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# Transylvanian International Conference in Public Administration

Cluj-Napoca, Romania, 2-4 November 2017

*Editors:*

Cristina M. **Hințea**

Bogdan A. **Moldovan**

Bianca V. **Radu**

Raluca M. **Suciu**







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## Foreword

Public Administration and Management Department (PAMD) at Babeş-Bolyai University, Romania has been since its establishment in the mid-1990s at the forefront of the movement to reinstate and redevelop higher education programs and research in public administration in Central and Eastern Europe (CEE). In most of the CEE countries, public administration education during the communist regimes was done by party schools and was clearly subordinated to political influences and political doctrine. After the collapse of the communist regime in Romania, PAMD, with the support of Western European and American partner universities, has been instrumental in the development of an interdisciplinary curriculum for public administration programs and for supporting empirical research as an important component of their mission. PAMD at Babes Bolyai University is currently recognized at both national and international level as a leading teaching, research, and training entity in public administration. Moreover, in the last decade it has undertaken an important role in the development in Cluj-Napoca of an international education hub for the entire CEE region and for other regions in transition. The mission of the hub is to collect best practices, expertise, and know-how and then to further disseminate it to other transition countries, with the added benefit of an adaptation process. Transition countries are not only provided with what works internationally but also with the expertise of a country which until recently was described itself as in transition.

As part of the education hub mission, DAMP organizes dissemination and networking events. One important tool for bringing together academics, researchers, and practitioners in public administration is the *Transylvanian International Conference in Public Administration*, held annually in Cluj-Napoca, Romania in the first days of November.

In 2017, the *Transylvanian International Conference in Public Administration* took place from 2 to 5 November. This event was envisioned to bring together academics, researchers and practitioners in the field of public administration from all over the world and to create the framework in which they can exchange ideas, disseminate best practices and develop networking opportunities for future teaching, research, and capacity building projects.

The overarching topic for 2017 was innovation and how innovation (understood in a broad manner) is currently used in governance to generate better service delivery, more inclusive citizen participation, more effective transfer and adaptation of best practices from international level, etc. The conference was designed as a venue for identifying how a better administration can help the community and the businesses to operate more effectively and to support the latter in their quest for contributing to the development of smart cities.

An impressive body of well renowned academics and practitioners took part in the conference. Their expertise in shaping policies and enhancing the quality of governance both in their home countries and worldwide is significant.

During the conference, the Department of Public Administration and Management also launched a set of strategic planning tools developed by a team of faculty members and researchers. They include: Survey on the quality of life, applied on a representative sample of citizens for the city of Cluj-Napoca; Analysis regarding the functioning of metropolitan areas, with a qualitative analysis for the Cluj-Napoca metropolitan area; Sectorial monitoring of the strategic plan for the city of Cluj-Napoca and recommendations for the updating of the strategic plan. The Department of Public Administration and Management has been instrumental in providing assistance to the city of Cluj-Napoca for the drafting of the current and immediate past strategic plans as well as for a number of other programs and policies regarding quality of life in Cluj-Napoca.

As part of this conference, two separate workshops, one for PhD students, and one for practitioners were organized. The main aim was to provide these two categories with opportunities to present their research and to interact with the members of the academic community. The workshops were run in a very interactive way, with presentations by the practitioners and PhDs being followed by ample debates.

The present book includes a selection of the papers presented in all sections of the conference. The intention of the conference organizers is to disseminate the materials discussed during the conference and to generate scientific debates beyond the three days event. Papers presented by the PhD students are included, as an opportunity given to young researchers to publish the results of their work, even if it is still work in progress.

Our hope is to be able to increase the visibility and reputation of international conferences organized by universities/departments. While we acknowledge that big and well known conferences such as EGPA and NISPAcee play an important role, smaller conferences are also crucial for not only their scientific value but also for providing venues for interaction between academia and practice, between practice and PhD students, and among a variety of scholars who call public admin-

istration their area of interest. The book is a natural extension of the conference and serves similar purposes.

We would like to thank all conference participants for attending *Transylvanian International Conference in Public Administration*, 2017 edition, and for their contribution to this book.

Local conference organizers  
Cluj-Napoca,  
June, 2018

# CHALLENGES OF THE COMPARATIVE MUNICIPAL LAW – IN THE LIGHT OF THE COMPARISON OF THE MUNICIPAL TASKS\*

István HOFFMAN

## István HOFFMAN

Associate Professor, PhD, dr. habil., Department  
of Administrative Law, Faculty of Law,  
Eötvös Loránd University, Budapest, Hungary  
Tel.: 0036-1-4116519  
E-mail: hoffman.istvan@ajk.elte.hu

**Abstract.** Comparative administrative law has a long tradition among administrative sciences. This approach focuses on the comparison of the legal instruments of the public administration, especially the comparison of the legal regulation of administrative organization and of procedural questions. Similarly, comparative municipal law focuses on the municipal organization. Tasks of the local government have been analyzed limitedly, however, this analysis can provide more information on the municipal systems than the comparison of the municipal bodies themselves. The challenges of the comparison of the tasks of the municipalities will be analyzed in this paper.

