–2012’ (2014) LXI Közgazdasági Szemle 123.

16 *ibid* [11] 134.

Local independence was increased by several such authority competences that brought administrative decisions closer to local reality (e.g. in social administration), expanded the scope of tools of local development policy (e.g. building administration), and generally improved the operation of administration. Uncertainties in legal regulations also increased local independence; for example: the unclear or, at several points, contradictory wording of mandatory and volunteered tasks. As a consequence, municipalities had a very wide range of tasks, and their financing was increasingly reliant upon central sources redistributed in a controlled way.<sup>17</sup>

Therefore, in Hungary, a wide (even by international comparison) municipality competence was accompanied by a municipality system based on settlements and, due to the fragmented nature of the settlement structure, it operated with a large number of – at least legally equal – local authorities. This resulted in inadequate efficiency, and uneconomic, and often inefficient solutions from the perspective of performing public services. The sector became the owner of a significant amount of property, with mostly no or only limited marketability, and in a deteriorating physical condition. Nevertheless, the property was mostly passive, not being able (due to its nature and function) to provide collateral for financing municipality expenses. Municipality tasks were, to a significant extent, performed by quasi-fiscal organisations. From the beginning, the central government had the power to exert influence on municipalities with “manual control”: primarily through resource regulation and investment support and secondarily through the system of sectoral laws.<sup>18</sup>

Hungary was criticized several times for the fragmented nature of settlement structures, and for the existence of so many small communities with a low number of residents. The fragmented nature of the municipality system and the limited opportunities to increase sources of income have been a problem for a long time. These factors led to ever more municipalities falling into a situation where, year over year, their revenues could not cover their expenses. In these circumstances, these municipalities could not always count on state support. In earlier times, many suggested involving private-sector capital, but it must be recognised that performing public services is not a profit-oriented activity, so those market financing constructs primarily established for the competitive sector, many times brought about only further, long-term indebtedness.<sup>19</sup>

But the size of the settlements continued to be an important factor. Throughout the nation, a significant part (over 90%) of settlements have population sizes under 5000. Within that, 60% of settlements have a population size below 1000. The proportion of settlements with fewer than 1000 residents exceeds 55% even when compared to the total number of settlements. This disproportion can best be illustrated the

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17 *ibid* [7] 95.

18 *ibid* [4] 153.

19 Á. K. Csiszárík, ‘The Indebtedness of the Hungarian Local Authorities after the Turn of the Millennium’ (2008) 22 *Tér és Társadalom* 94.

by comparing it to the indicators of the other side. Only 2% (60 municipalities) of settlements have more than twenty thousand residents and only 23 (0.7%) settlements have more than forty thousand residents. There are only 8 settlements (0.25%) with the number of residents over one hundred thousand, including the capital, Budapest (1.7 million residents).<sup>20</sup>

The domestic literature often refers to the so-called Southern and Northern municipality models. An example of the former is the French system, where every settlement is an independent municipality, but the municipalities have relatively few independent tasks, and the state administration has quite a strong control over their activities. The Northern systems (e.g. the British or Scandinavian municipalities) are characterised by a wide range of responsibilities and significant autonomy. In these countries, however, larger municipalities exist, in which several smaller settlements belong to one municipal organization. In most Western European countries, this merger of municipalities happened at the same time as the “Communist” merging of settlements in Hungary.<sup>21</sup>

### **3. Possible solutions to the problems of municipalities**

#### **3.1. The role of middle level administration**

In the past decades, especially in the period directly preceding Hungary’s joining the European Union, several political and professional debates were conducted in Hungary concerning the middle level of administration. In a theoretical approach, we can say that the deficiencies of the fragmented and, as its result, weak settlement system as indicated above can be remedied with the help of middle-level regional units and strengthening such units.<sup>22</sup> All the conditions were met in Hungary for this purpose, because county level municipalities have, since the regime change, also been controlled by directly elected bodies through general meetings. With such strong political authorities – we could assume – efficiency problems could have been addressed appropriately. However, it is a typical paradox in Hungary that the middle level bureaucracy was unable to perform its functional tasks. If we consider the issue strictly from an efficiency perspective, in international comparison, even the size of the counties is below the optimal size (see NUTS regions based on the planning statistics nomenclature).<sup>23</sup> However, in Hungary, the issue is complicated

