

**STRUCTURE AND OPERATION  
OF LOCAL AND REGIONAL  
DEMOCRACY**

**Hungary**



# **STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY**

**Hungary**

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## 1. LEGAL BASIS

### 1.1. Constitutional provisions

Article 41:

- (1) The territory of the Republic of Hungary is divided into the capital, the counties, the cities and the municipalities.
- (2) The capital is divided into districts. Districts may be formed in cities.

Article 42:

The community of voters of the municipalities, cities, the capital and its districts, as well as the counties have the right to local government. Local government is the independent, democratic management of local affairs affecting the community of voters and the exercise of local public authority in the interests of the population.

Article 43:

- (1) The fundamental rights of all local governments (Article 44/A.) are equal. The duties of local governments may differ.
- (2) The rights and duties of local governments shall be determined by statute. The lawful exercise of the powers of local government is afforded the judicial protection; the local government may turn to the Constitutional Court for the protection of its rights.

Article 44:

- (1) Voters exercise local government through the representative body [local council] elected by them and by way of local referendum.
- (2) With the exception of by-elections, members of local representative bodies and Mayors shall be elected in October of the fourth year following the previous general elections.
- (3) The mandate of the representative body shall last until the day of the local government elections. If elections were not held due to the lack of candidates, the mandate of the representative body shall be extended until the day of the by-elections. The mandate of the Mayor shall last until the election of the new Mayor.
- (4) A representative body may declare its dissolution prior to the expiration of its mandate and in accordance with the conditions stipulated in the statute on local government. Upon dissolution of the body or its being dissolved [Article 19, Paragraph (3)(l)], the mandate of the Mayor also ends.

Article 44/A:

- (1) The local representative body:
  - (a) shall independently manage and administrate the affairs of local government; its decisions may only be reviewed on the grounds of their legality;
  - (b) shall exercise the rights of ownership in respect of the property of the local government, independently manage local government revenues, and may undertake entrepreneurial activities at its own liability;
  - (c) shall be entitled to its own revenues appropriate for performing the duties of local government as prescribed by law, and shall furthermore be entitled to state support commensurate to the scope of such tasks;
  - (d) shall determine the types and rates of local taxes within the framework established by law;

- (e) shall independently establish its own organization and rules of procedure within the framework established by law;
  - (f) may create symbols and emblems of local government, and establish local honours and titles;
  - (g) may, in public matters that affect the local population, present initiatives to the decision-making organ responsible;
  - (h) may freely merge with other local representative bodies, may create local government associations for the representation of their interests, may co-operate with the local governments of other countries and may be a member of international organizations of local governments.
- (2) Local representative bodies may issue decrees, which may not conflict with higher-ranking legal norms.

#### Article 44/B:

- (1) The Mayor is the chairman of the local representative body. The representative body may elect committees and create offices.
- (2) In exceptional cases, the Mayor may perform duties and exercise powers of the public administration, in addition to his local government responsibilities, in accordance with a law or a government decree authorized by law.
- (3) Duties and powers of the public administration may be assigned, by a law or government decree, to the Notary of the local government and in exceptional cases to the administrators of the Office of Local Government.

#### Article 44/C:

A majority of two-thirds of the votes of the Members of Parliament present is required to pass the statute on local government. The fundamental rights of local governments may be restricted by a law which also requires the same majority.

### 1.2. Main legislative texts

The main legislative provisions concerning local and territorial authorities are formulated by Act No. LXV of 1990 on Local Self-Government ("the act" further on). This act gives shape to the constitutional provisions and it is divided into eleven chapters as follows:

- Chapter 1 – General rules of local self-government;
- Chapter 2 – The municipality;
- Chapter 3 – Associations of local authorities;
- Chapter 4 – Local referendums, people's initiatives;
- Chapter 5 – Village, town and territories thereof;
- Chapter 6 – Town/city of county rank;
- Chapter 7 – The capital;
- Chapter 8 – The county local government;
- Chapter 9 – Funding (economic foundation) of local authorities;
- Chapter 10 – Local authorities and central state bodies, the protection of the rights of local authorities;
- Chapter 11 – Minority local self-government;
- Chapter 12 – Closing provisions.

Other important acts concerning local and territorial authorities are:

- Act No. LXIV of 1990 on the Election of Representatives and Mayors of Local Authorities,



- Act No. LXIV of 1994 on the Functions of the Mayor and the Remuneration of the Members of Local Authorities,
- Act No. CXXXV of 1997 on the Association and Co-operation of Local Authorities and
- Act No. XLI of 1999 on Measures (Rules) of Procedure Altering Area Borders.

Local authorities dispose of their own property and manage their budgetary revenues and expenses independently under the conditions included in Act No. XXXVIII of 1992 on Public Finance (Chapter V). The municipality may assess and levy local taxes in a way laid down in Act No. C of 1990 on Local Taxes. Financial recovery of local authorities is defined in Act No. XXV of 1996 on Municipal Debt Adjustment.

A very important regulation affecting local authorities is Act No. XXI of 1996, amended in 1999, on Regional Development and Regional Planning. The purpose of this act is to establish the fundamental objectives and rules of regional development and regional planning and to set up an institutional system.

## 2. STRUCTURE OF LOCAL AUTHORITIES

### 2.1. Subdivisions

In Hungary there are two basic types of local authorities (local self-government units): municipalities and counties. Some special structures, combining the two, are discussed under 2.3 below. Municipalities and counties each have their own independent spheres of duties and jurisdiction and are independent from one another. A municipality is responsible for local government of a village, a town or a city. Counties usually cover a geographical area larger than municipalities.

The councils of local authorities are free to form associations in order to tackle their tasks efficiently.

### 2.2. Statistical data

#### 2.2.1. Number of local self-government units

Self-government unit		1950	2002*
<b>Counties</b>	Counties	19	19
	County districts	140	-
<b>Municipalities</b>	Capital (Budapest)	1	1
	Cities with county status	-	22
	Towns	53	229
	Districts of Budapest	22	23
	Districts of Miskolc	4	-
	Villages	2 978	2 883
<b>Total</b>		<b>3 217</b>	<b>3 177</b>

\* Situation on 1 January 2002

## 2.2.2. Surface and population of Hungarian self-government units

	Area in hectares*			Population**		
	Largest	Smallest	Average	Highest	Lowest	Average
Village	28 458	71	2 356	15 888	14	1 524
Town	38 501	687	8 925	56 123	1 432	12 573
City with county status	48 322	5 266	18 868	207 560	36 007	91 957
County	844 515	254 419	486 862	1 073 569	221 519	444 243
District of Capital	5 483	209	2 283	140 975	20 807	76 382
Capital			52 516			1 756 796

\* Situation on 1 January 2002

\*\* Situation on 1 February 2001

## 2.2.3. Municipalities by population\*

Population	Number of municipalities	Percentage of the total number of municipalities	Average population
Below 1,000	1 706	54,4	456
1,000 – 5,000	1 156	36,8	2 119
5,000 – 10,000	136	4,3	6 958
10,000 – 50,000	122	3,8	19 337
50,000 – 100,000	12	0,38	64 086
100,000 – 500,000	8	0,25	147 447
Above 500,000	1	0,03	1 756 796

\* Situation on 1 February 2002

## 2.3. Special structures

Parliament may, at the request of the municipal council, declare a town with a population of more than 50 000 a town/city of county rank. A town which is a county seat is a city of county rank. A city of county rank functions as any other municipality but it shall, within its own jurisdiction, also fulfil the responsibilities and exercise the jurisdiction of county self-government on its territory. A city of county rank may decide to create districts and set up district offices. No cities (except the capital, Budapest, see hereafter) currently have districts, nor is there any intention to create them.

The local government of the capital, on which the law contains specific provisions, has a two-tier system comprising local government of the capital and that of its districts. The capital and the metropolitan districts are managed by municipalities with separate responsibilities and authorities, as defined by law.

#### **2.4. Changes in territorial boundaries**

According to regulations, certain decisions concerning the borders of communities may solely be adopted upon local initiative (establishment of a new village, merging of villages, separation of villages, annexation to another county). This precludes forced measures coming from higher levels. The parliament or the President of the Republic will decide on the basis of local initiatives.

The transfer, receipt or exchange of plots of land altering territorial borders may be settled by the representative bodies in an agreement without consent or decision from higher levels.

At the initiative of local constituents, a part of an existing village may be transformed into a separate new village if it has a population of at least 300 which – on the basis of its conditions and circumstances – is able to exercise the right of local self-government and to perform such tasks without reduction of the standard of services. Terminating the unification of villages may be initiated under the same conditions.

Based on a local referendum, the local councils concerned shall, in a resolution, initiate the unification of villages, or of a town and village already built together and shall, at the same time, propose a name for the new town. The village that has lost its separate identity may retain its name as part of the name of the unified town. The council may, upon request, give to the local community of a given town partial self-government rights, in respect of matters exclusively concerning the given part.

