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SOURCES OF LAW OF THE MODERN AGE URBAN HISTORY IN HUNGARY (1848–1990)

The main goal of the author is to present a summary of the legal development of towns and cities in Hungary from the middle of the 19th century up to the end of communism in 1990. This article is not a political study but a history of the Hungarian public law, focusing on the local governance or its lack and the features of the public administration during the so-called bourgeois and socialist eras. It also contains a catalogue of the most significant Hungarian authors who published articles or monographs on this topic in the second half of the 20th century and in our time. The institutions mentioned in the text can be informative and comparable for many researchers of the states of East-Central Europe.

Keywords: legal history, public law and administration, Hungary, municipalities, local councils, 19–20th centuries.

1. INTRODUCTION

I undertake to give a short overview of the history of Hungarian self-government institutions from the chapters of modern age, the aim of which is to present the most important sources of law and competencies. For reasons of space, it is impossible to strive for completeness; therefore I am trying to focus on the two great periods before 1990: the most crucial features of the bourgeois and the people's democratic (communist) eras. I am going to present the public law related and functional frameworks by using rules and council regulations either published, or to be found in archives, based on the example of self-governing (self-managing) organizations that came into existence on a territorial basis but were partially different in terms of content (villages, towns, capital city, privileged districts, and counties). In the course of working on the topic – referring also to the already published sources and publications – my aim was to make an image that might be appropriate to provide an overall picture on the change of self-government autonomy or the restricted autonomy in the last one hundred and fifty years not only in relation to one town but extending to more as well.

Within the research of the history of the Hungarian urban management of the indicated one and a half centuries, I consider it important to highlight the following monographies of history of law and their authors – without attenuating the merits of other authors. Researches commenced at the turn of the 19th and 20th centuries, in the glory days of positivist history

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writing by urban history monographies, among the authors of which such prestigious exemplars can be found as Szeremlei Sámuel (Hódmezővásárhely), Reizner János (Szeged), Szűcs István, Zelizy Dániel (Debrecen), Iványi István (Subotica) or authors and the famous editor Borovszky Samu of the series published between 1896 and 1914 under the title *Magyarország vármegyéi és városai*². As a lawyer polymath, Ereky István was also a law historian. The comprehensive pioneer books on – public law history – researches, using these as sources after 1945, were firstly written by Csizmadia Andor (Csizmadia, 1940; Csizmadia, 1968a; Csizmadia, 1968b; Csizmadia, 1976), then Sarlós Béla analyzed the Hungarian public administration of the Dual Monarchy from the point of view of the power politics of the late 19th century (Sarlós, 1976). Ruzsoly József had his unavoidable works published (Ruzsoly, 1984; Ruzsoly, 1993; Ruzsoly, 1999; Ruzsoly, 2002; Ruzsoly, 2004; Ruzsoly, 2006b; Ruzsoly, 2016) within the framework of his lifelong work dealing with municipal and county local governments – called as “new Hungarian constitutional history” taken from German analogy by him. Apart from different university course books, the book of studies edited by Bónis György and Degré Alajos still represents an important overview of the past of domestic self-governance (Bónis, Degré, 1971). Hentz Aurél disserted on the personnel of the civil administration and the periods of domestic spatial planning (Hentz, 1973). Similarly to Bónis and Degré, there were several persons who mainly dealt with other subjects on history of law or history of politics, however, their works provided valuable additions to this field as well; without aiming to give an exhaustive list: e.g. Gerics József, Varga Endre, Eckhart Ferenc, Maday Pál, Sarlós Márton, Hajdú Lajos, Both Ödön, Horváth Pál, Szegvári Katalin, Vargyai Gyula, Pölöskei Ferenc (Stipta 2015; Kovács, Máthé, Hernádi, 1983).

Among the currently publishing authors *at the level of monographies*, Kajtár István researched the relations of the 19th century domestic urban self-governance in this field (Kajtár, 1992; Kajtár, 2003; Kajtár, 1998), while – among others – Stipta István researched the legal political background of the civil transformation of counties (Stipta, 1995b; Stipta, 2005) and in detail the operation of the Hungarian public administration court, which also affected the civil transformation of municipalities. Apart from the history of courts and infringement law, Máthé Gábor deals with other public administration and public law phenomena, too (Csizmadia, Máthé, Nagy, 1982, 2000, 2002; Gergely, Máthé 2000;

² Borovszky Samu published the data of the following towns in the 26 volumes of his classic series [*Counties and Towns of Hungary*] (Budapest, 1896–1914): Košice (Kassa), Gönc, Jasov (Jászó), Vel'ká Ida (Nagyida), Moldava nad Bodvou (Szepsi), Szikszó, Štós (Stósz), Turňa nad Bodvou (Torna), Subotica (Szabadka), Novi Sad (Újvidék), Senta (Zenta), Sombor (Zombor), Baja, Levice (Léva), Nová Baňa (Újbánya), Kremnica (Körmöcbánya), Oradea (Nagyvárad), Esztergom, Rijeka (Fiume), Rimavská Sobota (Rimaszombat), Rožňava (Rozsnyó), Dobšiná (Dobsina), Jelšava (Jolsva), Revúca (Nagyőrce), Győr, Eger, Gyöngyös, Hatvan, Heves, Pásztó Tiszafüred, Krupina (Korpona), Šahy (Ipolyság), Banská Štiavnica (Selmecbánya), Komárno (Komárom), Balassagyarmat, Lučenec (Losonc), Nitra (Nyitra), Nové Zámky (Érsekújvár), Skalica (Szakolca), Kecskemét, Cegléd, Kiskunfélegyháza, Kiskunhalas, Nagykőrös, Szentendre, Újpest, Vác, Kalocsa, Bratislava (Pozsony), Trnava (Nagyszombat), Modra (Modor), Pezinok (Bazin), Sväty (Szentgyörgy), Kaposvár, Nyíregyháza, Nyírbátor, Kisvárd, Nagykálló, Carei (Nagykároly), Baia Mare (Nagybánya), Baia Sprie (Felsőbánya), Satu Mare (Szatmárnémeti), Bela Crkva (Fehértemplon), Vršac (Versec), Timișoara (Temesvár), Zrenjanin (Nagybecskerek), Velika Kikinda (Nagykikinda), Pančevo (Pancsova), Szombathely, Kőszeg and Sátoraljaújhely.