First of all, such analysis should be multi-disciplinary because these tasks are strongly impacted by policies and the politics as well as they are influenced by the spatial structure of the given country. Secondly, the jurisprudential analysis should be multidimensional, because of the different approaches of the sectoral regulations. Thirdly, these tasks are impacted by the economy and the approach of the public services. Last but not least, the analysis can be distorted by the different approaches of the local government system. The analysis is mainly jurisprudential but the methods of the administrative sciences are widely used as well. The framework is a three-dimensional matrix: the municipal tasks are defined by the municipal organization, the spatial structure of the given country, the traditions and the constitutional approach of the given public service sector, respectively.

**Keywords:** comparative administrative law, comparative municipal law, local government, municipal reform, municipal tasks.

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## 1. Introduction

The comparison of the different systems has a long tradition in the jurisprudence and in the social sciences. The roots of the comparative law go back to the ancient Greece and in the Middle Ages but could the comparative law evolved as an independent science in the 19<sup>th</sup> century after age of the codification of the private law – when the law of the countries of the continental Europe became more different (David and Brierley, 1979, pp. 2-5). Therefore the theory and the methods of the comparative law are based on the comparison of the institutions of the private law. The modern administrative law evolved similarly in the 19<sup>th</sup> century as a result of birth of the modern state (Fazekas *et al.*, 2017, pp. 77-79). Thus the analysis of the rule of law in the public administrations, the judicial review of the administrative decisions, the administrative independence, and thus the organization of the administrative systems were the main elements of analysis of the comparative administrative law. The comparative administrative law began to evolve in the late 19<sup>th</sup> century, but the significance of this type of the analysis of the legal regulation on the administrative system increased in the 20<sup>th</sup> century.

The legal comparison of the administrative institutions was accepted during the 20<sup>th</sup> century but several dysfunctional phenomena have occurred. Firstly, the methodology of the comparative law was based on the comparison of the private law and the procedural law and partly the penal law. Because of the political elements of the administrative law the direct application of these methods could result in some inappropriate findings. Similarly, the public administration has a strong impact on the social system of a given country and therefore the methods of the social sciences became very important in the field of the comparison of the administrative phenomena. Therefore a new science, the comparative administration has been evolved which was based on the methods of the social sciences, mainly on the methods of the management sciences, political sciences and economics (Kuhlmann and Wollmann, 2014, pp. 2-9).

The framework of the comparative municipal law is determined by these approaches. There are several analyses on the local and regional democracy and on the local government systems. Although the topic is very current, several monographies, study volumes and proceedings have been published in the last years, which focused on the comparison of the municipal (administrative) systems and on the organizational and procedural questions of the municipalities. Firstly I would like to review the approaches of the comparative works published in the last years. After that I would like to analyze the main challenges of the comparative analysis of the municipal tasks which could be the basis of a methodology of a comparative analysis.

## **2. Methods and approaches of the comparative municipal law**

The comparison of the municipal systems has a long tradition – both in jurisprudence and administrative sciences. As I have mentioned, the comparative analysis have several levels. Here I would like to review the methods and approaches of the comparison.

### **2.1. Jurisprudential comparisons**

#### **2.1.1. Methods and approaches of the (general) comparative administrative law**

As it was mentioned in the introduction the comparative legal approach evolved in the field of the comparative private law. The administrative law as an independent branch of law evolved after the bourgeois revolutions and the evolvement of the administrative law governed by the principle of rule of law. As the jurisprudence of the administrative law is a relatively young, the comparative administrative law evolved later than the general legal comparison. This development path has several consequences. Firstly, different methods of comparative administrative analysis can be distinguished. According to Lajos Lőrincz (Lőrincz, 2006, pp. 23-40; Lőrincz, 2007, pp. 37-45) the first level of the comparative administrative analysis is the comparison of the legal system of the given countries. In these works the countries are compared and the methodological unity is provided by a unified view. Thus the methods and viewpoints of the analysis are defined by the first – introductory – chapter of these books. Practically, the content of the given country studies (chapters) are determined by this introductory chapter. Therefore, a unified view is followed by the country studies. These books have mainly several authors, typically the country studies are written by the experts from the given country. The editor and the author of the methodological (introductory) chapter and the closing, summarizing chapter is typically an internationally accomplished researcher.