In case of the transfer of an inhabited territory, the majority support of the constituents living there, declared at a public meeting or through a local plebiscite, is required for the agreement. The transfer of an inhabited territory may not be refused if it is initiated and decided by the majority of the constituents living there through a local plebiscite.

The municipal council may, with a qualified majority resolution, request that parliament annex the municipality to the territory of a county adjoining its territory. The county council concerned shall take a stand on the acceptance of a municipality intending to join another county.

Parliament decides on geographical boundaries, the names and seats of counties, after having consulted the local authorities concerned, in addition to the consolidation and separation of counties, the changing of their borders, names and seats, on declaring a town to be a town of county rank and on the establishment of districts in the capital.

The President of the Republic shall decide, at the initiative of the local authorities concerned, on the granting of the title of town/city, as well as on the creation and unification of villages, the dissolution of their union and the naming of towns and villages.

#### **2.5. General units of state administration at local level and their relationship with local authorities**

With the participation of the Minister of the Interior, the government shall provide for the supervision of the legality of the activities of local authorities through the head of the metropolitan or county public administration office.

The metropolitan or county public administration office is a budgetary body which performs central state administration duties.

The head of the Public Administration Office:

- supervises the legality of the activities of local authorities and of local minority self-government; he/she may investigate local authority decisions taken by deliberation, but only as to their compliance with the law;
- deals with state administration, jurisdiction and tasks within the sphere of authority as defined by law and delegated by the government;
- may request the State Audit Office to investigate the financial management of a local authority;
- calls a meeting of the local council if the mayor fails to act according to the provisions defined in the Act on Local Self-Government;
- provides expert/professional assistance in matters falling within his scope of duties and authority, at the request of a local authority.

The head of the Public Administration Office shall investigate the legality of:

- the organisation, its operation and decision-making procedure;
- decisions (decrees, resolutions);
- the resolutions adopted by a committee, by a local segment of government, by the mayor, lord mayor, the chairman of the County General Assembly or local/regional minority self-government.

Within the scope of supervising legality, the head of the Public Administration Office shall call upon the party concerned to cease the infringement of the law, setting a deadline. The party concerned shall investigate the facts referred to and shall, within the deadline, inform the head of the Public Administration Office of the measures taken on the basis thereof, or of its disagreement.

If no measure is taken within the deadline set, the head of the Public Administration Office may initiate:

- a. the revision and nullification of the local authority decree in conflict with the law – by the Constitutional Court;
- b. the revision by court of the resolution infringing the law;

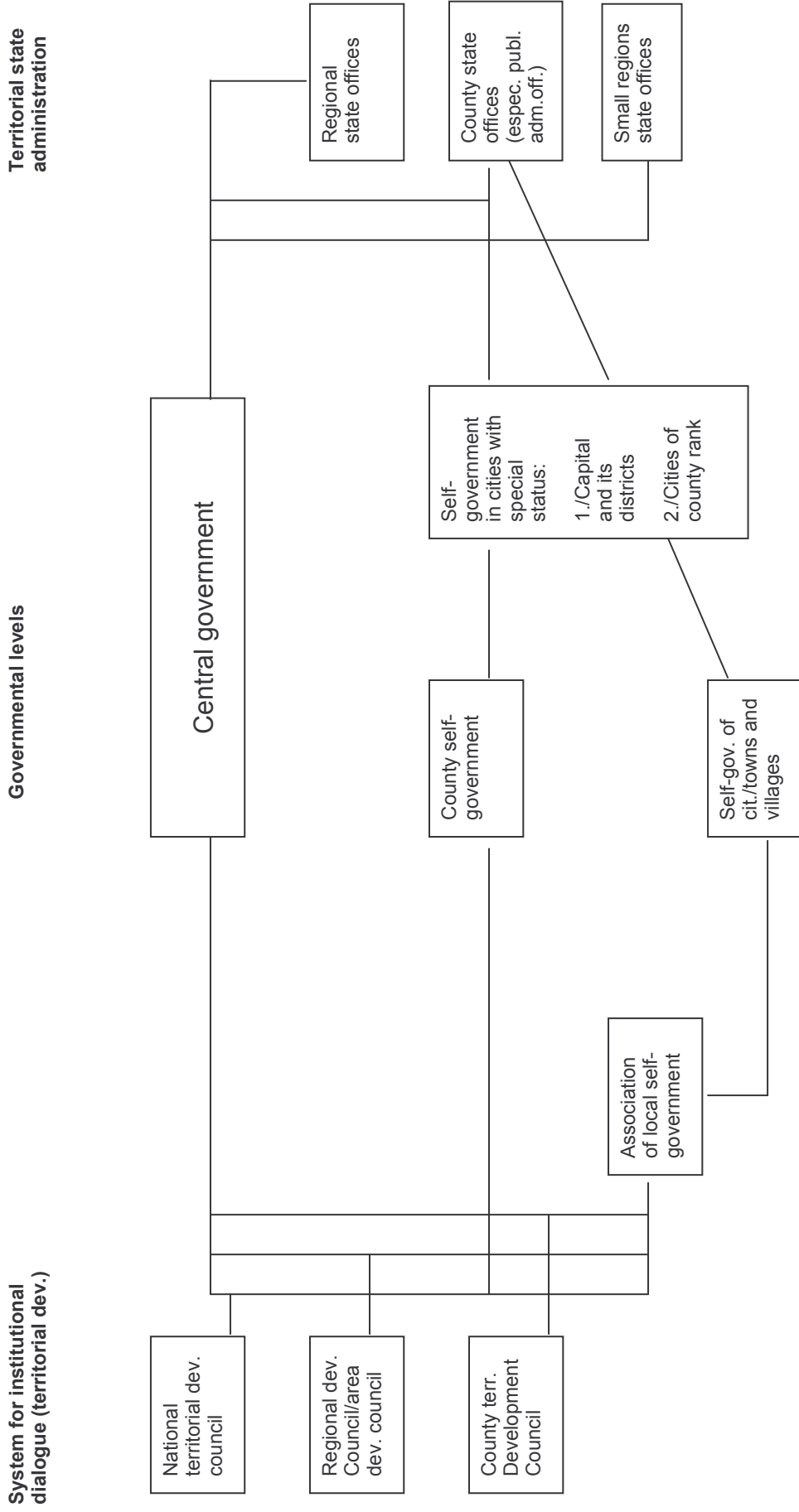
Starting the action has no staying effect in respect of the implementation of the decision, but a suspension of execution may be applied for with the court.

- c. the convening of the local council to put an end to the illegal act and to establish the responsibility of the appropriate officer of the local council.

The metropolitan or county public administration offices ensure the harmonisation of the operation of state administrative services with the exception of those regulated by the law (central police stations, tax and financial control offices).

The heads of the metropolitan or county public administration offices are appointed by the Prime Minister on the proposal of the Minister of the Interior and the Minister for the Prime Minister's Office.

# ORGANIGRAM



### **3. ORGANS OF EACH CATEGORY OF LOCAL AUTHORITY**

#### **3.1. Deliberative bodies**

The deliberative body of a municipality is called the body of representatives. In this report it will be referred to as the municipal council. The deliberative body of a county, a city of county rank (i.e. where the competences of the municipality and the county are combined into one) and of the capital is called a General Assembly. The deliberative bodies of the districts of the capital are municipal councils. Where this report makes reference to both municipal councils and general assemblies the terms "local councils" will be used.

Councils hold sessions as needed, but at least six times a year. These sessions – with some exceptions provided for by law – are public.

For the settlement of local matters not regulated by law, where authorised by the act, local councils may pass a decree.

Local councils shall lay down the detailed rules of their operation in a decree.

Before the end of their mandate, local councils may pronounce their dissolution through a nominal vote by a qualified majority. In this case, a by-election shall be called within seventy-five days.

A local authority is a legal entity. Within the framework of the Act, a local authority may independently develop its organisation and order of operation, may create symbols, may establish decorations/medals and titles/awards of recognition.

A local council may establish institutions, enterprises, other organisations with the purpose of providing public services belonging to its range of tasks, and may appoint their leaders/managers. It may set up an economic association or initiate the creation of a co-operative, in both cases for economic purposes.

District delegates commissioned by the district councils of the capital attend meetings of the General Assembly of the capital and have the right to speak but no vote.

Members of the local councils are elected on the basis of universal, secret, equal and direct suffrage for a term of four years. All resident Hungarian subjects of at least 18 years of age may elect and be elected. Immigrants without Hungarian citizenship may vote but not be elected.

Persons who:

- are under guardianship because of full or partial incapacity in managing their affairs;
- are affected by a final decision of a court of justice and are excluded from public affairs;
- are inmates of a criminal institution;
- are subject to compulsory medical treatment legally initiated by a criminal procedure;

are excluded from both passive and active electoral rights.