Máthé, 2004; Máthé, 2017). Schweitzer Gábor wrote a book on the capital municipalities (Schweitzer, 2010), while Varsányi Attila (Varsányi, 2013) and Varga Norbert revealed the institutions of the urban lieutenancy (prefecture) with municipality rights in the bourgeois era, and the latter author also analyzed other transformations of the mid-19th century Hungarian public administration (Varga, 2006; Varga, 2010). Horváth Attila examined the people's democratic (socialist) administration (Horváth, 1992; Horváth, 2010), while Blazovich László – along with his medieval urban history works – edited volumes on the operation of the local committees (boards) of Szeged (Blazovich, 2010; Blazovich, 2007), and Szilágyi György worked out the 20th century institution history of the same city (Szilágyi, 2003). Perhaps the writer of the present paper published monographies in the widest spectrum on the history of public administration of the past one and a half centuries, since – based on many archives researches on the legal institutions – he published a book on each of all the three subsystems: the pure people's democratic representation, the bourgeois public municipality and the Soviet council type management (Antal, 2011; Antal, 2010a; Antal, 2010b; Antal, 2009; see also: Antal, 2012a).

Hereinafter, I am going to provide an overview on the institution history of the civil period and the “existing socialism” of the Hungarian self-governments on the basis of publications which were made through *extensive archives researches*, by using or publishing numerous archives resources, in order to make the real content of urban self-government autonomy known not only from the background of legislation but also from the operating public administration.

2. SOURCES OF LAW OF THE BOURGEOIS ERA (1867–1948/49)

From the point of view of settlement public administration, the historic period following the Austro-Hungarian Compromise lasted until 1949, when the Constitution Charta was passed, which projects for the researcher a major organisational stability, the core of which in the all-time area of the country was not broken even by the Peace Treaty of Trianon (1920) [see the most authentic summary of the then Hungarian State in a foreign language: Csekey, 1944; also Máthé, 2017 (with Szabó I.)]. Only the first years, the half a decade between 1867 and 1872 was an exception, when the acts of 1848 were temporarily in force until the coming into force of the first Public Municipality Act, i.e. Act XLII of 1870, which can be considered as the beginning of an era.

The urban management of democratic representation, based on the revolutionary legislation of 1848, was a specific, transitional period of the 19th century Hungarian public administration history: self-government rights entitling free royal towns had not been so widespread and autonomous either before or after as in those couple of years examined. As a matter of fact, that freedom which – in spite of the previous drafts of 1843/44 and 1847/48 (Antal, 2011; Antal, 2013a) – described the urban (and the parallel township) public administration in the era of the laconic Act XXIII of 1848 did not recur until the present self-government system introduced in 1990. No such law has been passed up to now which – within a single “town act” – would have dealt consistently with the inner administration of townships and towns. However, the so-called April laws *separated* the types of territorial self-governments: decentralised public administration relations of counties, free royal towns, villages and districts with autonomic status (Hajdú, Jászkun, Fiume), which is a major merit even if all of them were planned to be temporary by the Parliament (Varga, 2012).

Narrowing the attention to the autonomous public administration of *free royal towns*, the three short periods of the implementation of Act XXIII of 1848 were the civil reformation of 1848/49, the constitutional attempt of 1861 and finally, the years until the coming into force of the reforms of regional public administration and the judicial matters, from the 1867 Compromise to 1872. Periods between them passed under the total or partial suspension of the constitutionality of the Hungarian state, which I am not going to analyse here (Ruszoly, 2002). The years also called the period of “pure people’s representation” were the closest to the understanding which was the most agreeable with the late order (feudal) traditions and with the democratic values worded in the 19th century in relation to local self-governance.

