

5 THE VALUE OF THE ENVIRONMENT IN HUNGARIAN MUNICIPALITIES

An Overview of the Legal Aspects

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Keywords

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Abstract

In the field of environmental policy, the principle of sustainability and local actions are becoming increasingly important ('think globally – act locally'). In Hungary, the focus is – within the multi-level local government system – on the local governments of the municipalities. This study is part of a research project on the role of municipal local governments in Hungary. During our research, in addition to the research methods of the 'desktop', case studies, questionnaires, interviews and focus group interviews were used. This study presents such general conclusions that can be drawn from the partial results. It does not include the presentation of certain areas of local environmental protection (air protection, waste management, protecting the built environment *etc.*), it rather tries to present the attitude of local governments, their commitment to environmental protection and the circumstances affecting it. It shows that Hungarian local governments do not form a homogeneous group. Primarily due to the differing size of municipalities, local environmental conflicts and the financial resources available for their resolution differ from each other as well. However, certain circumstances – such as the low degree of environmental awareness of the Hungarian population, the decrease in the autonomy of the local governments, the effects of the economic crisis and the changes of central regulations – affect them equally. The environmental protection performance of local governments is generally lower than desired.

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5.1 INTRODUCTION

Tackling/overcoming challenges such as the climate change and the global ecological crisis requires collaboration from the individual to the global level, including local communities.¹

The principle of subsidiarity demands that, with the knowledge of local conditions and in the possession of means for a more effective management of problems with greater chances of actual implementation, the various norms and individual decisions be enacted at the lowest possible level (closest to the subjects, *i.e.* the citizens).² At the same time, the principle implies autonomy for communities; promotes social participation in the administration of local affairs.³ I assume that the emergence of the principle of subsidiarity is limited in today's Hungary. Increasing its reach could mean a reduction of the significance of the central government and the administration of the state, at the same time it could strengthen the role and autonomy of local governments, and – along with appropriate regulation, coordination and funding – improve the state's environmental performance.⁴ This is desirable since the state's environmental performance is low.

The central institutions also support solving local problems. Local governmental environmental protection, (municipal wastewater and waste management, construction affairs, noise protection *etc.*), is the subject of central – both EU and national level – regulation. Environmental protection rules are increasingly striving to take into account local conditions, and identifying various instruments (permissions, environmental impact assessments, setting up different zones *etc.*) to differentiate, individualize protection, and to be able to evaluate the characteristics of the (local) environment in a complex (holistic) manner.

All the previously mentioned instruments are important, but they are insufficient. This is because they lack the initiative of the local community, lack local development ideas for the future, as most of these decisions are not adopted by the local community (that is to say, not made at the municipal level, or by bodies elected by the population), and finally, both their accuracy and their legitimacy is low.⁵ At the same time, it is obvious that decisions

1 Each of the individual, family, personal relationship, settlement, community, metacommunication, city (urban), national, regional, continental, and global level has its own role, and if these levels are synchronized, the chance to effectively manage the problem is multiplied. Avit Bhowmik *et al.*, *Powers of 10: A Cross-scale Optimization Framework for Rapid Sustainability Transformation*, EarthArXiv Preprints, 2018, at <https://eartharxiv.org/feaq5/>.

2 Gyula Bándi, *Környezetjog*, Szent István Társulat, Budapest, 2014, pp. 175-176.

3 János Frivaldszky, 'Szubszidiaritás és az európai identitás a közösségek Európájáért', in János Frivaldszky (ed.), *Szubszidiaritás és szolidaritás az Európai Unióban*, OCIPE Magyarország-Faludi Ferenc Akadémia, Budapest, 2006, p. 36.

4 Gyula Bándi, 'Variációk a környezetvédelmi igazgatás témájára', *Magyar Közigazgatás*, 1995/10, p. 582.

5 At the same time – for various reasons that are mentioned in this study as well, just as in the case of decision-making mechanisms – this problem unfortunately exists in local governmental decisions, although here I

made at the local level with the involvement of local communities, can be more substantiated and more successful.⁶ It is important for the municipal local governments in the field of environmental policy to receive various instruments to supplement and concretize central regulations (as is the case in some other related areas, such as construction), in order to define and enforce their own environmental policies.

Research on local strategies show that the number of municipalities that no longer expect solutions from their governments or international organizations, but formulate their own ideas, is growing all over the world.⁷ The role of the settlement/municipal level in some countries is increasing, because the government does not pay enough attention to the implementation of sustainability, meaning that the issue remains with the municipalities. For example, although the US (notoriously) does not participate in certain international climate protection agreements, 200 of its city governments have declared that they will do their utmost to achieve the Kyoto targets.⁸

The number of those international networks is growing increasingly, where local governments can participate and influence global processes, defining common goals, and transferring good practices.⁹

Significant international documents that define the global framework for sustainability policies also highlight the importance of the local levels of action. Agenda 21 (Goals for the 21st Century) adopted in Rio de Janeiro (1992) is a relatively widely known document, and its Chapter 6 specifically deals with sustainable urban development and encourages local governments to develop their own sustainable development strategies.¹⁰ Among the UN Millennium Development Goals (MDGs), in order to improve the living conditions of masses living in slums, disaster recovery, urban water and public cleanliness services take center stage.¹¹

am referring to the limited implementation of subsidiarity and the low level of development of environmental democracy.

6 On the other hand, as public environment protection bodies are typically under-represented at the local level, the implementation and the application of central regulations and measures is difficult. This can be overcome by local actions if certain conditions are met. Cf. Gunilla Wingqvist Ölund *et al.*, *The role of governance for improved environmental outcomes*, Swedish Environmental Protection Agency, Bromma, 2012, p. 25.