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20 Source: <<http://www.geoindex.hu/adatbazisok/arcadat/magyar-telepulesek-nepessege-2016-01-01/>> accessed 25. September 2019

21 Gy. Gajduschek, ‘A közigazgatás szervezeti jellemzői – összehasonlító aspektusból’ in K. Szamel, I. Balázs, Gy. Gajduschek, Gy. Koi (eds), *Az Európai Unió tagállamainak közigazgatása* (Complex, 2011) 37-58.

22 I. Pálné Kovács, ‘Regionális politika és közigazgatás’ (Dialog Campus 2001) 255-262.

23 I. Temesi, ‘Territorial Public Administration’ in A. Patyi – Á. Rixer (eds) *Hungarian Public*



because further adherence to the counties has a historical and political background. The fundamental organisational units of feudal administration in Hungary were the local authorities, primarily the comitats. The bases for the authority of the self-governance by the nobility were already laid down in the comitats in the 12th century. This form and organisation basically remained until the middle of the 19th century (Revolution and War of Independence of 1848).<sup>24</sup> Every comitat within the state was a separate world, legal authority, and lord over life and death in that area. The comitat managed the administration in the area of its own jurisdiction with its own organisations.<sup>25</sup> In 1943, Zoltán Magyary wrote the following about the comitats: “Among the organisational units of Hungarian administration, the comitat has an important role. Its jurisdiction is not special, but a general administrative authority. The comitat is a historic formation. This can be strongly seen from the regional distribution of comitats and their organisation and competence. For administration, the comitat is worth as much as its efficiency.”<sup>26</sup> “The parishes are under the authority of the comitat, the jurisdictions of the comitat and the parish complements each other.”<sup>27</sup> In Hungarian public thinking, the concept of the county is unquestionable to this day and is a politically important background because county-level general meetings provide a significant number of representatives in the Parliament: including the representatives of Budapest, the number of all the county level mandates is 381. Against this background, the solution reached is the best possible for the governing political elite because, besides centralising tasks (and thus supervision over a significant part of resources) it provides local political positions for those desiring them. In short, Hungarian politics was ripe for a corrupt system based on favors and patronage. Moreover, if we also consider the number of mandates that can be distributed at the local municipalities, then we get truly astonishing numbers. Hungary, though relatively small in geographical and demographic size, has 3177 mayors and 16787 mandates for representatives. Of those, more than 14,000 positions will be distributed in settlements with less than 10,000 residents.<sup>28</sup>

Taking even all this into account, delegation of public functions by regional units and level still has practical importance since it emphasises an important perspective that cannot be disregarded in the long run, namely, the perspective that certain types of public tasks must be organised considering the regional optimum of care. Therefore, exercising the socially common functions does not only include centralized activities

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*Administration and Administrative Law* (Schenk Verlag 2014) 304-319.

24 A. Csizmadia, *A magyar közigazgatás fejlődése a XVIII. századtól a tanácsrendszer létrejöttéig* (Akadémiai Kiadó 1976) 560.

25 *ibid* [20] 39.

26 Z. Magyary, *Magyar Közigazgatás* (Királyi Magyar Egyetemi Nyomda 1942) 266.

27 *ibid* [22] 322.

28 National Election Office of Hungary <[https://www.valasztas.hu/elnyerheto-mandatumok\\_onk2019](https://www.valasztas.hu/elnyerheto-mandatumok_onk2019)> accessed 22. September 2019

but also requires a regional approach.<sup>29</sup> The failure of this and the failed attempt to establish a regional municipality level, however, shows that by the end of the second decade of the municipality system the social-political approval of decentralisation significantly weakened.<sup>30</sup>

As will be shown later, during the latest municipality reforms, the functions and tasks connected to the municipality system did not get stronger middle level. Instead, a centralisation process occurred with the help of counties as administrative units by the expansion of the jurisdiction of deconcentrated authorities.