Since the deliberately wide decentralisation, which was the guiding principle in 1848, was not in the interest of the all-time governments (Sarlós, 1976; Stipta, 1995b) in 1867 and thereafter, the centralisation intentions – in other words: the nationalization of the public administration (Csizmadia, 1976; Sarlós, 1976) – were constantly present in the operation of the regional administration bodies of the country. Act XLII of 1870 was passed with this in mind, which served as the basis for our *unified county and urban public municipal system* (Stipta, 1995b; Stipta, 2005) existing until 1949, and so was Act XVI of 1871 on inner organization of villages and small towns with ordered councils. It was only the capital about which the Parliament consistently passed independent acts from time to time. Special committees dealing with administrative and self-government administration assignments, the *public administration committees* formed at each municipality operated from 1876, and in the same year 47 free royal and/or municipal towns were submitted to counties and the reformation of the still existing special districts (Acts V, VI, XX, XXXIII of 1876) was also completed. Following long preparation and procrastination, all these were modified by the new organisational and disciplinary law acts: Acts XXI, XXII and XXIII of 1886 – maintaining the core of the structure, strengthening the institutions underlying centralisation, in the origin of which there were lord lieutenants (prefects) (Varsányi, 2013; Varga, 2006; Stipta, 1995a) and virilism³ from the beginning. In the long run, these latter laws formed the backbone of the regional administration, however, it is necessary to emphasize that the huge numbers of legal norms with different levels coming into existence in the administration and organs filled them with real content for public service (for the complete list of public administration organs see: Meznerics, Torday, 1937). These – and the rising subsystems of administration – are indicated the most transparently by the local organisational and operational rules, the passing of which was a right and at the same time an obligation for the municipalities.

Virilism was debated in its own era, but it was a frequent phenomenon in the second half of the 19th century in Central Europe; it came into the legal system of Hungary on the basis of Prussian and Austrian models after the 1867 Compromise, but there were also earlier examples from before 1848 of ambitions enabling those who paid the most taxes to have *public law privileges* in those regions of the country on which the German national legal solutions of the reform era (*Vormärz*) had a greater impact (e.g. Upper Hungary) (Stipta,

³ Virilism (*virilizmus*) was an institution introduced in 1872 modelled on the example of Austria, it gave direct influence and board membership of their own right to the persons who paid the largest taxes to county and town/village local governments according to the tax registers compiled annually (Act XLII of 1870, Act XXI of 1886). The boards in question were: municipal board (*törvényhatósági bizottság*) and town/village assembly (*képviselő-testület*).

2005; Antal, 2013a; Grünthal, 1982). The representativity of municipal boards organised partly on this basis was compatible with the then definition of democracy, since parliamentary, regional and self-government voting devoid of censuses did not exist in other countries of Europe either: country-wide and local forms of representation were almost everywhere influenced to a certain extent by the amount of tax paid by the citizen or real property ownership (Antal, 2010a; Woodward, 1939; Pollmann, 1985; Brandt, 1987; Kühne, 1994; Eöttevényi Nagy, 1913).

In the wake of diversified public law reforms commenced before the turn of the century and continued thereafter, the intention to further nationalize the county and township administration existed, but due to the non-passing of the obstructed bill in this field in 1891, all this could be constructed only *in principle* in Act XXXIII of 1891, which was not changed by the modifying Act XXVI of 1892 on public municipalities, either; moreover, an important amendment had been passed back in 1886, according to which municipality membership would have risen from six years to ten years following the newer national census. However, it did not come into force, and no change happened in this field until 1929 (Csizmadia, 1976; Antal, 2010a). Act LVIII of 1912 on urban development and assisting urbanisation could not be implemented due to the outbreak of the World War, although it could have assisted urban planning efficiently. It is strange, but history repeated itself: later, the provisions of Act VI of 1937 with a similar subject ended up the same way.

From the point of view of the topic, the Horthy era (1919–1944), named after the Governor, can be divided into two, well distinguishable parts: the decade after the first World War was a unique provisory period, since neither the necessary normative municipal reform, nor the general elections and the renewal of positions were carried out, although by the ratification of the peace treaty the state of war came to an end in 1921, and the other conditions of emergency regulation ended as well in 1923. In the public law stabilization, the government did not want to destroy the structure and operational principles of regional public administration, for this reason the correction had to be awaited until the end of the decade. Finally, Act XXX of 1929 and its implementing decrees brought seemingly important changes into the local level public administration as a kind of synthesis supported by the institutions of the previous municipality system and the modern science of administration – especially by changing the composition of municipal boards, by establishing petit assemblies, by extending the rights of lord lieutenants, and by modifying the disciplinary liability and the system of remedy (Csizmadia, 1976; Antal, 2010a; Antal, 2013b).

In spite of this, these laws *did not change the institutional basis*, only softened or aggravated the heritage of dualism. Village administration was not influenced relevantly either, which resulted in the system of urban public administration remaining normatively split: the 11 biggest towns were integrated into the municipal system at the same level as the counties, while the 45 towns with ordered councils (with the attribute “county” from 1929) gained legislation in the village laws (Hajdú, 2005), while keeping their “free royal town” title until 1945 – referring to the old days. Due to the fact that the Parliament did not overrule the (second) Municipality Act of 1886 but maintained its major part in force, and also because the act of 1886 did not affect all the provisions of the (first) municipality code of 1870, a unique, “multigeneration” legal survival and coexistence chain developed within the public administration of the local self-governments – county, municipal town and village. However, it was not only temporal continuity, but a more and more complicated structure, since regulation based on authorisation and government and ministerial level regulation predominating in the era made the otherwise cumbersome system of law sources

even more complex (Antal, 2015; Antal, 2016). Act XVI of 1933 aimed to divide the competences of the petit assembly and the municipal board and would have affected the system of administration bodies if it had come into force. However, this did not happen, in the end the reform of the administrative courts was not incorporated into the text, and the ongoing nationalization of the policy administration also prevented clarity within the institutions.

