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EXTRACT OF THE THESIS

Judit Siket:

**Public Administrative Autonomy of Local and Territorial Self-Governments in Hungary
Historical and International Perspectives, Regard to the European Charter of Local
Self-Government**

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1. The subject and objectives of research and assumptions (hypothesis)

Several reform measures affected the Hungarian local self-government system in the past more than two decades, which aimed primarily at the strengthening of the operational efficiency. Concerning the state organisation system, particularly at the central and territorial level of public administration, specifically at local self-government level performed sweeping reform actions resulted significant rearrangement in the field of decentralized local government system's autonomous responsibilities. Beyond the changes involving different levels of government structure, territorial and local self-governments also performed institutional, organizational, operational changes in their own competence, primarily as so to improve the standards of local public services and to strengthen the participation of citizens in democratic decision-making processes in the field of local public affairs.

The analysis of Hungarian local self-government system is in the focus of the thesis. This includes a historical retrospective analysis with evaluation of different aspects of the local self-government system in an international context and invokes caselaw to put a highlight on the implementation of European local self-government standards., The domestic analysis and evaluation of local and territorial self-government received special attention with regard Fundamental Law and the new local self-government rules, and accordingly the changes implemented in 2011-2012 are in the focus. The perspicacious changes implemented in the local self-government system established in Constitution and Act of 1990 on Local Self-Government Act make this topic timely, as result of this procedure the autonomy of local self-governments became relative important.

The retrospective analysis concentrates on the question if any continuity could be demonstrated between the local self-government system of Hungarian historic civic period (19th century) and the local self-government system established after the regime change; how the present local government system can rely on local traditions. The function of historical analysis is to promote a better understanding of these processes. The Hungarian science of administration is definitively supports the view that the administrative jurisprudence research shall not ignore the historical comparison method.

There are two methods to describe development and functionality of municipal system. The *fundamental rights approach* is closely linked to the conception of natural law, also known as pluralist theory. The *devolution-centralization model of exercise of state power* can be established, its basic principle is the delegation of power and competence. In this latter case, the local self-governments are the component of state administrative organization. The different approaches allow to study and model not only states but also self-government systems. Both

the abovementioned approaches can be traced, from time to time varying intensity, in the development of national local self-government system, as well.

The Hungarian local self-government system established in the beginning of 1990s, was acknowledged as one of the most developed structure from the aspect of local democracy. The other outstanding example was the Polish self-government system.

¹ However, critics were formulated against several elements of our local self-government system for not following the Western European trends. Ilona Pálné Kovács stated that the total autonomy and self-efficiency requirements of small settlements and the whole retreat of territorial self-government units were absolutely in contrast to the Western European solutions and progresses.² However, it soon became clear that the exemplary systems from the aspect of autonomy - such as an individual municipal power - did not have a real significance.

The newly created local self-government system, and mainly the sharing of competences between the state and local self-governments, reflected a specific political environment which had been determined by the marks of the former Soviet regime.

This follows from the fact that 'sharing of power, competences, assets, operational and development resources is an outstanding question of political science, the result of this process depends on the 'bargaining power' of the parties, compared to each other.'³

Scientific literatures also pointed out, that as result of defeating the democratic deficit, financial, economic sustainability of the reformed local self-government system after the change of the regime called into question very soon, the quality of public services provided by local self-governments caused significant deviations, and further strengthened the already existing differences in standards, settlements by settlements.

The local self-government system, established in 1990 – as a dominant part of public law reforms – ensured for local self-government extensive autonomy in the field of local public affairs, which can be described as organizational, regulatory, functional, personnel and economic autonomy in the connection system between local government and public bodies.

In the preparation process of the thesis, I intended to analyse only those dimensions of the autonomy which are dominant parts of territorial self-government, narrowing administrative

¹ Kenneth DAVEY: A magyar reformok európai szemszögből. In: Egy évtized önkormányzati mérlege és a jövő kilátásai Budapest, 2000 41., Rinaldo LOCATELLI: A magyar önkormányzat reformról az Európa Tanács szemszögből. In: Egy évtized önkormányzati mérlege és a jövő kilátásai (szerk. VEREBÉLYI Imre) Budapest, 2000 55.