### **3.2. Partnership attempts**

On the one hand, partnership independence included the establishment of organisations performing the country level representation of the interests of municipalities. On the other hand, it included the opportunity for neighbouring settlements to join forces to perform tasks that could be undertaken independently only with difficulty or at too great cost. The latter in particular could have had a major role since, at the time of the regime change, the legislators intended wide-scale partnerships to remedy the fragmented nature of municipalities. However, the practice did not turn out according to the original expectations or goals. All in all, the level of interest in partnering remained minimal. It is assumed that, in doing so, the municipalities intended to meet the expectations of the residents, in the sense that “independence”, the symbolic value of keeping the institutions, had a greater weight than the efficiency and effectiveness of services<sup>31</sup>.

At the beginning of the 2000s, the alternative service organization and administrative solutions based on cooperation within a sub-region started to spread. With these, it became possible to treat a couple of the problems associated with the fragmented settlement municipality system. However, neither the voluntary partnership model, nor its later, controlled version brought spectacular results, since the budgetary-financing model did not adapt sufficiently to this administrative institution.<sup>32</sup>

The most successful partnership attempt in the period considered was the establishment of multi-purpose sub-regional partnerships. This administrative change decreased the budgetary share of county-level municipalities significantly when partnerships also received central financial support for regional administrative and service tasks, to which funds were assigned to finance jointly provided services even from the cooperating settlement municipalities. This sub-regional model spread gradually, and by 2010 almost 3 percent of local municipality expenses and 6 percent of state support were used by partnerships.<sup>33</sup>

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29 *ibid* [11] 124.

30 *ibid* [11] 135.

31 *ibid* [1] 62.

32 *ibid* [7] 92.

33 *ibid* [11] 134.

The sub-regional partnership attempt was the only larger structural reform in the period. In the fragmented system of municipalities, which at the same time undertook a wide range of tasks, the multi-purpose sub-regional partnerships provided an opportunity to harmonise service organization and political considerations. The aim of partnerships was to create service organisational units of an economically rational size while maintaining the political independence of small settlements. Perhaps making use of structural resources dependent on partnership conditions would have been a good solution, but it was hampered by political resistance. Otherwise, Hungary made relatively good progress in establishing the system of institutions for the distribution of EU resources back then, even by international comparison.<sup>34</sup>

#### 4. The municipality reform

The following can be established from the perspective of efficiency concerning the municipality system created following the regime change. The internal institutional limitations of the local municipality system could not be deconstructed sufficiently, therefore the problem of size efficiency could not be solved either. The problems of the fragmentation of the local government sector at the settlement level could be scarcely addressed by obligatory instruments of regulation as a result of constitutional barriers.<sup>35</sup> The institutional structure was also unable to appropriately react to the treatment of the size efficiency problem in Hungary. In many cases, the formation of rational, functional systems was prevented by a series of political decisions. It is also an important conclusion that even well thought-out models must always be adjusted to the new challenges governing the period to come; therefore principles in themselves – sublime as they may be – are often unfit to resolve practical problems.<sup>36</sup> The municipality system spent its reserves and, due to fragmentation, most of the municipality apparatuses lacked the necessary expertise to function effectively.<sup>37</sup> Municipalities were unable to become a real counter-balance to central power, nor could they break the centralisation of the system of power. The settlement municipalities, which were fragmented in both structure and national-level representation of interests, could not bring about actual, system-level decentralization.<sup>38</sup>

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34 L. Matei, A. Matei, D. C. Zanoschi, O. Stoian, 'Comparative Studies on the Administrative Convergence Revealed by National Strategies of Administrative Reform in Some South-Eastern European States' in A. Matei, P. Grigoriou (eds) *Administrative convergence and reforms in South-Eastern European States. Analyses, models and comparative studies* (2011) 2 ASsee Online Series 201.

35 I. Pálné Kovács, 'Local Governance in Hungary – the Balance of the Last 20 Years' (2011) 83 Centre for Regional Studies of Hungarian Academy of Sciences Discussion Papers 13.

