

## General and legal meaning of civil society in Hungary from the beginning till 1989\*

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### Abstract

This essay tries to show examples from the history of civil society in Hungary so we could point out some of the general and long-lasting tendencies of the sector. One of the most durable tendencies was the occasional, incoherent nature of the all time regulations: it seems that the lack of truly customised and comprehensive regulation was the chronic illness of Hungarian non-profit sector – before 1989...

### Key words

association, church, civil society, socialism, foundation, Kádár-regime

### 1. Introduction

The basic interest of each human community is that its members should be governed not only by the liberal principle of “refrain from doing what you would not want to be done to” but also by the active, altruist moral principle of “do what you would want to be done to you”<sup>2</sup>. “This interest of the community is transmitted to the individual by a large set of religious rules and social norms. At the time of the establishment of the individual state in Hungary some institutions appeared, which may be considered the predecessors of the present non-profit organisations, moreover, also the roots of the cooperation may be observed which today is usually referred to as the division of work between the governmental and the non-profit sector. Prince Géza and King Stephen donated part of the land confiscated from rebel pagan leaders to the Catholic Church and to the religious orders invited to

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1 The paper was supported by János Bolyai Research Scholarship of the Hungarian Academy of Sciences.

2 Matthew’s Gospel 7:12.: “So whatever you wish that others would do to you, do also to them, for this is the Law and the Prophets.”. The Holy Bible, English Standard Version, 1994, p. 622.

Hungary”.<sup>3</sup> As László Kecskés presents<sup>4</sup> this transfer of property was the exact predecessor of setting foundations later, because it fulfilled all requirements which shall be met if setting up a foundation today. The founder donated the money for permanent causes of public interest, it was not allowed to withdraw it, but the founder had the right to give instructions for using the revenues originating from the property. The tendency which ran through the medieval history of the Kingdom of Hungary is that the foundations were usually established for religious-educational purposes. Achieving these goals and the management of the property required the founding natural or legal entity to establish an organisation. These were usually schools, higher education institutions, which were supervised by the founder (or the legal person, usually church entity appointed by it). As the establishment of a foundation required approval by the king – in case of the Roman Catholic Church as result of the right of patronage – the foundations were also supervised by the king.<sup>5</sup>

## 2. Relationship of the civil society and the church

The role of churches (religious orders) was not only to spread Christian dogmas and through them beliefs, but also the support of those in need. According to the rules of the gospel donation was a Christian obligation, either to – obviously religious – institutions, or to specific individuals in need. In addition to donations from the king the religious orders received lands, parts of land also from other secular persons who by donating these wished to contribute to the support of the most desperate. This means, therefore that the secular power (the king), religious organisation and private donors have taken – if sometimes not proportionate – role together in the management of social problems from the very beginning. “Along with monasteries several non-religious fraternities (fratres conversi) and brotherhoods were established. Their usual role was to take over the economic and charity tasks, cultivate the lands, operate inns and hospitals, and provide alms for the poor. From this it was only one more step to establish hospital brotherhoods independently from

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3 KUTI Éva, Hívjuk talán non-profitnak... [May it be called non-profit...], Non-profit Kutatócsoport, Budapest, 1998, p. 18.

4 KECSKÉS László, Az alapítványi jog fejlődése [Development of the law of foundations.], *Magyar Jog* 1988/2. p. 110.

5 BÉLI Gábor, Magyar jogtörténet. A tradicionális jog [Hungarian legal history. Traditional law], Dialóg Campus, Budapest – Pécs, 1999, p. 55.

monasteries in an era when corporate spirit was in the air and made a long row of different organisations come into being for a variety of causes.”<sup>6</sup>

In addition to fulfilling their original economic functions the associations of craftsmen and the guilds also aimed at organising mutual assistance among their members as well as public services (performance of public tasks) which become necessary in the interests of the community.<sup>7</sup> Towns and their citizens – as soon as they found themselves strong enough – made attempts to transfer institutions which provide public services into town competence. Private donators establishing charity foundations trusted the management of foundations to the prestigious citizens or leaders of the city, or, if possible, to the town authority.

Institutions established in the way described above „were neither classic non-profit, nor classic public institutions, they rather represented something in the middle. By favour of their founders they had some founding capital, their property was often increased with legacies and special donations (e.g. for the establishment of benefices), their operation was facilitated by smaller-larger private donations, but at the same time they also received support from the city.”<sup>8</sup>

### 3. Civil society and its deadlock

Till the end of the 15<sup>th</sup> century the way of development of Hungarian economy and society (and thus of Hungarian charity institutions and voluntary organisations) was rather similar to the development which took place in other European countries. The central power found its allies in the citizens of towns against the power ambitions of landlords and the church, and in return for this support it provided privileges which facilitated the establishment of the “third order” in Hungary.<sup>9</sup>

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6 SOMOGYI Zoltán, *A középkori Magyarország szegényügye* [Poverty issues of medieval Hungary], Stephaneum, Budapest, 1941, p. 20.

7 KUTI, op. cit. p. 20.

8 CSIZMADIA Andor, *A szociális gondoskodás változásai Magyarországon* [Changes of social care in Hungary.], MTA Állam- és Jogtudományi Intézete, Budapest, 1977, p. 17.