² PÁLNÉ KOVÁCS Ilona: Az önkormányzatok működésének politológiai alapkérdései. Az állami irányítás területi struktúrájának modellje In: Tanulmányok az önkormányzati rendszerről (szerk. KILÉNYI Géza) Államtudományi Kutatóközpont Budapest, 1992. 24.

³ The study analyzes the operation of the regional public administration, structural relations, disintegration of direction mainly from the aspects of political science. PÁLNÉ (1992) 9.

autonomy elements having significant role in the field of municipal administration, which is a constituent organization of the public administration.

The conceptual interpretation and theoretical basis of autonomy, the requirement of thrift and efficiency along with how changes influence the creation of autonomy was not aimed to be explored. The effect of New Public Management is negotiated only in that relation, when the effect traceable in international tendencies.⁴

Subject matter of the autonomy cannot be interpreted in itself, the independence of local and territorial self-governments, the conception system of independence, only can be determined as element of a relation system. The systematic analysis of the structure of state organization and local self-governments could help to define the essence and meaning of the autonomy. Accordingly, it is essential to study how the local government sub-system accommodates into system of state bodies, fulfilment of State's responsibilities in the field of public service provision. Permanent modifications and reforms of the last decades have been challenging the autonomous territorial units at local and territorial level of administration all around. In Hungary, the reforms have showed strong correlations defining the state's functions, perception and influence on the life of society.

My research aimed to present those essential changes in Hungary after the regime change in the field of right to local self-governments' modification, the legal status of local and territorial self-governments, the alteration of local public affairs, fulfilment of public service provisions. Changes are also analysed at international and EU level to see those major values and principles which are always determinant even during significant reforms. During such examinations the standards and the basic principles of the most important document of Council of Europe on local democracy, the European Charter of Local Self-Government is accepted and used as a reference point to evaluate different elements of local self-government.

My thesis aimed to explore the historical roots of the territorial-municipal local government system and the changing of autonomy concept over the past decades to better understand the modern system and the current interpretation. of local self-governments. in connection to local government autonomy in the modern conception, beyond the presentation.

Examination of the substantive issues of autonomy, self-government could not be implemented without the constitutional approach. The Constitutional Court's definition on autonomy is essential part of a domestic content and interpretation framework, nevertheless this definition

⁴ See conceptual, analytical and methodological possibilities of autonomy's interpretation, inter alia: Verhoest KOEN-Peters GUY B., Bouckaert GEERT and Verschuere BRAM: The study of organizational autonomy: a conceptual, and methodological review. http://steunpuntbov.be/rapport/s0106009_IRSPM.pdf (2016.05.26.)

was substantially altered because of changes in the socio-political context of transformation. However, the findings of Constitutional Court on fundamental constitutional guarantees and principles and the established content of the basic rights serve as a kind of standard.

Several studies addressed the evaluation of domestic local self-government system in the European context, after the change of regime, although the Council of Europe activities related to local governments have lasted a relatively small number of interest in latter development process. The thesis acknowledges the Charter as a standard therefore it carefully analyses the evaluation of its provisions on different elements of self-government.

Thus, the *main research theme* of the thesis is to detect the reflection of its the autonomy contents in the national practice, based on experience the last quarter of a century. It intends to objectively approach certain elements of autonomy by the processing of literature widely, using the results of science. Occasionally, if there might be opportunity, the case law of Constitutional Court and courts would be reviewed, which largely affects the processing methods of the subject as well. Exploration and promotion of European trends could not be ignored also. The international perspective contributes to a dynamism and continuous evolution of the Charter's values and prevent a one-sided presentation. The thesis argues for that the values of local democracy must not fall as victim of changing economic conditions, however the alteration in social atmosphere and the international environment can induce modification of the local self-government system as well.