7 László Antal Z., 'A természet és a társadalom kapcsolata, valamint a klímabarát települések eredményei', in Orsolya Bánai & Attila Barta (eds.), *A települési környezetvédelem elméleti és gyakorlati megközelítései*, Gondolat, Budapest, 2018, p. 24. at <https://gondolatkiado.hu/pdf/Kornyeztvedelem.pdf>.

8 At the same time, it has to be seen in this example that the US local government system is differs from the European models, where the municipalities have a greater autonomy, and the dependence on and the interconnectedness with the center is not typical. See Ilona Pálné Kovács, *Helyi kormányzás Magyarországon*, Dialóg-Campus, Budapest-Pécs, 2008, pp. 89-90.

9 Laura Kovács, 'Helyi önkormányzatok hálózatainak szerepe a globális kormányzásban', *Tér és Társadalom*, Vol. 24, Issue 1, 2010, pp. 103-117.

10 János Szlávik, *Fenntartható környezet- és erőforrás-gazdálkodás*, KJK-KERSZÖV, Budapest, 2005, p. 245.

11 Goal 7 – Ensure environmental sustainability, at www.un.org/millenniumgoals/pdf/Goal_7_fs.pdf.

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The World Summit on Sustainable Development (Johannesburg Summit 2002) – in light of the lack of implementation of previous plans and the worsening of global environmental problems – called for the re-evaluation of the concept of development and for a new type of international cooperation. Regarding the adopted declaration (5th), environmental protection needs to be strengthened at local, national, regional and global levels. As a result of the Summit, partnership agreements have been concluded to execute the Agenda 21 goals, where besides national governments, regional groups, local governments, NGOs, international institutions, participants of private sector *etc.* are also present.¹²

The Agenda 2030 for Sustainable Development (2015)¹³ also highlights the role of municipalities and local communities in urban development and management by describing their situation in the world (34th), that has a decisive impact on the quality of life of the population. Among the UN Sustainable Development Goals (SDGs) included in the document there are several that relate to the protection of the environment (issues of water, energy, public cleanliness, infrastructure) and the local/community level. The 11th SDG is specifically aimed at rendering settlements sustainable. I emphasize the requirement of participation-based, integrated, sustainable urban development among its sub-targets, in which local governments are necessarily involved (but the same holds true for the elimination of slums, the improvement of road safety, the improvement of urban air or the improvement of connections with peri-urban areas *etc.*).

By the 7th Environment Action Program of the EU,¹⁴ that is currently in force (2015-2020), environmental health and (in the light of urbanization trends) the typical problems of cities (air pollution, noise pollution, inadequate waste management, water shortages, high greenhouse gas emission) are also considered to be priorities. The importance of sustainable urban development and urban planning and, as also highlighted, the promotion of good practices in this field and the provision of EU funds for this purpose are also considered as EU goals.

Underlying the national environmental regulations concerning urban environmental protection, are often EU directives. According to the latest evaluation, it is rather worrying that air quality standards are not applied in urban areas,¹⁵ as air pollution is the number

12 Zsuzsanna Horváth, *Fenntartható fejlődés: Fenntartható termelés és fogyasztás az Európai Unióban*, Dóm-Dialóg Campus, Budapest-Pécs, 2016, pp. 34-37.

13 *Transforming our world: the 2030 Agenda for Sustainable Development*, at <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

14 Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet.'

15 Client Earth, an international NGO, has pointed out regarding air protection that planning is, in general, nowhere effective, meaningful, and timely. In several of its cases (by examining German and English plans) the CJEU has already confirmed this (Judgment of 19 November 2014, *Case C-404/13, Client Earth*, ECLI:EU:C:2014:2382; Judgment of 25 July 2008, *Case C-237/07, Janecek*, ECLI:EU:C:2008:447). In other countries, such as Slovakia and the Czech Republic, national courts have already ruled the same. In Hungary and Poland, the criticism of air quality plans has also started by independent, civilian experts with submitting

one environmental cause of death in the EU. Exposure to environmental noise is also typical. At the same time, in Member States a “[m]ixed progress was reported as regards energy efficiency, sustainable transport and mobility, sustainable urban planning and design, urban biodiversity and sustainable buildings.”¹⁶

This study summarizes some of the results of the research project led by me at the University of Debrecen (2015-2019) and deals only with the Hungarian local governments. However, its findings may be interesting with regards to other countries in the region.¹⁷ In the course of this research, I analyzed current problems and regulations in light of the changes that have taken place since 2010.¹⁸ These include the deterioration of national environmental policy performance as a result of the economic crisis, the reforms of public law restricting the autonomy of local governments, the reform of the system of public services (decreasing the role of local governments and centralization), and the changes to the EU funding system.

At the beginning of the research, I formulated questions such as what are the environmental responsibilities of the municipalities and how do they perform? Is there a difference between central regulations and local practices? Are there local regulations that are more restrictive than the central ones and which accommodate local characteristics? Do the local governments enforce their own regulations? Do they make use of the provided legal frameworks? Do they comply with international and EU regulations? Are environmental aspects integrated into their development strategies, various (e.g. construction) regulations?

A variety of methods were used to answer these questions: analyzing central and local environmental policy documents, focus-group interviews, questionnaires and case studies. The research outcomes have been published in several Hungarian and English publications so far.¹⁹ In this study, I present my overall conclusions based on the summary of the partial results.

appropriate proposals to the authorities. In the autumn of 2018, the Clean Air Action Group (Levegő Munkacsoport) criticized the plan on Budapest in several points. See www.levego.hu/sites/default/files/kozig.%20kereset_vegleges_bp.pdf.

16 Report (6 March 2018) on the implementation of the 7th Environment Action Programme [2017/2030(INI)] at www.europarl.europa.eu/doceo/document/A-8-2018-0059_EN.html.