9 KUTI, op. cit. p. 23.

In the 16<sup>th</sup> century the European development as a whole arrived to a critical point. The new form of division of work and the establishment of “European world economy” pushed Eastern-European countries to the periphery. This was the point when Hungarian charity institutions and voluntary organisations also lost the way followed by the more developed countries of Europe to suffer all traumas and fight with all forced solutions which “are still present in collective memory, form the community’s answer given to challenges and indirectly also influence the attitude of today’s non-profit organisations.”<sup>10</sup>

The next two centuries, which were called by István Bibó the dead end of the development of Hungarian society made the self-organisation of society and the normal operation of self-activist organisations completely impossible. The Turkish invasion made the second villeinage permanent, stabilised the allegiance of noblemen and the gentry established (and strengthened) after the peasant revolt led by Dózsa. Social relationships became permanent, the development of towns stopped even in areas which were not under Turkish rule. Naturally, in lack of developed citizenry those voluntary organisations also remained vestigial which should have worked as the immune system of the society against external invasion and internal suppression. Those “small circles of freedom” and citizens’ self-activities, which in Western societies were motivators of development could not be established and operated.<sup>11</sup>

This situation did not change significantly after the end of the Turkish rule, because the Habsburgs’ policy rather held back the development of citizenry and the integration of society, instead of speeding it up. As leading power of counter-reformation, Catholicism was made to be state religion again, by this not only paralysing Protestant churches, but also preventing Catholic Church from making its institutions into the starting points of voluntary organisations.<sup>12</sup> According to the regulation of the time valid for foundations in 1715 and 1723 the operation of the foundations was supervised and controlled by the ruler and the members of the governor-general (see later). However, the further Hungarian development of the life of foundations and associations was significantly held back, for a long time, by the unbalanced internal political situation and wars fought in the territory of the country.<sup>13</sup>

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10 Ibid.

11 KUTI, op. cit. p. 24.

12 Ibid.

13 BOCZ János, A non-profit szektor strukturális átalakulása Magyarországon. A magyar non-profit szektor az 1990-es évek elejétől a 2000-es évek közepéig. PhD. értekezés [Structural changes of the non-profit sector in Hungary. The Hungarian non-profit sector from the beginning of the 1990s till the middle of the 2000s. PhD dissertation],

#### 4. Civil renewal in Hungary. Expeditious organisations of the Enlightenment and the Reform Era

After they expelled the Turkish army and defeated the Rákóczi freedom fight the Habsburgs prepared for a longer stay in Hungary. During the reforms implemented in the first decades of the enlightened absolutism (introduction of a new tax system, regulation of the rights and obligations of villains, reform of education, social care and health care) their attention was also directed to charity and volunteer organisations.<sup>14</sup> After examining the content of the Corpus Iuris Hungarici the public law status of church charitable foundations seems to be obvious, which is fundamentally different from the division principle of the valid Constitution. The public law status of the time may be best traced back to the consistent application of the right of patronage according to act LXX of 1723, which reserved the supervisory rights over all charitable foundations to the king, and “the state authority could disregard from the supervision of the church charitable foundations” only upon decree nr. 9,555/1863 of the council of the governor-general.<sup>15</sup> It shall be also mentioned that – much later – the Codex Iuris Canonici regulated the activities of charitable foundations (pia fundatios) in canons 1544-1551, which – among others – were established to perform holy acts, the usual form of which was the operation of hospitals, alms-houses, boarding schools and twilight homes.<sup>16</sup>

Due to the destruction of majority of archive sources there are information about foundations only from the 19<sup>th</sup> century. It is known from the research of Magdolna Balázs that in majority of foundations of the 19<sup>th</sup> century the donator – just like today – set forth charity, educational, cultural or scientific goals and tried to establish their conditions in forms of donation of property or money.<sup>17</sup> Setting up foundations was motivated – in addition to charity and humanity – by

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Budapesti Corvinus Egyetem Szociológiai Doktori Iskola, Budapest, 2009, p. 119.

14 KUTI, op. cit. p. 25

15 SZUROMI Szabolcs, A kegyes alapítványok jogállása Magyarországon a korábbi és a hatályos egyházjog, valamint az állami egyházjogi normák tükrében [Legal status of charitable foundations in Hungary with regard to the previous and valid church law and the state church law norms], *Jogtörténeti Szemle* 2004/1. p. 17.

16 Ibid., p. 16.

17 BALÁZS Magdolna, Az alapítványi élet indulása Magyarországon [The beginning of foundations in Hungary], *Esély* 1991/1. pp. 22-40.

belonging to a community and the intention of self-expression. For example, for women the charity provided opportunity for participation in public life and to increase social presence and acknowledgement. It is also important that setting up a foundation or making contribution to a foundation – unlike the present practice – did not result in any material gain in any sense, it did not reduce the public debts or tax with the value of donated assets or real estate. For example, charity foundations were primarily set up for establishing orphanages, care homes and alms-houses, but as time passed by their role – in line with the all-time social needs – was extended and transformed.

Reading societies established in the 1790s were practically societies with social policy goals, “political association in the program of which there were reading and culture, as tools for social transformation, and weapons for fight against Austrian colonisation”.<sup>18</sup> After the exposure and elimination of the Hungarian Jacobin movement not only reading societies were banned, but the closure of public libraries was also ordered. When in 1811-12 – some – libraries were reopened their activities were under strict control of authorities, dedicated decree of the emperor stated that the newly established libraries “may not be attached to either reading rooms or scientific societies”.<sup>19</sup>

In the more relaxed political atmosphere of the Reform era (1825-1848) the voluntary association of citizens received new motivation too. Societies, reading clubs, casinos, and literary associations were an important basis for the reform movement aiming at the industrialisation of the country, the elimination of the feudal legal system and national independence. In addition to the goals of self-education and dialogue several associations formulated other civil and national aims in their statutes which perfectly resembled to “the cultural, economic, education and humanitarian directions of reform policy, such as the development of agriculture, industry and commerce, the sponsorship of arts, literature and theatre, improvement of Hungarian language, facilitation of urbanisation and civilisation, enhancement of morality and good taste, support of the poor, etc.”.<sup>20</sup> Even though the leading force of the reform movement was represented by the nobility and the forming intellectual class, the social activity of lower social classes also increased. In addition to associations – composed of aristocracy and gentry – and casinos the number of societies of civil society and

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18 KUTI, *op. cit.* p. 27.