36 *ibid* [11] 145.

37 *ibid* [4] 167.

38 *ibid* [1] 64.

The reorganization of the administration resulted in the reduction of settlement autonomy, emptying the role of the county as public service provider and transforming it as the place for coordinating the redistribution of funds. In this system, administrative dependency increased instead of local accountability. The value of the local elected political leadership declined and new rules for exercising power locally were formed that, in total, increased central state dependency and political dependency. Therefore, political (democratic) authority became stronger, while the competences found here were weaker. Besides the reorganisation of local public services, a significant portion of state administration tasks were assigned to newly established county level government offices – directly dependent on the central government – and the districts subordinate to the government offices. In this way, 17 departmental administration authorities operate under government office heads appointed by the prime minister, from child protection services, to land registration, to pension insurance. Branches of these act as district offices; however, they are assigned fewer administrative tasks.<sup>39</sup>

All in all, the government gave a kind of answer to the acute problems characterising the municipality system. In its content, the answer is clearly a significant reduction of the autonomy of municipalities and an increase in state hierarchy.<sup>40</sup> The transformation has also been a political success because no government had previously dared to touch the municipality system. On the one hand, a lobbying group of significant power was built on municipality independence. On the other hand, the perceived independence of the settlement – in having its own municipality and other institutions – also had a huge, primarily symbolic, value for the citizens. In other words, addressing the issue of municipal governance had been considered political suicide. In the course of the reform, the government let remain the municipal structure, about which the public, and even a significant part of the profession is especially sensitive. In the meantime, a significant part of the functions was transferred from the municipalities to the state. Those forms having symbolic value (elections, bodies, offices) remained local. The principle of “one settlement, one municipality” also remained; however, both of these lost most of their actual function. State supervision increased with regard to the remaining functions. At the same time, their economic independence decreased. Municipalities basically took on an executive role regarding financing tasks.<sup>41</sup>

The local-regional level is where the tasks and competences of governmental administration are clarified and assigned. In the new model, state administrative bodies were reorganised as well. A significant part of the bodies of deconcentrated administration were integrated into the government offices that replaced county level administrative offices. Then, in 2012 an act was adopted on the sub-regional, district offices of the capital, and county government offices.<sup>42</sup> The latter drew significant

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39 *ibid* [7] 96.

40 *ibid* [1] 70.

41 *ibid* [1] 71.

42 Act XCIII:2012

competences away from notaries, and thus from the organisations that until then could be connected to the office system of municipalities. This also involved the significant regrouping of public service employees.<sup>43</sup> As such, the concept of the closeness to citizens and clients needs to be reinterpreted as well since, with the development of technology, direct administration is forced increasingly into the background.

## **5. The most important financial problems of the municipality system**

Within the local municipality financing practice, assigning public administration tasks and the resources to each of them is basically possible in two ways. The regulation system inherited from the planned economy calculates the expenses of the individual municipalities and, after deducting the planned local financial sources, it determines the amount of the central budgetary support provided in an itemised manner. Various forms of this model were created, depending on how detailed and intrusive the expenditure level provisions are and how the estimation of county or local personal revenues was conducted. The other method only regulates the revenues of municipalities. In this, the rules of local revenue generation and the amount of local tax revenues shared with the central budget (to be then complemented with support from the central budget) were determined according to legal regulations. The key element of independent management is that the municipality itself can decide on what and in what structure it spends its revenues. The right to impose taxes independently appeared on the revenue side.<sup>44</sup> In this resource regulation system, spending decisions are made locally, within the framework of budget provisions. In Hungary, the latter resource regulation model was introduced in 1990, following the European and other Western integration recommendations.<sup>45</sup> The essence of the resource-oriented system therefore is the high level of financial independence of local authorities. The free movement between the operational and accumulative budget is an important element of this financial independence. Later in the Hungarian practice, the free movement between the two budgets made it possible for municipalities to exhaust their assets.<sup>46</sup>

An important characteristic of the Hungarian municipality system is that the local municipalities became owners of a significant amount of property when they were established. One of the most definitive processes of the regime change was the destruction of state property. However, in the past period, the municipalities have squandered their property. Concerning the core property serving task performance, the greatest problem is that it is not operational, entrepreneurial property. Instead, the elements required for the performance of other services (institutions, schools, public roads, sewerage system, etc.), not only fail to generate profit, but, on the

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43 *ibid* [6] 7.

