Projektazonosító: EFOP-3.6.2-16-2017-00007
Projektcíme: „Az intelligens, fenntartható és inkluzív társadalom fejlesztésének aspektusai”

Conflicts in the Hungarian Local Government System

Sándor Fekete, PhD
feketesandor@gmail.com
University of Miskolc

Abstract

The conception of the actual local self-government system had created at the age of the dualism. The development had two parts, the first one was the decentralism of the public law system, and the second one was the splay of the council's sovereignty. Unfortunately there was a lot of council who went into liquidation so the state had to help them. Therefore the state's influence became bigger and bigger, which process reflected at the new local self-government law. This law is limiting the local self-government's sovereignty because it ignores the recommendation of the European Charter of Local Self-Government. There was necessary to made a new local self-government but with the consent of the councils.

Keywords: Hungarian party system, local elections, Hungarian parties, local self-governments

Introduction

The new Fundamental Law of Hungary, which entered into force in 2012, regulates the local self-government system differently from the relevant provisions of the previous Constitution, adopted during the political transition in 1990. The justification provided for these very detailed constitutional provisions concerning local governments was to guarantee local autonomy. In the new constitution, they were replaced by overarching provisions ones which relegated more detailed regulation to the cardinal Act[1] on local self-government in Hungary.[2]

The previous Constitution defined the right to local self-government as a fundamental right belonging to local voters, but today this right is not recognized by the new Fundamental Law, only by the cardinal Act.

The legal consequence is that the right to local self-government is no longer a fundamental right guaranteed by the constitution and is not constitutionally protected. The other important change in the interpretation of the right to local self-government is the appearance of obligations in the regulation.

Thus the emphasis is on the responsibility of local citizens,[3] who – being entrusted with the right to local self-government – “should reduce the common charges and contribute to the execution of the common tasks”.[4]

The place of local government within the organisation of the state has also been redefined by the Fundamental Law and the cardinal Act on local self-government in Hungary. According to the Act, “local governments shall function as a part of the organisation of the State.”[5]

The management of local public affairs has been redefined, and now focuses on the local public services prescribed by the Act.[6]

The system of local powers has not been formally changed. Therefore, two types exist: local

[1] Cardinal acts are special constitutional laws, “the adoption and amendment of which require the votes of twothirds of the Members of Parliament present”.
[2] Cardinal Act No. CLXXXIX of 2011 on local self-government in Hungary (Mötv.)
[3] Mötv. 2. § (1)
[4] Mötv. 8. § (1)
[5] Mötv. Preamble
[6] Mötv. 4. §

governments' own powers, determined by law or appropriated by the local government itself, and there are other powers delegated by the state administration.
In reality, the technique of regulating the powers of local governments, both mandatory and belonging to the government, has resulted in profound changes. Under the previous system, the Act on local self-government in Hungary defined the basic powers of local governments. This fact provided stability and guarantees, because amendment process required a two-thirds majority.
This situation has changed, and the powers of local governments can now be regulated by means of ordinary laws. As a consequence, local powers were severely diminished following the entry into force of the new constitutional control over local autonomy. These basic changes resulted in other important provisions concerning local autonomy, along with a remarkable centralisation of the Hungarian public administration.

Concept of Self-Governance and Local Government. European Standards for Local Governments and Hungarian Regulations

"One of the most important legislative tasks of these months and even of this year is to adopt the Act on local self-government and to hold local elections", declared Prime Minister József Antall before the Hungarian Parliament on 22 May 1990, and the last twenty-plus years have verified his statement. (Kiss 2004: 1598)
The new structure was extended with a new sub-system (the sub-system of local government administration), new organisational principles were introduced (e.g. real decentralisation and autonomy), and while the importance of certain principles of operation declined (e.g. state guidance), at the same time others increased (e.g. the principle of legality).
After the full review of Act No. XX of 1949 on the Constitution of the Republic of Hungary, local communities gained independence and were granted the right to independently regulate and manage local public affairs within a legal framework (Art. 44/A (1) a) of Act No. XX of 1949 on the Constitution of the Republic of Hungary. In effect until 1 January 2012.).
Autonomy made the interests and peculiarities of individual municipalities known as the result of a legally managed correct procedure and made it possible for local governments to perform their tasks and exercise their authority independently. (O'Toole 1994: 293)
All of these were accompanied by economic independence guaranteed by the Constitution. During the transition period, a liberal and – relatively – modern system of local government institutions developed on the basis of the provisions of the Constitution:

- the principles of the European Charter of Local Self-Government prevailed;
- democratic power could be exercised locally, and
- the system offered scope for self-regulatory processes and local legislation. (Csefkó – Pálné 1993: 175)