17 László Fodor *et al.*, ‘Települési környezetvédelem Magyarországon: Egy kutatás előfeltevései’, *Tér és Társadalom*, Vol. 30, Issue 3, 2016, pp. 19-39.

18 E.g. while earlier regional waste management investments, sewerage were supported, today, energy efficiency projects are, irrespective of what is needed locally (e.g. water supply protection).

19 E.g. Mihály Fónai *et al.* (eds.), *Local Environmental Problems and Answers in Hungary and Romania*. Scientia, Cluj Napoca, 2018, at <https://ceeol.com/> in the Central and Eastern European Online Library.

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5.2 THE RELATIONSHIP OF HUNGARIAN LOCAL GOVERNMENTS TO ENVIRONMENTAL PROTECTION – ENVIRONMENTAL TASKS AND INSTRUMENTS AT THE MUNICIPAL LEVEL IN A NUTSHELL

In Hungary, following the change of regime in 1989, one of the most liberal local government systems was created. This means that in the spirit of sharing of powers, constitutional guarantees ensured autonomy and the local governments were given a relatively large number of tasks and competencies. At the same time, the level of municipalities remained decisive in the Hungarian local governmental system, that came with fragmentation and significant disproportionalities. Currently there are 3178 municipal local governments. In addition to these, 19 county (territorial) local governments have been established, but their role in environmental protection matters is low; they are only entrusted with instruments of regional development and rural development.

Local governments have performed, and are performing their tasks at different levels today, because, the capital and its districts, the larger cities, and the towns and cities with tourism tend to have more financial resources. The idea of (environmental) sustainability is receiving an increased role in settlements with a population of between 1000 and 5000 people and towns with over 10,000 inhabitants. The advantage of smaller settlements is that the local conditions are still more transparent for the leaders of the settlements and the mayor's offices, while sustainability is perceived as a chance for economic development by the larger cities. As for the rest, small village settlements do not possess sufficient financial or human resources, and in the mid-sized settlements, resources are consumed by operational costs.²⁰

These local governments have been facing serious difficulties in carrying out environmental tasks that require specialized professionals and instruments. The 3rd National Environmental Program (NEP), adopted in 2009, already pointed out that it would be better to organize certain tasks at micro-regional level.

Since 2010, the central government has centralized several tasks and authorities in the field of local public service provision. As far as the environmental public services (waste management, wastewater treatment) are concerned, the involvement of the state (*e.g.* the service charges are centrally determined, the public service provider can no longer be freely chosen by the local governments, certain tasks have been taken over by the state) has also increased. Certain administrative authorities of state administration (*e.g.* for air protection) have been transferred to the territorial offices of the government, that is to say the metropolitan offices of the county government offices. Several professional fields have been regulated by the Act of Parliament, reducing the opportunities for local regulation.

20 *Tudatos Település Útmutató*, Belügyminisztérium, Budapest, 2018, p. 36. at <http://bm-oki.hu/News/View-File?fileId=1117>.

From 2012, the autonomy of local governments has been removed from the new Fundamental Law of Hungary.

The 4th NEP (2015-2020), as a culmination of the process, reflects the abolition of self-government autonomy and the relationship of the local governments to the Fundamental Law. It includes local governmental tasks and environmental problems at the municipal level, but the division of tasks between the state and local governments or the relationship between local governmental and central legislation are no longer considered, just as the principles of subsidiarity or territoriality the municipality is not mentioned.

The most important environmental tasks of the local governments are: regulation and planning, organization of local public services, performance of official (authority) tasks. The first two are always interconnected, since there is a need to organize and locally regulate services. Some of the official tasks are national and some are related to local public affairs.

Local governmental ordinances regulate the cleanliness of public areas (*e.g.* the pavement in front of houses), the burning of the leaves and garden waste (the government is currently considering a national ban on the burning of these wastes), the actions to be taken in case of a smog alert, the shipment of waste (date of delivery, size of bins), wastewater treatment, townscape protection, settlement structure *etc.* The local government may decide to regulate the protection of local natural values, the felling of trees in private areas and set local requirements for noise protection.

Some bodies of the local government act as public authorities (authorize, control, sanction, and act), *e.g.* regarding illegal dumping, construction, noise pollution, animal protection, industrial authority affairs, townscape protection, smog-alert, local conservation, water protection (typically in lower priority cases).

During the research it was found that most local governments do not have any environmental protection experts and did not set up such a committee, or organizational unit that would specialize in environmental protection tasks. Many local governments have failed to carry out their planning obligations, have not taken any measures, and often have poor local regulations. At the same time, there are also good examples: local sustainability initiatives, 'green bureaus', cooperations between local governments *etc.* The picture is highly varied, and the differences cannot be explained only by objective circumstances, *e.g.* much depends on the commitment of the mayor and the local population to environmental awareness.

Due to the lack of resources, some of the small settlements would like to pass on a few of their tasks and competences to others. However, the other municipal local governments rather find the legal instruments at their disposal insufficient. Overall, we have found that the environmental policy of local governments is less determined by proactivity, but rather by the need for the management of existing conflicts instead. New (and possibly foreign) solutions that go beyond central requirements are hardly ever employed, and the precautionary principle is less effective than desirable.

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In the following, substantive part of the study, I will try to illustrate the background of the phenomena and put forward arguments for the claim that the local level of environmental policy should be strengthened.

5.3 ENVIRONMENTAL PROTECTION HAS NOT YET BECOME A PRIORITY

Generally speaking, the content and the instruments of environmental policy are influenced by several different circumstances. The strongest catalyst for an effective environmental policy can be an existing environmental problem, including acute local social conflicts. From this perspective, Hungary's territory – currently – does not belong to the worst areas of the Earth. Regarding an assessment based on 50 environmental indicators, our country is considered to be one of the most vulnerable countries.²¹ Vulnerability refers to several previously recognized circumstances (such as the vulnerability of our waters, the risk of water pollution from neighboring countries).

