

Special Legal Status of Villages in Hungary

*András Szalai**

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Local governments in Hungary have been set up in each settlement. However, several little villages with a small population are not able to provide all the types of public services properly. The state delegates more duties to the local governments without securing sufficient financial resources. Consequently, mainly smaller villages – due to their economic difficulties – are obliged to perform those tasks through a certain type of association, cooperating with other villages. The highly disintegrated structure of settlements induced the legislator to provide for a possibility of free and voluntary association of local governments as early as in the Local Government Act of 1990. The types of associations may be the following: office of the district notary, official administrative association, association for the joint direction of certain institutions and joint body of representatives. The paper analyses the particularities of local governments of small villages in Hungary.

Key words: municipal self-government – Hungary, intermunicipal cooperation, council partnership, district notary's

* András Szalai, assistant lecturer, National University of Public Service, Faculty of Public Administration, Department of Public Administration, Hungary (asistent-predavač na Katedri za javnu upravu, Fakultet za javnu upravu Nacionalnog sveučilišta za javnu službu, Budimpešta, Mađarska, e-mail: andras.szalai@uni-corvinus.hu)

office, institutional association, official administrative association, multi-functional subregional associations, part-time mayor, village meeting

1. Introduction

After the change of the political system, public administration was radically modified. The Act on Local Governments (ALG) introduced a decentralized local administration with autonomy instead of the former council system. The Hungarian Constitution regards all settlements, regardless of their size and characteristics, to be subject of local governing, entitled to the right of self-government. What was introduced after the first free local elections of 1990 (September 30 and October 14, 1990) was a fragmented local government system. This model has slightly changed since 1990 due to the establishment of associations among local governments (Kukorelli, 2007: 497). Local governments were set up in each settlement. However, several little villages with a small population are not able to provide all types of public services at a proper level.

Two basic phenomena can be observed in Hungary regarding the situation of local governments. One – which became obvious right after the creation of the new local government system – is that local governments gained a wider autonomy from the central government, but the state delegated them a wider scope of tasks. Unlike the state from the previous regime, which had »taken care of everyone«, the »new« state behaved contrary, it »withdrew« from certain fields of public administration leaving behind a wider scope of tasks for local governments, without securing them sufficient financial resources. The other phenomenon is the different development of certain regions of the country, namely significant differences between local governments with regard to their economy and population. Consequently, mainly smaller villages – due to their economic difficulties – are obliged to solve these difficulties through several types of association with other villages. The highly disintegrated structure of settlements induced the legislator to provide for a possibility of free and voluntary association of local governments as early as in the Local Government Act of 1990. The types of associations may be the following: office of the district notary, official administrative association, association for the joint direction of certain institutions and joint body of representatives.

The Act on the Multi-functional Subregional Associations of Local Governments has been adopted in order to promote the coordinated development of subregions and raise the level of public services provided by local governments equally. The potentials in this act may serve as a solution to the above-mentioned problem.

How these small settlements cope with public administration duties is analysed in the paper.

2. Historical Background

After the change of the political system, the number of local governments grew significantly in 1990. The reason for this was that there was no limit in the number of population determined for establishing a local government. Therefore, since an amendment to the Act on Local Governments was adopted in 1994, the condition for establishing a new settlement has been a population of 300 citizens. This number is still small. The fragmentation of villages causes primarily economic problems, but it also endangers expert handling of administrative matters.

Before the change of the political system, there had been no local governments in Hungary, only soviet councils. The problems related to villages were solved by establishing districts, called common councils, to which several settlements belonged. Table 1 shows the common council situation in January 1990. As it can be seen, the majority of the villages operated as part of a common council.

Table 1 Situation with councils in Hungary in January 1990

Total number of villages	Villages with their own council	Settlements belonging to common councils	Total number of common councils
2,854	782	2,072	638

Source: Gazetteer of the Hungarian People's Republic 1990.

Although the establishment of common councils solved administrative problems related to villages, economic matters were tackled in the central town of the district, thus causing the other villages in a particular district to lag behind.

Consequently, several villages preferred autonomy after the change of the political system, as they did not want to associate with each other because of the former bad experience in connection with the common council. Although the Act on Local Governments, adopted in 1990, provided possibilities for cooperation among the settlements, still – at least in the beginning – many villages were not willing to participate in it.

3. The Establishment of a Village

Upon the initiative of local constituents, a new village, which is able to exercise self-government rights and perform the tasks set out in the Act, may be established in a separate part of a locality with a population of at least three hundred.¹

In the event that a motion is filed for the incorporation of a new village, the village meeting shall elect a preliminary committee consisting of at least three members chosen among the members of the settlement's council residing in the section of the locality concerned (or among the other voters if there are not enough council members, or if they do not accept the appointment).