Interpretation of local self-government itself has several approaches including the content of its certain element, thus the evaluation of autonomy's degree with defining of transparent, determined reference point even so can afford opportunities for subjective beliefs. Recent studies on the situation of the Hungarian local self-government has identified issues of local autonomy with the performance of tasks and funding issues, constantly urging the financial and budgetary reforms, and they devoted relatively small space to the completion of the process of local democracy. The analysis of implemented reform measures' economic consequences is incomplete, the sophisticated examination of the post-2010 changes in local social relations by the representatives of science is still awaited. However, some representatives of administrative jurisprudence dealt with transformation efforts and their results affect recently the local government system, sometimes not without giving any critical tone. These studies increasingly contain references to the international environment, and values that formed the basis of the Hungarian local self-government system, established after the regime change.

My thesis – inter alia – aims to answer to the questions related to the changes of the past period, to explore the quality of results by reforms in different areas, especially in the field of

decentralization, the principle of subsidiarity, enforcement, local government autonomy, independence in terms of operations, the provision of public services the local government system, converted from 2010.

Summarizing the results of the research work, the study aims to create a kind of framework for presentation of evolution of domestic local self-government system and attempts to give an explanation that the perception of municipal autonomy, the reform measures may be related to changes in value choices.

2. The structure of the thesis, methods and sources of the research work

My thesis discusses the topic of self-government autonomy in the following *structure*. Our domestic administrative system is based on the Hungarian historical tradition in certain sense. The first part of the study gives a historical overview on the major landmarks of local self-government autonomy, and provides an overview of the evolution of content. Foremost, *Chapter I* handles the formation and evolution of royal and further on the noble county, then concerns the most important development phases of autonomy, and finally describes the legislation of 1848 and it concludes with the presentation of legislation on the authorities, municipalities at the end of 19th century. The soviet-type council system is confined only the extent, if I try to dissect the history, and the organic development of emerging government system after the system change. *Chapter II* aims to present the determinant specificities of national local self-government system, formed after the regime change, in the light of the Charter. Chapter III is intended to refer to those local self-government systems that have developed in some European states and outlines the trends can be identified, which served as the basis for reform efforts. In *Chapter IV* the characteristic features of the administrative supervision of local authorities will be examined in the light of the Council of Europe's expectations. *Chapter V*, closely connected to the issue of the administrative supervision, deals with the legal protection of rights to local self-government. In *Chapter VI* the issue of decentralization provides a framework for analyzing the concept of local public affairs and outlining of further elements of autonomy. *Chapter VII* demonstrates the content of budgetary and financial autonomy in details. *Chapter VIII* contains a kind of synopsis, findings may be relevant to the further development of the local self-government system.

Secondary sources in the narrow sense proved to be decisive from *methodological aspect*, namely a comprehensive review of the literature was need to collect, to systematize, and to analyse the findings concerning the enforcement of autonomy in some areas, and as a result of this attempt was made for a synthesis of collected knowledge. The comparative analysis got

emphasized role in preparing the thesis, which was essential for the exploration of the European environment, and in the design progress of the references. However, it should be stressed, that beyond the historical, international and interdisciplinary research methods, positivistic methods also had a role, because, inter alia, the results of historical and political science also have been used. Legal-normative method was applied in the analysis of domestic local self-government system crucially, since regulatory environment determines the possibilities and limits. The empirical research of case-law was based on the Constitutional Court's practice and some decisions of the Curia, which is closely related to the use of normative-legal analysis and describing method.

3. The main findings and results of the thesis, proof of the hypothesis

The thesis focused on the analysis of certain aspects of local self-government system as one of the most important institution of the public law reform following the regime change. The cardinal research question was the examination of the new municipal regulatory framework influenced by the new Fundamental Law. Several provisions of new Local Self-Government Act of 2011, entered into force later, in 2013 and 2014. The analysis discussed those topics and dilemmas, which are the essential elements of the administrative autonomy of the local self-governments and could provide answers to the questions that occurred about decentralized, empowered with broad responsibility local government system's general competences. The hypothesis presupposed the launch of a powerful centralization process in the field of local self-government public services which had been previously classified as local public affairs. The research design therefore aimed to investigate questions in the field of the right to local self-government, the state supervision of the operation and decisions of local self-governments, legal protection of right to local self-government, as well as exercise the property rights and the independence of budgetary housekeeping.