A few years ago, surveys showed that environmental issues generally do not appear among the priorities of local governments²² (and if they do, this is owed to economic interests or subsidies). This picture is succinct, as it obscures the differences between the municipalities, and it is also changing, as in recent years – with the increase of damages, dangers, also as a result of the financial resources from tenders – environmental issues seem to be coming to the forefront of climate protection. At the same time, there are other sub-areas that could make environmental protection a priority, as air quality has deteriorated in many municipalities in recent years, mainly due to polluting heating technologies, burning waste and the aging car fleet, thereby becoming a source of significant health damage. Even before (for example, in 2010), many settlements were seriously affected by flooding after heavy rainfall, one of the reasons being the reduction in the water retention capacity of the area, in conjunction with poor land use (e.g. by building-up areas). The health effects of increasing noise exposure are insidious, just as water scarcity, not occurring simultaneously, but there are also warning signs of intimidation in these areas.

5.4 LOCAL GOVERNMENTS AND ENVIRONMENTAL SUSTAINABILITY

If we look at the specific statutory requirements, (the promotion of) sustainable development as such is not listed among compulsory local governmental tasks. Sustainable

21 Mihály Simai, *A harmadik évezred nyitánya. A zöld fejlődés esélyei és a globális kockázatok*, Corvina, Budapest, 2016, p. 320.

22 Viktor Varjú, 'A települési önkormányzatok környezetvédelmi orientáltsága', *Comitatus: Önkormányzati Szemle*, Vol. 23, Issue 213, 2013, pp. 21-36.

development – to put it simply – includes environmental protection, but also several additional aspects (integration of environmental protection into the widest range of fields, the precautionary principle, long-term forward thinking, intergenerational equity *etc.*); with their sustainable economic, social and human aspects.

In my opinion sustainability²³ is not a luxury, but a condition for the competitiveness of municipalities. However, this is recognized and applied by only a fraction of Hungarian local governments. Relatively few settlements have a local sustainable development strategy that complies with Agenda 21, and even these adopted a weak concept of sustainability.²⁴

A similar result came from a survey conducted by the Ministry of the Interior in 2016 (covering one thousand settlements), that also extended to the analysis on the appearance of sustainability in local documents. According to the survey, the idea of sustainability appears only in one third of the local municipal development plans, but in the municipal environmental programs this ratio is even worse. The integrated design method is typical for smart city projects and climate strategies, but only a small part of the settlements have these.²⁵ It is a common problem that the idea of sustainability is mostly limited to the confines of mandatory central regulations – themselves barely fulfilling requirement of sustainability, and as such insufficient for setting the appropriate direction – and subsidies. Therefore, sustainability is barely considered, and there are no real local ideas either.

It should also be mentioned that the idea of sustainability has not been conceived at governmental level either. Neither the intent (as I have referred to this several times) nor the right knowledge is available (the guidelines for regulatory impact assessments consider sustainability to be the same as environmental and nature protection, and even the EU funds managing authority is not familiar with the fact that sustainability is not tantamount to environmental and climate protection).²⁶

5.5 THERE IS VERY LITTLE ROOM FOR MANEUVER

As I have already alluded to it multiple times, there are several local sustainability initiatives in Hungary as well (where local communities strive towards environmentally conscious

23 In addition to the environmental aspect of sustainable development, there are also serious problems in Hungary regarding the reproduction of knowledge capital, health, social inclusion, corruption *etc.* A *Nemzeti Fenntartható Fejlődési Keretstratégia második előrehaladási jelentése 2015-2016*, National Council for Sustainable Development (Nemzeti Fenntartható Fejlődés Tanács), Budapest, 2017, p. 9. at www.nfft.hu/documents/1238941/1261771/NFFS_2EHJ_vegso_20171207_HU.pdf/9e88dce0-bd15-1803-9675-68e35b028019.

24 Imre Baják & Zsolt Töröcsvári, 'Local Sustainable Development Programs in Hungary' *Periodica Oeconomica* 2012, pp. 81-87. at http://gti.ekt.f.hu/anyagok/po/2012/PO2012_Bajak_Torocsvari.pdf.

25 Helyi Versenyképesség-fejlesztési Kutatási Program, 2016, Source of the data: Tudatos Település Útmutató, Budapest, 2018, pp. 33-34. at <http://bm-oki.hu/News/ViewFile?FileID=105>.

26 László Fodor, 'Fenntarthatósági indikátorok a jogi szabályozás hatásvizsgálatában', *Pázmány Law Working Papers*, 2012/4, pp. 3-4. at <http://plwp.eu/evfolyamok/2012/96-2012-04>.

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energy consumption, self-sufficiency, ecological lifestyle). We assumed that, in accordance with good practices, the local ordinances in the settlements analyzed would also apply the concept and, for example, the local requirements for the conscious, long-term management of natural resources would appear in local regulations. Instead, we found that the local regulations of such settlements do not differ significantly from those of other local governments, and that often even their ideas were not incorporated into strategic documents.²⁷ The creation of regulations therefore does not necessarily constitute part of the pursuit of sustainability.

The reason for this may be that the local regulations more suited to the requirements of sustainability would outweigh the legitimate maneuver room of local governments. At the same time, it shall be noted that the awareness of the inhabitants cannot be turned into a legislative commitment. Finally, in the smallest settlements the possible cost implications of planning and regulatory tasks are also a major obstacle.

By studying several local documents, questionnaire surveys and interviews I found that local governments are dissatisfied with the central regulations that do not provide adequate protection for the environment, and with it, for the citizens. There are some who would go beyond the legal constraints they face in order to act more rigorously and there are those who cannot take advantage of the room for maneuver that is granted to them under the statutory rules.