There is no specific regulation on financing local electoral campaigns. Activities and the financial management of political parties are regulated by a specific act which includes provisions concerning central government subsidies to political parties. Beside that, budgetary institutions are prohibited from financially supporting any part of a municipal or county election campaign.

In municipalities with a population of 10 000 or less, there is a “shortlist” electoral system, by which only one electoral district is created.

In municipalities with more than 10 000 inhabitants and in the capital districts, members of councils are elected through a mixed electoral system: firstly representatives are elected in individual electoral districts and secondly through a list drawn up by the parties.

### Number of municipal councillors

Population of the municipalities	Number of councillors elected from lists	Number of councillors elected from individual electoral districts
100 or less	3	0
101 – 600	5	0
601 – 1 300	7	0
1 301 – 3,000	9	0
3 001 – 5 000	11	0
5 001 – 10 000	13	0
10 001 – 25 000	7	10
25 001 – 50 000	9	14
50 001 – 60 000	10	15
60 001 – 70 000	11	16
More than 70 000	16+1 for each 15 000 inhabitants over 70 000	11+1 for each 10 000 inhabitants over 70 000

For the election of members of the capital General Assembly, there is one electoral district and sixty-six representatives from lists, drawn up by the parties, are elected.

For the election of members of the county General Assembly, there are two electoral districts: one for counties with a population 10 000 or less, and one for counties with a population exceeding 10 000. The number of representatives is between forty and eighty according to the number of inhabitants of the county.

Individual candidates as well candidates of small lists must be supported by at least 1 per cent of the constituents of the electoral district. Candidates nominated by organisations must be supported by 0.3 per cent of the population.

Where no candidate of a national or ethnic minority is elected, the candidate of a national or ethnic minority who received the most votes at the general local election shall become the local spokesperson of the minority. He/she may participate – as a delegate with the right to speak but not to vote – in council sessions.

National or ethnic minorities can establish self-government in villages, cities, in the capital city and in its districts. A minority self-government body can be declared if at least half of the council members were elected as national minority candidates.

When at least 30 per cent of the members of the local council were elected as candidates of a minority, these representatives may establish an indirect local minority self-government body with a minimum of three members, which functions separately.

The direct way to establish a local minority self-government body is the direct election of a local minority self-government body. The capital can establish a distinct local minority self-government body through indirect election only. National or ethnic minorities can also create country level minority self-government bodies on the basis of indirect election (elector system).

Members of local councils may participate in the preparation of the decisions to be taken and in the organisation and supervision of their implementation. The rights and duties of all local elected representatives are identical.

The local council may elect councillors from among its members. The councillor shall supervise the carrying out of duties assigned to him/her by the local council.

Local councils determine the organisation of their committees and elect their members. The County General Assembly and councils of communities with more than 2,000 inhabitants are obliged to appoint a financial committee.

At the initiative of its members who have received a mandate as minority candidates, local councils shall establish a committee dealing with the affairs of minorities.

Within their specific field of competence, committees prepare files to be studied by local councils, organise and control the implementation of decisions. Local councils may grant their committees the right to make certain decisions and to review decisions; they may establish official jurisdiction for a committee by means of a decree.

The chairman and more than half of the members of the committee shall be elected from among the local elected representatives. Neither the mayor, the deputy mayor/chairman of the General Assembly, nor the employees of the office of the local council may be the chair or a member of a committee.

It is possible to elect to the committee a representative of a major organisation which provides services within the competence of the committee, or a representative of a voluntary social organisation.

The mayor may suspend the implementation of a decision made by a committee if it is contrary to the decision of the municipal council or infringes the interests of the municipality. The municipal council shall resolve the suspended decision at its next session.

The local council may establish (in its organisational and operational regulations) self-government bodies for parts of its area. The heads must be members of the local council.

A district council may set up self-government bodies for certain parts/areas of the city. Several district councils may also jointly set up such self-government bodies.



The local council may transfer certain areas of its jurisdiction – in matters concerning that specific part of the city – to such a partial self-government body and it may put funds at its disposal.

The municipal council shall set up a unified office – called the mayor's office – to carry out tasks connected with the functioning of the municipality, with the preparation of state administration matters for decision, and with their implementation. This body is headed by a notary, appointed by the municipal council on the basis of a competition (see 3.3. below).

In certain cases of small villages, the duties of the mayor's office shall be carried out by the office of the district notary (see 3.3. below.)

Administrative duties for the operation of committees are carried out by the mayor's office. The latter may set up branch offices to assist the work of the local authority of part of the community; these may – at the same time – provide client service in the administration of the population's affairs.

The work of the counties, bodies and officers is assisted by a county office. Its duty is the professional preparation of the decisions, and the organisation and supervision of the execution of decisions. The head of the county office is the county's notary-in-chief who is appointed by the General Assembly.

### **3.2. Political head of the local regional authority**

The mayor (lord mayor in the case of the capital) is the political head and the executive body of the municipality. The municipal council is represented by the mayor. The mayors of the municipalities as well as the lord mayor of the capital are directly elected by the inhabitants of the municipality.

The municipal council shall elect a deputy mayor – and may elect several – from among its members, upon proposal of the mayor, with a secret ballot, for the duration of its mandate, to stand in for and assist the mayor in his work. The deputy mayor fulfils his/her duties under the direction of the mayor.

Mayors are elected in the districts of the capital and a lord mayor is elected in the capital. The General Assembly of the capital may elect deputy lord mayors from among its members, by secret ballot.

Candidates for mayor must be supported:

- in a community with 10 000 or less inhabitants by at least 3 per cent of the constituents;
- in a community with more than 10 000 but less than 100 000 inhabitants by at least 2 per cent of the constituents, with a minimum of 300 votes cast;
- in a community with more than 100 000 inhabitants by at least 1 per cent of the constituents, with a minimum of 2 000 votes cast.

Candidates for lord mayor must be supported at least by 0.5 per cent of the constituents in the capital.

The mayor is a full member of the municipal council. After election, the mayor shall take an oath before the municipal council.

In regard of the mayor, the municipal council shall exercise employer's rights; it shall set his/her salary within the legal limits. The mayor is responsible for state administration activities delegated to him/her according to the rules of public service.

The mayor may not be:

- President of the Republic, member of the Constitutional Court, parliamentary commissioner of the citizens' rights (“ombudsman”), ombudsman for national and ethnic minority rights;
- president, vice-president and auditor of the State Audit Office;
- member of the government;
- secretary of state, deputy secretary of state;
- head of a public administration office of the capital or of a county or civil servant thereof;
- managing director or other employee of the State Property Agency;
- judge, prosecutor, public notary, court bailiff;
- professional member of the armed forces or of the police;
- civil servant of a public administration body whose range of duties include matters concerning the given local authority;
- mayor, deputy mayor or member of the council of another local government body;
- head of an institution of the same local authority and/or civil servant who receives an executive mandate from the council.

A mayor and his relatives may not be a member or senior officer of an economic association or co-operative whose members include the local authority, or of a budgetary body or trading agricultural organisation founded by the local authority.

A full-time mayor may not enter into any other contractual employment, with the exception of an intellectual activity within the spheres of science, education, proof-reading, editing, art and other activities falling under legal protection, and with the further exception of a mandate as a member of parliament.

A full-time mayor may not be – without the consent of the municipal council – a member of a supervisory board, of a board of directors, a senior officer of an economic association, officer of a co-operative, member or officer of the curatorium of a foundation.

The Chairman of the County General Assembly is elected by the County General Assembly from among its members, with secret balloting, for its four-year mandate.

The provisions mentioned above concerning the taking of the oath, the determination of his/her remuneration and the incompatibilities of the mayor apply analogously to the President of the General Assembly.

### **3.3. Head of administration**

The municipal council appoints a notary who heads the mayors' office. The office of a metropolitan district council is headed by the notary, while the office of the General Assembly of the capital (the office of the lord mayor) is headed by the notary-in-chief. The General Assembly of the capital may appoint several deputy notaries.

The notary must meet the qualifications established by law and is appointed on a competitive basis by the local council. Upon the proposal of the notary, or the notary-in-chief, the local council may (in villages) or shall (in other places) nominate a deputy notary to carry out duties defined by the notary. The appointment shall be for an indefinite period of time. The rules applicable to the notary also apply to the deputy notary.

If they cannot appoint a notary with the required qualifications, municipalities having less than 1 000 inhabitants and adjacent to each other within the county shall establish and maintain a single district notary's office to perform their administrative duties. A place with more than 1 000 but less than 2 000 inhabitants may also be part of the office of the district notary. The seat of the office of the district notary may also be a town of more than 2 000 inhabitants.

The municipal councils involved must agree on the establishment of a district notary's office. The district notary shall be appointed by the joint session of the municipal councils by unanimous decision. Decisions on issues related to the work of the district notary's office shall be made, as necessary, at the municipal councils' joint session.

The district notary shall perform administrative duties connected with the functioning of the municipal councils, the committees and the work of local elected representatives, as well as the preparation and implementation of state administration decisions which are within the jurisdiction of the mayor.