One of the main tasks of the so-called *wide coalition governance* following the Second World War was to recreate the regional public administrations, which was in the interest of both the left and right wing political forces. Parallel with the temporary appearance of the local organs of the Hungarian National Independent Front, the *national committees* (Csizmadia, 1968a; Ruszoly, 1993; Ruszoly, 2006b), the temporary national government issued regulations (decrees No. 14/1945 M.E. and 1030/1945 M.E.) in order *to transform self-governments* in the areas of the state which were not under the power of fascist leadership any more. These laws abolished, for example, virilism, which had been preserved in a so-called “mild” form in an anachronistic way in 1929, the position of old *iudex nobelium* (Pétervári, 2018a; Pétervári, 2018b) was reorganized into the position of chief notary, and the town council eliminated in 1929 was re-established again (Csizmadia, 1976; Máthé, 2017; Ruszoly, 2006a). The regulations of local administration having force of law were modified or substituted by decrees again, since the Communist Party gaining a leading role in the narrowing coalition planned a concept totally different from the traditional Hungarian one: organizing the Soviet-type council system.

3. LEGAL SOURCES OF THE PEOPLE’S DEMOCRATIC ERA (1949–1989/90)

Following the year of passing the Constitution of 1949 based on the Soviet model, the first Hungarian Councils Act, i.e. Act I of 1950 came into existence and reflected its era’s – called the decade of dictatorship of the proletariat – ideological, state and public administration theoretical features in all respects. The act was laconic: it consisted of one preamble, seven chapters and 66 articles within. According to its starting point, its aim was to place the best of the “liberated people”: industrial workers, working farmers and reliable intellectuals into the practice of the *unified state power*, via seemingly elected emissaries. It contained the public law institution taken over from the Soviet councils: the partially imperative mandate, by means of which the recall of the members of the council and the executive committees was made possible in theory (Toldi, 1977; Bihari, 1963; Kovács, 1959). The people’s democratic state concept was based on the principle called *democratic centralism*, which was in relation with the public law thesis according to which no branches of powers exist in the socialist states, there are only state functions and several bodies organized for practicing these functions (Máthé, 2017; Antal, 2009; Antal, 2012b).

Local governments fitted into the new type of state organization in a *hierarchical order*: until 1971 there were three levels in a subordinated and superordinated relationship with each other (county, district, settlement) and they were *de jure* subordinated to the Hungarian Parliament, the Presidential Council of the People’s Republic (quasi head of the state) and the council of ministers until 1954, then until 1971 mostly to the line ministries, then jointly to the government and the ministries. Following the recurring reorganisation of agriculture, district councils were abolished in 1971, only specialised agencies remained, however, in 1984 these also ceased their operation. Sections of Article 27 of the above-mentioned Councils Act set forth the execution of the laws and “upper regulations” regarding the *competence of the local councils*, the management and supervision of the subordinated bureaus of

state and government bodies, the protection of the order and public assets of the people's democracy, the protection of the rights of "workers", the issuance of mandatory orders to councils at lower levels, the annulment and the alteration of their ordinances or decisions, as well as the approval of the election and the recall of the members of lower level executive committees. Within the framework of their *economic leading activity*, they were expected to deal with the following assignments: the acceptance of local economic plans and budgets, the inspection of their execution, furthermore, the support of cooperative societies, and in the first years the management of the collection of crops (Beér, Szamel, 1951; Nagy, 1954).

The changing of the differentiated legal status of towns is to be noted as regards the *organisation of public administration*: placing them at the same level as districts and sometimes subordinating them to districts. Special positions in the former municipality system were abolished: up to 1954, even such big cities as Szeged or Debrecen had to get integrated into the county settlement network. The only exception was Budapest; the highlighted nature of the capital was not disputed, however, an independent act – like previously – was not passed in relation to the capital. Based on the "one village – one settlement" principle, local councils had to be established at each settlement, except for settlements with less than 500 inhabitants, which could establish joint village councils (Antal, 2009; Antal, 2010b).

The first Councils Act introduced the institution of *council executive committees*. In fact, in the previous city municipalities it was not unusual since their executive organ became a one-member institution only in 1929, when the mayor replaced the former collegial town council (Antal, 2015; Antal, 2016; Antal, 2012a). It was reasoned – which in fact was true – that in the previous structure, a large number of independent, parallel offices operated independently at each level and all this made the public administration chaotic and bureaucratic. By abolishing these, the aim was to achieve a more increased unity of local administration and the political manageability thereof. For example, the boards of guardians were simply abolished, their competencies were taken over partially by executive committees and partially by courts. The previously independent, specialised agencies, such as the municipal engineering, the urban management or the tax office, were incorporated into the inner departments of executive committees (Sári, 1979; Antal, 2012a). The uniformization of the public servant sector was to promote the standardization of the vertical separation of powers: the differences between self-government staff and state staff were not acknowledged either (Kajtár, 2003).

Considering the experience of the first years and regarding de-Stalinization (directives of the 3rd Congress of the Communist Party), the Parliament passed a new Councils Act (Act X of 1954) and at the same time new laws were made for regulations on the election of members of the councils. The *second Councils Act* set a sharper line separating the competencies of the two main bodies, highlighting the primacy of the council as a board, and the authorisation with which the executive committee generally replaced the council in between two of its sessions was omitted; thus it emphasized the different features of the executive committee and the plenary powers of the council, according to which the former was a governing unit while the latter was a *state power unit* (Nagy, 1954; Antal, 2012a; Beér, 1962). In the meantime, the councils of towns rose to the same level as district councils, while from economic and urbanisation points of view some towns were declared to have county rights and were thus directly subordinated to the Presidential Council and they – Pécs, Szeged, Debrecen, Miskolc – were taken out of the authority of county councils (Beér, 1962; Antal, 2009).

