

JUDIT SIKET

TERRITORIAL AND LOCAL ADMINISTRATIVE SYSTEM IN HUNGARY

**XI. Results and effects of Hungarian reform measures concerning
local self-government system**



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CHAPTER XI
RESULTS AND EFFECTS OF THE HUNGARIAN REFORM MEASURES
CONCERNING LOCAL SELF-GOVERNMENT SYSTEM.

Content of the Chapter

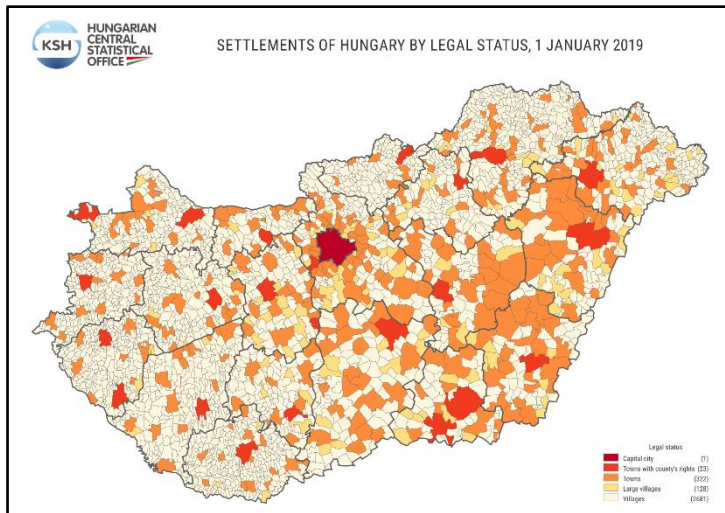
1. The basic features of local self-government system after 2012
2. Basic principles
3. Constitutional level regulation
4. The task-system
5. Local self-governments' assets
6. Instruments of legal supervision

The aim of the Chapter: This Chapter presents the Hungarian local administrative system after the entering into force the Fundamental Law and the New Local Self-Government Law. The basic principles, the new elements of regulation, the task-system may be highlighted. The assets of local self-governments and the new instruments of legal supervision are discussed in a nutshell, as well.

Estimated reading time: 15-20 minutes

1. THE BASIC FEATURES OF LOCAL SELF-GOVERNMENT SYSTEM AFTER 2012

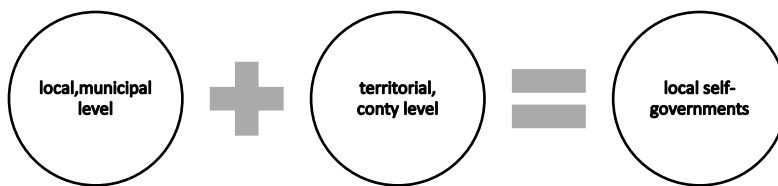
The aim of this structure to demonstrate and to summarize the most important characteristics of Hungarian local self-government system in result of the Local Self-Government Act of Hungary of 2011.



By the end of 2010, it became clear that the self-government system suffered from internal conflicts, and due to the steadily decreasing financial sources and the impact of the economic crisis of 2008, the established system in unchanged form was heavily unsustainable. The economic situation of Hungarian local self-governments before 2012

was very hard, the number and volume of their mandatory tasks and responsibilities have far exceeded their revenues.

The fundamental values of local self-government system remained, but a very strong *centralization process* was traceable.



The structure of Hungarian local self-governments still based on two other pillars,
 (1) local, municipal level and
 (2) territorial, county self-

governments.

Between levels of local-self-governments there are not hierarchical relationship.

At local level, municipalities are classified into several different local government categories, settlement municipalities shall operate in villages, cities, district centre cities, cities with county rights and in the districts of the capital. The capital municipality is a settlement municipality and a regional (county) municipality.¹

2. BASIC PRINCIPLES

The system based on the principle of *one local community, one local government*, and continental *general clause* of competences approach of the Hungarian local government system is prevailing. Different types of local level self-governments and the county governments may have *differing functions* and spheres of authority.