It can be stated that the centralization of regulation often leads to losses at the local level. (I found several examples for this, such as the salting of sidewalks in winter, animal husbandry and regulations regarding public service charges.)

5.6 ENVIRONMENTAL PROTECTION IS QUITE A WIDE AREA

Local governments and local communities do not see the challenge of environmental protection in its complexity. On the one hand, they lack the necessary, complex knowledge and planning, and on the other hand, for various reasons, they are forced to emphasize some environmental sub-areas and sub-goals. This is problematic because, in the absence of a comprehensive approach, environmental measures often result in harm to other environmental interests and values.

The correlation seems to be obvious. The financing of local governments is not satisfactory in all respects (for example, there are few own resources, and the centrally secured

27 Orsolya Bányai, 'A helyi önkormányzatok környezetvédelmi szabályozása – elmélet és gyakorlat kettőssége', in Orsolya Bányai & Attila Barta (eds.), *A települési környezetvédelem elméleti és gyakorlati megközelítései*, Gondolat, Budapest, 2018, p. 52.

sources of revenue decrease),²⁸ then local leaders strive for a narrow interpretation of environmental protection, and go beyond what is required by law only to the extent that is covered by additional available financial resources (e.g. EU funds). This limitation also affects the nature of tasks and the extent of environmental protection. In connection with the latter, it is worth recalling that in the 1990s there was a wider interpretation of local governmental competences. For example, the Hungarian Constitutional Court confirmed the decisions of local governments even if they were in a conflict with central regulations but facilitated the protection of the environment (an emblematic example of this was the ordinance of the city of Szarvas laying down restrictions on waterborne traffic). Nowadays, narrow interpretation (often not reflecting on the integration of environmental protection into construction, water management *etc.*) is typical, ignoring the principle of integration. Many environmental tasks can be included in other mandatory tasks (e.g. settlement structure planning), but this is not always supported by central regulations, that can be illustrated by several examples (e.g. climate protection).

In Hungary, climate protection (with the exception of a very general obligation to create a program) does not appear as a mandatory local governmental task.²⁹ Measures affecting the quality of municipal air (reducing emissions, increasing the proportion of green areas) could be included in the local environmental protection, but because of some elements of climate adaptation (such as construction law, agricultural regulations that cannot be established by the municipality), this interpretation faces difficulties too. Due to the global context of climate protection, it certainly cannot be interpreted solely as a part of a local environmental task. It is no coincidence that although local governments consider climate protection to be a major challenge today, the preparation and implementation of comprehensive programs is currently characteristic of only a small number of municipalities. The relevant programs and measures are motivated by the access to EU funds and by the reduction of local governmental expenditures through energy investments.

28 Not only environmental revenues shall be considered in this regard, but financing issues of local governments in general. For example, the fact that in Hungary a system was created where a wide range of tasks are associated with narrowish portions from the joint resources. The introduction of real property taxes known in many countries in Western Europe has faced resistance, and the independence of the financial management is increasingly restricted, and the task-financing system introduced after 2010 was specifically designed for central purposes. Cf. Ilona Pálné Kovács, 'Fából vaskarika: a közigazgatás racionális térszerkezete', in Tamás Sikos T. & Tibor Tiner (eds.), *Tájak, régiók, települések térben és időben: tanulmánykötet Beluszky Pál 80. születésnapjára*, Dialóg Campus, Budapest, 2016, p. 328; Gábor Péteri, 'Kísérletezgetünk: önkormányzati feladatfinanszírozás', *Közjavak*, 2015/1, p. 28.

29 Antal 2018, pp. 24-25.

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5.7 THE CHANCE TO ACHIEVE SUSTAINABILITY

Today, the protection of the local environment can become relatively strong, where there are some additional interests, such as *e.g.* municipal marketing. This is related to the competition between the municipalities, the need for a highly trained workforce³⁰ and tourism, that requires a low noise level at night, a pleasant, green, waste-free environment, clean water, a well-committed municipality for the protection of the environment and so on.³¹ However, these are the barely necessary, not the sufficient conditions. The answers given to our research questions have shown that access to central (EU) funds plays a crucial role.

There is a chance for a successful local environmental policy in small settlements that have already been able to adopt sustainability initiatives and are not exposed to significant environmental pressures. However, it seems that there is an even greater potential in larger cities, where we can talk about economic development, that is, where environmental protection can become part of the local municipal development, economic development and competitiveness policy. In other words, in townships where it is possible to change the economic structure. However, it is typical that only a few Hungarian cities – such as Debrecen, Miskolc, Zalaegerszeg – have a deliberate concept on investments. The Smart City and Green City programs (and related subsidies) can further strengthen their efforts at environmental protection.

Meanwhile, the appearance of a large investor can override such endeavors. Municipal marketing (competition) and local economic development do not necessarily focus on environmental aspects, instead, they often push job creation and economic growth to the forefront, that necessarily entails environmental and social losses.³²

30 György Enyedi: 'A sikeres város', *Tér és Társadalom*, Vol. 11, Issue 4, 1997, p. 4. As the author points out, one of the characteristics of a successful city is the presence of a trained middle class. At the same time, not only livelihood is important for this social layer, but they have high expectations regarding their environment and the provided public services.

31 I have experienced the importance of tourism, for example in the case of Bogács. At the same time, long-term, hidden effects are already being pushed back. (I am thinking of anomalies in thermal water management.) Researches in Balatonlelle and a small town in Slovenia (Bled) have come to a similar conclusion regarding the relationship between optional tasks and tourism. Marianna Nagy *et al.*, 'A Comparative Research on Municipal Voluntary Tasks of Three Hungarian and Slovenian Municipalities', *Central European Public Administration Review (CEPAR)*, Issue 1, 2019, pp. 165-197. at <http://uprava.fu.uni-lj.si/index.php/CEPAR/article/view/418/461>.