"Convention no. 122 of the Council of Europe, the European Charter of Local Self-Government was a milestone in the development and legal regulation of local governments. This Charter laid down the principles and legal precepts of local self-governance which are generally applied and applicable in the member States of the Council of Europe. The contents of the Charter comply with the generally accepted legal principles of the concept of local selfgovernment." (Berényi 2003: 311)
The convention, adopted in Strasbourg on 15 October 1985, was announced in Act No. XV of 1997 on the European Charter of Local Self-Government. The Charter was created under the auspices of the Council of Europe (this international organisation is not to be confused with the Council of the EU, which is an organisation of the EU), and its purpose was to specify standards derived from the rule of law and democracy to be generally applied in the nearly fifty Member States of the Council of Europe in the course of establishing their respective systems of local

government.
A certain democratic mechanism was developed in which “centralisation, which may be regarded as having a general effect, can prevail in the interest of achieving social aims, while in the interest of achieving all other aims of public interest, partial self-governance (autonomy) can prevail”. (Tamás 1997: 157) The peculiarities of the Hungarian local government system, developed in this way, stem from several sources: Hungarian traditions of local government, the institutions of the former Soviet-type council system which were “presentable” and proper within the framework of a constitutional state bound by the rule of law, and solutions originating from Western European (mainly South-German) local government systems. The modern structure of Hungarian local government is based on these factors.
The structure of Hungarian local government still rests on two other pillars: municipal-level and county (regional level) governments. Task performance (and financing) is focused on municipal-level governments. Since 1990, county governments have been seeking their place in Hungarian local government administration. (Szabó 1994: 721)
Although the task of self-government has a dual character, combining service and (public) authority, it is indisputable that local governments provide certain local public services, while self-government organs rarely participate in exercising local public authority.
On the one hand, the past two decades have proved that local objectives and intentions, collaboration, common will, parochial spirit, and a sense of local identity can yield significant results, bring about revival and preserve values. On the other hand, by the end of the first decade of the new millennium, it became obvious that the local government system was suffering from internal conflict, and due to the steadily decreasing state subsidies and the impact of the economic downturn, anyone could see that the established system was unsustainable and grievously unfair – from several points of view. (Kákai 2010: 149)

The Constitutional Legal Status of Local Governments in Hungary
The Constitution of Hungary (abrogated on 1 January 2012), when compared internationally, dealt with local governments in quite a detailed way, as does the Fundamental Law of Hungary (which came into force on 1 January 2012). Only five articles and twenty-three paragraphs of the Fundamental Law deal with local government. The territorial division of Hungary is specified in Article F) of the part entitled Foundation of the Fundamental Law:
(1) “The capital of Hungary is Budapest.
(2) The territory of Hungary consists of the capital, counties, cities and towns, as well as villages. The capital, as well as the cities and towns may be divided into districts.”
A more important change is that – unlike the Constitution – the Fundamental Law does not define the districts of the capital as a special type of municipality (vested with the right to local self-governance). Thus, the Fundamental Law repealed the constitutional guarantee of self-government by districts in the capital.
Provisions pertaining to public authority at a local level can be found in the part entitled Local self-government. The fact that “constitutional statutes”, called cardinal Acts, detailing special rules pertaining to local governments – to be adopted later – are referred to four times in this part indicates that essential content elements of legal regulation appear in the detailed rules.
(“Cardinal Acts shall be Acts, the adoption and amendment of which require the votes of twothirds of the Members of Parliament present.” Article T (4) of the Fundamental Law.)
The provisions pertaining to the territorial division of the country and to local governments were “dismantled” (structurally) by the Fundamental Law. “In Hungary local governments shall be established to administer public affairs and exercise public power at a local level” and the basic rules are to be defined by a cardinal Act (Article 31 (1) of the Fundamental Law).
The Fundamental Law – unlike the provisions of the Constitution – makes no reference to local

self-governance, local independence (autonomy) or the fundamental constitutional right to local self-governance which enfranchised local citizens are entitled to. Obviously, enfranchised local citizens can still participate both directly and indirectly in the exercise of local power. A provision in the chapter titled Freedom and responsibility declares that “Every adult Hungarian citizen shall have the right to vote and to be voted for in elections of Members of Parliament, local government representatives and mayors, and Members of the European Parliament” (Article XXIII (1) of the Fundamental Law).