The second approach of Lőrincz (Lőrincz, 2006, pp. 23-40) is the comparison of the legal institutions. In this approach not the countries but the legal institutions are compared and the solutions of the given countries are reviewed within the comparative analysis of the given legal institutions. These volumes have typically multiple authors as well, but the one legal institution is analyzed by one author: thus the analysis is a transnational one.

If we look at recent researches in the field of comparative administrative law, the main method and approach is the first level of the comparison. The majority of the books from the last decade on comparative administrative law belong to the first level of the analysis (for example in English language: Seerden and Stroink, 2002, in Hungarian language: Lőrincz, 2006 and Gajduschek *et al.*, 2011). In the last

decade the second method became more frequent, but the comparison of the given countries prevailed as well. A specific combination has evolved. The most significant, model countries and several other countries which have interesting systems or which systems altered significantly are directly compared but the main legal institutions are compared, as well (Bogdandy *et al.*, 2014; Rose-Ackerman *et al.*, 2017).

The whole administrative system is analyzed in these volumes. Because the municipal system is an important part of the administrative law, the comparative municipal analysis occurs as an *aspect* of the analysis, typically as the part of the analysis of the independent and autonomous structures (Bogdandy *et al.*, 2014, pp. 893-926). Thus the comparative municipal is an important but only a part of the analysis of the general comparative administrative law.

### **2.1.2. Methods and approaches of the comparative municipal law**

The comparative method in the research and education of the municipal law is widespread. Although the international comparison is a current topic, the main field of the comparison is the analysis of the municipal systems of the federal states. In these countries the regulation on the municipalities belongs to the responsibilities of the member states of the federation (Hoffman, 2015, pp. 28-33). Therefore the legal comparison is *necessarily* applied by the monographies and textbooks on the municipal law of the federal countries (Neuhofer, 1998; Gern, 2003; Schmidt, 2011; Bowman and Kearney, 2017).

The comparative method is recent not only in the intra-national but in the international relations as well. But if we look at the approach of these books, an important question arises: what is the municipal law? Because of the different municipal systems two main approaches have evolved (Moreno 2012, pp. 16-17). The first approach is based on the continental municipal systems. In the continental Europe the powers and the duties of the municipalities are defined by a general clause, typically by the concept of 'local public affairs'. Therefore the analysis of the tasks of the municipalities are reviewed general, especially the legal typology of the tasks are analyzed by these works. Thus the constitutional status, the organization of the municipalities, the typology of the municipal tasks, the regulation on the financial framework of the municipalities and the rules on the relation between the municipal and state (central) administration are observed by this classical, continental approach (Moreno, 2012).

The traditional Anglo-Saxon approach of the local government is quite different. This regulation has always been based on the *ultra vires principle* (Arden *et al.*, 2008, pp. 14-18). In this model the tasks of the municipalities were determined and regulated by the act of the legislative bodies and the local government had no general powers. Therefore the Anglo-Saxon monographies and books on compara-

tive municipal law analyzed the tasks of the municipalities in detail. Therefore the municipal tasks in the administrative sector have been reviewed (see Arden *et al.*, 2008; Bowman and Kearney, 2017.). Although this traditional approach is changing: in the United States the inherent home model of the local government, the *Localism Act 2011* in England, and the municipal reform bills of Australian states and territories choose a model based on the general clause of the tasks and powers of the municipalities (Reynolds, 2015, p. 74; Elliott and Varuhas, 2017, pp. 343-344; Kiss, 2003, p. 102). Although a convergence process can be observed between the Anglo-Saxon and continental systems (Kecsó, 2016, p. 185), the approach of the Anglo-Saxon works on comparative municipal law analysis was based on the municipal law on broad sense, therefore the tasks and duties the different municipal systems are compared by these books (see Bowman and Kearney 2017).

Although the comparison of the municipal tasks has evolved in the Anglo-Saxon countries, the continental comparative jurisprudence was impacted by this method. Thus not only the organization of the municipalities in the different Austrian provinces (*Länder*) but their tasks are compared by Neuhofer in his monograph (Neuhofer, 1998).