32 Enyedi 1997, pp. 4-5.

5.8 THE ROLE OF ENVIRONMENTAL PLANNING

A significant part of Hungarian settlements, in contravention of the obligation laid down in Section 48/E of the Environmental Act of Hungary (Act LIII of 1995 on the General rules of environmental protection), have not had for many years or have never had an environmental program. They have no money to prepare the program, to involve experts, or if they had a program, they would have no money to execute it.

During the research I found many signs that even if there was a program, then it would not necessarily be followed by local governments, as it would make it difficult to exploit the investment and job creation opportunities that are often provided randomly. In many places, environmental protection is still juxtaposed with economic 'development'. It has to be noted again at this point, however, that local regulations are not similar in this respect, that is to say, there are several settlements – mainly larger, richer, with better abilities – where there are programs, experts, local regulations defined with respect to each other, conscious developments *etc.* even if perhaps they are not always considered ideal. Thus, the preference, sequence, and appreciation of values are also decisive in terms of the content of the municipal environmental policy.

In conclusion, sustainability presupposes an (environmentally) conscious local community, that takes initiative. However, this ideal situation exists only in a small fraction of settlements. Typically, short-term environmental problems that are the source of conflict within the community receive more attention than the problems that seem less pressing today but threaten survival in the long run. Thus, for example, in the case of a natural-spa city living on tourism, it may be an important environmental interest to reduce the night-time noise level or to create an attractive environment, while generating more and more thermal water to increase revenues and tourism. Meanwhile, the city may continue to exploit its resources wastefully, ignoring the balance of water abstraction and water supply, and the opportunities in using waste heat as energy resource.

5.9 THE CONTRADICTION OF VALUES

The term 'value creation' (otherwise taken over from the economy) is often used in the wording of the municipal local governments. For example, plants are planted, buildings are renovated, public areas are paved (asphalted), infrastructure is being built/developed, the land of the municipality is cultivated, livestock are kept (while also producing food for sale), that gives meaningful work to public workers (who therefore 'do not just mow the lawn and sweep the lawn'), meeting a variety of local needs, often in partnership with local communities (such as cooperatives, associations, companies). On the part of a local government, value creation – in contrast with the value creation of the economy – also enables

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the appreciation of community aspects. Therefore, and in such a way, the endeavor is respectable, but what we regard as value is, in many cases, debatable, and often the municipalities do not think about the downside of ‘value creation’. While value creation meets human needs (with the help of various products and services), it leads to a loss of value and a deterioration in the natural environment.³³ Taking space away from nature is characteristic of most Hungarian settlements and the tendency is increasing. Too frequent mowing/reaping, planting of introduced species or plants with high irrigation needs, failing to protect trees in public areas under construction, covering the ground unreasonably causing soil sealing (making it incapable of soaking up rainwater), building infrastructure beyond actual needs can all be mentioned as an example. This is a serious problem. If we look at the period since the change of regime, the proportion of biologically active areas in Hungary has been dramatically decreasing, and in direct proportion the ecosystem services in the municipal environment are in a decline (as well).³⁴

5.10 THE ENVIRONMENTAL INFLUENCE OF THE GOVERNMENT

It is a serious problem in Hungary that the government’s environmental commitment has declined significantly in recent years. The level of protection provided by central regulations, the organizational framework of the state institutional system, and the guarantees provided in official procedures are also weakened. Furthermore, some of the subsidies provided to municipalities (and businesses) ignore environmental considerations.

While in the years following the change of regime, the value-oriented side of environmental policy became more prominent (even though it did not become the ‘winning’ position) and was struggling with short-term economic group interests, it has now become a driver of economic rationality (where environmental protection includes technologies, business models). The latter, however, is driven by various competing group interests and business policies. We often see that environmental measures are made depending on subsidies and financial resources. However, this is not simply a result of a lack/deprivation of funds, but a consequence of a change in the values and the logical approach.

33 Sándor Kerekes, ‘A fenntarthatóság közgazdasági értelmezése’, in Miklós Bulla & Piroska Guzli (eds.), *Fenntartható fejlődés Magyarországon*, Új Mandátum, Budapest, 2006, p. 196.

34 In addition to the environmental impacts induced at the location, correlating effects shall also be considered in a broader context, such as the declining proportion of green areas in the whole country. Also, areas without any value for ecological services (such as arable land), the growing coverage of the soil surface, and the increased use of materials and energy are such impacts. Cf. Gábor Bartus, ‘Az érdemi és hatékony környezetpolitika körvonala: Miért nem képesek a társadalmak megfékezni a természeti környezet pusztulását?’, in András Jakab & László Urbán (eds.), *Hegymenet: Társadalmi és politikai kihívások Magyarországon*, Osiris, Budapest, 2017, pp. 444-446.

A similarly grave problem is that there are no coherent, long-term policy strategies and concepts from the outset (*e.g.* rural development, agricultural policy, energetical policy *etc.*) to which local governments can adapt their own ideas. Even where there are sectoral strategies, these are often not in line with each other, thus, there is a lack of horizontal coordination, and it is also typical that they do not emerge in concrete (legislative, budgetary, financing and other) decisions. A meaningful involvement of local governments in the drafting of national strategies has not taken place either.³⁵

Perhaps the biggest shortcoming may be detected in the financing system of local governments, which does not make local governments directly concerned with the protection of their own environment or prompt them to respect the interests of other settlements affected. The rate and differentiation of communal taxes is inadequate, local business taxes do not have to be distributed among the municipalities of the impact area.³⁶ Although income from fines can be shared, this is not automatic, and local governments rather ‘expropriate’ the resources themselves rather than share them with each other. There are hardly any incentives to channel income into environmental protection, while the lack of financial resources has an adverse effect. State acquisition of public services and, in parallel, the shrinking of competencies – the loss of authority over price regulation – further reduce the involvement of local governments in protecting the environment, making them less concerned in the sustainability of related public services.