Article 32 of the Fundamental Law sets forth that “In administering local public affairs local governments shall, to the extent permitted by law:

a) adopt decrees;

b) adopt decisions;

c) perform autonomous administration;

d) determine their regime of organisation and operation;

e) exercise their rights as owners of local government properties;

f) determine their budgets and perform independent financial management accordingly;

g) engage in entrepreneurial activities with their assets and revenue available for the purpose, without jeopardising the performance of their compulsory tasks;

h) decide on the types and rates of local taxes;

i) create local government symbols and establish local decorations and honorary titles;

j) ask for information, propose decisions and express their views to competent bodies;

k) be free to associate with other local governments, establish alliances for the representation of interests, cooperate with the local governments of other countries within their competences, and be free to affiliate with international local government organisations, and

l) exercise further statutory responsibilities and competences.”

Acting within their competences, local governments shall adopt local decrees to regulate local social relations not regulated by an Act or by authority of an Act. Local decrees may not conflict with any other legislation.

Local governments shall send their local government decrees to the metropolitan or county government office immediately after their publication. If the metropolitan or county government office finds the local government decree or any provision of it unlawful, it may apply to any court for a review of the decree.

The metropolitan or county government office may apply to a court to establish a local government’s neglect of its statutory obligation to pass decrees or take decisions. If such local government continues to neglect its statutory obligation to pass decrees or take decisions by the date determined by the court’s decision on the establishment of such neglect, the court shall, at the initiative of the metropolitan or county government office, order the head of the metropolitan or county government office to adopt the local government decree or local government decision required for the remedy of the neglect in the name of the local government.

The properties of local governments shall be public properties which shall serve for the performance of their duties.

There are minimal, hardly noticeable changes in the text compared to previous regulation. The most important change was the title of the article: instead of the term fundamental rights of local governments used formerly, the Fundamental law refers to them as the responsibilities and powers of local governments. This term – compared to fundamental rights – better corresponds to the nature of local governments as administrative organs. (Fábián 2011: 47)

The possibility of intervention granted to county (metropolitan) government offices is relatively far from the modern supervisory methods (e.g. consultation, notice) used to prevent violations that local governments might commit. The primary goal of state supervision is to ensure the lawful operation of governments. State organs must facilitate the performance of the tasks of

local governments while striving to assert the constitutional principle of the legality of public administration. A further goal of state supervision is to help local governments perform their tasks by providing advice and support, protecting local communities, and giving a greater sense of responsibility to local government organs.
Establishing the statutory obligation of local governments to legislate and acting on these grounds, county (metropolitan) government offices adopt the required local government decrees in the name of the local governments immediately after the failure to adopt the local decree is established by the (supreme) court (Kúria) (Article 32 (5) of the Fundamental Law). The county (metropolitan) government offices adopt the required local government decrees – which are also placed under the jurisdiction of the courts – in the name of the local governments. This new right of government offices to adopt “substitute decrees” should be regarded as a strong supervisory authority.
The responsibilities and competences of local governments are be exercised by local representative bodies. Local representative bodies are headed by mayors. County representative bodies elect one member to serve as president for the term of their mandate. Local representative bodies may elect committees and establish offices as defined by a cardinal Act. (Article 33 of the Fundamental Law)
It can be claimed that no essential changes have been made to the organisational units and organs of local governments, except that in the text of the Fundamental Law – unlike in the Constitution – there is no reference to town clerks. Thus, this institution has lost its constitutional status.
The internal construction of Hungarian local governments is remarkably structured and proportioned; it almost maps the system of “checks and balances”. This means that there are three organs (the representative body, the mayor and the town clerk) at the imaginary centre of the organisation and operation of local governments, none of which can be replaced or circumvented – due to legal regulation – and are all stable, for the most part.
Local governments and state organs must cooperate to achieve community goals. An Act may define compulsory responsibilities and powers for local governments. Local governments are entitled to proportionate budgetary and other financial support for the performance of their compulsory responsibilities and competences. A law can authorise local governments to perform their compulsory duties through associations.
A law or a government decree authorised by law may exceptionally specify duties and powers related to public administration for mayors and presidents of county representative bodies. “The Government shall perform the legal supervision of local governments through the metropolitan and county government offices. 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.” (Article 34 of the Fundamental Law)
The traditional “natural law” approach should undoubtedly be abandoned when defining the notion of local self-government. It should grow out of the idea that modern (local) governments form part of the state organisation, although the notion of self-governance may be traceable to several theoretical starting points.
Modern local governments have their autonomy, yet they are still clearly state government organs, not independent from state organisations, and genuine collaboration and cooperation with central (state administration) is indispensable – the importance of which is constitutionally recognised under the provisions of the Fundamental Law.
The economic situation of Hungarian local governments before 2012 is best characterised by the fact that the number and volume of their compulsory tasks dramatically outweighed their revenues, especially the amount of state subsidies. This has led to that situation in which governments are indebted to such an extent that no one can precisely assess and measure it, as