## **2.2. Method and approach of the comparative local governance**

The legal institutions are analyzed by the method of the comparative law. However important elements of the municipal systems are analyzed by the comparative legal approach, the functions and the actual operation of the local government can be reviewed only partially. The jurisprudential method is based on the analysis of the legal institutions. The extra-legal phenomena – which are sometimes more important than the regulation – cannot be observed by this method. Therefore a new approach has evolved by which the functions and operations of the local government systems can be reviewed. This new approach was the analysis of the *local governance* which was based on the methods of the political and administrative sciences and not only the legal institutions and regulations on municipalities, but the decision making of the local autonomies, thus the party systems and the political structure of them, the actual functions, the management, the finances are observed and reviewed. This method could correct the formal approach of the comparative legal analysis: the actual systems of the local governments are analyzed instead of the rules on it. Therefore those systems can be effectively compared which have similar tasks and functioning but which are based on different legal basis. Therefore the local, regional and subnational governance (Marcou and Verebélyi, 1993; Loughlin *et al.*, 2011) are analyzed and not the legal status of the municipalities. The general comparative local governance books have similar structure to the books on general comparative jurisprudence: the methods and the elements of



the analysis are defined by the introductory chapter, the local governance models of the reviewed countries are analyzed by different chapters which authors are experts from the given country. The main findings of the comparative analyses can be found in the closing chapter. The author of the introductory and the closing chapters are the editors of the book.

The analysis of comparative local governance focused on different topics therefore special comparative local governance analyses have developed. After the local government reforms based on the New Public Management (NPM) paradigm several monographs and books were written on the comparative review of these changes (Dollery *et al.*, 2008). The topic has remained popular after the post-NPM, Good Governance and Neo-Weberian reforms (Pollitt and Bouckaert, 2017, pp. 14-22). The comparative analysis of the reforms became a more popular research field after the economic crisis in 2008 and after the administrative reforms which tried to answer the challenges of this crisis. Another recent topic of the reviews was the analysis of the spatial structure of the local government systems. The challenges of the new service systems, thus the merge of the municipalities, the inter-municipal cooperation was reviewed in these books. In these frameworks the changes and challenges of the urbanization, the evolvement and development of the urban governance were compared and the new forms of the governance of the rural territories were observed (Baldersheim and Rose, 2010).

The functioning, the reforms of the different municipal systems as well as their political, social and economic background are reviewed by the comparative local governance analysis. These works are mainly multidisciplinary trying to give a holistic view on the whole local governance or on a given element of this phenomenon. This point of view has several advantages but several details can be reviewed limitedly by this approach. Therefore the comparative legal analysis could have significance in the recent researches because of its focused approach. The whole reality of the local governance cannot be shown by the analysis of the comparative legal methods, but several important elements – for example the structure of the service provision and the framework of them – can be reviewed.

### **3. The comparative analysis of the municipal tasks**

#### **3.1. Framework of the analysis**

As it was mentioned in the section 2.1, the analysis of the regulation on local government has two main approaches. The first one is based on the broad concept of the municipal law and the second one is on a narrow, organizational point of view. The review of the given municipal tasks in detail is based on the second approach. Although this type of analysis is based on the Anglo-Saxon approach of the local governments these systems can be better compared if their tasks are reviewed

as well. For example, the Hungarian municipal reforms after 2011 represent a paradigmatic change but the transformation of regulations on the organization was only partial. The main alteration of the system could be observed among the *tasks of the municipalities*: several main municipal tasks in the field of education, social care and children protection, health care, etc. were nationalized and centralized (Pálné Kovács, 2016a, pp. 590-593). Therefore the regulation on the municipal systems cannot be properly interpreted without the analysis of the local tasks and powers.

Although the comparison of the municipal tasks is a significant element of the analysis it has several methodological challenges. The main approaches and the matrix of a comparative analysis of these tasks will be reviewed in the following.

### **3.2. The constitutional status of the local government and the traditions of the municipal system**

As I have mentioned in section 1 the tasks and responsibilities are significantly impacted by the approach of the constitutional status and by the approach of local government of the given country. The general framework of the powers and duties of the local government are defined by constitutional law. This influence may seem decisive: if the local government system has weak responsibilities and the scope of the local governance is narrow then the sectoral regulations could provide only narrow tasks for the local entities. But a different picture can be shown by a detailed analysis. The constitutional basis is very important, but it could be 'overwritten' by the sectoral regulations. For example, the English local governments have limited responsibilities, which were regulated by the *ultra vires* principle thus they did not have general powers before the Localism Act 2011. However the English municipalities have broad service provision tasks and responsibilities because of the regulations of the sectoral rules and the different acts of the Parliaments (Arden *et al.*, 2008, pp. 113-114). Similarly, the Hungarian local municipalities have general powers after the article 4 of the Act CLXXXIX of 2011 on the Local Governments of Hungary but the sectoral regulations centralised the majority of the main service provision tasks and responsibilities which formerly belonged to the local and regional (county) municipalities (Pálné Kovács, 2016b, p. 84).