The committee in charge of preparations shall draw up a proposal with respect to the territory of the new village, the name of the village based on experts' opinions, the division of assets and property rights and obligations, and the distribution of costs.

The preliminary committee shall inform the residents of its proposal. At the recommendation of the preliminary committee, the council shall pass a resolution on the motion to form a new village. The President of the Hungarian Republic shall decide on the initiative to form the village, and the document shall contain any possible dissenting minority views.

4. The Size of Towns and Villages

According to the ALG, each settlement equals a local government, because in Hungary there is a local government unit in every settlement.

¹ It is the responsibility of the local authorities to provide the supply of safe drinking water, kindergarten education, primary school education, basic health and social benefits, public lighting, maintenance of local public roads and the public cemeteries; and to ensure the enforcement of the rights of national and ethnic minorities.

Beside this, it can be observed the devaluation of the title of town, because there are no serious conditions for receiving it. The Act has prescribed principally economic and infrastructural requirements. One of the legal conditions is that the applicant village must be a large village, which means that its population must be five thousand residents. The change in the number of settlements after 1990 is presented in Table 2.

Table 2 Changing number of settlements between 1990 and 2009

Year	Towns	Large Villages	Villages	Total number of localities
1990	157	277	2,628	3,071
1995	171	277	2,931	3,125
2000	199	216	2,697	3,135
2005	251	167	2,704	3,145
2009	282	140	2,706	3,152

Source: Gazetteer of the Republic of Hungary 1990–2009.

How can a town be differentiated from a village? There is no difference between them with regard to their main duties, because the Act has prescribed the duties performed by a settlement independently of the number of its population. For example, it is the responsibility of the local authorities to provide for the supply of drinking water, kindergarten and primary school education etc. Thus, a village with a few hundred inhabitants must carry out the same tasks as a town with thousands of residents. This obviously causes problems with regard to the professional handling of administrative matters.

5. Special Characteristics of the Local Governments in Villages

5.1. Part-time Mayor

In municipalities with more than three thousand residents, the office of the mayor may be held only on a full-time basis. The lawmaker has

considered that there are a great number of tasks in such municipalities and thus, they may be carried out only by a full-time mayor. However, in smaller villages, the mayor has more options. In villages with fewer than three thousand residents, the office of the mayor may be filled as a community (or voluntary) mandate, but there is also a possibility to take the full-time job. The candidates for the mayor's office declare before the elections whether they will take the job as a community mandate or as a full-time job.

If the mayor has a community mandate, the nature of legal relation between him/her and the local government is merely constitutional; there is no employer–employee relationship between them. Part-time mayors are not entitled to remuneration, but do receive some kind of fee. Local residents elect both types of mayors. The significant difference is in their legal relation to the local government.

If they choose to be full-time mayors in villages with fewer than 3000 residents, this position will naturally be the same as the mayoral position in settlements with a population of more than 3000 residents. Namely, in municipalities with fewer than 3000 citizens, the residents may decide whether they want a full-time or a part-time mayor. Obviously, they may only decide on this issue if there is a candidate who stands for elections as a part-time mayor. If there is no such a candidate because each candidate stands for elections as a full-time mayor, local residents may only choose the candidate him/herself. Following the elections, only the council may change the mayor's status, and only once during a single election cycle (four years). However, the mayor's consent is required.

Table 3 shows the number of full-time mayors in villages with fewer than 3.000 residents. As it can be seen, it is a relatively high number:

Table 3 The number of full-time mayors

Population	Number of full-time mayors
501–2,999	1,142
100–500	195
Under 99	12
Total	1,349

Only few mayors have a full-time job in villages with fewer than 3,000 residents, probably because of the remuneration rules. Mayors' remuneration

is the product of the civil servants' remuneration base² and the multiplier determined by the number of population of the given settlement. As the Tables 4 and 5 both show, multipliers are subject to the scope of competences of the council.

Table 4 Multipliers for full-time mayors

Population	Multiplier
Under 1,000	7–9
1,000–2,999	8.5–11
3,000–10,000	11–12.5
More than 10,000	12.5–13.5
Capital's districts	13.5–14.5
Town with county	14–15
The capital	15–16

Source: Act LXIV of 1994.

Table 5 Multipliers for part-time mayors

Population	Multiplier
Under 1,000	2.5–4.5
1,000–2,999	4.5–6.5

Source: Act LXIV of 1994.