it is not only local government budgets that are weighed down by debts (which is clear) but local government undertakings as well (which is mostly invisible). What this actually means is that the central (state) budget attempts to keep its own deficit in check by “shifting” it upon the local government system to an ever-growing extent.
Instituting mandatory local government associations, making it possible to provide for them by law, may serve further modernisation. In the interest of effective task performance, the previous government practice attempted to make municipalities fulfil their tasks jointly by budgetary-financial means, while in the future, by virtue of the Fundamental Law, this will also be possible under a statutory provision.
State control (supervision) of local governments has been a cardinal issue in the Hungarian system of self-governance since before 2012. The multitude of remedial and control mechanisms is a peculiar feature of the Hungarian local government system, but at the same time it can make the system weak and contingent. It is true that there are enough – internal and external – organs (county government offices, prosecution services, State Audit Office, local government committees, clerks, auditors etc.) to supervise the legality of the operation of local governments, but these organs have insufficient enforcement powers.
The reinforcement of legal control and its conversion into legal supervision from time to time have been urged in special literature for theoretical reasons and also on the basis of accumulated practical experience. A minimal widening of the sphere of authority was regarded as achievable by temporarily implementing decisions deemed unlawful and by authorising supervisory organs to adopt a decision in the case of a failure to adopt a decision. (Some authors argued in favour of a more substantial broadening of supervisory authority.)
The other supervisory power according to the Fundamental Law is debatable: “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” (Article 34 (5) of the Fundamental Law).
The above-mentioned provision is another novelty in Hungarian constitutional law; its aim is easy to specify: preventing the further indebtedness of local governments, which has grown to such an extent that it now jeopardises the balance of the national budget. (Legal regulation restricted local government borrowing before 1 January 2012 as well, but these restrictions were easy to avoid, so expectations were not met.)
Borrowing by local governments tends to serve the purpose of operation and the performance of compulsory tasks instead of financing investments and developments. Obviously, the deficit in the budget of local governments is caused typically by state subsidies and ownsource revenues that are insufficient to cover the expense of performing compulsory tasks and providing local public services.
The Fundamental Law cannot solve the issue of financing; a tool for “a debt break” has simply been institutionalized. Its effectiveness is intensely disputed, and it severely restricts local economic autonomy. It should also be added that the effectiveness of this provision is further endangered by its being belated: credit institutions – aware of the enormous problems of managing property of and financing local governments – tend to be less willing to finance the operation of local governments, regardless of whether the Government will consent to borrowing or not.
“Voters exercise universal and equal suffrage to elect local government representatives and mayors by direct and secret ballot, during the elections allowing the free will of voters in the manner defined by a cardinal Act. Local government representatives and mayors are elected for a term of five years according to a cardinal Act. The mandate of local representative bodies shall end on the day of the national elections of local government representatives and mayors. In the case of elections cancelled due to a lack of candidates, the mandate of local representative

bodies shall be extended until the day of the interim elections. The mandate of mayors shall end on the day of the election of the new mayor.
Local representative bodies may declare their own dissolution, as provided by a cardinal Act. At the motion of the Government – submitted after obtaining the opinion of the Constitutional Court – Parliament shall dissolve any representative body which operates in a way contrary to the Fundamental Law.” (Article 35 of the Fundamental Law)
Until now, the above-mentioned provisions were contained in separate statutes, but by raising them to a constitutional level, their core contents have not changed except for lengthening the term of the representative bodies and mayors from four to five years and terminating the mandate of the mayor in the case of the dissolution of the representative body.
The previous wording of the Constitution evoked the atmosphere of the transition of 1989-90; also defined as fundamental rights of self-government were local self-governance, which did away with the central direction of local councils; independence, the freedom of wide local self-determination, which was especially manifest in considering the concept of selfgovernance as a collective right enjoyed by the community of the local electorate; and the functions of local representative bodies.