44 *ibid* [1] 62.

45 *ibid* [11] 128.

46 *ibid* [4] 142.

contrary, their maintenance requires additional expenses.<sup>47</sup> One method for solving the problems caused by the fragmented settlement structure already described above is the financial balancing system. When every settlement municipality is responsible for expensive obligatory services such as public education and social care, minimal budgetary conditions can only be provided by state support. That is why the nature of the local municipality financing system is basically determined by the method of distribution, not the amount of support.<sup>48</sup> More developed regions, larger settlements, and settlements with better management had more opportunities and freedom of action, while the crisis areas, including regions with small villages, had fewer.<sup>49</sup>

As is known, the structural and financial deficiencies established at the time of the regime change became increasingly difficult during that period, eventually becoming unsustainable. These difficulties can be explained by inadequate management on the one hand and the decrease in the real value of state contributions on the other. Thus, in several places, state financing was not even enough for performing obligatory tasks, so municipalities spent a part of their own revenue as well on performing such tasks. The municipalities provided those local public services most similar to entrepreneurial activities primarily through establishing and operating non-profit (public interest) companies. These are primarily tasks related to municipal management, such as taking care of public areas, maintaining public institutions, waste removal, maintaining public cemeteries, etc. Companies founded for municipal management purposes operated, and are still operating, in the form of limited liability companies or companies limited by shares.<sup>50</sup>

Most of the municipalities not only agreed to perform obligatory tasks but also performed other, optional activities for the benefit of the residents, the settlement, and the social-economic environment. The Ötv. made it possible for the municipalities to provide additional services, depending on their capacities, besides their obligatory tasks. The law also stated that tasks undertaken voluntarily could not threaten the performance of the obligatory ones; however, this principle was not followed in practice.<sup>51</sup> Moreover, the law left the matter of what can be considered the “minimum obligatory level of tasks” open to interpretation. This situation provided grounds for the different professional or departmental laws to be able to influence municipality task performance to an extent greater than justified. Nevertheless, the concept of an obligatory task combined the local public tasks with those that could also be provided efficiently at the central or middle level. Tasks undertaken voluntarily often exceeded a municipality’s financial capacities, so each municipality was forced to use some kind

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47 *ibid* [4] 147.

48 *ibid* [7] 99.

49 *ibid* [6] 6.

50 Zs. Előházi, ‘A helyi önkormányzatok kialakulása a rendszerváltó Magyarországon’ (2009) Sep. Hadmérnök, 391-92.

51 *ibid* [4] 145.

of external, capital market source in order to perform the tasks undertaken.<sup>52</sup> Due to the factors specified above, the debt of Hungarian municipalities kept increasing in the first decade of the 2000s. The largest part of the debt stock was in credits; within those, development loans represented a growing proportion.<sup>53</sup>

Local revenue sources contributed to financing municipality tasks in an ever-increasing proportion. However, there were significant differences between the levels of economic development in the various large regions. The municipalities in the central region and in the more developed part of Transdanubia could exploit their own revenue opportunities, while in the other regions, the proportion of their own resources was much smaller. More than half of the local revenue of municipalities was local tax. Among local taxes, the business tax was dominant. Its significance has slightly decreased since the economic crisis, but it is still a relevant part of local taxes. This high proportion also partly explains the differences in local revenue by region and by settlement type. Taxable economic activity can mostly be found in Transdanubia and in the central region and in the larger settlements.<sup>54</sup> Hence, two large changes occurred in the structure of local municipality revenues. First, the role of local income revenue increased. Among them, local taxes were dominant, which mostly represent new funds for small settlements. However, since the role of the business tax was the most important among local taxes, significant regional differences arose between the settlements.<sup>55</sup> The financial basis of municipal autonomy was missing; their budget depended on central funds and central financing decisions. All of that paired up with the sources being unable to cover the expenses of operation as time went by. The independence of management included the right to decide independently on developments (investments) as well as taking on debt. Excessive will to comply with local expectations (paired with the actual lack of control and responsibility) on the one hand led to systematic overspending and on the other it resulted in a significant level of indebtedness among the municipalities.<sup>56</sup>