Thus the role and position of the local government in the multi-level governance system (Fazekas, 2014, p. 292) is a significant element of the comparison of the municipal systems (Koprić and Džnić, 2016, pp. 29-30). Therefore the general approach of the comparative municipal law which is based on the constitutional and general administrative organization regulation on the system of the local government is very important but it can be overwritten by the sectoral regulation. Therefore the analysis of the sectoral policies and approach should be an important element of the comparative analysis.

### **3.3. The role of the sectoral policies in the field of the municipal tasks**

The municipalities are part of the national governance system and their tasks are elements of these sectoral policies. Therefore the organization, procedure and service provision system of the municipal tasks are strongly impacted by the approach and model of the sectoral policies. The role of the municipalities is influenced by the chosen model of the sectoral policies. The territorial structure, the sharing of the tasks between the public and private sector, the sharing of the responsibilities, tasks and powers between the central and local government (and in federal states between the federation, the member states and the local governments) are mainly defined by the sectoral regulations. These rules are significantly impacted by the sectoral models and policies (Horváth, 2016, pp. 28-29). The social tasks and responsibilities are good examples for this influence. After Esping-Andersen (Esping-Andersen, 1990) three main social welfare models can be distinguished: the liberal or (Anglo-Saxon) model which is based on the means-tested benefits and services and the 'lender of last resort' role of the state; the continental (or Bismarck or conservative) model which is based on the social security systems and the Nordic (or social democrat) model which is based on the universal benefits and services. Different municipal tasks are induced by these models (Esping-Andersen, 2002, pp. 14-18). The Anglo-Saxon municipalities have broad social competences. As the liberal welfare model is based on the means-tested benefits and services and therefore information on the recipients of the services is very important and the municipalities have better access to information, the role of the local government is important. Similarly, the role of the continental local governments is only subsidiary in the social welfare system. The Bismarck model is based on the social security (social insurance) model which is managed by the central government or nationally (exceptionally regionally) organized corporative governments, the local government system are responsible for the subsidiary means-tested benefits and services. Although the social tasks of the municipalities are strongly impacted by the chosen welfare model the influence is not a one-way one, it is practically an interaction. A good example is the Scandinavian welfare model and the role of the Scandinavian local governments. The Scandinavian welfare model is based on universal benefits and services. Therefore the social tasks and responsibilities of the public sector are very broad. These services could be provided by the central state, as well. Although this model could result in a centralized service provision and management system, the tradition and the approach of the Nordic local government caused a model which is based on the broad responsibilities of the Scandinavian municipalities. As it was mentioned, this is an interaction: the responsibilities of these municipalities are very broad, but because of the universal approach of the social services and benefits the services are regulated by the central legislation in detail. The quality and the level of the service provision could

not depend on the local needs and opportunities. Therefore the scope of the local decision making is very limited: the majority of the decisions are made by these central regulations. These events led to a process which is characterized by authors as the decline of the subnational democracy (Goldsmith, 2003, p. 97; Baldersheim and Rose; 2011, pp. 301-302).

Therefore the review of the sectoral policies is required for the comparative municipal analysis but it cannot be the only method as it has only partial influence on the legal regulation.

#### **3.4. The spatial structure of the municipal system**

The municipal systems are influenced by the spatial structure (Baldersheim and Rose, 2010, pp. 2-9). The spatial structure, the fragmentation of the municipal system and the role of the regional governments have a strong impact on the given systems. As I have mentioned in section 3.3 this impact is not a one-way type, but it can be characterized as an interaction (Pállné Kovács, 2016c, pp. 8-9). The municipal systems are based on the concept of decentralization. In modern administrative sciences it can be approached in various ways – for example as competitive and non-competitive, internal and external, vertical and horizontal (Pollitt, 2005, pp. 372-375) but a detailed analysis of these forms exceeds the framework of the article.

The municipal responsibilities of a given country can be strongly influenced by the spatial structure. The municipalities of countries with fragmented spatial structure could perform different tasks from the countries with concentrated municipal model. The small municipalities have limited economic performance, and therefore they could perform less services (Horváth M. *et al.* 2013, pp. 9-11): this context can be observed in the Hungarian municipal system, where the spatial structure was very fragmented but the municipalities had very broad competences before 2012 (Balázs and Hoffman 2017, pp. 9-12). Similar problems were experienced in the fragmented French and Italian municipal systems as well (Tonhauser, 2016, pp. 19-21).