Act No. CLXXXIX of 2011 – on the local self-governments of Hungary
In the 2010 electional campaign, Viktor Orbán metioned it as one of his primary objectives that if citizens put their trust in him, his government would carry out a complete public law reform, and would pass a new fundamental law instead of the constitution already displaying several weaknesses. FIDESZ-KDNP (’Alliance of Young Democrats- Christian Democratic People’s Party’) won the 2010 election, and following the counting of votes, it became clear that having a two third majority, the new government could start the process of drawing up a new constitution without the opposition. As a result, on 18 April, 2011, the Parliament passed the new constitution, Hungary’s Fundamental Law. As had been planned, the government carried out a complete public law reform which involved the amendment of the current act on local self-governments, as well. In order to be able to investigate the differences between the 1990 Act on local self-goverments and the equivalent 2011 Act, the regulations set out in the constitutions should be studied and the missing links should be explored.
Starting from the beginning, it is important to observe how these two fundamental law documents provide for the right of self-government. The Constitution is based on the right to local self-government, regulating the control of the state over local self-governments in a minimalist way. It is not surprising given the fact that the Act on local self-government was passed directly after a suppressive, authoritarian regime ceased to exist so it was a primary consideration to reduce state control to the minimum level. The fundamental rights local self-governments were entitled to were general and extended to each local self-government. Unfortunately, however, due to the large number of tiny self-governments and overregulation, this system became impossible to finance. The Fundamental Law attempts to find a solution to this. However, it does not provide for the right to self-government but incorporates the concept of local public affairs in its wording instead. The exact formula is: ’In Hungary local governments shall function to manage local public affairs and exercise local public power.’ It confers the right of local self-government on the citizens of settlements and counties so only the complete revocation of the right to self-government violates the Fundamental Law as the right to self-government does not appear in it as a fundamental right. Citizens may directly exercise their rights to self-government through local referenda and indirectly through elected representatives. According to the law, these rights mean the expression and implementation of local public will. Accordingly, the subject of law shall not be deemed to be the local self-governments but inhabitants of the local settlements who exercise the right of self-government.

According to the act, local public affairs ’are related to the provision of the population with public services and to the creation of the organisational, personnel and material conditions for local self-government and cooperation with the population.’ That is, the task is to cater for the needs of the population and to create and provide the conditions for their well-being so the law does not only regulate but also sets forth obligations for the local self-governments and citizens. It is the citizens’ obligation to alleviate the burdens of the community through self-provision, that is, to contribute to the performance of community activities as far as they are able to. The local self-government may define these tasks in a decree, and may also create legal consequences in case of non-compliance so it may hold inhabitants responsible. However, as a moral constraint, the principle of good faith and mutual cooperation should be followed while the law is exercised and enforced.

The tasks of local self-governments are regulated in section (1), Article 31 of the Fundamental Law, which sets forth that local self-governments manage local public affairs and implement local public will. However, it fails to give an exact definition of what local public affairs are so it is left to the legislature to clarify it. The Fundamental Law gives a list of all the rights that the local self-government may exercise during the management of public affairs so through decrees and orders, it is a matter of local regulation to determine organisational and operational order, to exercise the right of enterprising, the right to charge taxes or to establish partnerships with other local self-governments. However, neither the act nor the Fundamental Law provides for the separation of the tasks and powers of local self-governments. And with this, we have arrived at an important point without the exploration of which it is impossible to go on as we are concerned with local self-governments here. These are the principles of decentralisation-deconcentration and subsidiarity.

The state system of the separation of powers is built out along two axes: a horizontal and a vertical one. (Dr. Gallai – Dr. Török 2003: 318) The horizontal axis is the classical tripartite principle of the division of powers, treated by every country having a democratic political system as a basic element of power construction. The vertical division means the division of state power and tasks among lower levels. However, vertically, division cannot be complete as through its power to make the constitution, the legislative power may modify the powers of the hierarchical organisations of the vertical power system. Thus, local self-governments should always comply with the provisions of currently effective law so there is no institution system where one could speak about unlimited organisational powers. In case of the central and local division of power, one can speak about decentralised and deconcentrated models. (Dr. Gallai – Dr. Török 2003: 319) Regional autonomy is the greatest in federal-type countries where the state grants separate state-level powers to federal elements. Nowadays, countries strive for decentralisation as the division of state powers also involves the passing on of functions and financial burdens in addition to the fact that this way, the principle of vertical power division also prevails. Thus, in case of decentralisation, division of power and division of labour are both attained, resulting in greater autonomy for local authorities. However, autonomy does not mean complete sovereignty as local self-governments also exist as part of the state. ’In a narrower sense, decentralisation is the actual division of powers among regional decisionmakers who are not organisationally subordinated to central authorities.” (Dr. Gallai – Dr. Török 2003: 320)

Deconcentration is based on hierarchy so it means the subordination of local and regional authorities to the central power. At the same time, this shows the limitation of the right to make free decisions as self-governments organised on this basis work under the control of the central administrative authority in every case. Their power is only mediated power, and their scope of authority only covers the performance of specific tasks. Next, it is important to mention the principle of subsidiarity, the content elements of which appeared as early as in the antiquity but

was first widely applied in practice after World War II, and then it became the basic principle of the European Community. Former president of the European Committee, Jacques Delors named the following two aspects as the basis of subsidiarity:

- everybody should have the right to fulfil his/her duties on the level where he/she is most suitable for it;
- the obligation of the central authorities is to provide everyone with every device necessary to fully exploit their possibilities.