Before the reform of the constitution in 1972, the advantageous effects of the new economic mechanism⁴ urged the leaders of the party to have the Parliament accept a *new Councils Act* (Act I of 1971). This was followed by the decision of the 10th Congress of the Communist Party, according to which the independency of local councils and the professionalism of their activity should increase, and at the same time their central management should become effective, deriving from the natural political concept that local interests can exist, however, only the central legal management had the entirely independent decision-making power. Nevertheless, along with the appreciation of self-governance, the state administration character remained highlighted, which was complemented by the main aims to increase the professionalism of office work, to enhance the personal liability of public servants and to abolish unproductive bureaucracy (Balogh, Izsák, 2004). Differently from the previous practice, significant emphasis was put on settlement development and fiscal policy: the new economic management presented an opportunity to provide the necessary funds and to manage resources in a more flexible way. The new allocation of materials meant the recognition of the differentiated development of council types: besides investments, more appropriations were planned to be provided for new services, commerce, educational and health issues. However, the status of cities with county rights was abolished and the affected towns remained only “county towns”, which was a change not only in the name: the possibility of becoming relatively independent from the counties was not granted for major provincial towns any more (Szilágyi, 2003; Hencz, 1973; Antal, 2009).

A major amendment of the third Councils Act was carried out in 1983, within the framework of Act II of the same year on the modification of the constitution, by law-decree Nr. 26 of the Presidential Council, finally followed by Act IV of 1985. In that respect, the district administrative level, which had operated without a representative feature after 1971, ceased to exist. The election of the members of the council within this period was carried out case by case or on the basis of amended laws, in other words no lasting permanent act on election existed. In the end, in the flow of change of public law and political transformation, Act XXXIV of 1990 upheld the existing local councils until the first democratic municipal elections (Szabó, 1991); it is an interesting twist of fate that not long before, by 1989, the draft of the fourth Councils Act was ready (see also the problems of legal transformation in a comparative view: Gábriš, 2018; Józsa, 2011).

Nevertheless, it is important to emphasize that in the era of “existing socialism” the main reason for the democratic deficiency of local (county, municipal, town/village) self-governance should primarily be searched for not in legislation, but in the constant presence of the *analogue one-party organisation*, which could aggravate or prevent the freedom of choice to a greater or lesser extent by means of extrajudicial mechanisms. Restriction took effect in some cases, in others it did not.

Briefly *evaluating the public law framework* of the activity of the Soviet pattern councils, I think that those who created this kind of central administration basically did not have an incorrect organisational viewpoint at the beginning of the 20th century; however, it is

⁴ The new economic mechanism was a modernization progress between 1968 and 1975. It was based on a complicated system of the mixture of socialist and traditional Hungarian economy, which finally made a remarkable take off in the domestic industry and agriculture. The similar plans became blocked in Czechoslovakia by the intervention of the member states’ army of the Treaty of Warsaw in 1968 (commonly called: “Prague Spring”).

necessarily true that it was not planned to be democratic. This statement is confirmed by the fact that in spite of changing to or returning to the self-government system, several institutions are still similar to the ones which existed during the council era (Antal, 2009). This is supported by Act LXV of 1990 on local self-governments itself (Petri, 1991), the structure of which exactly follows the structure of the third Councils Act (Act I of 1971) mentioned, and when reading the two texts (as they are in the official gazette), a lot of analogies or at least similar rules can be found. However, there is a thought-provoking difference in the concept: in the last two decades of the council era there was a successful effort to give up the principle of “one settlement – one council”, while the above-mentioned self-government act returned to the “one settlement – one self-government” organising principle, which is nowadays a disputable system (see for summary: Pálné Kovács, 1992; Pálné Kovács, 2011; Józsa, 2018).

4. SUMMARY

The edification of the development of the Hungarian urban management of the *bourgeois era* is summarized by Kajtár István as follows: “the legislation of 1848 created a framework regulation, and in the decades following its creation it was highly exposed to the changes of direction in large-scale politics. In spite of the fact that Act XXIII of 1848 was always referred to among the values of 1848 when returning to constitutionality, the development of dualist urban law took a different route in 1870/72 and in 1886: with urban law divided into three categories, with restricted social-public law foundations, with strong government supervision, but with highlighted municipal-communal independence: with administration, assets, own legislation and independent symbols” (Kajtár, 2003). This valuable legal norm survived between the two World Wars along with an even tighter governmental tutelage, which was hallmarked by the institution of the lord lieutenant (prefect) – Bonapartist and French in its approach – the public administrative committee and an Austrian-Prussian patterned virilism.

By taking over the *Soviet-type councils*, a truly new chapter started in the history of local management. Its core – according to the cautious interpretation of Csizmadia Andor – was that the gentry of the township opened the gate wide for the representatives of a broad range of people in the meeting hall of county and urban virility. This system found new ways not only in relation to its organisation but also regarding its operation. Officers of the organisation and other workers came from amongst the people, operation got close to the working people, the supervision of which was ensured by laws. If there were any difficulties along the new roads, the roads themselves led forward (Csizmadia, 1976).