Therefore the concept of *concentration* became a current topic of the comparative municipal research. It is linked to the concept of decentralization at the same time. The problem regarding *economies of scale* of local public services has evolved in modern countries in the last decades, due to the transformation of the public services (Gomez-Reino and Martinez-Vazquez, 2013, pp. 8-11). This has led to the transformation of local government structures: larger entities – as for example merged municipalities, inter-municipal associations – have evolved. This process is described in the literature as the *concentration (of the municipal) system* (Horváth, 2002, pp. 177-178).

The spatial structure of the given countries has a significant impact on the tasks of the municipalities. Although this is not a one-way influence and the spatial

structure is influenced by other components and phenomena. Thus this structure is affected by the political decisions, the constitutional changes, as well (Balderheim and Rose, 2010, pp. 8-14). Therefore the territorial reforms are a current topic in the European administrative science but their review exceeds the framework of the article.

Thus it can be highlighted that the system of the municipal tasks are influenced by the *spatial structure and the territorial changes*: these elements should be reviewed by a comparative municipal analysis.

### **3.5. The public service provision systems**

The structure of European local public service systems has also changed in the last decades. One of the central challenges in general is the economies of scale due to the developments in the field of public services and the related financial challenges (Prebilič and Bačlija, 2013, pp. 546-547). The result is a significant transformation in the spatial structure of the European municipal systems.

The tasks of the municipalities can be different if the public service systems – in general – are diverse in the given countries. A convergence process could be observed after the WWII and during the “*Les Trentes Glorieuses*” (the period between 1945 and 1975) when the welfare state concept based on the Keynesian economics ruled the public service provision systems in Europe. The collapse of the Bretton Woods monetary system and the economic difficulties after the oil crisis in 1973 caused the breakdown of the former Keynesian economic policies of the Western democracies. The neoliberal critics of this policy – which was drafted by the New Right – strengthened (Loughlin *et al.*, 2011, p. 4). The New Public Management (NPM) reforms were based on these critics. Several new challenges – which required answers – were addressed by the NPM reforms themselves. Thus several theories evolved during the 1990s and 2000s which tried to correct the problematic elements of the NPM reforms. Among these theories the Public Choice and the Good Governance models have impacted on the local government reforms of the millennium.

The impact of the concept of the service provision system has an influence on the constitutional status of the local governments as well as on the sectoral policies. Several economic, social and cultural rights were institutionalized in the (national) constitutions but this institutionalization has different levels and models (Jakab, 2016, pp. 123-128). These changes influenced the local government systems (Davis, 2011, pp. 521-522), because the tasks provided by the municipalities are actually the realization of these rights. Thus the social protection is prevailed – partly – by the municipal social benefits: the right to education is materialized by the municipal schools and the right to health is implemented by the municipal health servic-

es. These local public services should be provided equally and accessible for the (local) residents. But the local communities should have autonomy which includes the right to make independent decision. Therefore – as it was mentioned in section 3.3 – the tasks of the municipalities are influenced by the role and concept of the public services and constitutional institutionalization of the public services.

The complexity of the comparison of municipal tasks and responsibilities are shown by these elements. The comparison of these tasks is required to give a complex picture on the regulation of the municipal systems. Thus these aspects could not be ignored by a comparative legal analysis. Therefore a comparative analysis on the regulation of the municipal tasks should be a multidimensional one.

#### 4. Conclusions

As it has been analyzed formerly, a comparative municipal analysis should be based on a multi-dimensional matrix. As it is a jurisprudential analysis it is based on the methods of the legal comparison but it should be multidimensional. These tasks are strongly impacted by policies and the politics of the given country and these tasks are influenced by the spatial structure. The responsibilities of the municipalities are impacted by the economy and the approach of the public services. Last but not least, the analysis could be distorted by the different approaches of the local government. Therefore the analysis is mainly jurisprudential but the methods of the administrative sciences are widely used. The framework is a three-dimensional matrix: the municipal tasks are defined by, firstly, the municipal organization; secondly, by the spatial structure of the given country and thirdly, by the approach of the given public service sector. This methodological base could result an informative analysis on the different municipal systems which could show their main characteristics.

#### References:

1. Act CLXXXIX of 2011 on the Local Governments of Hungary, published on December 28, 2011 in the Magyar Közlöny.
2. Arden, A., Baker, C. and Manning, J., *Local Government Constitutional and Administrative Law*, 2<sup>nd</sup> edition, London: Sweet&Maxwell, 2008.
3. Balázs, I. and Hoffman, I., 'Can (Re)Centralization Be a Modern Governance in Rural Areas', 2017, *Transylvanian Review of Administrative Sciences*, vol. 50E, pp. 5-20.
4. Baldersheim, H. and Rose, L.E. (eds.), *Territorial Choice. The Politics of Boundaries and Borders*, London and New York: Palgrave – McMillan, 2010.
5. Baldersheim, H. and Rose, L.E., 'Norway: The Decline of Subnational Democracy?' in Loughlin, J., Hendriks, F. and Lidström, A. (eds.), *Oxford Handbook of Local and Regional Democracy in Europe*, Oxford: Oxford University Press, 2011.