The district notary, or his/her representative, is obliged to attend the session of each municipal council and to provide necessary information. He/she must make an annual report on the work of his/her office to each municipal council.

The district notary or his/her representative shall have office hours for the public, at least one day per week in each place, with a frequency agreed on by the municipal councils in the organisational and operational regulations.

Supervision of the operation of the district notary's office and co-ordination of duties shall be performed jointly by the mayors of the municipalities concerned.

The work of the counties, bodies and officers is assisted by a county office. Its duty is the professional preparation of the decisions, and the organisation and supervision of the execution of decisions. The head of the county office is the county's notary-in-chief who is appointed by the General Assembly.

### **3.4. Distribution of responsibilities among local authority bodies**

#### *The deliberative body (the local council)*

The deliberative body (the local council) has jurisdiction over the municipal/county competence and adopts municipal/county decisions.

It may transfer certain of its powers to the mayor or chairman of the General Assembly, to its committees, to the body of partial local government and to the body of self-government of the local minority, as well as – within the limits of the law – to local authority associations. It may give instructions for the exercise of these powers, it may grant them the right to pass municipal decisions in certain matters and it may repeal these powers. The transferred powers cannot be further delegated. Certain decisive powers of the deliberative body – provided for by law – may not be transferred.

The local authority may express its opinion and may take an initiative in matters not belonging to its range of duties and jurisdiction but which concern the local authority. The body with jurisdiction to decide must give – within the deadline set by statutory provision – a reply to the local authority.

The local authorities may undertake different ranges of duties and jurisdiction, depending on local needs and capacity.

An act may assign more compulsory duties and a larger jurisdiction to a local authority with a larger population. A municipality with a smaller population – if it can provide therefore itself, or in association with other authorities – may voluntarily undertake in its field of action the organisation of public services prescribed as compulsory for a municipality with a larger population and/or for the local government body of the counties.

The scope of duties and jurisdiction undertaken voluntarily by, or imposed on local authorities, cover a wide range of local public affairs. An act may – as an exception – refer a local public affair to the sphere of duties and jurisdiction of another organisation.

There is no dependence between the local authorities of the county and the municipalities (towns/villages); they co-operate on the basis of mutual interest.

#### *The mayor/chairman of the General Assembly*

An act (or, on the basis of the authorisation given by an act, a government decree) may – by way of exception – vest the mayor, the lord mayor or the chairman of the County General Assembly with the jurisdiction of a state administrative authority. An act or a government decree may assign state administration duties, and/or an authority's jurisdiction to the notary, the notary-in-chief and, exceptionally, to the administrator of the council's office.

In cases prescribed by an act or, on the basis of authorisation given by an act, by a government decree, the mayor, the lord mayor or the chairman of the County General Assembly must participate in the local management and execution of national tasks of state administration in cases of national defence, civil defence, and the prevention of natural disasters.

If the mayor, the lord mayor or the chairman of the County General Assembly act in their own sphere of duties of state administration, and/or within the jurisdiction of authority of state administration, the local council may not direct them, and may not overrule their decision.

The mayor/chairman of the General Assembly manages the office in accordance with the local council's decisions and within his/her own municipal competence. He/she shall define the duties of the office in order to organise the work of the local authority and to prepare and implement the decisions, also taking into account the proposals of the notary.

If the mayor/chairman of the General Assembly considers the local council's decision to be injurious to the interests of the local authority, he/she may – in the same matter – initiate a second discussion of the decision, but only once. He/she may submit the initiative within three days following the session, and the deliberative body shall decide within fifteen days.

#### *The notary/notary-in-chief*

The notary/notary-in-chief heads the local council's office and implements tasks connected with the functioning of the local authority (see 3.3).

He/she decides in matters referred to his/her jurisdiction. The notary/notary-in-chief must notify the local council, the committee and the mayor/chairman of the General Assembly, if he/she perceives any infringement of legal provisions in their decisions.

The notary/notary-in-chief exercises employer's rights in respect of the civil servants of the local council's office. In certain areas, defined by the mayor/chairman of the General Assembly, the mayor's/chairman of the General Assembly's consent is required for the nomination, for an executive appointment or dismissal, for the recall of the executive appointment and for issuing rewards.

The notary/notary-in-chief participates with a right to speak but no vote at the local council sessions and those of its committees.

#### **4. DIRECT CITIZEN PARTICIPATION IN THE DECISION-MAKING PROCESSES**

##### **4.1. Local referendum**

Municipal councils must call a local referendum on unification of villages, the termination of such unification, on the establishment of a new village, on the establishment of a joint council and separation from a joint council and in matters so determined in a municipal decree.

A local council may order a local referendum in matters falling within its jurisdiction, as well as to confirm a municipal decree.

No local referendum may be ordered to decide on the budget, in respect of a decree levying local taxes and/or their rates, as well as in organisational, operational and personal matters falling within the jurisdiction of the council, or concerning the declaration of the dissolution of this body.

Local referendums may be initiated by a number of inhabitants, defined in the municipal decree (between 10 and 25 per cent of the constituents). Subject to the council's approval, a referendum may also be initiated by at least one quarter of the elected representatives, by a committee or by the managing body of local voluntary social organisations.

In a village with a population of less than 500, the council may delegate the local referendum to the competence of the village meeting, on the condition that the decision of the village meeting qualifies as a local referendum decision (if more than half of the constituents attend the village meeting).

A local referendum is valid if more than half of the constituents have cast their votes, and it is successful if more than half of those who voted have given the same answer to the question asked.

Anyone who is eligible to vote in municipal elections may take part in local referendums.

The outcome of a local referendum shall be binding on the local council. In the case of an unsuccessful local referendum, the local council may decide on the matter put to referendum. No local referendum may be called in respect of the same issue within a year, even if the local referendum was unsuccessful.

##### **4.2. Other forms of direct citizen participation in the decision-making processes**

All matters, in respect of which the local council is competent to decide, may be presented through a people's initiative. Anyone who is eligible to vote in the municipal/county elections may take part in people's initiatives.

A number of constituents (between 5 per cent and 10 per cent, as defined in the deliberative body's municipal decree), may submit a people's initiative to the mayor. The local council shall debate the people's initiative within a month.

Local councils shall regulate other conditions and the procedural order of local referendums and of people's initiatives, via a municipal/county decree.

## **5. STATUS OF LOCAL ELECTED REPRESENTATIVES**

### **5.1. Duties and responsibilities of local elected representatives**

According to the Act, the local elected representative represents the interests of his/her electors with a responsibility undertaken for the entire town. He/she may participate in the preparation of decisions by the deliberative body and in the organisation and supervision of their implementation. The rights and duties of the various local councillors are identical.

At the local council's session, an elected representative may request information regarding municipal matters from the mayor, deputy mayor, the notary or the chairman of a committee. Such a request must be answered at the session or within fifteen days, in writing.

At the request of the representative, his/her remarks shall be included in the minutes.

The representative may participate as a delegate with the right to speak but not to vote at the session of any committee. He/she may propose to the chairman of the committee the discussion of any matter within the range of duties of the committee; the matter must be submitted to the next session of the committee, and the local representative must be invited to the discussion thereof.

The representative may initiate a revision by the council of a decision, taken in a municipal matter transferred by the council to a committee, the mayor, the partial local government body or to the local minority self-government body.

On the basis of a mandate, the local elected representative may represent the council.

The representative may request the council's office for information and administrative assistance necessary for his/her work. In matters of public concern, he/she may initiate a measure to be taken by the council's office. His/her initiative must be responded to by the office within fifteen days.

The representative is required to participate in the work of the local council.

There are no legal sanctions especially applicable to local elected representatives. If a conflict of competence occurs, the mayor must remedy the situation within thirty days of either his/her election or of the emergence of the reason for the conflict of competence.

If the mayor does not fulfil his/her obligations, upon the motion of any representative and (with the exception of villages with less than 100 inhabitants) on the basis of the proposal of a committee with three members, elected from among the representatives, the deliberative body shall analyse the circumstances giving rise to a conflict of interests and pronounce the existence of a conflict of interests, and/or it may decide to give its consent, if the text of the act permits.

In the case of repeated activities or omissions by the mayor infringing the law, the local council may – on the basis of a decision passed with a qualified majority – start an action against the mayor, before the county or metropolitan court which has jurisdiction according to the seat of the local authority, for the termination of his/her term of office. At the same time, it may request the suspension of the mayor. The court shall deal with this action on a priority basis.

In the course of the court's proceedings, the provisions of Act III of 1952 on the Code of Civil Procedure shall apply, with the difference that no counterclaim, discontinuance or compromise may take place in this action.

There are no provisions for the resignation of local representatives.

## **5.2. Working conditions**

Local representatives – with the exception of the mayor – do not fulfil their task as a full-time occupation.