There are also differences between the two types of mayors regarding the conflict of interest. The majority of rules on the conflict of interest are the same³. However, if the mayor is employed full-time, there is an employer–employee relation between him/her and the local government. Thus, they

² Civil servants' remuneration base is determined by the Parliament in the annual budget. Now it is HUF 38,650 (approximately 138 EUR).

³ Both part-time and full-time mayors cannot be in office as the President of the Republic, a member of the Constitutional Court, ombudsman, fill the office of the president, vice president or auditor of the State Audit Office, must not fill any office in the Government; cannot be a secretary of state, a sectoral state secretary; or an officer of a central government agency etc.

may not establish other and further relationships associated with the job – with the exception scientific, educational, artistic, literary advisory, editorial activities and intellectual activities subject to legal protection. Full-time mayors may also be members of parliament.

5.2. Special Employment Conditions Related to the Notaries in Villages

The notary (clerk or chief executive)⁴ manages the council office of local governments. He or she is appointed by the council. The ALG has determined strict rules for appointing a notary. It means that the candidate for the office shall have a university degree⁵ and public administration practice of at least two years.

However, these conditions may cause problems in smaller settlements, because it is difficult to find a person who meets such qualification requirements. Therefore, the ALG has provided that it is possible not to prescribe all these criteria. For these reasons, the councils of the villages with fewer than five thousand residents may employ a notary not having the above-mentioned criteria.⁶ The notaries who finish their studies within two years from the appointment may be exempted from the criteria. The council may reduce or release the practice.

The council office can function efficiently only if its civil servants are able to perform their tasks independently of the political parties that rule the local government council. Unfortunately, there are several cases when the council has appointed or relieved the notary for political reasons.⁷

The notary, as the professional leader of the council ensures that legal operation of local government is monitored, and he is responsible for

⁴ The origin of the expression *notary* is from the Latin word *notarius*. The official Hungarian tradition of the chief executive is notary in the ALG. In Hungarian, it is *jegyzt*, which means to write something down, to note something.

⁵ Faculty of Public Administration or Faculty of Law.

⁶ In the case of district notaries, the criteria cannot be disregarded, not even if the total number of inhabitants of settlements establishing a district notary's office is fewer than 5,000.

⁷ Appointments based on political reasons take place mainly in bigger towns, because politics rather dominates the town councils, unlike village councils. However, there are obvious examples of unprofessional approach in villages as well, but usually not for political but for other reasons (e.g. bad personal relationship).

the professional and legal handling of administrative matters. The notary must notify the council, the committees, and the mayor if he finds any infringement of statutory provisions in their decisions. Based on everything the above-mentioned, it would be better if not the council, but the government's deconcentrated regional office appointed the notary (MTA, 2009: 28).

5.3. Election Rules

The rules for the election of mayors are not different in villages, since mayors are elected directly everywhere in Hungary. There are no special rules for the election of council members in villages either, but the Act on Electoral Procedure has prescribed different rules for municipalities with fewer than ten thousand inhabitants (villages obviously belong here), and these rules make up the so-called "small list system". The name can be confusing, because votes are not cast for lists but for candidates. All the candidates' names are enumerated in alphabetical order on a list, and voters elect the number of candidates corresponding to the size of the settlement's council. The number of council members depends on the size of population.

Table 6 The number of the council members

Population	Number of the council members
Under 100	3
100 – 600	5
1,300	7
3,000	9
5,000	11
10,000	13

Source: Act LXIV of 1990.

Public administration reform plans often mention a possible decrease in the size of councils. However, a smaller number of council members would not mean such a great reduction of costs, but would lead to a democratic deficit, mainly in small settlements.⁸

⁸ With regard to reform plans about the local government system Ivancsics remarks that substantive operation of a body consisting of three members cannot be easily ensured.

5.4. Village Meeting

Every council must hold a public meeting at least once a year, at which local voters may ask questions considering their locality and make proposals in the matters of public interest. The only function of these meetings is to discuss public issues, not to decide on them. This forum is called the village meeting in small settlements. It is a particularity of the villages whose population is smaller than five hundred that the council may delegate local referenda to the competence of the village meeting. Village meetings are consequently special democratic forums with decision-making competences.

6. District Notary's Office

During the soviet system, several villages belonged to a common council. The form of the common council meant that two or more villages had the same body, budget, chairperson and office. After the change of the political system, local governments got their own representative body, mayor, budget, property, and office. However, due to certain economic and practical reasons, not all the villages may have an independent office. The Act has provided that villages with fewer than one thousand residents shall establish and maintain a common district notary's office.