Municipal financing between 1990 and 2010 was built on four basic sources of revenue: local revenue, shared taxes, state contribution, and credit income. During the two decades, the proportion of local revenue increased, while the state contribution decreased. The latter was, for a time, balanced by the increase in shared revenues, and in this way the significance of centrally provided revenues did not decrease.<sup>57</sup> Financial decentralization in the last quarter of the past century served to delegate community decision-making to the lowest level possible and the most efficient use of resources. So, from the regime change, the financing of Hungarian municipalities followed the

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52 *ibid* [15] 81-95.

53 *ibid* [15] 83.

54 *ibid* [11] 136.

55 *ibid* [11] 138.

56 *ibid* [1] 62.

57 *ibid* [7] 98.



principle that decision making must be delegated to the settlement level but, after 2010, a fundamental change occurred in this area.<sup>58</sup> After 2010, one of the elements of local municipality financial changes was the introduction of task financing. This means that a part of the central budgetary support was received by municipalities as the difference between average planned expenses and expected revenues. In just two years, the financial proportion of tasks performed at the local level decreased by one third: in 2012 the extent of municipality expenses compared to GDP was only 9.3% as opposed to 12.8% in 2010. The influence of state-community property increased and the opportunities for alternative service providers built on private organisations decreased in the field of both human and the public utility services.<sup>59</sup> It is, of course, a question of how one can measure the efficiency of task performance at a local level using uniform methods, because this would be an essential condition for every future development concept. Besides all these, due to the idea of municipal autonomy and strong democratic governance, accountability of inefficiently operating municipalities have also been curbed. This shows once again that, after 2010, central dependency grew stronger in the local municipality financing system.<sup>60</sup>

## **6. Local government and eGovernment**

The appearance of electronic administration (eGovernment) is not a new development in either Hungary or in Europe. The European Union already recognised the opportunities of the information society back in the 90s<sup>61</sup> and, from the 2000s, several programmes and action plans helped to facilitate exploiting the advantages of technology in an economic, political sense. We do not intend to analyse and present these in detail here, as we have previously done so. Instead, we only intend to refer to the most important elements having an effect now and in the future on the life of local communities from the perspective of our topic. A chapter specially related to eGovernment has already appeared in the eEurope action plan.<sup>62</sup> The essence of this was that EU institutions and national public administrations should make every effort to use information technology to develop efficient services for European citizens and businesses. Public administration should:

- Develop internet-based services to improve the access of citizens and businesses to public information and services.

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58 *ibid* [11] 122.

59 *ibid* [11] 125.

60 *ibid* [7] 101.

61 Commission, 'Growth, Competitiveness, Employment. The Challenges and Ways Forward into the 21st Century – White Paper' COM (1993) 700 final 167.

62 Commission, 'eEurope 2002, An Information Society For All. Draft Action Plan prepared by the European Commission for the European Council in Feira, 19-20 June 2000' COM (2000) 330 final



- Use the Internet to improve the transparency of public administration and to involve citizens and business in interactive decision making. Public sector information resources should be made more easily available, both for citizens and commercial use.
- Ensure that digital technologies are fully exploited within administrations, including the use of open source software and electronic signatures.
- Establish electronic marketplaces for e-procurement, building out the new Community framework for public procurement.

Since then, the European Commission's eGovernment Action Plan supported the provision of a new generation of eGovernment services. It identified four political priorities:

- empower citizens and businesses,
- reinforce mobility in the Single Market,
- enable efficiency and effectiveness,
- create the necessary key enablers and pre-conditions to make things happen.