According to the then lawyers and ideologists, these councils fulfilled the highest level of state administration by combining the unity of state power and customary self-governance, which was restricted both politically and legally – for this reason it was made *de facto* into a type of self-management, this is what real democratic centralism became. At the same time, in contrast with the pleased, “official” approach of the scholars of the people’s democracy, the reasoning of Act XLV of 1990 – the first self-government act after the constitutional turn – had a *totally different* approach:

In 1949 it was historical disorientation that in Hungary the self-government type local organisations with century-long experience had to be abolished. The Hungarian council system, similar to the solutions of the Soviet-type state organization, became the local server

of the over centralised social organization and economy organisations favouring administrative systems. Over centralisation provided little space for local independence. Leaders of local actions were actually not the elected bodies, but the leaders of the councils, who were supposed to be directed manually by upper state bodies and who were subordinated to the local organisation of the monolithic state party directed from above as well (Official Reasoning of Act LXV of 1990 on Local Self-Governments (general part, par. nr 2).

One thing is certain: in the reviewed one hundred and fifty years, the urban self-governance autonomy was the widest between 1867 and 1872, in the short era of “pure people’s representation” based on the foundations of 1848, which was consistently narrowing until it disappeared during the time of the 1950 and 1954 Councils Acts. Following that, it was growing again, but it fully played its role again only in 1990. The question is whether the functional and not the theoretical balance of this current legal and political fulfilment will be so positive from the future as well.

REFERENCES

- Antal, T. (2009). *A tanácsrendszer és jogintézményei Szegeden (1950–1990). Szervezeti és működési alapvetések*. [The System of Councils and Legal Institutions of Szeged, 1950–90: Organizational and Operational Rules]. Szeged.
- (2010a). *Hódmezővásárhely törvényhatósága (1919–1944). Fejezetek a magyar városigazgatás történetéből*. [The Municipality of Hódmezővásárhely, 1919–44: Chapters from the History of Hungarian Towns]. Szeged.
- (2010b). *Közigazgatás*. [Public Administration] [In:] Blazovich L. (ed.). Szeged története 5. 1945–1990. [A History of Szeged, 1945–90, Vol. 5]. Szeged.
- (2011). *Város és népképviselő. Az 1848:XXIII. tc. intézményei Debrecenben (1848–1872)*. [City and Representation: the Institutions of Act XXIII of 1848 in Debrecen, 1848–72]. Szeged.
- (2012a). *A Hundred Years of Public Law in Hungary (1890–1990): Studies on the Modern Hungarian Constitution and Legal History*. Novi Sad.
- (2012b). *Democratic Centralism and the Party Guidance of Soviet Type Councils in Communist Hungary (1950–89/90). “Parliaments, Estates and Representation”*, Vol. 32, No. 2.
- (2013a). *A szabad királyi városokról szóló javaslatok az utolsó rendi országgyűlésen és az 1848: XXIII. tc. keletkezése*. [Bills on the Free Royal Cities in the Last Feudal Parliament and the Legislation of Act XXIII of 1848] [In:] Balogh, E., Homoki-Nagy, M., eds., *Ünnepi kötet Dr. Blazovich László egyetemi tanár 70. születésnapjára*. Szeged.
- (2013b). *Reforms of the Municipal Public Administration in Hungary between the World Wars* [In:] Keča, R., editor in chief, *Harmonisation of Serbian and Hungarian Law with the European Union Law*, Vol. 1, Novi Sad.
- (2015). *Municipal Boards as Historical General Assemblies for Local Representation in Hungary (1919–1939)* [In:] Keča, R., editor in chief, *Harmonisation of Serbian and Hungarian Law with the European Union Law*, Vol. 3, Novi Sad.
- (2016). *Executive Organs in Hungarian Cities in the First Decades of the 20th Century* [In:] Stajić, L., editor in chief, *Harmonisation of Serbian and Hungarian Law with the European Union Law*, Vol. 4, Novi Sad.
- Balogh, S., Izsák, L. (2004). *Magyarországi pártprogramok, 1944–1988*. [Official Party Programs in Hungary, 1944–88] Budapest.
- Beér, J. (1962). *A helyi tanácsok kialakulása és fejlődése Magyarországon (1945–1960)*. [The Formation and Development of the Local Councils in Hungary, 1945–60] Budapest.