The starting point of the examination of the structure established in 1990 and the alterations implemented since 2012 in local-territorial self-government system is the historical description of local self-government's autonomy. General perception of the historical antecedent, the comparison of individual legal institutions might have justification, but to draw a parallel, it is necessary to proceed it with intense caution. The principles on local democracy and core values of European Charter of Local Self-Government serve as a standard in the thesis, in assessing process of national local self-government system. However, it should be noted, that the Charter – by its legal nature – is an international treaty, serves as a framework, along its core values provides a platform for highly diverse solutions.

3.1 Historical traditions

The legal-normative analysis necessarily covers the noble county self-government, because independence and autonomy of settlement can be interpreted only in private sense, the independence under public law did not exist until the mid-19th century. Autonomy prevailed only in private form and with private substance. The relationship between the landlords and the community has become the primer basis of interpretation, and in form of donated privileges of the cities.

The legal status under public law is the result of 1848 legislature, and genuinely linked to the first municipal, county and communal laws of last third of 19th century. The county's autonomy came as a result of a gradual evolution – from the form of royal counties through force completion of the noble counties – reached the role of constitutionality's fastness.

Presentation of the local self-government autonomy from administrative jurisprudence aspect is based on primarily *István Ereky's* work, especially as his works mainly considered as dogmatically systematic processing related on local self-governments. Synthesis of research work's results related to local self-government covered the research result of both historical and international developing of legal rules. Views of scientist the late 19th and early 20th century on local self-government became important part of the analysis beyond István Ereky's relevant academic work related to local self-government.

It can be concluded from the *state discipline aspect* examination of local self-government, that the conception of natural law strengthened understanding the nature of local self-government, pursuant to this conception the right to local self-government has been not delegated and not influenced by the state as a combination of licenses, but it has been the settlements' natural right.

The general development of local self-government's idea under the public law context was interpreted above all as the changing role of the county until the end of the 19th century. The role of cities and towns, especially the free royal towns, mining towns, country towns and villages has been examined only in proportion to their role in the development of autonomy. I drew parallel between the development of royal and noble county autonomy and the alteration of Lord Lieutenant of a county role as well, consideration that the person of the Lord was a limitation of power self-practice for centuries.

After referring to the political debates of reform period and the legislative process of 1848, the public law arrangement after the Compromise of 1867 are discussed in details as these circumstances are to answer the question on the relation and continuity between the current local government system and that of the civilian period traditions. In the context of the

continuity of local self-government I explored public law nature and types of local self-governments, relationship of municipalities to the executive power, the subject of local self-government autonomy, the content of the autonomy of local self-governments, separation of management the state public affairs and the own local issues, and the scope of state supervision. The small-scale historical processing of Hungarian local self-government pointed out to the fact that the local self-government system established after the change regime has differing philosophical base than local self-government structure created in the late 19th century. Consequently, continuity and survival of historical tradition of local self-governance of the civil period, could be supported marginally in some tight areas.

Concluding the findings, the local self-government system established after the regime change took into consideration certain characteristics of the system functioned before the Soviet-type council system, but it considered an absolutely different approach and mode of local democratic organization and operation. A two – tier local government system was established, the integrative and coordinative role of territorial level self-government failed to arrange as result of the transition to democracy. Operating local self-government system before the World War II has lost strong centralized features, the natural law and fundamental rights approach has become dominant. The supervision competence of Government and the members of the Government failed to establish the mechanism, which would have allowed the operation of the prior authorization, additional approval, follow-up mechanism as a condition of validity, hence control system was developed lacking the strong supervision rights and intervention tools. State and municipal powers have not been separated either. A previous compulsory association form has replaced the freedom of association.