19 *Ibid.*

20 *Ibid.*

workers also increased in the 1830-1840s, just like the number of “low class casinos” and the voluntary organisations of peasants.<sup>21</sup>

The large number of societies and clubs gave space to the citizens’ activity, and in case of certain organisations the elements of community leisure time and political activity can hardly be separated from each other, subsequently. In the 1830s civilian activities became especially popular: “Let us join together! This is the motto of our era, since it has been announced by honourable count István Széchenyi. (...) For a decade several organisations and associations have been formed almost every day for reaching all kinds of scientific, artistic, humanitarian and material goals, they join together people from all classes, as these associations are based solely on equality.”<sup>22</sup> More and more political groups were established, among them the Conversation Club in 1834. “The special Reform era feature of Hungarian public life was the explosion of publicity.”<sup>23</sup> As Pál Vasvári put it: „And people, who want to shed light on the horizon under such circumstances, still meet.”<sup>24</sup>

Among associations (collegia) were literature-art and scientific associations, such as the Kisfaludy Association established in 1836.<sup>25</sup> The Honi Iparvédegylet (National Industry Protection Society) was officially established on 6 October 1844 upon the initiative of the nobility, but it gained significant influence also among citizens, craftsmen, guild workers and peasants. At the time of the general meeting held in November of the year following its establishment the Védegylet was proud to have 138 regional organisations, which were real civil organisations.

Act XVIII of 1848 (act on the press) establishing the freedom of press was the first to declare in Hungary that “everyone shall be free to express and spread his thoughts freely through the press”.

In summary: the blooming of the life of associations was not only a side effect, but an organic element of the reform movement, too. It is not surprising, therefore, that after defeating the

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21 Ibid., p. 28.

22 HORVÁTH Mihály, Polgárosodás, liberalizmus, függetlenségi harc. Válogatott írások [Rising of the middle class, liberalism, freedom fight. Selected essays], Gondolat, Budapest, 1986, p. 25.

23 MEZEY Barna, Magyar alkotmánytörténet [Hungarian constitutional history], OSIRIS, Budapest, 1996, p. 199.

24 VASVÁRI Pál, Irányeszmék [Guidelines], Magvető, Budapest, 1988, p. 24.

25 BÉLI Gábor, Magyar jogtörténet. A tradicionális jog [Hungarian legal history. Traditional law], Dialóg Campus, Budapest – Pécs, 1999, p. 55.

revolution and freedom fight of 1848 the Habsburg court did all it could to dissolve or at least paralyse associations.<sup>26</sup>

## 5. Charity and voluntary organisations from the start of absolutism till the end of World War II

Even though after the fall of the revolution of 1848/49 not all associations were banned, the majority were dissolved, threatened, or under constant persecution. A parallel should be drawn between these events, and those similar attitudes which may be observed after 1948, and in the period starting with 1957.

However, the majority of organisations established before 1848 survived this period and had the strength to restart its activities after shorter or longer break, moreover, despite all difficulties new organisations were also established. Due to the order of November 1852 the blooming life of associations typical in the Reform era somewhat stopped, it was put under the supervision of authorities, in line with the principles of the given period. The number of casinos and reading societies, which were the most significant in Hungary, was approximately 180 just before 1848 in the territory of the present day Hungary. After the Compromise – differently from the statutory regulations of the hereditary provinces – the enforcement of the right to association was subject to the provisions of orders.<sup>27</sup> At the end of the 1870s approximately 230 casinos (with 25,000 members) and 460 reading clubs (with 31,000 members) operated in Hungary, while the total number of associations (without industrial and waterworks associations) reached 2,700, with membership of approximately 600,000.<sup>28</sup>

After the Compromise of 1867 the development increased. It was further facilitated by the dissolution of guilds in 1872 (act VIII of 1872, with a more popular name the “industry act”). The act itself referred to the practice that in the future craftsmen may continue cooperation within the profession, the representation of their interests and the organisation of social services in form of associations.

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<sup>26</sup> KUTI, op. cit. p. 29.

<sup>27</sup> GYÁNI Gábor – KÖVÉR György, Magyarország társadalomtörténete [Hungary's social history], OSIRIS, Budapest, 2003, p. 106.

<sup>28</sup> Ibid.

**[1] megjegyzést írt:** Majority” is one of those words that can be either singular or plural. Common sense works pretty well in deciding which. If you mean the word to describe a collection of individuals, then the word should be treated as plural: “The majority of e-mail users are upset about the increase in spam.” If the word is used to describe a collective group, then consider it singular: “A 90% majority is opposed to scheduling the next meeting at 6:00 A.M.”

Moreover, it shall not be forgotten that at this time civilian movements also had some nationalistic features. “With the constitutional reform of 1848 the gravity force of Hungarian nobility lifestyle was lost, the bonds which had attached nationalities to the Hungarian nation broke up, nationalities used freedom and equality received from Hungarian nobility to influence foreign powers, and against the fraternity, and by the establishment of nationality civil classes the balance between nationality efforts and the new Hungarian state was lost” – wrote Imre Mikó.<sup>29</sup>

In the examined period the main factors of the support of the poor were social charity societies; in the first years of the 20th century approximately 300-400 societies managed public subsidies. Among religious organisations the Catholic Social Mission Association established in 1908, the Reformed Lórántffy Zsuzsanna Society established in 1891 and several Israelite women’s associations shall be mentioned. The role of secular organisations shall not be forgotten either, for example the Hungarian Society of the Red Cross (1879) or the Budapest General Public Donation Association (1908).