- Beér, J., Szamel, L., eds. (1951). *Helyi tanácsaink munkája és feladatai*. [Our Local Councils and Their Tasks] Budapest.
- Bihari, O. (1963). *Az államhatalmi-képviselési szervek elmélete*. [Theory of the State Power and Representation] Budapest.
- Blazovich, L. ed. (2007). *Csongrád megye tanácsainak tisztségviselői (1950–1990)*. [Office-Holders in the Councils of Csongrád County, 1950–90] Szeged.
- (2010). *Szeged története 5. 1945–1990*. [A History of Szeged, 1945–90. Vol. 5] Szeged.
- Bónis, Gy., Degré, A. eds. (1971). *Tanulmányok a magyar helyi önkormányzatok múltjából*. [Studies on the Past of Hungarian Local Self-Governments] Budapest.
- Brandt, H. (1987). *Parlamentarismus in Württemberg, 1819–1870. Anatomie eines deutschen Landtags*. Düsseldorf.
- Csekey, S. (1944). *Die Verfassung Ungarns*. Budapest–Leipzig.
- Csizmadia, A. (1940). *A magyar városi jog. Reformtörekvések a magyar városi közigazgatásban*. [Hungarian City Law: Reforms in the Public Administration of Hungarian Towns] Kolozsvár.
- Csizmadia, A. (1968a). *A nemzeti bizottságok állami tevékenysége (1944–1949)*. [The Activity of Hungarian National Committees, 1944–49] Budapest.
- (1968b). *Községi (városi) önkormányzatokról*. [On the Self-Governments of Villages (Towns)]. “Állam- és Igazgatás”, Vol. 18, No. 3.
- (1976). *A magyar közigazgatás fejlődése a XVIII. századtól a tanácsrendszer létrejöttéig*. [Development of the Hungarian Public Administration from the 18th Century until the System of Councils] Budapest.
- Csizmadia, A., Máthé, G., Nagy E. (1982, 2000, 2002). *Magyar közigazgatás-történet*. [A History of the Hungarian Public Administration] Budapest.
- Éöttevényi Nagy, O. (1913). *Oszták közjog*. [Austrian Public Law] Budapest.
- Gábriš, T. (2018). *Prolegomena to Legal History of East-Central Europe*. Prague.
- Gergely, A., Máthé, G. eds. (2000). *The Hungarian State: Thousand Years in Europe*. Budapest.
- Grünthal, G. (1982). *Parlamentarismus in Preußen, 1848/49–1857/58*. Düsseldorf.
- Hajdú, Z. (2005). *Magyarország közigazgatási földrajza*. [The Administrative Geography of Hungary] Budapest–Pécs.
- Hencz, A. (1973). *Területrendezési törekvések Magyarországon az államigazgatási jogi szabályozás aspektusából*. [Territorial Reforms in Hungary from the Aspect of Public Administration Law] Budapest.
- Horváth, A. (1992). *Fejezetek a szovjet típusú szocializmus magyarországi alkotmánytörténetéből*. [Chapters from the Constitutional History of the Soviet-Type Socialism in Hungary] Budapest.
- (2010). *A szovjet típusú diktatúra államigazgatási joga*. [Public Administration Law of the Soviet-Type Dictatorship] [In:] Balogh, E., Homoki-Nagy, M. eds. *Emlékkönyv Dr. Ruszoly József egyetemi tanár 70. születésnapjára*. Szeged.
- Józsa, Z. (2011). *Dilemmas and Choices in the Public Administration of Central Eastern European Countries* [In:] Radu Motica, Lucian Bercea (Eds.): *Biennial International Conference Timisoara, Universul Juridic*. Bucharest.
- (2011). *Változó közigazgatás*. [Public Administration in Changing] Szeged.
- (2018). *Közigazgatás a 21. század elején: célok, eszközök, módszerek. Összehasonlító nemzetközi tanulmányok*. [Public Administration at the Beginning of the 21st Century: Aims, Instruments, Methods: Comparative Studies] Szeged.

- Kajtár, I. (1992). *Magyar városi önkormányzatok (1848–1918)*. [Self-Government in Hungarian Cities, 1848–1918] Budapest.
- (1998). Az 1848: XXIII. tc. a szabad királyi városokról és a modern városi önkormányzat kialakulása Magyarországon [Act XXIII of 1848 on Royal Cities and the Formation of the Modern Hungarian Self-Government]. “Debreceni Szemle”, Vol. 6, No. 3.
- (2003). *A 19. századi modern magyar állam- és jogrendszer alapjai. Európa – haladás – Magyarország*. [Fundamentals of the Modern Hungarian State and Law in the 19th Century: Europe – Progress – Hungary] Budapest–Pécs.
- Kovács, I. ed. (1959). *A Magyar Tanácsköztársaság jogalkotása*. [Legislation of the Hungarian Republic of Soviets] Budapest.
- Kovács, K., Máthé, G., Hernádi, L.M. (1983). *A magyar közigazgatási irodalom válogatott bibliográfiája, 1827–1944*. [Collected Bibliography of Hungarian Public Administration, 1827–1944] Budapest.
- Kühne, T. (1994). *Dreiklassenwahlrecht und Wahlkultur in Preussen, 1867–1914: Landtagswahlen zwischen korporativer Tradition und politischem Massenmarkt*. Düsseldorf.
- Máthé, G. (2004). *Die Problematik der Gewaltentrennung*. Budapest.
- Máthé, G. et.[und Mitautoren] Hrsg. (2017). *Die Entwicklung der Verfassung und des Rechts in Ungarn*. Budapest.
- Meznerics, I., Torday, L. (1937). *A magyar közigazgatás szervei, 1867–1937*. [Organs of the Hungarian Public Administration, 1867–1937] Budapest.
- Nagy, I. (1954). *Az államigazgatás és a tanácsok feladatai*. [The Tasks of the State Administration and the Councils] [In:] A Magyar Dolgozók Pártja III. kongresszusának rövidített jegyzőkönyve. 1954. május 24–30. Budapest.
- Pálné Kovács, I. (1992). *The Basic Political and Structural Problems in the Workings of Local Governments in Hungary*. = Discussion Papers, No. 14. Pécs.
- (2011). *Local Governance in Hungary – the Balance of the Last 20 Years*. = Discussion Papers, No. 83. Pécs.
- Pétervári, M. (2018a). *Die rechtsstaatliche Umgestaltung der Verwaltung im Jahr 1870, unter besondere Berücksichtigung der Bezirke* [In:] Homoki-Nagy M., Varga, N. eds., *Codification Achievements and Failures in the 19th–20th Centuries*. Szeged.
- (2018b). *One Empire and Two Ways of Public Administration: The Second Level Administrative Division in Austria-Hungary*. “Journal on European History of Law”, Vol. 9, No. 2.
- Petri, G. (1991). *Changes of Concepts: Legislation on Local Governments, 1987–1990* [In:] Takács, K. ed., *The Reform of Hungarian Public Administration*. Budapest: Collection of Studies.
- Pollmann, K.E. (1985). *Parlamentarismus im Norddeutschen Bund, 1867–1870*. Düsseldorf.
- Ruszoly, J. (1984). *A szegedi népképviselői közgyűlés, 1848–1871*. Szeged: The General Assembly of Szeged, 1848–71.
- (1993). *Alkotmánytörténeti tanulmányok 3. Önkormányzat és hagyomány*. Szeged: [Studies on Constitutional History, Vol. 3: Self-Government and Customs] Szeged.
- (1999). *A Város és polgára. Válogatott írások Szegedről*. [The City and Its Citizens: Collected Papers on Szeged] Szeged.
- (2002). *Közigazgatási és igazságszolgáltatási szervezet Szegeden, 1849–1918*. [Public Administration and Jurisdiction in Szeged, 1849–1918] [In:] Selves.: Újabb magyar alkotmánytörténet, 1848–1949. [New Hungarian Constitution History, 1848–1949] Szeged.