They must have leave of absence from their workplace for the period of time required for participation in the work of the council. The resulting loss of income shall be compensated for by the local council, the representative of the municipality also being entitled to social security benefits.

The act regulates the employment conditions of the mayor and the remuneration of the members of local authorities. It deals with the establishment and termination of employment (legal aspects), with disciplinary responsibility, with the mayor's responsibility for damages and so forth.

In a village with less than 3 000 inhabitants, the office of mayor may also be filled on a voluntary basis.

The legal basis of the mayor's employment is as a special public servant. This will be established through election, and can be terminated in connection with his/her elected mandate and with his/her own decisions and actions.

The way of filling the office of mayor (full-time or part-time) may be changed by the local council once within the duration of the mandate, with the consent of the mayor.

A full-time deputy mayor may be elected in municipalities with more than 3,000 inhabitants.

Municipal representatives are not entitled to holidays in return for their activities.

A central training programme to provide the representatives elected on 20 October 2002 with knowledge necessary to carry out their duties is being prepared by the Ministry of the Interior.

There are no duties or activities which may not be pursued by the representative of a community following the expiration of his/her mandate. There are no regulations for the vocational reintegration of elected representatives who are not re-elected.

There are no training or information programmes initiated by the central state for local candidates or for elected representatives. Local bodies are responsible for training.

## **5.3. Remuneration**

The local council may set an honorarium, or benefits in kind, for local representatives, for the chairman of the committee, for members of the committee, for the councillors within the limits set by the act. The honorarium of the representative may not exceed 25 per cent of that paid to the mayor. This amount may be increased, within the limits of the law, for committee members or a chairperson.

Any such remuneration of the local elected representatives is subject to regular social contributions and income tax.

#### **5.4. Reform of the status of local elected representatives**

The regulation included in the Constitution and in the Act on Local Self-Government as well as in the Act on Elections is incomplete. The Hungarian Parliament adopted Act No. XCVI of 2000 on certain aspects of the local representative's legal status. This includes a regulation of how mandates take effect and are terminated, on training and further education, on the cases of incompatibility as well as on the procedure applied in cases of incompatibility. The act entered into force on 20 October 2002.

The Act No. CII of 2001 introduced the obligation for mayors as well as for local elected representatives to declare their personal property. The same act defines the legal rules of the procedure.

### **6. DISTRIBUTION OF POWERS BETWEEN THE VARIOUS CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES**

#### **6.1. Principles governing the distribution of powers**

There are two categories of tasks, compulsory and optional. The compulsory tasks of local authorities comprise both tasks concerning local affairs and the delegated tasks exercised on behalf of public state administration.

An act may determine compulsory spheres of duties and jurisdiction for the local authority. Simultaneously parliament will ensure the financial conditions necessary for their being carried out; it shall decide on the extent and methods of state budgetary contribution.

Local authorities may undertake independently and voluntarily the solution of any local public affair which is not referred by a legal provision to the jurisdiction of another body. In local affairs undertaken voluntarily, the local authority may do anything that does not infringe a legal rule. The solution of local public affairs, undertaken voluntarily, may not endanger the performance of compulsory duties and jurisdiction prescribed by the Act.

Local public affairs are related to the provision of public services and the local exercise of public power, as well as to the local creation of the organisational, staffing and material conditions thereof.

The scope of duties and jurisdiction, undertaken voluntarily by, or prescribed obligatorily for a local authority, cover a wide range of local public affairs. An act may – as an exception – refer a local public affair to another authority.

Local authorities may undertake different ranges of duties and jurisdiction, depending on local needs and capacity.

An act may assign more compulsory ranges of duties and jurisdiction to a local authority with a larger population and capacity than others. A municipal administration with a smaller population – if it can provide therefore itself, or in common with its association – may voluntarily undertake in its field of action the organisation of (public) services prescribed compulsorily for a community with a larger population, and/or for the county authorities. In such a case, it may request that the provision of funds proportionate to the assumed task be ensured.



## 6.2. Competences of local and regional authorities in their own right

### 6.2.1. Municipalities

Within the scope of the local public services, the tasks of the municipalities are in particular:

- development of the town/village planning;
- protection of urban and natural environment;
- housing management;
- water resource planning and rain water drainage;
- maintenance of pipes and sewerage networks;
- maintenance of public cemeteries;
- maintenance of local public roads and public areas;
- providing local public transport;
- maintenance of public sanitation and the cleanliness of the town/village;
- providing for local fire protection and for local duties of public security;
- participation in the local supply of energy,
- participation in the fight against unemployment;
- provision of kindergartens;
- provision of primary education and instruction;
- health and social provision, particularly concerning children and young people;
- ensuring the provision of community space/forum;
- support of public education, scientific and artistic activities including sport;
- protect the rights of national and ethnic minorities;
- promotion in the community of healthy living conditions.

In respect of the tasks mentioned above, the municipality decides – on the basis of the needs and depending on its financial resources – which duties it will provide for, to what extent, and in what way.

The municipality must provide for safe drinking water, kindergarten education, primary school instruction and education, for the basic health and social welfare provisions, for public lighting, for the maintenance of local public roads and public cemetery; it is also obliged to protect the rights of national and ethnic minorities.

Within the range of its tasks, the municipality also supports the activities of independent communities of the population and co-operates with them.

### 6.2.2. Counties

Counties must provide for the carrying out of tasks prescribed by law, which municipalities are not compelled to perform. An act may make it the binding duty of the county to ensure regional public services which cover the whole territory of the county or a large part thereof. An act may prescribe, as a binding county duty, the organisation of a public service of a regional nature, if the majority of its users do not reside on the territory of the town/village where the seat of the institution providing the service is located.

With the agreement of the county authorities, a municipality may take over for the maintenance, development and direction of an institution providing a public service of a regional nature and is located on its territory, for a period of at least three years, if during the preceding four years the majority of its users were inhabitants of the municipality.

Within the range of public services prescribed by law as compulsory county duties, a municipal authority may establish a new district institution, organise a new district service, alone or in co-operation with its association, as a duty assumed voluntarily.

In the cases mentioned above, the municipal authority should receive a revenue subsidy proportionate to the duties taken over. It may not, over and above the revenue subsidy received from the county authorities and/or from the state budget, claim any other supplementary state or county subsidy, and must not refuse to satisfy demands from non-residents for the public service it operates.

The county authority's binding duties are in particular the following:

- the maintenance of secondary schools, special schools and colleges, if this is not undertaken by the local authority ensuring provision in accordance with a separate act; the collection, safekeeping, scientific processing of museum exhibits and relics of nature and society to be found in the county, as well as of historic documents; furthermore, the services of a county library, expert consulting and services in the range of pedagogy and general education; tasks of the county's physical training, sports organisation, as well as the protection of the rights of children and youth;
- education of children under permanent medical treatment in health care institutions; education, upbringing of and caring for handicapped children, who cannot be educated together with other children; special health care exceeding basic care, if this is not undertaken by the municipality which is compelled to provide these in accordance with a separate act, as well as the specialised provision of child and youth protection; territorial co-ordination of specialised social services; it also looks after certain tasks falling within the scope of specialised provisions;
- co-ordination of duties connected with the protection of the architectural and natural environment, of regional planning, the exploration of tourism values of the county, setting tourism targets for the county and co-ordinating the activities of those participating in the performance thereof; it participates, furthermore, in the co-ordination of employment-related tasks and vocational training of the region and in the development of a regional information system;
- if a county institution which fulfils duties as defined above also provides for a public service belonging to the compulsory range of duties and authority of the municipality or for a public service undertaken voluntarily by it, the county authority shall come to an agreement, or may establish an association, for the joint maintenance, development and direction of the institution, at the initiative of the local authority involved.

Within the range of its duties and within the framework set out by a separate act, the counties' Regional Development Council co-ordinates the duties of urban development and of the regional development programmes.

In addition to the performance of its legal duties, the county authority may freely undertake any public duty which is not referred by an act into the exclusive range of duties and authority of another organ, and whose performance does not violate the interests of the villages and towns located in the county.

### 6.2.3. City of county rank

A city of county rank both functions as a municipality and a county on its own territory, combining the responsibilities of both.

### 6.2.4. The capital

The capital and the metropolitan districts are local authorities with separate responsibilities and powers as defined in the Act.

A district authority shall, within its territory of operation, provide for kindergarten education, primary school education and teaching, the basic health care and social benefits, and, within its range of responsibilities, for the supply of safe drinking water, the maintenance of local public roads and protection of the rights of national and ethnic minorities.

The metropolitan authority shall fulfil both the compulsory and voluntary county and municipal responsibilities and exercise authority on matters which concern the whole of the capital, or a part thereof which is larger than a district, or are related to the special role played by the capital in the country. The act establishing responsibilities and jurisdiction for local authorities defines whether a specific responsibility or jurisdiction in the capital is that of the capital or of a district authority.