After the regime change, despite historical traditions, the system conserved the two-tier local self-government system but to break up with the former Soviet traditions with the lack of self-governance the counties had lost their earlier state administrative functions, and they were not able to fulfill coordination-integration position anymore and their leading role in the field of territorial, rural, spatial development was also provisional. The new Local Government Act, adopted in 2011 might have cause a change in this area since according to the Local Government Act the county self-government fulfils the main position at local and territorial level in territorial development and spatial planning, in rural development and regional coordination - for the present, however, the centralized resource consumption is typical, hence the lack of necessary financial resources make impossible the implementing of abovementioned tasks.

3.2. The local self-government structure established after the regime change

The local self-government system established after the regime change vindicated the principle of popular sovereignty as a democratic achievement, in the field of local public affairs in a democratic way, creating a wide range of public expression, served the expression and the implementation of local public will.

The local self-government structure based on the principle of popular sovereignty, adopted liberal policy, and the principles of a general authorization. The natural law approach, collective fundamental right interpretation prevailed, representative body elected by the local community exercised its right to local self-governance. The local self-government autonomy prevailed, *inter alia*, in the area of ruling and management of local public affairs, the budgetary housekeeping, establishment of associations, and institutions as well.

Significant point in the regulations that each settlement is the subject and has its own right to local self-governance, each municipal enjoyed the same rights and exercised the same functions, in defining of responsibilities and competences has not been any kind of differentiation on the basis of the population, the administrative area, the economic performance, even though specific legal background was given. This circumstance led to tensions rising in the local government system according to lack of resources, and as a sub-system of public finances, to the indebtedness of local self-government sector, and final the questionability of the sustainability of system.

Legislation on local governments after the political change sought enforcement the fundamental European values. Although Hungary became a member of the Council of Europe only in 1990, the European Charter of Local Self-Government was transformed into domestic law in 1997, the fundamental values of autonomy, the principles of decentralization and subsidiarity have appeared in the preparation process of local self-government regulation. The principle of local democracy has played a crucial role in Hungarian society after the transition.

Interpretation of the right to self-governance was carried out in the meaning of Charter, then the analysis of the jurisprudence is based on decisions of Constitutional Court, in the absence of general judicial practice. Given the findings of the case-law analysis, the Charter has never had a decisive influence.

This statement can be supported by the fact that the Charter has not become a part of common practice, and by the lack of the fundamental values enshrined in the Charter in the preparation process of individual decisions. The state of local democracy in Hungary has been examined under the sphere of the Council of Europe's Congress.

3.3. International perspective, dominant tendencies

The theoretical basis of decentralization and the characteristics of practical experience are presented via international perspectives. The analysis does not cover the changing content of the centralization state organization principle, and lacks the examination decentralization process in non-European countries. As a result of Cohesion Policy of the European Union, compliance with the requirements of decentralization and subsidiarity, and the Europeanisation process of local self-governments cannot be separated sharply, and for this reason I am intent to reveal on the local self-governments' position in this process.

After the World War II in local self-government reform measure tendencies of Western European Countries show two lines, one of decentralization efforts, and another concerning the rising of the New Public Management stream. Both tendencies are clearly traceable at definite periods and methods. Some typical examples prove their existence, like the reform processes in United Kingdom, in Germany, in France and in Sweden. These European tendencies after World War II could not influence Hungarian local self-government system, however similar trends in terms of content could be recognized. Even so, the centralization processes taking place these days less fit to trends in Europe, on the other hand, it could not be detected powerful recentralization processes in other states similar to Hungary.

3.4. Supervision of public administrative

This part provides an insight to the various forms of state-control mechanism over local self-governments. The government control mechanism is limited by two principles: the principle of self-government, and the principle of public administrative supervision. During the course of administrative supervision, a variety of models can be outlined, such as the French system, the German theory, the Anglo-Saxon and the decentralized model. The base of the various supervisory models is the Recommendation of Committee of Ministers of the Council of Europe, and the Report of the Committee on Local and Regional Democracy.