The relationship of the state to non-profit organisations was controversial, which was shown also in the legal regulations. Even though a set of acts and orders (such as act V of 1878 on felonies and misdemeanours, act XV of 1883 on the budget of counties, act XXI of 1886 on local authorities, act X of 1909 on income tax, and decrees nr. 9555/1863, nr. 16031/1886, nr. 16784/1900 and nr. 10271/1924) contained regulations which stipulated the establishment, operation, registration and governmental supervision of foundations and public foundations, these legal regulations somehow did not form a complete system of laws.<sup>30</sup> Their enforcement was insufficient and partial, and the majority of the organisations managing foundations did not operate in compliance with law. In the whole period only one draft act was prepared (in 1928) which could have resulted in comprehensive regulation, but this never entered into force.<sup>31</sup>

The legal regulation of societies was much stricter. According to decree nr. 1873/1394 the official approval had to be acquired for the founding document of the newly established organisations, and operation could start only after the arrival of the approval (*the details of statutory rules made in the 1980s are very similar!*). Decree 1875/5008 stated that “nationality society may be formed only as

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29 MIKÓ Imre, *Nemzetiségi jog és nemzetiségi politika* [Nationality law and nationality politics], Minerva, Kolozsvár, 1944, p. 39.

30 KUTI, op. cit. p. 34.

31 Ibid.

literature or cultural society; in case of political and workers' societies it is not possible to form branches".<sup>32</sup>

Act XLIII of 1912 authorised the Ministry of the Interior to prohibit the establishment of new societies, and to dissolve the earlier registered voluntary organisations in case of war. *As the entering into force of the act was facilitated by decree nr. 1914/5735, it was not allowed to establish any societies for two years.* This ban was somewhat facilitated by government decree 1916/1442, but for the establishment of new societies the permission of the Ministry of the Interior was needed in the future. The Ministry also had the right to limit the activities of societies which were considered dangerous for the state, and in some cases it could completely ban their operation. This regulation – except for a short intermezzo when the Károlyi-government ensure the freedom of association and assembly in common act III of 1919 – practically remained unchanged till 1945. The strict conditions made it somewhat more difficult, but not impossible for almost all sectors, professional, religious and age groups of society to establish its own societies (even without state approval). It was another sign of mistrust against the civil sector that their increased supervision and control was also regulated, which practically made the permission of the establishment of new societies by the ministerial approval of the founding document an authority decision which could be exercised with discretion.

Local authorities regularly checked societies working on their territory and made annual reports to the Minister of the Interior about their lawful operation. According to the order "the close *supervision of the operation and management* of those societies shall be performed which receive authority or social support. This control shall cover the establishment of whether the financial management of the society may be considered appropriate regarding the fulfilment of the public interest goal set forth in the founding document, and whether *expenses* (administrative, etc.) are proportionate with the *achieved results*." Those which did not fulfil this condition were considered useless (general decree of the Ministry of the Interior nr. 181. 001/1937). In addition to the general prohibitions serious legal limitations were introduced against certain organisations, including racial (Jew laws) and directly political restrictions. For example, the operation of youth organisations operating at universities and colleges were placed under authority control. The minister for religion and public education was responsible for it, thus it could regulate "which preconditions the university and college students have to fulfil in order to be member of societies or society-like

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32 Ibid.

organisation which are not under university or college authority.” (Act XXXIX of 1940 on the application of university or college students)

In the 1920s, 1930s and 1940s the “majority of the personal and financial burdens of caring for the poor was still carried out by private donations, mainly by the society *caritas*”. In the 1930s approximately 900 social institutions worked all over the country with this purpose: in Budapest 77 societies and a large number of church communities cared for the poor, among them 13 operated public kitchens.<sup>33</sup>

The social and cultural diversification, the process of the late rising of the middle class in a country which was slowly leaving feudalism behind had its effect also in the self-organisation of society. The newly (or repeatedly) established social classes obviously established their voluntary organisations, which did not only strengthen group identity, but also carried on a lot of interest protection, social, cultural and leisure activities. In addition to the already operating organisations of the nobility, intellectuals and citizens (and partly upon their example) societies of workers, craftsmen and village people were formed one after the other in the last decades of the 19th century and in the first decades of the 20<sup>th</sup> century. Due to this the forming and operation of associations was a mass phenomenon in Hungary during the period between the two world wars, it became part of everyday life of society.

All in all it may be concluded that in the period before World War II Hungary had a developed association sector. However, the role of associations in the provision of services was rather small. In 1932 one-fifth of all associations operated in the field of health care and social services, but these were mainly self-aiding societies. The rate of real charity organisations barely reached 6%<sup>34</sup>, and their activities were mainly limited to helping the poor in the cities. The extremely low rate of societies taking part in education further dropped between 1878 and 1932.<sup>35</sup>

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33 GYÁNI – KÖVÉR, *op. cit.* p. 377.