A district council, on its territory of operation, or an association of district councils may, in respect of several districts, undertake to organise public services which fall within the responsibilities and jurisdiction of the metropolitan authority, based on an agreement of the councils concerned and of the General Assembly of the capital.

The General Assembly may, within its own sphere of responsibilities and authority, and on the basis of an agreement, transfer responsibilities and authority to the district authorities. The General Assembly shall, in proportion to the responsibilities and authority so transferred, provide the financial means necessary for the fulfilment thereof for the district authorities or their associations.

The responsibilities and authority of the metropolitan authority include the following:

- defining the capital's development and rehabilitation programme and its general town planning policy, creates Budapest's town planning rules; declares in a decree the architectural neighbourhoods of the capital that are important and characteristic for townscape or historical reasons as protected, with special regard to the buildings, structures, and areas declared to be part of the world heritage; regulates the conditions of the upkeep, renovation and maintenance of these protected values;
- performing the tasks related to housing, within the framework of which: draws up a home-building and home rehabilitation plan and co-ordinates its implementation; determines the system of subsidising home-building, establishes the rental zones in respect of homes owned by local authorities, decides on the principles of setting rents and granting subsidies for home maintenance, regulates the conditions of obtaining homes owned by local authorities and the exchange of homes;
- providing for the fulfilment of municipal responsibilities related to the prevention of – and dealing with – natural disasters;
- supervising tasks – in areas covering more than one district – related to the supply of safe drinking water, gas and central/district heating service, water management, sewage and rainfall drainage and sewage water treatment; takes part in ensuring the capital's energy supply and its public lighting; provides for the capital's flood and inland water control, including in particular the maintenance and development of the capital's flood and inland water control establishments;
- dealing with municipal tasks related to waste treatment, ensures urban hygiene, provide for the collection, disposal, treatment/neutralisation and utilisation of solid and liquid communal wastes, designates the deposit areas required for disposal;

- selecting areas suitable for the establishment and expansion of public cemeteries, provides for the maintenance and operation of public cemeteries;
- performing the capital's tasks and duties connected with public transport and traffic technology, designates the main traffic routes and the routes used by public transport, provides on the territory of Budapest for the operation, maintenance and development of the national public roads, bridges, under- and overpasses and footbridges, other than motorways and highways, which are owned by the local authority, as well as for the operation, maintenance and development of the roads used by public transport and under the responsibility of the district ;
- regulating, via a decree, the capital's parking and parking management system, the strictly protected and the protected parking zones, the setting of the applicable parking fees, the utilisation of the public domain, the organisation and responsibilities of supervising the public domain;
- defining the capital's ideas and plans for tourism, sets up and operates its tourist organisation;
- taking part in the fulfilment of responsibilities related to the protection of consumers; designates the areas suitable for the establishment of markets and market halls, regulates, via a decree – and carries out – the responsibilities related to the maintenance, development and operation of markets and market halls which it owns (or partly owns);
- after consulting the district councils, names the areas of the city, the various public domains touching/affecting several districts, or those bearing persons' names; assigns persons' names to a public domain and may change the name of such public domain, can declare street names protected;
- fulfilling municipal responsibilities related to the protection against air and water pollution, designates, develops and maintains, in ways set out in its decree, the areas of natural environment and public green belts/parks to be protected as part of the capital's townscape;
- taking part in the solution of unemployment problems;
- providing for the following services in areas extending over more than one district, or in areas beyond the limits of the capital: secondary schools, specialised/trade education and student dormitory facilities, if the district local authority does not undertake to perform these responsibilities; fulfilment of responsibilities related to arts, general education and public collections; specialised health care provision and specialised social services beyond basic provisions; performance and development of child and youth protection activities; responsibilities related to physical education, sports organisation and youth-related tasks; takes part in the co-ordination of public education, cultural, scientific, arts, sports, child and youth activities concerning more than one district;
- taking care of the tasks of national and ethnic minority teaching, educational and cultural responsibilities, in areas covering more than one district, or extending beyond the limits of the capital;
- operating the capital's information system.

In the interest of ensuring a uniform policy in the capital, the General Assembly shall, after consulting with the government and the district councils, define the capital's general urban planning principles, and the capital's development and rehabilitation programme. It may designate, in the capital's general urban planning concept, the range of public services supplying several districts of the capital, the locations and access lanes of projects. In such designated areas and lanes, and in respect of such designated projects which provide public services, the notary's authority shall be exercised by the head of the Metropolitan Public Administration Office.

The district council shall, in accordance with and within the provisions of the capital's general planning concept, define the detailed development programme of the district, for the whole of the district, the basic district plan, the detailed planning concept of the district and their regulations.

The General Assembly shall set out the requirements which are necessary for the co-ordination of the capital's general planning concept, the basic district plans and the detailed planning concepts in a decree. It shall define therein the cases in which the district and metropolitan authorities may consult or agree in the planning process and the cases in which mutual co-operation in providing information and in planning is compulsory.

### **6.3. Participation of local/territorial authorities in national economic and spatial planning**

The main competences in the field of regional/spatial planning of municipal and county authorities are presented in the previous section.

Parliament passed Act No. XXI of 1996 on Regional Development and Regional Planning in the interest of promoting well-balanced regional development of the country, as well as the social, economic and cultural development of its regions. This Act also aims at implementing a comprehensive regional development policy and co-ordinating the national and regional duties related to regional development and regional planning, also taking into account the regional policy of the European Union, as well as the requirements of joining its basic principles, means and institutions.

The purpose of the Act is to establish the fundamental objectives and rules of regional development and regional planning and to set up its institutional system.

The provisions of a separate act shall apply to urban development and town/village planning.

The duties related to regional development and regional planning shall be fulfilled by state bodies, local authorities, natural persons and their organisations, business organisations, organisations safeguarding various interests and other institutions in harmony and co-operation with each other.

Local councils may establish, on the basis of an agreement, a Regional Development Association operating as an independent legal entity for the co-ordinated development of communities, the creation of joint regional development programmes and a joint fund serving its implementation.

The association of local authorities prepares the regional development concept and programme for regional development, which shall be approved by the association after receiving the opinion of the regional development council of the county concerned.

The county:

- prepares a regional plan for the area or region of the county, in accordance with the national development concept and with the concept prepared for priority regions and on the basis of substantial requirements defined in the act;
- co-ordinates, on the basis of a request by the municipalities of the county, the development of the communities' activities;
- co-operates with the local authorities of the town of county rank and with the municipalities concerned for the co-ordination of regional plans affecting the suburbs;
- co-operates with those who play an economic role in the county;
- takes part in the establishment and operation of a regional information system;
- promotes the organisation of the associations of local authorities for regional development on the basis of requests from municipalities;
- provides for harmony between municipal and the regional plans of the county.

The County General Assembly:

- takes a stand on the long-term regional development concept of the county, and shall accept the part of the decision of the county regional development council which concerns the local authority;
- approves the regional plans of the county taking into account the opinions of the local authorities concerned;
- expresses its opinion on the plans for its area of jurisdiction.

#### *The County Regional Development Council*

The County Regional Development Council:

- is a legal entity seated in the county town;
- operates in the county to co-ordinate the regional development duties;
- fulfils its duties related to employment policy in co-ordination with the county labour council;
- co-operates with municipalities, the administrative agencies which participate in the development of the county directly and indirectly, the public and professional organisations concerned and with the county labour council;
- co-ordinates, in the territory of the county, the development concepts of the government, local authorities and their associations for regional development, within the framework thereof, it shall, among other things, prepare and approve the long-term regional development concept of the county and prepare a financial plan for the implementation of development programmes and may conclude an agreement with the ministries concerned on the financing of the individual county development programmes;
- decides on the use of funds delegated to its competence and on the implementation of development policies within the framework of a competitive system, taking into account the regional development concept of the county.

The County Regional Development Council may establish, with the participation of its members and of those who are directly affected and on the basis of its own decision or the proposal of a minister, a committee for the management of social and economic crises in certain regions.

The County Regional Development Council may conclude agreements for the purpose of fulfilling certain regional development duties extending beyond the county border.

The members of the County Regional Development Council shall be as follows:

- a. the chairman of the County General Assembly;
- b. the mayor(s) of the town(s) of county rank located on the county's territory;
- c. a representative of the Minister leading the Prime Minister Office;
- d. three representatives of local authority associations for regional development operating in the county;
- e. the leader of the Agricultural Office of the county;
- f. the leader of the Regional Committee for Tourism.

Upon the initiative of the minister, the County Regional Development Council may also request another minister to take into account the county's social and economic characteristics.

The chairman of the General Assembly of the county shall be the chairman of the County Regional Development Council.

The representatives of the regional administrative agencies concerned by regional development and regional planning, the regional Chambers of Economy as well as the head of the Public Administration Office of the county shall be invited to meetings of the County Regional Development Council on a permanent basis.

#### *The Regional Development Council*

The elaboration of the regional development concept as well as other tasks regarding regional development in the planning-statistical regions shall be fulfilled by the Regional Development Council.