The Chapter covers the alteration of state supervision in connection with European integration. In this relation, some characteristic judicial cases are presented from the practice of Court of Justice of European Union, which outlines that the State shall be directly responsible for the injuries and unlawful decisions and legislation of local self-government, and territorial and regional authorities. The fact that the domestic legal environment, government is not prepared to address the potential consequences of these types of cases, also has been detected.

It can be concluded, that the Hungarian local self-government supervision system has special characteristic features, however administrative supervision over the decisions became stricter,

although remained posterior control mechanism. Legal toolkit of administrative supervision has become more diverse; however it does not cover powerful intervention tools in order to interfere the prevailing of unlawful legislation and provisions. The most powerful monitoring tool is unique in Europe: the replacement of local self-government decision under an appropriate judicial control over its enforcement.

3.5. The local self-government's right protection

Examining local self-government's right protection, the content of right to local self-governance and the alteration of this fundamental right is an elemental question. The 1990s, were ruled by natural law tendencies and fundamental rights approach while in 1996 the Constitutional Court has put an end to it, and interpreted fundamental rights as a group of competences. During these days, the right to local self-government could not enjoy constitutional protection. The Fundamental Law does not mention local self-government's basic rights either.

The Chapter demonstrates the potential field of legal protection, the prevailing requirements of effective remedy, furthermore judicial protection tools, and processes at Constitutional Court and courts available for local self-governments are demonstrated. As a result of the Constitutional Court legal protection tools, that the termination of the constitutional protection of the right to local self-government and narrowing promoters of posterior control, the eliminated effectiveness of the protection is detected; the only potential asset for the protection of self-government rights is the institution of constitutional complaint. Among the judicial protection tools, only those cases were the subject of examination, which provided in Local Government Act of 2011.

This section covers a demonstration of Charter's provisions, related legal protection, with few selected examples, testifying that compliance with the Charter's provisions could be completed some kind of operating models (United Kingdom, Germany, Denmark, France, Norway).

3.6. Local public affairs, organizational and operational autonomy

By comparing and studying of provisions of Fundamental Law and the Local Government Act, after 2010 due to the launch of a powerful centralization process, , great changes have been seen taken place, and have influenced the most important elements of local government autonomy on local public affairs. In sum, examined the issue of local public affairs, the organizational autonomy, the regulatory and functional autonomy we can conclude, that the

essence of local public affair as result of centralization has significantly changed, and the regulatory and functional autonomy has also dwindled.

3.7. Economic autonomy

This chapter discusses in details the interdependences of decentralization and financial resources, then examines the issues of economic autonomy in the light of the documents of Council of Europe. To examine the prevailing of these documents in practice, it is necessary to study the activity of Council of Europe, by the demonstration of Recommendations' requirements. It can be concluded, that the recentralization process implemented after 2010 in Hungary is not a result of the economic measures after the world economic crises in 2008.

The establishment process and protection system of local self-governments' property reviewed, addressing to the public limits that shall be applied to the classification of local self-government's ownership, utilization and disposal mechanism. Detailed historical review makes certain questions of the disposal of property more interesting. The specificity of economic autonomy is detailed from the period of the changing of the regime until nowadays. After the transition, the previous expenditure-oriented system was taken over by a source-oriented system, after that this normative system was replaced in 2012 with the task financing system, which is closely associated with the obligatory functions of local governments tasks, revenue-oriented budgetary system put forward but not economic autonomy. This trend is closely related contradictions to nature of the local self-government system, to fiscal management system, which ultimately led to the indebtedness of the local self-government system.

4. Conclusions

The essence of local self-governance is an issue of political decision, the division of competences, the size, structure of local self-governments, the division of public goods, provision of public services not only one of main question of local self-governance, but ideological determination. The territorial decentralization, local self-governance are the basic values of modern state structure, for this reason the participation in public affairs, the arrangement of the status of local self-government on the base of subsidiarity, enforcement of the people's sovereignty at local and territorial level are the fundamental question of completion of local democracy.