Under such circumstances, financial resources from central (governmental) tenders are particularly important. What is important is not merely that these tenders exist as such, but that they foster the complexity of the environmental policy (integration), the consideration of local specificities/needs, promote decentralized decisions, and so on. The research also pointed to several anomalies in this regard.

35 Miklós Bulla *et al.*, ‘Fenntarthatóság – dilemmák és lehetőségek’, in Bulla & Guzli (eds.), 2006, pp. 138 and 144.

36 Erzsébet Beliczay, ‘A területfoglalást serkentő támogatások’, in Károly Kiss (ed.), *Tiltandó állami támogatások. Környezetvédelmi szempontból káros támogatások a magyar gazdaságban*, L’Harmattan, Budapest, 2006, p. 154. One of the model examples of the problem of ‘burden sharing’ has appeared in our questionnaire survey. The city of Vecsés’s response indicated that the problem of air traffic noise has been a problem in the settlement for decades. The noise management committee set up by the airport operator has not been able to assist this settlement problem for more than ten years of its operation. Probably, because the Liszt Ferenc International Airport is the only airport with such a heavy traffic, which is in the interest of the national economy. There would be traffic management solutions that would require burden sharing other settlements adjacent to the airport, but these settlements have been unable to resolve their differences, therefore, central intervention is necessary.

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5.11 FALSE DILEMMAS AND TRAPS

The leaders of municipalities also encounter countless political traps, the recognition of which is not necessarily rewarding at the current level of public (environmental) awareness. In order to preserve popularity and the confidence of voters, environmental regulations are less likely to be enforced at several small settlements (local authorities do not act, do not sanction, regardless of their obligation under the law). At the same time, this can lead to real environmental problems, and can lead to conflicts within the local community.

The almost unquestionable dogma of economic growth also affects the values of local governments. In addition, most of the local governments in Hungary are still linking economic growth with increasing built-up areas (creating residential, economic, commercial, industrial zones),³⁷ despite its infrastructure development cost implications, and numerous negative effects (increased demand for mobility, soil degradation, decline in biodiversity and agricultural land, the increase of built-up density *etc.*).³⁸ Meanwhile, the utilization/rehabilitation of the brownfield belt is generally lagging behind.³⁹

Fashionable developments made at the expense of the public spaces most valuable for the citizens, that is the green spaces, not only reduce sustainability and worsen the chances of climate adaptation, but also lead to misguided decisions regarding the city's assets.⁴⁰

As far as environmental protection is concerned, local governments tend to complain about the lack of financial resources. As I have already mentioned several times, the financing system is indeed inadequate, and this affects especially villages and small towns. In addition, the contradiction is difficult to resolve when simultaneously with the latter the resources and revenues typically come from some kind of environmental exploitation (use of thermal water, tourism, sale of green space, local business tax *etc.*). I find it particularly anomalous when a municipality that has a significant income from the utilization of natural resources, depletes them in a way that none of the income is spent on environmental protection (if, for example, water is being produced, it is hardly compensated by planting flowerbeds in the settlement). Another problem is when the settlement does not

37 György Ádám Horváth, *A fenntarthatósággal kapcsolatos kihívások és újszerű megoldási lehetőségek az önkormányzati szférában*, PhD thesis, Budapest, 2017, p. 113.

38 Some case studies made in the Budapest agglomeration (Piliscsaba, Tinnye) point out that the rapid expansion associated with suburbanization may be in conflict with the interests of the existing population and trigger its resistance. There is another domestic type problem here: the fragmented inner areas that are the result of inconsiderate settlement planning. Márta Scheer *et al.*, 'A szuburbanizációs környezeti konfliktusok feloldásának lehetőségei', in Sándor Kerekes & Károly Kiss, *Környezetpolitikánk európai dimenziói*, MTA TK, Budapest, 2004, pp. 89-97.

39 Beliczay 2006, pp. 147-150.

40 Gábor Bartus, 'Fenntarthatóság és klímapolitika', in *Mérsékelt öv? Felelős cselekvési irányok a hatékony klímavédelemért*, Klímabarát Települések Szövetsége, Budapest, 2018, p. 56.

strive for the economic utilization of natural resources, or to achieve meaningful environmental objectives.

Larger settlements tend to realize investments and projects that favor, for example, economic development, job creation and other aspects. However, with a badly chosen location, technology, or ill selected size, these projects eventually result in environmental conflicts. As far as investments carried out in the name of protecting the environment, contradictions may also emerge (*e.g.* bypass roads).⁴¹

Among the limitations faced by local governments that make it more difficult to introduce innovative local ideas, there is a regrettable attitude of circumventing the regulations that is typical to the Hungarian population. Irregular constructions, well-drilling, landscaping (landfilling), uncontrolled demolition of waste *etc.* are examples. Among the services for households, black economy still represents a significant proportion, which also has environmental consequences.⁴² Services performed without an invoice (*e.g.* well-drilling) are often done by inadequately trained professionals.⁴³

The introduction of certain regulatory solutions is obstructed by the fact that it is not only the investors who compete for the best locations, but (typically, outside of the capital Budapest, and in certain sectors) local governments compete for investors who provide labor, pay taxes, and purchase land. Under these circumstances, there is little chance that one local government would impose stricter environmental requirements on the participants of the financial market.