Nevertheless, after the change of the political system, several villages preferred autonomy instead of district notary's office.

Table 7 The number of district notary's offices after 1991

Year	Total number of local municipalities	Municipalities with their own council office	Municipalities belonging to district notary's offices	Total number of district notary's offices
1991	3,097	1,562	1,535	529
1992	3,115	1,676	1,439	506
1993	3,131	1,734	1,397	499
1994	3,137	1,752	1,385	499
1995	3,149	1,773	1,376	494
1996	3,149	1,849	1,300	494

A body consisting of five members would be ideal in small settlements (2009: 77).

1997	3,150	1,852	1,298	492
1998	3,154	1,827	1,327	505
1999	3,154	1,818	1,336	509
2000	3,158	1,762	1,396	536
2001	3,158	1,668	1,490	580
2002	3,158	1,632	1,526	593
2003	3,168	1,613	1,555	605
2004	3,168	1,582	1,586	616
2005	3,168	1,551	1,617	631
2006	3,168	1,525	1,643	646
2007	3,175	1,387	1,788	669
2008	3,175	1,150	2,025	659
2009	3,175	1,210	1,965	772

Source: Gazetteer of the Republic of Hungary 1991–2009

Data from Table 7 show that the number of district notary's offices established in 1990 was constantly decreasing until 1998. However, in 1997, financial supports of the state budget for the maintenance of district notaries' offices grew significantly, thus stimulating their establishment. Naturally, it was not only the number of district notary's offices that grew, but also the number of settlements which joined this cooperation. The majority of district notary's offices came into being from municipalities which had formerly belonged to common councils. The reasons for this were traditions and historical ties on the one hand, and common institutions on the other (Szigeti, 1994: 612).

Several conditions are required to establish a district notary's office. Principally, only villages with fewer than one thousand citizens may establish this type of office. One more criterion is that the participating villages must be located in the same county. This is the only type of cooperation where the county border means a limit, meaning that county borders are irrelevant for any other type of association. The reason for this is the issue of legal remedy for the actions of public administration. The system of legal remedies is based on which county's notary made the contested decision. Thus, it would cause difficulties if villages from different counties belonged to the same district notary's office (Petrin, 2006: 508). As a further condition for establishing a district notary's office, the Act has prescribed that the villages shall be located adjacent to each other. Thus, the interests of citizens are protected, because administrative matters will not take place far from them (Petrin, 2006: 508).

A village whose population is between one and two thousand residents may also be part of a district notary's jurisdiction. The seat of the district notary may be in a locality whose population is more than two thousand residents. It is obvious that a settlement with more than two thousand inhabitants may not participate in this type of cooperation if it is not a seat of the district notary, and if not so, it shall maintain its own council office. It is not compulsory for villages with fewer than one thousand residents to participate or establish a district notary's office. The Act has made possible for the representative bodies of such villages to set up a separate council office, provided that they have the proper budget for it and can appoint a town notary who meets the qualification requirements.

7. Types of Associations

The ALG has prescribed several compulsory tasks for settlements, which proved to be difficult to implement right from the beginning (Finta, 2009: 145). At the same time, the act has provided the possibility for local governments to cooperate with each other or to form associations. Along with the fact that small settlements may form associations, it is obvious that mainly villages should be interested in participating in such associations.

Official administrative association. According to the ALG, in order to bring handling the administrative matters closer to citizens, the settlement's notary exercises powers in the majority of cases related to public administration. In the case of simple public administration matters, local governments can ensure the appropriate staff and material facilities in every council office. However, there are numerous complex official matters, whose administration requires expert knowledge and practice. The conditions for these can and must be ensured in cities, but not in every small town or village. The official administrative association provides a solution for this problem. Only two or more councils may establish this type of association, mainly for petty offences, trespasses or administrative matters related to construction.

Institutional association. After the Soviet era, the abolishment of common village councils generated the need for setting up institutional associations. The greatest part of common institutions maintained by the former common councils could not be divided in kind. Thus, the owner local governments continued to operate them jointly, but new institutional associa-

tions were set up as well. For example elementary schools, kindergartens, libraries, and health care institutions.

Council partnership. Council partnership can be formed by two or more municipality councils, but a referendum must be held before it. Councils participating in the partnership consolidate their budgets, partly or completely, maintain a common office and operate their institutions jointly. Matters that belong to only one of the localities are decided upon independently by the council of that municipality.

Council partnership may be set up in two ways. The first way is that a joint body is formed together by the councils. The second way is that the councils agree to send members selected among the representatives of the participating localities in the ratio of population.