6. Bogdandy, A. von, Cassese, S., Huber, P. and Unger, S., *Handbuch Ius Publicum Europeum. Band V. Verwaltungsrecht in Europa: Grundzüge*, Heidelberg: C. F. Müller, 2014.
7. Bowman, A.O'M. and Kearney, R.C., *State and Local Government. Tenth Edition*, Boston (MA, USA): Cengage Learning, 2017.
8. David, R. and Brierley, J.E.C., *Major Legal Systems in the World Today. An Introduction to the Study of Comparative Law*, New York: The Free Press, 1978.
9. Davis, D.M., 'Socio-Economic Rights: Has the Promise of Eradicating the Divide between First and Second Generation Rights Been Fulfilled?', in Ginsburg, T. and Dixon, R. (eds.) *Comparative Constitutional Law*, Cheltenham (UK) – Northampton (MA, USA): Edward Elgar Publishing, 2011, pp. 519-531.
10. Dollery, B., Garcea, J. and Lesage, E.C.Jr, *Local Government Reform. A Comparative Analysis of Advanced Anglo-American Countries*, Cheltenham (UK) and Northampton (MA, USA): Edward Elgar, 2008.
11. Elliott, M. and Varuhas, J.N.E., *Administrative Law. Text and Materials*, 5<sup>th</sup> edition, Oxford: Oxford University Press, 2017.
12. Esping-Andersen, G., *The Three Worlds of Welfare Capitalism*, Cambridge (UK): The Polity Press, 1990.
13. Esping-Andersen, G., 'Towards the Good Society, Once Again?', in Esping-Andersen, G., Gallic, D., Hemerijck, A. and Myles, J., *Why We Need a New Welfare State*, Oxford: Oxford University Press, 2002. pp. 1-25.
14. Fazekas, J., 'Central Administration', in Patyi, A. and Rixer, Á. (eds.), *Hungarian Public Administration and Administrative Law*, Passau: Schenk, 2014. pp. 287-303.
15. Fazekas, J., Fazekas, M., Hoffman, I., Rozsnyai K. and Szalai, É., *Közigazgatási jog. Általános rész I. Harmadik, hatályosított kiadás*, Budapest: ELTE Eötvös Kiadó, 2017.
16. Gern, A., *Deutsches Kommunalrecht. Dritte Auflage*, Baden-Baden: Nomos, 2003.
17. Goldsmith, M., 'Central Control over Local Government – A Western European Comparison', in Carmichael, P. and Midwinter, A. (eds.), *Emerging Patterns of Central Control*, London and Portland (OR, USA): Frank Cass, 2003. pp. 91-112.
18. Gomez-Reino, J.L. and Martinez-Vazquez, J., 'An International Perspective on the Determinants of Local Government Fragmentation', in Lago-Peñas, S. and Martinez-Vazquez, J. (eds.), *The Challenge of Local Government Size. Theoretical Perspectives, International Experience and Policy Reform*, Cheltenham, UK – Northampton (MA, USA): Edward Elgar, 2013. pp. 8-54.
19. Hoffman, I., *Gondolatok a 21. századi önkormányzati jog fontosabb intézményeiről és modelljeiről*, Budapest: ELTE Eötvös Kiadó, 2015.
20. Horváth, M.T., *Helyi közszolgáltatások szervezése*, Budapest and Pécs: Dialóg Campus, 2002.
21. Horváth, M.T., 'Eszik vagy isszák? Az ágazati közszolgáltatások rendszertanáról', in Horváth, M.T. and Bartha, I. (eds.), *Közszolgáltatások szervezése és politikái. Merre tartanak?* Budapest: Dialóg Campus, 2016, pp. 25-34.