- (2004). *Szeged szabad királyi város törvényhatósága, 1872–1944*. [The Municipal Organs of Szeged, 1872–1944] Szeged.
- (2006a). „A népi önkormányzat útján”. *Adalékok egy máig időszerű közigazgatástörténeti kérdéshez a „Szeri Szárszó” elé*. [„On the Way of People’s Self-Governance”: Amendments to a Still Actual Question of Public Administration History for the ‘Szer’ Meeting] [In:] Selves.: „és így is a mi korunk”. [„and it is our age”] Szeged.
- (2006b). *Nemzeti bizottságok és önkormányzatok. Csanád–Arad–Torontál közigazgatásilag egyelőre egyesített vármegyék intézménytörténetéhez*. [National Committees and Self-Governments in Csanád–Arad–Torontál Unified Counties] [In:] Selves.: „és így is a mi korunk”. [„and it is our age”] Szeged.
- (2016). *Község és közönség. Bagamér nagyközség képviselő-testülete a Horthy-korszakban*. [Village and Community: The General Board of Bagamér in the Horthy Era] Szeged.
- Sári, J. (1979). *A tanács végrehajtó bizottsága és tisztségviselői*. [The Executive Committee of the Council and Its Functionaries] Budapest.
- Sarlós, B. (1976). *Közigazgatás és hatalompolitika a dualizmus rendszerében*. [Public Administration and Politics in the System of Dualism] Budapest.
- Schweitzer, G. (2010). *Az önkormányzatiság színe és fonákja. A fővárosi törvényhatósági bizottság szabályozása 1920 és 1930 között* [The Faces of Self-Governance: the Municipal Board of the State Capital between 1920 and 1930] Budapest.
- Stipta, I. (1995a). *A főispáni hatáskör törvényi szabályozása (1870, 1886)*. [The Scope of Authority of Prefects, 1870, 1886] [In:] Máthé, G., Zlinszky, J., eds. *Degré Alajos emlékkönyv*. Budapest.
- (1995b). *Törekvések a vármegyék polgári átalakítására. Tervezetek, javaslatok, törvények*. [Efforts on the Modernization of Counties: Bourgeois Drafts, Plans, Bills] Budapest.
- (2005). *Die vertikale Gewaltentrennung. (Verfassungs- und rechtsgeschichtliche Studien)*. Budapest.
- (2015). *A magyar jogtörténet-tudomány kétszáz éve*. [200 Years of the Science of Hungarian Legal History] Szeged.
- Szabó, G. (1991). *Local Elections in Hungary 1990: Some Facts and Consequences Based on Statistical Data* [In:] Takács, K. ed. *The Reform of Hungarian Public Administration: Collection of Studies*. Budapest.
- Szilágyi, Gy. (2003). *Ahogy a torony alatt láttam és megéltem... Szemelvények Szeged XX. századi közigazgatás-történetéből*. [As I Saw under the Tower: Chapters from the 20th Century History of the Public Administration of Szeged] Szeged.
- Toldi, F. (1977). *Az európai népi demokratikus országok területi beosztása és tanácsai szervezete*. [The Territorial and Council System of the European Socialist Countries] Budapest.
- Varga, N. (2006). *A főispáni tisztség bevezetése Debrecen és Szeged szabad királyi városokban a köztörvény-hatósági törvény alapján*. [The Inauguration of Prefects in Debrecen and Szeged According to the First Municipality Act] In: *Ünnepi tanulmányok Máthé Gábor 65. születésnapja tiszteletére*. Eds.: Mezey, B., Révész, T.M. Budapest.
- (2010). *The Emergence of the Bourgeois Public Administration in Hungarian Cities (1843–1867)* [In:] Mogoş I., Monica Stoian M., eds. *Studii şi Cercetări Juridice Europene. Conferinţa Internaţională a Doctoranzilor în Drept*. Timişoara, Vol. II (Drept public).
- (2012). *The Acts of 1848 in Hungary*. = *Fundamenta Fontium Juris* 2. Szeged.

Varsányi, A. (2013). *A hódmezővásárhelyi főispánság története (1873–1950)*. [A History of Prefects in Hódmezővásárhely, 1873–1950] Szeged.

Woodward, E.L. (1939). *The Age of Reform, 1815–1870*. (=The Oxford History of England) Oxford.

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