The Action aimed to help national and European policy instruments work together, supporting the transition of eGovernment into a new generation of open, flexible, collaborative, seamless eGovernment services at local, regional, national, and European level.

All the above-mentioned statements and the progress in eGovernment nowadays can be summarised as follows: digital technologies provide the opportunity to easily access and re-use the wealth of information held in the public sector. eGovernment could transform the old public sector organisation and provide faster, more responsive services. It can increase efficiency, cut costs, and speed up standard administrative processes for both citizens and businesses.

Thus, it is easy to see that almost 40 years after the regime change, the matter of eGovernment cannot be ignored with regard to local municipalities either. If we observe the advantage of these processes related to efficiency and speed, then we can see that most electronic solutions move towards centralisation. Back then, the basis for the assignment of regional units in the course of establishing the district and comitat system was accessibility. Districts were organised so that, from the most distant point of a district, one could get to the centre on foot in one day at the most. All this was similar at the county (comitat) level, but the basis for determining distance and time was movement on horseback. From the perspective of power relationships and task performance, time and distance were key factors, because essentially, the same administration and executive activities had to be performed then as today, albeit without the benefits of modern technology. Hence, the basis for regional structuring was the speed of the information flow.

Today, securing the flow of information is still one of the most important management tasks but, compared to the conditions of a thousand years ago, we have

much quicker means available. Nowadays it is of special importance to analyse the e-services systems provided by the local authorities, given the fact that these public administration authorities are situated as close as they can be to civil society. That is why it is practical and very useful to develop the structure and possibilities of e-government solutions, which can be available from the local authorities.<sup>63</sup> All of these – in our opinion – strengthen the idea that efficiency expectations, with the available technology, increasingly help centralisation processes. Hungarian reforms after 2010 also show that today such tasks can also be performed under central control, which could only have been organized this way earlier with great difficulty. For instance, today, it is not necessary to move documents between offices. Similarly, the time and cost of communicating is negligible, even compared to the situation a couple of decades ago. Even the amount of information that can be shared is practically unlimited. The only thing that has not changed significantly in the past couple of millennia is the speed of reading and comprehension; that is, the human processing of information (e.g. texts). Artificial intelligence may yet offer a solution to that final barrier as well. But such an analysis is the scope of a different study.

In the past years, several procedural law changes have also occurred in Hungary, all suggesting that technology use will become ever more integrated in official and civil court administration. A new official procedural law<sup>64</sup> became effective, making it possible to pass even automated decisions, and a new civil<sup>65</sup> and administrative order of procedure<sup>66</sup> was created, both preferring electronic communication between courts and the parties to the proceedings.

Thus, everything points in the direction that the competences of settlement municipalities – at least from the perspective of efficiency – might become narrower, even to the point where these changes start threatening the identity of the local community. If the first municipality act<sup>67</sup> supplied public services better than the municipalities could do with their own resources, then it is worth considering the use of centralized solutions. Just think of the fact that, in several domestic settlements, the drinking water network, the sewerage system, and the public roads were renovated from structural funds. As such, the goal is of local importance but the tools and the funding are far from local. Therefore, in our opinion, electronic administration may bring a new quality to the management and democratic relationships of the local communities. The reason is that while the tasks can be performed more efficiently in a centralised manner, the local community and/or the citizens interested in a specific

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63 B. Szabó, G. Cseh, Zs. Czékmann, B. Maksó, L. N. Kiss, 'Is Virtual Reality Really Necessary for Local Governments?: Local Governments Digital Readiness in a Hungarian Convergence Region' (2016) 19 *Curentul Juridic* 46-62.

64 Act CL of 2016 on General Public Administration Procedures

65 Act CXXX of 2016 on the Code of Civil Procedure

66 Act I of 2017 on the Code of Administrative Litigation

67 *ibid* [2]

local community can participate in the decision-making processes important to them in an increasingly more direct manner. Then the released funds can be spent on other goals, such as preserving the local identity, community and culture. In short, whereas Hungarian municipal politics have historically (following regime change) varied between either between local or centralized decision making, electronic administration allows for optimal, balanced situation: local decision making, with centralized efficiency.