34 Magyar statisztikai évkönyv [Hungarian statistical yearbook], Budapest, 1934. p. 70.

35 *Ibid.*

The situation of foundations was different, because they had traditionally strong ties to charity goals, but – in lack of members – they played less active part in the organisation of society. Due to their nature foundations participated in the improvement of social services mainly as supporters and financiers. It often happened that different welfare services were realised upon the cooperation of private foundations and state institutions. The donations of foundations, as well as the majority of private donations and legacies helped the work of social and education institutions run by the state. It was a common phenomenon to find “foundation beds” in hospitals and “benefices” in schools, at universities, orphanages, care institutions and alms-houses. It also happened several times – on the contrary – that the government contributed to the establishment of foundation service provider organisations by material assets or by providing land or building.<sup>36</sup> The aim to concentrate resources was shown in the orders through which in the 1920s fund raising was regulated, but it was clearly visible during the introduction of the new social policy model (which was known under the name Egri Norma [Eger Norm], then Magyar Norma [Hungarian Norm]).<sup>37</sup> The starting point of the new model was that churches, voluntary organisations and authorities have better chances to fight spreading poverty together than any of them acting alone. Its introduction – as so-called Hungarian Norm – was stipulated for towns by decree nr. 1936/172.000 of the minister of the interior, but – with the permission of the chief constable – larger villages were also allowed to adopt it.<sup>38</sup>

The relatively quick dissolution of traditional communities started already in the early years of the war. The “levente” movement started its attack against the numerous, diverse, non-military movements and organisations in 1941-42.<sup>39</sup> In parallel with this the social participation of certain communities was limited, and later the elimination of a complete race group took place.

## 6. Associations and social organisations after World War II and in the era of state socialism

Government decree 529/1945 abolished extreme right organisations, while act I of 1946 on the form of state of Hungary declared the freedom of association, moreover, act X of 1946 on the valid

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<sup>36</sup> KUTI, op. cit. p. 37.

<sup>37</sup> Ibid., p. 39.

<sup>38</sup> CSIZMADIA, op. cit. p. 95.

<sup>39</sup> HANKISS Elemér, Kelet-európai alternatívák [Eastern-European alternatives], Közgazdasági és Jogi Könyvkiadó, Budapest, 1989, p. 67.

protection of fundamental rights realised – among others – the system of sanctions applicable in case of the violation of the right to association (including its hampering). *The gap between practice and the possibilities ensured by law grew endlessly. From 1947 autonomous organisations were targeted with rather various tools.* Nationalisation, public body established by law or transformed, centrally determined operating system were among these tools, just like deletion from the land register or abolition. This means that the not prohibited organisations were put under full party and state control, just like the *new type of “social organisations”* established artificially from above, *which, however, received state support.*

The vanishing process of structurally centralised, traditional communities sped up in the second half of the 1940s. The KALOT (National Body of Catholic Agricultural Young Men’s Associations) had about half million members and more than three thousand local organisations at the end of the 1930s, and at the time of its abolition in July 1946 it still ran 631 local organisations. Its twinning organisation, KALÁSZ – for the associations of women – had approximately 950 local organisations in 1940 and 576 at the time of its abolition in 1946. And the KIOÉ, the Soli Deo Gloria and the Boys Scout Association have not been mentioned yet.<sup>40</sup>

The majority of the societies was tousel and dissolved, while those surviving the prohibitions were placed under full scale party and state supervision. The establishment of new expeditious organisations was prevented by forces of power, instead of them centrally organised, so-called social organisations were established artificially.<sup>41</sup> “The proliferation of communities would make decision making more difficult, it would disturb administration and would make social order less transparent” – describes the attitude of the era Hankiss.<sup>42</sup>

For the description of the transforming communities of the era we shall consider the differences between direct and ideal communities. Members of a community of ideas may live far from each other in space; they are tied together by the knowledge of shared values and goals without actually knowing each other. The same was true for religious denominations or members of the humanity

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<sup>40</sup> Ibid., p. 68-69.

<sup>41</sup> KUTI, op. cit. p. 45-46.

<sup>42</sup> HANKISS, op. cit. p. 70.

movement in the 16<sup>th</sup> century,<sup>43</sup> but internationalist goals give completely new meaning for the notion, especially in a social environment where the primary goal is to completely eliminate the organic structures of the past. However, in the group and interpersonal relations of the new era not only the emergence of new processes, but also the establishment of very “traditional” phenomena may be observed, too: for example, Johan Galtung calls the system of personal dependencies and relationships clearly observable in state socialism “new feudal” organisation.<sup>44</sup>

Foundations were considered even more suspicious by the central power than societies, in so far as “from the aspect of the central power the foundations seem to be dangerous, especially in the fields (in education, culture, social policy) which the central power wants to control.”<sup>45</sup> The Rákosi-system abolished foundations, moreover, eliminated the institution of foundation from the Hungarian legal system. Decision 474/1948 of the Economic Council ordered the dissolution of public foundations and their merger into state budget, and statutory rule 2/1949 stipulated that the establishment and operation of private foundations shall be subject of the approval of the competent minister, based on the goal set forth in the founding document.

Based on the legal approach of the time act IV of 1959 on the Civil Code wished to solve the problem of donating the property of private persons to public goal by introducing the institution of *undertaking obligation for public interest*, which was partly similar to the institution of foundation, but by the undertaking of obligation for public interest *no new legal entity was established*. The establishment of foundation became possible again due to the modification of the Civil Code in 1987. Statutory rule 11 of 1987, by establishing articles 74/A-74/F of the Civil Code made it possible for private and legal persons to establish foundation for public interest goal set forth in its founding document. The legal personality of the foundation was declared by the law.

The Constitution of 1949 ensured the freedom of association only for “workers”. Based on authorisation set forth in decree nr. 7330/1946 M.É. the minister of the interior gradually eliminated those associations the establishment of which was not initiated by the state.<sup>46</sup>

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43 Ibid., p. 66.

44 GALTUNG, Johan, Feudal Systems, Structural Violence and the Structural Theory of Revolution, *Peace and Social Structure* 1978/3. pp. 51-73.

45 KUTI, op. cit. p. 46.

46 Ibid., p. 48.

After the intermezzo of 1956 the modification of the Constitution in 1972 recognised the freedom of association for citizens, instead of “workers”, but it did not change the detailed rules of the exercise of this freedom. This means that the statutory rule 35 of 1970 on associations remained in force, and it stipulated that the start of the organisation works of associations also had to be reported to the state administrative authority competent upon the goal of the association. Moreover, ten years later further restrictions were stipulated in a new law (statutory rule 29 of 1981 on the modification and revised text of statutory rule 35 of 1970 on associations). According to this the competent authority was free to ban the first steps of organisation if it believed that the goal of the association was in violation of state, social or economic order.