The law shall be obliged to *differentiate* when establishing the obligatory functions and spheres

¹ Local Self-Government Act of 2012 Article 3 (2)-(3).

of authority in consideration of the nature of the function and the sphere of authority as well as the different endowments of local governments, in particular

- (1) the economic performance;
- (2) the population;
- (3) the size of the administrative region.²

3. CONSTITUTIONAL LEVEL REGULATION

The constitutional level regulation was changed conceptually, as it was detailed earlier, the right to local self-government, the right protection provision, the fundamental law approach were vanished, and the basic responsibilities of local self-governments were highlighted. The traditional ‘natural law’ approach was abandoned.



The compulsory association form emerged in Fundamental Law, according to the provision, that an Act may authorise local governments to perform their compulsory duties through associations.

The legal control mechanism on the activity and decisions of local self-governments has been strengthened, it was replaced by legal supervision.

The Government shall perform the legal supervision of local governments through the metropolitan and county government offices.

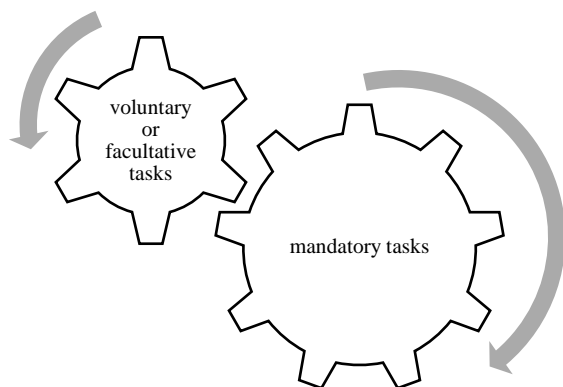
Regulatory environment of budgetary issues has become tightened, because according to the provision of Fundamental Law, an Act may define conditions for, or the Government’s consent to, any borrowing to a statutory extent or to any other commitment of local governments with the aim of preserving their budget balance.³ The aim is of this provision to prevent the further indebtedness of local governments.

4. THE TASK-SYSTEM

The task system of Act CLXXXIX of 2011 on the Local Self-Governments of Hungary is based on the system of the former Hungarian local self-government law. Thus the local self-government and the delegated administrative tasks are distinguished, as well. *Mandatory tasks*, *voluntary tasks* and *facultative tasks of the local government* could be classified among the municipal tasks. Only the Parliament shall determine new local self-governments’ responsibilities, by the provision of statutory law.

² Local Self-Government Act of 2011 Article 11 (1)-(2).

³ Article 34 of Fundamental Law.



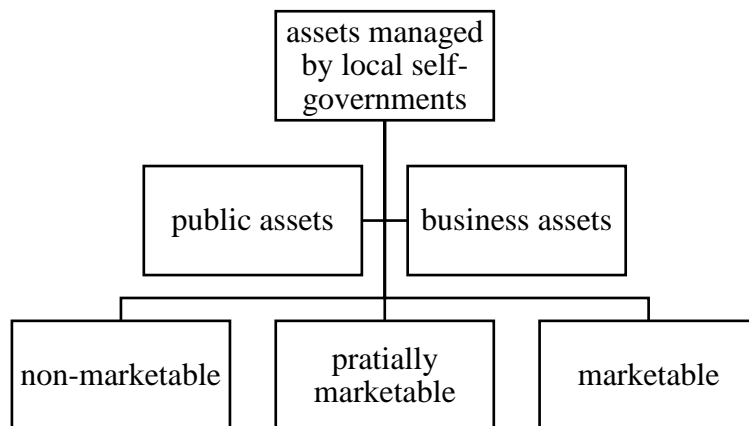
The possible municipal tasks of local governments are listed in the Hungarian Local Self-Government Law, but it should be added, that the concrete content of these provisions are laid down in sectoral statutory law. The Local Self-Government Law *does not contain the principle due to it local public affairs shall be performed by the local governments*. Thus the Parliament is empowered to define the share of the

powers between the central public administration and the local government. After that, important public services, which were organized formerly by the local governments, became the responsibilities of the central government and their territorial agencies, as it was discussed earlier (e.g. primary and secondary schools, health care services and residential social care).