22. Horváth, M.T., Józsa, Z. and Hoffman, I., 'Újraszabva. A városi kormányzás szövege a kontinensen', in Horváth, M.T. (ed.), *Jelenségek. A városi kormányzás köréből*, Budapest – Pécs: Dialóg Campus, 2013, pp. 9-42.
23. Jakab, A., *European Constitutional Language*, Cambridge (UK): Cambridge University Press, 2016.
24. Kecsó, G., *A helyi önkormányzatok pénzügyi jogi jogállása. A jogállást meghatározó jogintézmények modelljei a bevételi oldalon. Anglia – USA – Magyarország*, Budapest: ELTE Eötvös Kiadó, 2016.
25. Kiss, R., 'Reasserting Local Democracy', in Dollery, B., Marshall, N. and Worthington, A., *Reshaping Australian Local Government. Finance, Governance and Reform*, Sydney: University of New South Wales, 2003. pp. 101-116.
26. Koprić, I. and Džinić, J., 'Local Government and Regional Governance in Europe: for a New Comparative Framework', in Guérard, S. and Astrauskas, A. (eds.): *Local Autonomy in the 21<sup>st</sup> Century. Between Tradition and Modernization / L'autonomie locale au XXI<sup>e</sup> siècle. Entre tradition et modernisation*, Lille: Institut Universitaire Varenne, 2016. pp. 27-38.
27. Kuhlmann, S. and Wollman, H., *Introduction to Comparative Public Administration. Administrative Systems and Reforms in Europe*, Cheltenham (UK) and Northampton (MA, USA): Edward Elgar, 2014.
28. Marcou, G. and Verebélyi, I. (eds.): *New Trends in Local Government in Western and Eastern Europe*, Brussels: IIAS, 1993.
29. Loughlin, J., Hendriks, F. and Lidström, A. (eds.), *Oxford Handbook of Local and Regional Democracy in Europe*, Oxford: Oxford University Press, 2011.
30. Lórinz, L., *A közigazgatás alapintézményei*, Budapest: HVG-Orac, 2007.
31. Lórinz, L., *Az Európai Unió tagországainak közigazgatási rendszere. Összehasonlító közigazgatás*, Budapest: Unió Kiadó, 2006.
32. Moreno, A.M. (ed.), *Local Government in the Member States of the European Union: a Comparative Legal Perspective*, Madrid: INAP, 2012.
33. Neuhofer, H., *Gemeinderecht. Organisation und Aufgaben der Gemeinden in Österreich*, Wien and New York: Springer, 1998.
34. Pállné Kovács, I., 'A magyar területi közigazgatási reformok főbb állomásai', in Pállné Kovács, I. (ed.), *A magyar decentralizáció kudarca nyomában*, Budapest and Pécs: Dialóg Campus, 2016a, pp. 73-85.
35. Pállné Kovács, I., 'Modellváltás a magyar önkormányzati rendszerben', in Jakab, A. and Gajduschek, Gy. (eds.), *A magyar jogrendszer állapota*, Budapest: MTA TK JTI, 2016b, pp. 583-599. (Pállné 2016b)
36. Pállné Kovács, I., 'Bevezetés. A kutatás célkitűzése, elméleti keretei, módszerei', in Pállné Kovács, I. (ed.), *A magyar decentralizáció kudarca nyomában*, Budapest and Pécs: Dialóg Campus, 2016c, pp. 7-11.
37. Pollitt, C., 'Decentralization', in Ferlie, E., Lynn, L.E. and Pollitt, C. (eds.) *The Oxford Handbook of Public Management*, Oxford: Oxford University Press, 2005. pp. 371-397.



38. Pollitt, C. and Bouckaert, G., *Public Management Reforms. Into the Age of Austerity*, 5<sup>th</sup> edition, Oxford: Oxford University Press, 2017.
39. Prebilič, V. and Bačlija, I., 'Dynamics of Administrative Capacity in Slovenian Municipal Administrations', 2013, *Lex Localis – Journal of Local Self-Government*, vol. 11, no. 3, pp. 545-564.
40. Reynolds, O.M., *Local Government Law*, 4<sup>th</sup> edition, St. Paul (MN, USA), 2015.
41. Rose-Ackerman, S., Lindseth, P.L. and Emerson, B., *Comparative Administrative Law*, 2<sup>nd</sup> edition, Cheltenham (UK) and Northampton (MA, USA): Edward Elgar, 2017.
42. Schmidt, T.I., *Kommunalrecht*, Tübingen: Mohr Siebeck, 2011.
43. Seerden, R. and Stroink, F. (eds.), *Administrative Law of the European Union, Its Member States and the United States. A Comparative Analysis*, Antwerpen and Groningen: Intersentia and Metro, 2002.
44. Tonhauser, B., 'Decentralization at Crossroad: Territorial Reforms in Europe in Times of Crisis', in Guérard, S. and Astrauskas, A. (eds.): *Local Autonomy in the 21<sup>st</sup> Century. Between Tradition and Modernisation / L'autonomie locale au XXI<sup>e</sup> siècle. Entre tradition et modernisation*, Lille: Institut Universitaire Varenne, 2016. pp. 17-23.