Citizens almost exclusively established politically neutral – mainly public culture and leisure (sport) – associations which seemed to be harmless in the opinion of the central power.<sup>47</sup> “Social and mass organisations, movements, primarily trade unions, co-operatives and youth organisations have important role in expressing the interests of groups and individuals. Frequent consultations among the party and the government, and the representatives of such organisations – at different levels – contribute to the review and negotiation of interests, which has been a long time used and working practice of our party” – explains János Kádár, first secretary of the MSZMP KB (Hungarian Socialist Workers' Party Political Executive Committee) of the time.<sup>48</sup> “Mass organisations and movements are directed by the party with ideal and political tools” – stated the 12th congress of the MSZMP – by preserving the “revolutionary leading team” feature of the party. “The primary goal of mass organisations is to motivate – in diverse forms, at all levels of society – for the better performance of actual political, social and economic tasks and represent the interests of their members.”<sup>49</sup>

From the end of the 1970s and the beginning of the 1980s the authorities were suspicious about the seemingly politically neutral organisations of citizens (youth clubs, film clubs, amateur theatre clubs, intellectual societies, dance clubs, etc.), but abolitions were rare. Due to the movements

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47 Ibid., p. 49.

48 KÁDÁR János, *A szocializmus megújulása Magyarországon. Válogatott beszédek és cikkek 1957-1986* [Renewal of socialism in Hungary. Selected speeches and articles 1957-1986], Kossuth, Budapest, 1986, p. 262.

49 *A Magyar Szocialista Munkáspárt XII: kongresszusa. 1980. március 24-27.* [12<sup>th</sup> Congress of the Hungarian Socialist Workers' Party, 24-27 March 1980] MSZMP publication, Budapest, 1980, p. 138.

starting at the beginning of the 1980s the Presidential Council modified the statutory rule 35 of 1970 on associations with the statutory rule 29 of 1981 and statutory rule 27 of 1983. It did it in a way that the organisation work could start only upon the prior written permission of the authority, and the actual work of the association could start only after the approval of the statute by the authority and after the registration. This was regulated without any court remedies, which meant that the authority was free to prohibit the establishment of associations without consequences, with administrative measures.<sup>50</sup>

Among conflicts and temporal prohibitions, the central power still tolerated the operation of the various organisations (SZETA, public colleges, aviation universities) of the opposition which later became the driving force of the change in the system – it tolerated it but occasionally tried to hinder them.

The legal “rehabilitation” of foundations already happened before the political changes, in 1987, as with the statutory rule 11 of 1987 of the Presidential Council of the People’s Republic of Hungary the institution was reintroduced into the Civil Code.

Two years after the official acknowledgement of the institution of foundation the Parliament enacted act II of 1989 on the right to association with which it established the legal guarantees of the freedom of association. Article 1 of the act states that “The right of association is a fundamental freedom to which everyone is entitled and which the Republic of Hungary recognizes, while ensuring its free exercise. Under the right of association everyone has the right to form organizations or communities with others or to participate in the activities thereof.”

The act on the right to association abolished all previous statutory rules and modified the Civil Code. This was the time when direct state administrative supervision of associations was abolished, too. Changes originating from the approval of the democratic constitution(al reform) (act XXXI of 1989 on the modification of the Constitution) may be summarised in a way that association was granted organisational, economic and social autonomy which it deserved in line with constitutionalism, but the regulation was maybe too brief about associations and social organisations (e.g. only three articles in the Civil Code).

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50 HANKISS, op. cit. p.100-101.

The settlement of the legal status of foundations and associations, therefore, preceded political transition, which shows that the development of the civil sector was not only consequence, but – at least partly – anticipatory of the changes.<sup>51</sup>

### 6.1. The notion of civil society in the Kádár-regime

Civil society, as a key notion has been mentioned already in the Kadarian authoritarian regime, when “democratic players want to understand themselves, and it is also an important factor in the newer analyses of the problems of democratic transition.”<sup>52</sup> These analyses focus on the shift from authoritarian power, the transition which may be divided into two – less artificial – phases. The first one is the phase of “liberation” (which may be defined by the restoration and extension of individual and group rights), which is followed by the second phase of „democratisation”. The success of Hungarian transition (including the political transition of 1989-1990) significantly depended on the revival of “civil society”. The notion used in different analyses means the network of formalised groups and organisations among families, small groups and bodies and organisations which may be definitely considered “state representative” which mediated between the INDIVIDUAL, the STATE, the private and community sector. The organisations of the Hungarian society of the transition – contrary to clans, mafias, clicks, clubs and underground movements already have public, civil status which is related to the „acknowledged right to be” and to the ability to “openly discuss (...) common issues and publicly step up for the protection of lawful interests.”<sup>53</sup> In addition to the representation of interests other authors stress the notion of self-expression, and there are some who interpret the revival of civil society in a way that it reaches its peak in a strongly mobilised and concentrated form which is characterised by the “mobilization of masses” and “people’s movement”, and when “the different groups and levels of the civil society temporarily develop one single collective identity.”<sup>54</sup>

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51 KUTI, op. cit. p. 53.

52 ARATÓ András – COHEN, Jean, Civil társadalom és demokratikus átmenet Latin-Amerikában és Kelet-Európában [Civil society and democratic transition in South-America and in Eastern-Europe], *Mozgó Világ* 1992/7. p. 17.