The County Regional Development Councils and the Regional Development Councils may establish an Area Development Council for the purpose of fulfilling certain regional development duties extending beyond the borders of the county or of the region.

The Regional Development Council as well as the Area Development Council shall be a legal entity.

On the establishment of the Regional Development Council, the County Regional Development Councils concerned or the metropolitan local authority shall agree on the scope of duties to be fulfilled by the Regional Development Council, on the way to cover its operating costs, on its name, on its seat and its detailed activities.

The Regional Development Council shall agree with the County Regional Development Councils and with the other participants in the regional development programmes on the financing of programmes and developments.

Members of the Regional Development Council shall be:

- a. the Chairmen of the County Regional Development Councils operating in the area of jurisdiction of the council;
- b. two representatives of the Minister leading the Prime Minister Office, representatives of the Minister for Agriculture and Rural Development, the Minister for Environmental Protection and Water-management, the Minister of the Interior, the Minister for Economic Affairs and Transportation, the Minister for Health, the Minister for Social and Family Affairs, the Minister of Employment-policy and Labour, the Minister of Education, the Minister for Informatics and Communication, the Minister for Finance and the Minister for Youth and Sport.

- c. representatives of local authority associations for regional development concerned (one from each county);
- d. mayors of the cities of county rank;
- e. President of the Regional Committee for Tourism responsible for the region.

The representatives of local authority associations, for regional development – who are not member – may speak in the Regional Development Council but have no vote in the course of negotiating the development programmes affecting their regions. The representative of the Minister for Cultural Heritage shall participate in the Council's work with the right to speak but without vote. The Regional Development Council shall elect a chairman from among its members.

The local authorities (municipalities and counties) of the state shall participate in the execution and supervision of the implementation of governmental duties related to regional development and regional planning, as well as in the co-ordination of regional development and regional planning by providing professional assistance and information and carrying out official inspections.

Regional chief architects shall fulfil certain regional planning duties falling within the scope of duties of the minister, responsible for architectural affairs. The regional chief architect shall:

- a. express a preliminary opinion on local authority plans concerning his/her area of jurisdiction, shall follow up their implementation on a continuous basis and shall initiate the modification of the above plans in justified cases;
- b. express an opinion on national regional development programmes and regional development programmes affecting his/her jurisdiction, as well as their harmony with regional plans.

In the interest of monitoring and predicting the regional characteristics and changes in society, economy and the environment and in order to facilitate the exchange of information, the act has provided for the establishment and operation of a regional information system between the national, regional, county and municipal levels.

#### **6.4. Tasks delegated to local or territorial authorities acting as agents of the central authority**

An act, or on the basis of the authorisation given by an act, a government decree may – by way of exception – vest the mayor, the lord mayor, the chairman of the County General Assembly, with the jurisdiction of a state administrative authority e.g. in cases of national defence, civil defence, and the prevention of natural disasters. Such act or decree may also assign state administration duties and/or authority jurisdiction to the notary, the notary-in-chief and – by way of an exception – also to the administrator of the council's office.

If the mayor, lord mayor, the chairman of the County General Assembly act in their own sphere of duties of state administration, and/or within the jurisdiction of authority of state administration, the local council may not direct them, and may not overrule their decisions.



## The competences of local and regional authorities

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	County	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	
<b>General administration</b>												
Security, police	•			•		•		•		•		
Fire protection	•		•		•	•		•		•		
Civil protection	•		•		•	•		•		•		
Justice												
Civil status register	•					•		•		•		
Statistical office	•			•		•		•		•		
Electoral register	•			•		•		•		•		
<b>Education</b>												
Pre-school education			•							•		
Primary education			•			•				•		
Secondary education			•			•				•		
Vocational and technical												
Higher education	•					•				•		
Adult education			•				•					
Other												
<b>Public health</b>												
Hospitals	•	•	•		•	•	•			•		
Health protection	•	•	•		•	•	•			•		

## The competences of local and regional authorities

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Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	County	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	
<b>Social welfare</b>						•		•		•		
Kindergarten and nursery			•			•		•		•		
Family welfare services			•	•		•		•		•		
Welfare homes		•	•		•	•		•			•	
Social security	•			•								
Other												
<b>Housing and town planning</b>		•	•		•	•		•		•		
Housing												
Town planning												
Regional/spatial planning	•	•			•	•		•		•	•	
<b>Environment, public sanitation</b>												
Water & sewage		•	•	•			•	•		•		
Refuse collection & disposal			•		•		•	•			•	
Cemeteries & crematoria			•		•	•		•			•	
Slaughterhouses	•						•				•	
Environmental protection	•	•	•		•	•		•		•		
Consumer protection	•			•				•				
<b>Culture, leisure &amp; sports</b>												
Theatres & concerts	•	•	•		•		•	•		•		
Museums & libraries	•	•	•		•	•	•	•		•		
Parks & open spaces		•	•		•	•		•		•		
Sports & leisure		•	•		•		•	•		•		







## **7. LOCAL AUTHORITY ASSOCIATIONS OR OTHER FORMS OF CO-OPERATION AT LOCAL AND TERRITORIAL LEVEL**

### **7.1. Institutional co-operation for the performance of tasks of common interest**

#### 7.1.1. Legal framework

According to Act No. LXV of 1990 on Local Self-Government, representative bodies of local authorities are free to form associations, in order to tackle their tasks efficiently. The Act describes some forms of such associations, but local authorities may also create other forms of associations. Central government may stimulate the establishment and operation of associations with financial incentives.

Act No. CXXXV of 1997 on the Associations and Co-operation of Local Authorities sets out certain conditions for the local authorities' association agreement. The agreement may be concluded through decisions of representative bodies.

#### 7.1.2. Nature of joint authorities

There is no compulsory association, representative bodies may conclude an agreement or carry out all tasks themselves. Local authorities are free to choose the joint authorities' form, operation and activity. They may establish an entity with or without legal personality.

#### 7.1.3. Areas of competence of local authority associations

Local councils of several municipalities may agree on the creation of a new body which will be instructed with defined tasks on behalf of the participating authorities or to transfer tasks to one local council which will implement them with the help of one of its services.

The Act on Local Self-Government defines certain types of associations between local authorities:

- local councils may agree to create official administrative associations for the expert handling of certain official administrative matters;
- local councils concerned may agree on the joint direction/management (foundation, maintenance and development) of one or more institutions, which provide service(s) for two or more villages, or towns and villages (e.g. a single district notary's office). Failing an agreement to the contrary, they shall contribute to the maintenance of joint institutions in proportion to the population of their respective communities;
- a local council may form an association with another local council.

In the case of the establishment of such an association, the (founding) bodies shall, partly or completely, consolidate or merge their budgets, maintain a joint office and operate their institutions jointly.

In matters concerning solely a given community, its local council shall decide independently.

An association may also be established in such a way that the local councils concerned shall elect their members from among local representatives, in proportion to the population of each community.

A joint body of councils may, provided it meets the conditions stipulated in the law, undertake the organisation of public services of a regional kind in accordance with legal provisions.

#### 7.1.4. Organisational form, relationship with member authorities, operating methods

Local authorities may engage in legal relations established according to the civil law (for example limited liability company, joint stock company, public foundation, association of public utility). There are certain special limitations on local authorities in respect of participation in business associations. Generally they are subordinate to civil law provisions.

The Act on Local Self-Government as well as the Act on the Association and Co-operation of Local Authorities include regulations on the relationship between member authorities and on the operating methods of local authority associations.

A court shall decide disputes arising between local authority councils concerning the operation of associations. The associated local councils may agree that each of them may request the standpoint of a committee on disputes appointed by the agreement and prior to bringing the case to court.

At its statutory/constituent meeting, the associated local council shall make a declaration on its establishment, its seat and a list of its constituent municipalities in a resolution. It shall decide on its organisation and order of work. Meetings shall be held at the initiative of the mayor of any of the participating municipalities.

The head of the Public Administration Office shall, within his authority of checking legality, investigate whether the organisation, operation, decision-making procedure of the local authority associations are in compliance with the law.

The agreement on commonly performed tasks, authorities or services – specified in Act No. CXXXV on Associations and Co-operation of Local Authorities – may include the establishment of common organs for decision-making and the agreement can create an entity with legal personality.

## 7.2. Co-operation with local/territorial authorities in different counties

As defined in the Constitution as well as in the act, local authorities are entitled to co-operate, within their range of duties and jurisdiction, with local authorities and international organisations abroad. In 1992 Hungary signed the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, and it was ratified on 21 March 1994. The Hungarian Parliament implemented the European Convention in domestic law by Act No. XXIV of 1997. According to the declaration made at the time of ratification, local authorities of the village, town, capital and its district and county as well as the capital and county public administration offices are considered as coming under the force of European Outline Convention in compliance with the decrees of Hungarian law.