Beyond to the mandatory tasks, the *facultative or voluntary tasks* of local self-governments are also worth for mention. The main aim of local self-governments is the fulfilment of obligatory tasks, thus local governments can provide voluntary tasks, if they do not risk the performance of mandatory tasks. A facultative task may be considered only a *local public affair*. Local governments could perform such a task which is not among the responsibilities of the central government. The performance of facultative tasks may be provided only by *own revenues of the local governments* and by *special central subsidies* for these tasks determined by the Act of the Budget of Hungary.

The second tier of the Hungarian local self-government system is the *county local government*. The Local Self-Government Law states that the counties provide the task of regional and rural development, territorial planning and coordination defined by acts. Therefore, county local governments may not be classified as authorities with general powers. The governmental offices plays crucial law in the field of performance state administrative tasks, but territorial public services are not provided by them. The competences of counties in local self-government system needs significant strengthens, due to their regional role.

5. LOCAL SELF-GOVERNMENTS' ASSETS AND THE BUDGET



The regulation on the assets of the local government has been changed fundamentally in the last few years. The last amendment of the Constitution on the assets of local self-government allowed the Parliament to nationalize without any compensation the local government assets by an act, if the responsibilities of the local governments change, and the asset is related to such a task.

According to the Fundamental

Law 'assets controlled by municipal governments shall be public property, serving the performance of municipal government tasks.' It is the part of *national assets*.

Although local self-government system is a *separated subsystem*, the budget of local self-governments is *part of the national budget*. There is a task-based financing system. Thus state subsidies are based on obligatory tasks of local self-governments. The efficient management, the expected own revenue of the local self-government and the actual revenues of the local self-governments have to be taken into account by the determination of the subsidies.

6. INSTRUMENTS OF LEGAL SUPERVISION

In the framework of Fundamental Law, the governmental office is exercising *legal supervision* over local self-governments, and may use the following legal instruments

- a) *issue a legal notice;*
- b) *initiate the convocation of the representative body or the association council and convene the representative body or the association council in cases defined by law;*
- c) *propose that the minister in charge of local self-governments to initiate the submission of a Government proposal requesting the Constitutional Court to review the constitutionality of a local government decree;*
- d) *initiate the review of a local government decision at an administrative court;*

- e) initiate the commencement of a court proceeding against a representative body for a failure in decision- making or task performance obligation and for ordering substitute decision- making;*
- f) propose to the minister in charge of the legal supervision of local self-governments to initiate the submission of a proposal by the Government for the dissolution of any local self-government breaching the Fundamental Law;*
- g) initiate at the Hungarian State Treasury the withholding or withdrawal of a specific part of a subsidy, defined in law, due from the national budget;*
- h) start proceedings to terminate the mandate of a mayor having committed repeated infringements;*
- i) initiate a disciplinary procedure against the mayor of a local self-government or against a municipal clerk;*
- j) initiate the audit of the financial management of a local self-government by the State Audit Office;*
- k) provide professional help for local self-governments in matters falling within the scope of their powers and responsibilities;*
- l) impose a legal supervision fine on local self-governments or associations in cases defined by the Act.⁴*

Choose the correct answers.

1. The Act on Local Self-Governments of Hungary was adopted in
 - a) 2011
 - b) 1991
 - c) 2013
2. The basic principle of local self-governments's responsibilities is
 - a) ultra vires
 - b) general clause
 - c) delegation
3. In Hungary in the local self-government system prevails the next principle
 - a) one settlement is one local self-government
 - b) amalgamation of local self-government
 - c) one district is on local self-government.
4. Mandatory tasks of local self-governments derived from
 - a) legal regulation
 - b) statutory law
 - c) Fundamental Law
5. The rights of local self-governments are equal.

⁴ Local Self-Government Act of 2011, Article 132.

- a) true
 - b) false
6. The legislator may differentiate obligatory tasks of local self-governments.
- a) true
 - b) false
7. The budget of local self-governments is part of
- a) county governments
 - b) national budget
 - c) central budget
8. The assets of local governments
- a) free from any restrictions
 - b) business assets
 - c) special purpose assets
9. Legal supervision is exercised over local self-governments
- a) by the governmental office
 - b) by the notary
 - c) by the State Audit Office
10. The head of governmental office
- a) may initiate the review of a local government decision at an administrative court
 - b) may turn to Government to initiate the review of a local government decision at an administrative court
 - c) may suspend the implementation of local government decision