In today's modern states, subsidiarity is the principle of the limitation of power and the supervision of interference, which was incorporated by the Treaty of Maastricht (section (1), article 5 of the Treaty on European Union). With regard to the fact that these are uniform principles and models in the field of local self-government, the Hungarian local self-government system was also created by the act regulating this structure according to these models.
After this, let us return to the most recent Hungarian act on local self-government. In section (1), article 13, chapter II, the act gives a detailed description of the range of tasks to be performed by local self-governments. In this section, 21 activities are specified from urban planning through cultural and social tasks to waste management and water supply. The new Act on local self-governments regulates the tasks to be performed by local self-governments in greater detail, incorporating new fields, and putting former tasks of local self-governments under state control. Municipal development and urban planning are included in both acts but municipal operation is a new concept although it is true that some of the tasks to be performed were also included in the former act.
The new act incorporates the following tasks in municipal operation: establishment and maintenance of public cemeteries, provision of street lighting, provision of chimney sweep services, construction and maintenance of public roads and their accessories, establishment and maintenance of public parks and other public areas, and provision of parking places for motor vehicles. In other words, the act specifies the tasks that local self-governments shall perform. Earlier, these tasks were not specified individually. In my opinion, the reason for such detailed regulation is to prevent any legal disputes arising from the lack of regulation. Beyond the incorporation of social benefits and services, the new act on local self-governments also includes the right of the local self-government to determine social benefits.
The Act on social benefits and the Act on local self-goverments set forth that the self-government representative body of the settlement shall provide social benefits in cash for individuals socially in need subject to the conditions set forth in the relevant decrees of the local self-government in the form of care allowance and self-government benefit but may also define other benefits paid in cash. In addition, the local self-government may also provide social benefit in kind, and may order personal care to be provided for those in need. (Dr. Feik 2017: 57) Since the introduction of the public works programme, the organisation and provision of public works have also been the task of local self-governments although it is true that the state gives assistance in the provision of the necessary financial resources. It could have been included among the social tasks of the state, still, the provision of care for and rehabilitation of people who have become homeless, and the prevention of this are regulated separately. The reason for giving it priority in the act may have been the increasing social sensitivity for the problem. The provision in the act requiring local self-governments to provide an opportunity for local small farmers and primary producers to sell the products listed in legal statutes has greater importance in the provinces.
With this, legislators try to promote the development of the Hungarian sector of small producers

and the giving priority to Hungarian goods. Unfortunately, this regulation has not been of much help in stopping the decrease of the number of agricultural primary producers as since 2008, there have been fewer and fewer primary producers registered year by year. The Hungarian production sector badly needs this layer so this problem is an ever recurring item on the political agenda. The organisation and provision of local waste disposal services is also a new task to be performed. Earlier, it caused problems several times as in many cases, waste management companies could not agree with local self-governments so waste disposal was not solved. In order to prevent such cases, the act makes it the responsibility of local self-governments to perform waste management tasks.
The most important issue in today's political situation in Hungary is the educators' movement against the improper conditions and the system of financing in education. These causes can also be led back to the provisions in the Act on local self-governments as earlier, it was the responsibility of the local self-governments to provide education but in the new Act on local self-governments, the authority of local self-governments only covers the supervision of kindergarten education while other levels of education are put under state control.

The impact of the 2011 Act on local self-governments on the Hungarian education system
Following the change of the political system, similarly to many other areas, the Hungarian education system underwent significant reorganisation. Education itself was regulated by Act No. LXXIX of 1993. The act made it the responsibility of the self-governments of villages, towns, capital districts and cities with county rank to organise and supervise the operation of kindergarten and public education services. This act made it possible for the educational services to be provided jointly by several local self-governments in the framework of a self-government partnership in which 'every such self-government could become a member that maintained a school providing vocational training.' (Csörgits 2017: 52) Thus, according to the former regulation, the local self-government was the basis of the organisation and provision of education from kindergarten to university education.
This system was upset by the new Acts on public education and local self-governments, which deprived local self-governments of the right to maintain educational institutions with the exception of kindergartens, and put these institutions under state control. In the exact wording of the act, 'a public education institution may be established and maintained by the state, and subject to the provisions herein, by ethnic minority self-governments, church legal entities, organisations involved in religious activities or by other persons or organisations if it has obtained the right to pursue such activities in compliance with the relevant legal statutes.' The act also sets forth that kindergarten institutions may also be maintained by local self-governments. As of 1 September, 2012, the state established Klebelsberg Intézményfenntartó Központ ('Klebelsberg Centre for Institution Maintenance') (Hungarian abbreviation: KLIK), the task of which is to maintain public education institutions involved in providing state services and to operate public education institutions efficiently, professionally and legally. KLIK performed the tasks set forth in the act in 198 educational districts with more or less success. Right after starting its operations, the institution already generated considerable loss, and the educational experts of the opposition labelled it 'the most unnecessary institution' since the change of the political regime.
It is a fact that the operation of this institution shows the signs of chaos, with its accumulated debt already exceeding ten billion HUF although repayment of it has started in the meantime. Teachers' former demonstrations, which turned public attention to the conditions in education, may have partly been attributed to the operational problems of KLIK and partly to other circumstances. Probably due to social pressure, the government announced that it would close down KLIK, and the new institution to be established would only have maintenance and