Position of local self-governments organized on territorial base is worth to reconsideration in the field of local administration, provision of public services, because existing communities are able for articulate of local needs has fundamental importance for the State and central

government. Against the current, strong central state theory there can be a different concept, namely strengthening the autonomy of the democratic elected local self-governments. To complete the autonomy and ability of local self-governments, it is essential to re-survey the task system and re-thinking content of local public affairs. The strengthening of the potential of local self-government is crucial in the field of responsibilities closed connection with local public affairs.

Decentralization does not mean the reduction of central government organizations, but a mutually supportive central and local democratic governance. The strong central government is essential for the implementation of the national objectives, for the enforcement of civil rights, and to provide a legal framework for civil society organizations, for representation and legal redress.⁵

After discussing the autonomy of local and territorial self-government in the previously mentioned point of view, the necessary prerequisite of framing proposals is establishing a local self-government which has the following characteristic features: it is a real self-government, in its best sense, able to meet the demands for high-quality local public services, to adapt to local needs, to exercise public power in the interest of local citizens, living in its territory. This kind of independence imposes obligation on local self-governments to perform their tasks effectively, which shall require the development of integrative formations, as well. This commencement is the basis for the following development proposals.

Considering the current regulatory system of Fundamental Law, the main difference between the previous Constitution and the current Fundamental Law lies in the detail of legislation, dogmatically, since the Fundamental Law deals with only a few stages with local authorities.⁶ The casuistic nature regulation replaced framework-nature regulation which might be interpreted in an advantageous way, although the lack of essential regulatory element, the right to local self-governance has resulted significant damage in legal status of local self-governments. Therefore, the consolidation of the constitutional position of local self-governments – including the definition of the right to local self-governance in the Fundamental Law – is essential to become subject of real local democracy.

Beyond the fixing of the right to local self-government at constitutional level, definition of fundamental rights is also important at the same level, to ensure that local governments achieve

⁵ http://pdf.wri.org/ddnr_full_revised.pdf

⁶ SZAMEL Katalin: A magyar helyi önkormányzati rendszer átalakítása európai kontextusban (Összefoglaló a nemzetközi konferencián elhangzottokról. Új Magyar Közigazgatás. 5. (2012) 28.

legal protection, entirely. Regulation of effective judicial protection and the Constitutional Court protection at the highest level of law, it is closely related.

The real decentralization, the establishment of local, territorial independence – including the political, fiscal and administrative decentralization – necessitates the re-consideration of the scope of local public affairs. Feedback of experiences in the field of providing local public services is required, as stated, that those structural reforms, which have led to a strong deterioration in the efficiency of the local self-government system, were not implemented in this period of state's function as well.

However, local self-governments have lost their influence on a large part of local public affairs, their assets are incomplete, to be able to take action for the enforcement of local public interest. The compliance the requirements of subsidiarity is especially important, so much the more because the local public affairs, functional autonomy has become blank, but the vast majority of notaries' public administration powers were included in the district offices, and their leaders, which may result in a step back in terms of citizen legal rights enforcement.

The economic autonomy of local self-governments has been eliminated for two reasons, as well. On one hand, the property elements have been reduced, and the local self-governments' property became the part of national property. Thus, local self-governments can exercise their right to ownership only under the public law barriers. On the other hand, the task-based financial system eliminated the potential of economic management with untied resources.

The examination of autonomy's elements would have continued, to conclude, thoughts of Zoltán Magyary' are worth rethinking – in my view it deserves attention in the future development process of local self-governance: 'The central government will never undertake to perform all administrative tasks. It will always look for division of labor, and the relief, and this could be achieved by the 'well-selected cases maintained itself.' Matters of national importance and affecting whole public administration must be maintained itself and affairs of minor importance or of local interests must be delegated to local self-governments. If the issue of centralization and decentralization of power is a question of power rather than organizational aspects, is harmful to the public interest."⁷

⁷ MAGYARY Zoltán: Magyar Közigazgatás. A közigazgatás szerepe a XX. század államában. A magyar közigazgatás szervezete és működési rendje. Királyi Magyar Egyetemi Nyomda. Budapest, 1942. 111.

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