In practice, there are only few partnerships. The main reason is that this type of association is considered to be very similar to former common councils of villages, but it is not so. In the case of common council of villages, two or more settlements had a single, common council. In contrast to that, in council partnership, each settlement continues to have its own representative body.

The common council had one chairperson, while the municipalities participating in council partnership have their own directly elected mayor. Common councils had common budgets. The municipalities of council partnerships have their separate budgets.

Common councils of villages did not have any property (the state was the proprietor), they were merely the trustees of certain assets. In council partnerships, local governments have their own property, and they can dispose of it independently.

Council partnership means a chance for local governments to perform their tasks in the most efficient way by having joint institutions. At the same time, in matters that concern only one of the settlements, that settlement's council decides independently. It depends on the local governments' free will to what extent they merge their budgets – it can range from a minimum contribution to full unification. It is probable that villages would not be able to carry out certain developments on their own, which they can together. An obvious requirement is that settlements participating in council partnerships must be able to sustain prolonged cooperation.

Multi-functional subregional associations. This type of association is not mentioned in the Act on Local Governments. It was adopted in the Act on Subregional Associations adopted of 2004. It was the intention of the

legislator to provide a solution for the fragmentation of settlements. According to the Act, there are one hundred and seventy-four subregions in Hungary. Multi-functional subregional associations are also a possible solution for small municipalities because local governments may participate in the coordinated development of their respective subregion (by preparation and execution of development plans, programmes and tenders); they can provide subregional public services or maintain institutions. The government wanted to make this type of association compulsory, but it is impossible according to the Constitution. As a result, tasks carried out by subregions may vary. These tasks can be, for example, education, provision of health care and social services or supply of drinking water.

8. Future changes

Experience gained in the past twenty years has shown that small settlements recognize the advantages of cooperation, but it is possible that they do it only in order to receive funds from the state budget. Modification of the local government system has several legal difficulties in Hungary, because the Constitution lists many acts of Parliament whose amendment requires two-third majority. This is true for the ALG, too. Due to the lack of consensus, the system laid down in 1990 seems impossible to be modified. The new government elected in May 2010 gained two-thirds of the seats in the Parliament. Thus, the requirements prescribed by the Hungarian constitutional law are now fulfilled and it is possible to make favourable modifications for small communities.

A new Constitution (Basic Law) came into force on January 1st, 2012. Besides the new Constitution, a new Act on Local Government is being drafted. One can hope that this new act will solve the problems regarding the highly disintegrated structure of settlements. According to the Draft Law, the state government will provide for the supply of primary school education instead of local authorities, for instance. The Act will also consolidate the role of district notary's offices.

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SPECIAL LEGAL STATUS OF VILLAGES IN HUNGARY

Summary

Local governments in Hungary have been set up in each settlement. However, several little villages with a small population are not able to provide all the types of public services at a proper level. The state delegates more duties to the local governments without securing sufficient financial resources. Consequently, mainly smaller villages – due to their economic difficulties – are obliged to perform those tasks through a certain type of association, cooperating with other villages. The highly disintegrated structure of settlements induced the legislator to provide for a possibility of free and voluntary association of local governments as early as in the Local Government Act of 1990. The types of associations

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POSEBAN PRAVNI STATUS SELA U MAĐARSKOJ

Sažetak

Jedinice lokalne samouprave u Mađarskoj postoje u svakom naselju. Međutim, nekoliko malih sela s malim brojem stanovnika nije u mogućnosti pružiti sve vrste javnih usluga na odgovarajućoj razini. Država je prepustila veći broj poslova lokalnim jedinicama, ali im nije osigurala dovoljna financijska sredstva. Stoga, zbog ekonomskih teškoća, uglavnom manja sela moraju obavljati spomenute poslove kroz neki oblik suradnje s drugim selima. Jako usitnjena struktura naselja potakla je zakonodavca da već u Zakonu o lokalnoj samoupravi iz 1990. omogući slobodno i dobrovoljno udruživanje lokalnih jedinica. Vrste udruženja su: ured zajedničkog tajnika okružne uprave, upravno udruženje, zajednička uprava pojedinih institucija te zajedničko predstavničko tijelo. Rad se bavi posebnostima lokalne uprave u malim selima u Mađarskoj.

Ključne riječi: *lokalna samouprava – Mađarska, međuopćinska suradnja, partnerska vijeća, ured zajedničkog tajnika okružne uprave, institucionalno udruženje, upravno udruženje, multifunkcionalna subregionalna udruženja, gradonačelnik koji obavlja dužnost volonterski i nije zaposlen puno radno vrijeme, seoski zbor*