53 KIS János, Korlátainkról és lehetőségeinkről [About our limits and possibilities], in: *A monori tanácskozás*, Illegális kiadvány [Monor discussions, Illegal publication], 1985. p. 8.

54 SZILÁGYI Ákos, Ezerkilencszáznyolcvannégyen innen és túl (A negatív utópiák társadalomképe) [Here and beyond nineteen-eighty-four (Social vision of negative utopias)], Magvető, Budapest, p. 130.

The mentioned notion of the mass is also used with two meanings.<sup>55</sup> On the one hand: in the liberalising Kádarian authoritarian state specific and well distinguishable levels of civil society get into moving: intellectual groups, middle class (!) organisations, human rights organisations, professional associations, movements of industrial workers, etc. These groups, societies, organisations do not melt into one unrecognisable mass even in the “melting pot” of democratic transition. On the other hand, the fora of civil society which resuscitated like a phoenix bird are usually “public” and not “mass events”, in so far as it becomes clear that even beyond parties “the exercising and learning of citizenship may bloom though the discussion of everyday problems”.<sup>56</sup>

There is an important aspect which explains why the change in the system, the political transition did not have a wide base covering all social levels and groups: “The fact that for the first time in the history of man the group of intellectuals becomes a ruling power prohibits the emergence of different class ideologies and the establishment of the organic intellectual group of suppressed classes.”<sup>57</sup> One of the most important questions of the transition is the problem of identity of the masses of peasants and workers. The reasoning of the ideologists of the Kádarian socialism was convincing, power belongs to workers, therefore workers’ organisations are not needed any more. Under the label of modern, caring, atheist state almost all social issues were excluded from the scope of individual and community responsibility, the interest revealing, aggregating and representative role taking of trade unions gradually fade away, and they are replaced by bodies controlling (!) workers, even though they are called trade union. Maybe the strongest dysfunction of these trade unions is that they include everyone from the sectorial minister to unskilled workers, making it impossible for workers to represent their own values and prohibiting the establishment of a workers aristocracy, as result of an organic development. I shall refer to Szelényi, who stated that “[in Hungary] workers sense some kind of class dichotomy, they have strong sense of identity, moreover, they are able to observe the conflicting features of class relationships, but they miss the feeling of class totalitarianism and the vision of any other alternative”.<sup>58</sup>

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55 KIS, op. cit. p. 8.

56 Ibid., p. 10.

57 KONRÁD György – SZELÉNYI Iván, *Az értelmiség útja az osztályhatalomhoz* [The way of the class of intellectuals to class power], Gondolat, Budapest, 1989, p. 112.

58 SZELÉNYI Iván, *Új osztály, állam, politika* [New class, state, politics], Európa, Budapest, 1990, p. 44.

Based on the Hungarian literature of the past three decades the domestic notion of civil society may be defined as follows (with significant simplification): A notion which is often used in sociology and political literature, which refers to a self-organising community of independent citizens, which is separate from state power. In these definitions of the idea of civil society it is an important factor that people are able to harmonise their lives and activities without the intervention of the state, to protect their interests against the state if necessary, and to limit the excessive power of state power.<sup>59</sup>

#### 7. Summary, i.e. the main historical features of the Hungarian history of civil (voluntary) organisations

The development of the Hungarian civil/non-profit sector – as we interpret it today – was historically characterised by intermissions and a partly organic institutionalisation. The development of the non-profit sector of the times since the transition has been strongly influenced by behavioural patterns established during the previous decades, or even centuries. It is possible to understand the present processes only if we manage to discover those elements of historical experiences which are still present in the collective memory, i.e. “seem to have outstanding importance from the aspect of today’s problems and development perspectives”.<sup>60</sup>

Cooperation between the state and the non-profit sector has historically had four very important areas, namely

- a) establishment of social policy,
- b) financing of welfare services,
- c) specific service provider activities and
- d) establishment of regulatory frameworks.

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<sup>59</sup> See: ÁGH Attila, *Az önszabályzó társadalom [Self-regulating society]*, Kossuth, Budapest, 1989.

<sup>60</sup> KUTI, op. cit. p. 53.

The state “has never been in a situation in which it could have formed social policy on its own, even though it had made several (sometimes aggressive) attempts to monopolize this role. In the first centuries the directions of the development of social and educational services were determined by the most important service providers and financers, which means that churches, kings, and somewhat later town magistrates and guilds all had some influence. As the positions of the government have strengthened continuously during the centuries, the techniques of social participation had to be improved as well“.<sup>61</sup>

*No matter which historical period is under examination, the strange duality (double pressure) of striving for independence (autonomy) and the need for external financial tools – indirectly or directly provided by the state – has always been observable regarding the examined organisations. Direct and indirect state support has been popular already in the middle ages, the activities of charity organisations were assisted by royal donations, different privileges and tax allowances. “The foundations of the first (church-run) hospitals were established by the generous donations of King Stephen. Before the invasion of the Tartars King Béla IV exempted all hospitals of the country from paying wine tax. In the support of non-profit organisations the state has used the same financing techniques ever since, the only thing that has changed is that the specific forms of appearance has widened and some sort of guarantee elements have been built in to the system.”<sup>62</sup> State donation based on individual decisions has been more and more supplemented by frequent, sometimes contractually guaranteed form of governmental support. From the present techniques of state support of non-profit organisations only the tax allowances available for the donator may be considered new.<sup>63</sup>*

During the existence of the kingdom – in addition to the primacy of the Catholic Church – the king has always tried to establish guarantees for providing certain parts of the churches’ income to the caretaking of the poor, and it also founded and supported several charity institutions. Moreover, for the citizens of royal free cities the king ensured a set of rights, by this enabling them to establish those secular charity institutions which are not under the influence of the Catholic Church any

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61 Ibid., p. 58.