employer functions, and all other authorities would be given back to school principals. School principals would also have cash funds so that no central approval would be required for every single procurement of assets, which formerly endangered everyday work in schools. Secretary of state for education László Palkovics said in a television interview that the operations of the universities would not be affected by the new institution as they were functioning properly.
With regard to the universities, it is important to remark that they have a different maintenance system. Universities are led by their senates headed by the rectors but they are operated by the chancellors, who are responsible for economic, financial, controlling, internal auditing, accounting, HR, legal, administrative and IT activities as well as for the asset management of the institution, including any technical, facility utilisation, operational, logistics, service, procurement and public procurement issues, as well, pursuant to law. This means that the actual supervision of universities has been taken over by individuals appointed by the prime minister, through which the autonomy of the universities has also been curbed. It is a negative impact of the reorganisation in higher education that several institutions have been closed down, faculties have been merged, several, formerly state-owned specialisations have been made fee-paying, and in several cases, the amounts of fees have been considerably increased so that many students cannot pay them. As a result, there is a significant decrease in the number of students in higher education.
Due to the act, several educational institutions have been taken over by the churches for maintenance. In comparison with the 2009/2010 period, the number of elementary schools in church ownership had increased by a little more than one hundred by the academic year 2014/2015 while in the case of the academic grammar schools, this number was thirty. Since 2005, the number of students in public education has decreased by almost 200,000 while the number of students educated in church schools could only be counted in thousands at that time but now a quarter of a million students are taught there. Due to the better financial conditions – as church schools get both state and church subsidies -, more and more students are enrolled in church schools by their parents. The fact that the number of students educated in church schools is increasing is in line with the government’s objectives.

Changes in the sovereignty of Hungarian local self-governments

The Hungarian self-government system had prominent significance from the early Middle Ages. The Hungarian principle of local self-government originates from the sovereignty of counties, and if there is any dispute between the state and local self-governments, as a rule, historical experiences are activated to support the importance of the power and autonomy of local self-governments. In the 27 years that have passed since the change of the political system, there have been frequent changes in the obligations and control of local self-governments. At the time of the change of the political system, legislators, understandably, intended to give back to local self-governments the maximum sovereignty permitted by law, which worked well in the beginning, and were welcomed by citizens but as the years passed, the negative aspects of the system became evident, as well. Mainly due to the increase in their responsibilities, local self-governments got indebted, and by 2010, the amount of their outstanding debt had reached 1,200 billion HUF.
Understandably, local self-governments expected the state to solve this problem, and as a result, they had to sacrifice some of their sovereignty, giving it over to the state. The restructuring of the education system described above was due to this sacrifice but the access of the local self-governments to loans has also become limited and the system of central resource allocation has been changed, as well, so settlements with stronger economic potential get less subsidy than the more disadvantaged ones. Before the changes, there were some who were of the opinion that Hungary should adopt the Swedish local self-government model, where first, the number

of local self-governments was reduced from 2,498 to 1,037, and then, due to further reductions, only 278 local authorities remained. This means that a large number of local governments were eliminated or merged. However, under Hungarian conditions, this would have been an inconceivable change as Hungarian local self-governments enjoy historically guaranteed autonomy.
The new regulation in the Fundamental Law gives up the fundamental right approach to the right to local self-government, and sets forth that local self-governments may only exercise their functions (and not their fundamental rights) subject to the principle of legality, thus creating the possibility for a broad limitation of the rights of local self-governments just like for the requalifying of local public issues as national public issues. These provisions reduce the autonomy of local self-governments, guaranteed by the constitution. In the new regulation system, local self-governments are controlled by the competent government authorities, whose status and functions have been considerably extended due to the combination of the great many deconcentrated functions. Through this, the county has become the scene of intermediate level administration. The result of the new regulation is a local self-government system shifting towards centralisation, accompanied by a considerable reduction of the functions and limitation of the autonomy of the local self-government system. Leaving the role of the ’night watchman’ behind, the state actively interferes in local and regional politics and self-government activities. The fundamental changes can be summarised as follows:

- there has been a considerable decrease in the number of local self-government representatives;
- in contrast to the previous system, a five-year election cycle has been introduced with the justification that it is worth separating local elections from the parliamentary cycle and elections in the hope of a higher participation rate and more balanced power relations;
- the next element is the reduction in the functions and roles of local self-governments referred to several times;
- with the appearance of government offices, authority functions have been taken away from local self-governments;
- in case of the existence of the conditions set forth in the act, the opportunity for local self-governments to form mandatory partnerships, and the closing down of mayor’s offices in settlements having fewer than two thousand inhabitants;
- judicial review has become stricter;
- the management functions of local self-governments have become stricter due to the large number of cases of their getting indebted;
- one of the most important changes on the local level is that the position of the mayor has become stronger within the organisation of the local self-government, weakening that of the notary so few opportunities have remained to control mayors.

Conclusion

These were the most essential points bringing about a change in the new Act on local self-governments. It is quite sure that it is impossible to investigate the actual impacts of changes after such a short period of time but some initial conclusions can be made. Evidently, the new act overregulates local self-governments, thus curtailing their sovereignty, and giving too much priority to state influence. The termination of the former close connections between county self-governments and local self-governments may also be the source of significant problems in the future. With regard to the fact that due to the absolute majority of the governing party, the new constitution was passed relatively quickly, the Act on local self-governments was also drawn

up without any serious impact studies or negotiations with the local self-governments themselves.

As our country is a member state of the European Union, our fundamental acts should comply with the basic principles of the Union, and as far as local self-governments are concerned, with the European Charter for Local Self-government, as well. Whether the provisions in the new Fundamental Law and the Act on local self-governments comply with the Charter or not is doubted by many, what is more, one of the reports which investigated Hungarian conditions explicitly recommended the review of the Hungarian Act on local self-governments referring to excessive centralisation. Therefore, it is becoming more and more evident that according to the experience gathered so far, the new regulation needs reviewing but in view of current political trends, this review is not likely to be carried out in the near future.

References

Berényi, S. (2003). Az európai közigazgatási rendszerek intézményei (Autonómiák és önkormányzatok) (’Institutions of European Public Administration (Autonomy and Local Governments’). Budapest: Rejtjel.

Cardinal Act No. CLXXXIX of 2011 on local self-government in Hungary (Mötv.)

Csefkó, F. – Pálné Kovács, I. (ed.) (1993). Tények és vélemények a helyi önkormányzatokról (’Facts and opinions about local governments’). Pécs: MTA RKK.

Csörgits, L. (2017). Az önkormányzati feladatellátás alakulása napjainkban – elméleti és gyakorlati problémák, különös tekintettel az oktatási terület egyes elemeire (’The development of the municipal task supply today - theoretical and practical problems, especially with regard to certain elements of the field of education’). Retrieved: 27.02.2019: http://dfk-online.sze.hu/images/egyedi/doktori/doktori%20m%C5%B1helytanulm%C3%A1nyok/cs%C3%B6rgits.pdf

Dr. Feik, Cs. (2017). Változások a helyi önkormányzatok feladat- és hatáskörének szabályozásában (’Changes in the regulation of the tasks and powers of local governments’). Retrieved:20.02.2019:
http://www.kozszov.org.hu/dokumentumok/UMK/UMK_2014_4/08_Feik_Csaba.pdf

Dr. Gallai, S. – Dr. Török, G. (2003). Politika és politikatudomány (’Politics and political science’). Budapest: Aula.

Fábián, A. (ed.) (2011). 20 éves a magyar önkormányzati rendszer (’The Hungarian local government system is 20 years old’). Pécs: Jövő K A.

Kákai, L. (ed.) (2010). 20 évesek az önkormányzatok. Születésnap, vagy halotti tor? (’Local governments are 20 years old. Birthday or funeral?’) Pécs: PTE BTK.

Kiss, Péter (ed.) (2004). Magyar Kormányprogramok 1867-2002 (’ Hungarian Government Programs 1867-2002’). Budapest: MHK.

O’Toole, L. J. (1994). Local public administrative challenges in post-socialist Hungary, “International Rewiew of Administrative Sciences”, vol.2.

Tamás, A. (1997). A közigazgatási jog elmélete (’Theory of administrative law’). Budapest: Szent István Társulat.