Lastly, I would like to mention, that the result of a questionnaire survey showed that the potential to follow the best international/EU standards and international best practices lies mainly with large cities (cities with county rights). Meanwhile, smaller settlements demonstrate the least willingness and opportunity to follow such practices.⁴⁴ It seems that following international good practices means only paying lip service to them in local laws and strategies, or while organizing procurement and public services. It is national legislation that is rather relied upon, and this, for the most part, already applies EU (international) standards. The EU (air protection, nature conservation) regulations, or international standards (for example, because some of their territory falls under the Ramsar Convention) are examined directly only by few settlements.

41 Sándor Fülöp (ed.), *A jövő nemzedékek országgyűlési biztosának beszámolója 2008-2009*, OBH, Budapest, 2010, p. 108 and pp. 154-156.

42 Károly Kiss, 'Környezetvédelmi szempontból káros támogatások a magyar gazdaságban' (összefoglaló áttekintés), in Kiss (ed.), 2006, pp. 13-44.

43 *Tájékoztató a települési önkormányzat jegyzőjének engedélyezési hatáskörébe tartozó kutak eljárásjogi szabályairól*, Belügyminisztérium, Budapest, 2017, p. 4. at www.nak.hu/kiadvanyok/kiadvanyok/1232-tajekoztato-kutak-eljarasjogi-szabalyai/file.

44 The adoption and transfer of international good practices is also supported by international movements (such as Green Cities), local governmental alliances (International Council for Local Environmental Initiatives, Covenant of Mayors, Climate Alliance *etc.*) and competitions (*e.g.* for the Green Capital of Europe).

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While it is not expected that international practices will be incorporated into local regulations (partly due to the limitations imposed by central legislation), the direct monitoring of EU standards and the follow-up of others' best practices are common in EU-funded developments.⁴⁵

5.12 CONCLUSIONS

During the research I attempted to define the attitude of Hungarian local governments to environmental protection. However, due to the disproportion within the local governmental system (the differences between the smallest and largest municipalities), it is difficult to make general statements. Importantly, however, several factors affecting environmental protection duties and performance of municipalities have been identified. Only some of these influencing factors are central environmental protection regulations, and many other legal and non-legal factors may be identified. The degree of centralization (also, the autonomy of the local government), the method and amount of funding for tasks, access to financial resources (e.g. EU funds), the networks and cooperation of local governments (with NGOs, authorities, other local governments *etc.*), the commitment and political relationships of settlement leaders, the activity of local communities, and occasionally, corruption are all relevant factors.

It would be worth exploring the local level of environmental policy in other countries of Central and Eastern Europe and then comparing the typical problems, solutions and instruments. Such research should also take into account the diversity of local governmental systems;⁴⁶ first and foremost, how the obligations of local governments are determined (mandatory and optional tasks;⁴⁷ local governmental and central (state) administration

45 Fodor 2019, pp. 175-176.

46 The differences between Latin, Anglo-American, continental, Scandinavian, Eastern European and other local governmental systems are not only constitutional, by their nature. Behind each model, there are national traditions, socio-cultural differences, and in their grouping the division of the actual positions of power, their political and operational specificities also play a role. Ilona Pálné Kovács, 'Helyi önkormányzatok', in András Jakab & Balázs Fekete (eds.), *Internetes Jogtudományi Enciklopédia* (2017), p. 5. at <https://ijoten.hu/uploads/helyi-onkormanyzatok.pdf>.

47 In Hungary, several tasks of the local environmental policy pertain to the mandatory tasks (e.g. regulation of municipal waste management, certain administration tasks in the field of industrial management, managing municipal wastewater treatment) and several to the voluntary tasks (e.g. nature preservation, preference for renewable energy sources, setting up a public surveillance). The provision of mandatory (obligatory) tasks are strongly preferred under Hungarian municipal law. Voluntary tasks may be funded by the own local income and revenues, and these own revenues are partly 'labeled' resources. (E.g. Section 36/A of Act C of 1990 on Local Taxes states that local social services and in the capital city local public transport should be primarily financed by the income from the local business tasks). The County Government Offices have new powers and duties in the field of the supervision of local governments: they can make a replacement decision if a municipality does not perform its obligatory tasks (e.g. in the field of delegated legislation).

powers), how the financing is done *etc.*⁴⁸ The spatial structure of public administration is also important,⁴⁹ as is the one-level or multi-level structure of the local governmental system (*e.g.* in many countries of Western Europe, or even in neighboring Romania, local governmental autonomy is not provided to small villages; and some of the tasks (such as waste management) are not delegated to the local municipal level but to regional authorities).

Therefore, municipalities have a narrow field of local policy making, especially in the field of voluntary tasks. See Marianna Nagy & István Hoffman (eds.), *A Magyarország helyi önkormányzatairól szóló törvény magyarázata*, HVG-ORAC, Budapest, 2016, pp. 60-62. *E.g.* in Anglo-American local governmental systems, the optional (voluntarily) assignment of tasks is conceptually excluded. Pálné Kovács 2017, p. 8; István Hoffman *et al.*, 'Önkormányzati feladatellátás vizsgálata a KÖFOP program keretében', *Jegyző és Közigazgatás*, 2018/2, p. 11.

48 Nagy *et al.* 2016, p. 166.

49 In many countries in Europe, an integrated local governmental level has been created to make it more responsive to public functions, while in other countries, the system is fragmented, where the tasks and powers are delegated to local municipal governments, although they seek to achieve optimal size through partnerships or differentiated task deployment. See Ilona Pálné Kovács, 'A közigazgatás térszerkezete', in András Jakab & Balázs Fekete (eds.), *Internetes Jogtudományi Enciklopédia* (2017), p. 4. at <https://ijoten.hu/uploads/a-kozigazgatas-terszerkezete.pdf>.