62 Ibid., p. 60.

63 Ibid.

more.<sup>64</sup> With the spread of Protestantism the Catholic Church directed its attention – in addition to (and sometimes instead of) the issues of the poor and of health care – to education, as a strategic field where it could enlist (or in the given situation regain) followers.

*Moreover, it is important to stress that in addition to needs and expectations emerging from the church directly or from other organisations through the dogmas of the church from the 19<sup>th</sup> century an important “pushing force” of the development of civil society was the establishment and development of nationality movements.*

The historical development of the relationship between the state and voluntary organisations has been – all along – characterised by the various combinations of fluctuation, cooperation and confrontation.<sup>65</sup> By the beginning of the 1980s the division of the virtual unity of central power and society has become clear; the (civil) “society has begun its detachment from the traditional provider state”.<sup>66</sup> This period is also the time of “division” of society; an alternative or “political” civil society<sup>67</sup> is also born, the members of which are primarily bound together by “the linguistic culture of criticism”, and due to partly this, partly their conspirative-illegal methods they are unable to widely spread their norms (patterns) of ethics and the organisation of society. In the 1980s the notion of civil society – which was part of common talk through intellectual groups – had radical political meaning: it was characterised by the resistance against power, the participatory democracy and by the third way.<sup>68</sup>

There were some periods of time when due to political reasons there was no legal possibility to establish civil organisations, as we interpret them today (1914-16), or even though the regulations made it formally possible, but the new establishments or the operation of already existing organisations were made impossible by administrative means.

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64 KUTI, op. cit. p. 53.

65 KUTI, op. cit. p. 56.

66 BIHARI Mihály (ed.), A többpártrendszer kialakulása Magyarországon 1985-1991 [Establishment of multi-party system in Hungary 1985-1991], Kossuth, Budapest, 1992, p. 32.

67 CSIZMADIA Ervin, A társadalom és a mai rendszer [Society and today's system], *Valóság* 1991/4. pp. 22-34.

68 GYÖRFFY Gábor, A non-profit szervezetek ismérvei és tevékenységük [Features and activities of non-profit organisations], in: TÖRÖK – VINCZE (eds.), Alapfokú kézikönyv civil szervezetek számára [Basic manual for civil organisations], NIOK – SOROS, Budapest, 1998, p. 19.

Artificial communities<sup>69</sup> established during socialism could not become real communities, and some of the alternative movements started their operation under the aegis of social organisations (Hazafias Népfrent, KISZ-organisations) established artificially as supporters of the regime.

The communist regime that took over Hungary in 1947 and lasted more than 40 years halted the development of the voluntary sector, destroying and vilifying civil society. The government banned most of the voluntary associations. What remained of the voluntary sector was nationalized and brought under state control. The right of association was denied, and there was also no way to set up a foundation. On paper, the communist regime had the loftiest declarations concerning the right of association. However, in practice, any application of such declarations and written laws would have been inconceivable.<sup>70</sup>

The 1956 Revolution revealed that communist governments had been able to dissolve most of the voluntary organisations, but they could not completely eradicate citizens' autonomy, solidarity and private initiatives. The failed revolution was followed by a tacit compromise: a more flexible version of state-socialism was developed. Gradual reforms were introduced in the economy, more freedom was granted to people in their private life. Reforms, gradual changes, realization of the poor performance of state delivery systems, all led to a more tolerant government attitude towards civic initiatives. From the 1980s this change speeded up, and after the mid-1980s it became obvious that the crisis of the system was so fundamental that any fine-tuning would have been useless. There was a need for a major overhaul.<sup>71</sup>

“This gradual process of reforms explains the fact that the rehabilitation of civil society was long underway before the final collapse of the communist system in Hungary. One of these steps was the 'rehabilitation' of foundations: the legal provisions pertaining to them reappeared in the Civil Code in 1987. By the time the breakdown of the Soviet Bloc had made fundamental political changes feasible in 1989, civil society organisations were numerous, developed and widespread enough to become important actors of the systemic change. Since then, they have developed together with

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69 HANKISS, op. cit. p. 70.

70 NAGY Renáta – SEBESTÉNY István, Methodological Practice and Practical Methodology: Fifteen Years in Non-profit Statistics, *Hungarian Statistical Review* (2008) 86(12) p. 114.

71 Ibid.

other institutions of the economy and society, trying to find appropriate answers to the challenges created by the process of transition.”<sup>72</sup>

The Hungarian (and in a broader sense Central-Eastern-European regional) history of the development of civil society is a partial explanation for the question of why new Central-European democracies did not build the post-1989 political system on participatory, finely tuned social coordinative procedures and institutional system, interpreting parliamentarism as the parliamentary monopoly of making politics. During their research Anheier and Seibel concluded that during the political transition the relationship of state and society was characterised by cooperative segmentation, its basis was provided by intellectuals, it was voluntary and the typical organisations of the sector were service provider foundations.<sup>73</sup>

In the opinion of one of the most important Hungarian authors, Éva Kuti one of the most durable tendencies – in addition to the before mentioned, incorporating the events which happened after the examined period – is the occasional, incoherent nature of the all time regulations: “it seems that the lack of truly customised and comprehensive regulation is the chronic illness of Hungarian non-profit sector. Transparent, permanently and consistently enforced rules applicable for all organisations have been missed for a long time, and have not been established until today. It is a question whether such “ideal” situation can be established at all, ever.”<sup>74</sup>

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72 Ibid.

73 ANHEIER, Helmut – SEIBEL, Wolfgang, A non-profit szektor és a társadalmi átalakulás [Non-profit sector and social transition], *Európa Fórum* 1993/3. p. 27.

74 KUTI, op. cit. p. 61.