## 7. Conclusions

When the regime change started in Hungary, the state bureaucracy did not confront the problem that the quality of public services and the general level of development of the economy were closely interrelated.<sup>68</sup> The very wide level of autonomy declared by legal regulations was further increased in practice by the weakness of control over municipalities. The essence of the problem lies, on the one hand, between the extraordinarily wide range of tasks and competences and the strong autonomy granted to exercise them but with weak oversight, and on the other hand, in the fragmented nature of municipalities. The typically small municipalities are unable to perform their tasks at the appropriate level and with efficiency.<sup>69</sup>

Reviving lower-middle level (district) administration is the unrelenting wish of different professional representation groups, for example in the field of construction management. The regional level was not considered as a tier of government in Hungary but the place for forming, passing and implementing regional development decisions – in the beginning by using non-traditional management solutions. The remaining institutions for this were deconstructed, including the forms of municipality influence based on delegation. The forums for county development were also abolished. At the same time, the role of county municipalities decreased in this regard as well.<sup>70</sup>

We can thus see that, in some form, efficiency is contrary to, or at least competes with, certain elements of democratic operation. The wide autonomy that characterised the Hungarian municipality system since the regime change, together with the fragmented settlement structure, makes the functioning of most of the local municipalities difficult, if not impossible. Considering that we cannot change Hungary's geographical characteristics and demographic situations change only very slowly and incidentally, we consider two solutions effective in a theoretical sense. First, we could create “artificial” units of the optimal size, also considering economies of scale. In this case, organizing the services of a larger community might be more economical if there is democratic authority. The other solution is, in essence, maintaining autonomy, provided that the most important public services are not organized at a local level and the local political elite do not actually have a say in the management of resources. Instead, such decisions

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68 *ibid* [4] 168.

69 *ibid* [1] 63.

70 *ibid* [6] 7.

would be left in the hands of an executive. Basically, the present solution is based on this method. It is entirely another matter which solution could be considered more democratic in a legal and political sense.

Consequently, closeness to citizens and accessibility by clients shall be ensured in new ways. With office organization tools, it is, of course, possible. Furthermore, the development of government information services is also built on this concept. Examples include: the single window administration, the government portal, and widening the scope of matters that can be conducted electronically.<sup>71</sup>

There is no sense in maintaining the extremely fragmented settlement structure, but it is very important to fulfil the democratic needs of local communities, even if their authority has ever lessening actual content. Considering all this, and rethinking the middle level – county – task performance would be practical, by creating fewer political and more professional, functional positions. If the local-level coordination of development also occurs here, several such initiatives that cannot be implemented independently on a settlement level, in the absence of cooperation, but which in a larger volume are not enough for the regional or even the central apparatus and infrastructure to pay attention to (local touristic, natural protection, environmental protection developments, and basic healthcare services just to mention the most important ones) could be realised efficiently.

In addition, digital technology could provide significant help concerning transparency, control, coordination, or even the operation of democratic institutions. The opportunity to present opinions directly in social media is becoming increasingly widely available. With appropriate security conditions, conducting electronic elections would also not be impossible. All of this could make procedures more cost effective and would allow for wider social coordination. It can also be seen that, through centralising task performance, the involvement and participation of NGOs has also been pushed into the background. So far we have considered to be of the greatest importance of NGOs that with the help of communication with those concerned, summarizing opinions, representing interests they act more efficiently and present the needs of citizens effectively. Nowadays the importance of NGOs described above decreased significantly with the convergence of communication tools and channels, theirs becoming more direct and interactive. A process has also started, as the result of which it is probable that instead of their former goals, these organizations will have a much more political role in the future, as long as it is even necessary in a representative democracy. However, is a subject for another study.

The results of electronic administration point towards centralisation because, with the removal of any communication lag, there is no longer need to have administration close to the citizens. With the development of so-called back-office processes, it is apparent that the administration itself has become able to intervene directly from much farther away if necessary.

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71 *ibid* [6] 8.