Following the spirit of the Outline Convention, the Hungarian Government has concluded several agreements with neighbouring governments. Most of them are with the Republic of Austria (the latest on employment in the border area), but there is an agreement with the Croatian Government on co-operation in water management, with Ukraine on environmental protection and customs questions. There is an agreement on transfrontier co-operation with Ukraine and a similar agreement with Slovakia is being prepared.

Agreements are in force on neighbourly relations with Ukraine, Slovenia, Romania and the Slovak Republic. These do not directly deal with transfrontier co-operation between local and territorial authorities, but ensure a good background and conditions for the development of local and territorial contacts.

On this basis, local and territorial authorities take part in more than 1,000 transfrontier programmes. The most important are those which are declared as Euroregio or Euregio: Karpatian Euroregio, West Pannonia Euregio, Vág-Duna-Ipoly Euroregio and Ipoly Euroregio, Danube Dráva Száva Regional Co-operation, Sajó-Rima Euroregio and the Danube-Körös-Maros-Tisza Euroregio.

## **8. FINANCE**

A local authority offers public services. It disposes of its own property and manages its budgetary revenues and expenses independently.

The local authority budget is part of the national public finance system. It is distinct from the state budget, but is linked to it with state subsidies and other budgetary ties.

Local authorities provide the means of fulfilling their duties from own revenues, from assigned central taxes, from revenues taken over from other economic organisations, from the normative/trend setting contributions to the central budget, as well as from state subsidies.

### **8.1. Local authorities' own revenues**

The most important revenue for local authorities stems from:

- local taxes/rates assessed and levied by the municipality, as laid down by law;
- profits, dividends, interest and rents resulting from their own activities, from undertakings and from the yield of their own property;
- duties, in accordance with the provisions of a specific act;
- transferred funds received;
- a proportion – set in a separate legal provision – of the fines for the violation of environmental protection and monument protection rules imposed on the territory of a local authority;
- revenue from the sale of hunting licences on the administrative territory of a local authority.

A part, as determined in a separate act, of the amounts resulting from the sale by the State Property Agency of non-public utility enterprises founded by the councils and formerly under their supervision shall qualify as municipal revenue.

#### **8.1.1 The rights and limitations on local taxation**

Local authority taxation rights are the following:

- a. to introduce any or all of the taxes set forth in the act and to repeal or amend taxes already in effect; however, any amendment instituted during the year may not increase the tax obligations of taxpayers arising during the same calendar year;
- b. to establish the date of introduction and the period of levying a tax (for a definite or indefinite period);



- c. to define the tax rates with due consideration of local characteristics, the financial requirements of the local authority and the capacity of taxpayers, in observation of the upper limit (maximum tax rates) prescribed by this act;
- d. to expand the sphere of exemptions and benefits specified in Part Two of the act;
- e. to establish detailed regulations for local taxation within the framework set forth in the Act on Local Taxes and the Act on the Rules of Taxation.

The right of taxation of local authorities shall be restricted as follows:

- a. in respect of any particular taxable item, taxpayers may only be ordered to pay one type of tax as selected by the local authority;
- b. the tax on property shall be assessed in a consolidated form, either as an itemised sum or on the basis of the adjusted market value;
- c. no tax rate may be introduced above the maximum rate;
- d. taxes in use by the General Assembly of the capital may not also be introduced by district authorities.

Unless otherwise provided by the decree on the capital and the districts thereof, local taxes shall represent part of the revenue, and may not be withdrawn from the local authority which levies them.

Local authorities shall inform the population of the community regarding the amount of taxes collected in the annual budget report.

#### 8.1.2. Local authorities' own taxes

Pursuant to the authorisations and provisions of Act No. C on Local Taxes, the local council may, within its area of jurisdiction, introduce local taxes by way of a decree.

The General Assembly of Budapest shall issue a decree on the introduction of local taxes, with due consideration of the opinion of the representative bodies of the individual districts.

Local councils shall, by way of a decree, be entitled to introduce:

- a. taxes levied on property;
- b. communal taxes and
- c. local business taxes.

The Act on Local Taxes stipulates that communal tax may be set on individuals' or companies' real estate property in the town/village, or it may be conceived as a tourism tax. Property taxes may be levied on buildings or on plots of land.

A local authority may issue a local tax decree to regulate procedural matters which are not regulated by the Act on the Rules of Taxation. Local taxes are collected through the local tax office.

The Act on Local Self-Government and the Act on Local Taxes do not entitle the territorial (county) local authorities to levy a local tax.

### 8.1.3. Shared taxes

Two taxes incorporated in the central budget do directly affect the economies of the local authorities: the automobile tax and the personal income tax. The former is collected by the municipality on Hungarian-plated automobiles. According to the law, half of the lowest basic tax rate per automobile goes to central government. If the municipal council sets a higher rate of automobile tax, the difference between the tax proceeds and 50 per cent of its minimum level belongs to the local authority.

Although personal income tax is not collected by local authorities, part of it goes to the municipality. Personal income tax is collected by the State Taxation Authority which then conveys part of the tax perceived on to inhabitants of a given municipality to the local authority. The part granted to local authorities was 36 per cent in 1996, 38.5 per cent in 1997 and 40 per cent in 1998 in 1999, in 2000, in 2001 and in 2002.

One part of this amount is distributed according to the sums raised locally each year. Municipalities were able to keep 25 per cent, 22 per cent, 20 per cent, 15 per cent and 5 – 5.5 per cent of the tax revenue in these seven years respectively.

The difference goes into a joint fund to be distributed amongst all local authorities in the country. The conveyed revenues represented – in 1999 – 14 per cent of the total local authorities' revenue.

A part of this fund is distributed among municipalities according to criteria set on normative basis (in 1999, 17.5 per cent of the total tax revenue). The last part will be distributed so as to ensure a certain degree of equalisation of the taxpaying ability of municipalities (in 1999, 7.6 per cent of the tax revenue).

## 8.2. State grants and other transferred revenue

Parliament sets a normative/trend setting budgetary contribution to be calculated on the basis of the population of municipalities, the age structure, the population provided for by social institutions and other indices. The amount of this contribution is determined in the central budget and is due directly to local authorities, or to the local authority fulfilling the duty within a sphere defined by the act, without any restriction relating to its use. The amount of state subsidies may not be reduced in the course of the financial year.

Parliament also defines in an act priority social, infrastructure developmental and other targets and subsidies contained in the respective act for the use of local authorities in order to reach the targets. Rates of subsidies and conditions by targets are also contained in the respective act. Local authorities may claim target subsidies individually or jointly. A local authority that meets the conditions is entitled to the target subsidy. The target subsidy may be used exclusively for the set target.

In the last three years the government established on the basis of law several grants for financial equalisation at county level. For example, in 1996 the development grant aimed at territorial equalisation was established. In order to foster rural development the government set up earmarked funds – in 1999 – which are allocated at county level. These sources are at the disposal of the County Regional Development Council.

Parliament may also grant earmarked subsidies to selected local authorities to carry out certain investment projects with high costs. Local authorities may claim an earmarked subsidy to implement local investments of great importance in the fields of watering (including waste water treatment), waste treatment, health care, social work, education and culture, the total expenditure of which exceed 200 million forints.

Local authorities that are in a difficult financial situation through no fault of their own are entitled to a complementary state subsidy in order to protect their independence and viability. Parliament shall decide in the Act on the State Budget the terms and amount of the subsidy.

Should parliament set a new task for a local authority, it simultaneously ensures the funds necessary for its accomplishment.

### **8.3. Borrowing**

The borrowing by local self-government bodies is regulated by a parliamentary act. They do not require central government's approval to raise loans. A local authority can also raise loans in foreign currency.

A local administrative body may raise loans and issue bonds, though no primary assets of the local authority, no standard state contribution – with the exception of short-term loans –, no state contribution, no personal income tax and no revenues received from the state budget for operational purposes may be used to secure these.

The upper limit of the annual undertaking of obligations creating debt (loans and their accessories, as well as the issuing of bonds, undertaking guarantees and surety ship, leasing) shall be its own corrected current revenue.

Corrected own current revenue means 70 per cent of the annual forecast for its own current revenue reduced by the part of short-term liabilities allocated for the given year (paying off the balance and interest, fees for leasing).

Short-term loans shall not come under the restriction referred to above. A short-term loan is a loan raised and repaid within one year, for the purpose of the continuous operation of public service and state administration duties.

The local council is responsible for the safety of the economic management of local government, while the mayor is responsible for its legality. The consequences of economic operations in deficit must be borne by the local authority, the state budget is not liable for its obligations. At the request of creditors, the court shall establish the insolvency of the local authority. In order to restore solvency, the local authority must suspend funding its duties, with the exception of official and basic services for the population. Municipal debt adjustment is regulated by a separate act.

## **9. SUPERVISION OF LOCAL AND REGIONAL ADMINISTRATION**

Fundamental regulations regarding the investigation of local authorities are included in the Constitution and the Act on Local Self-Government.

According to regulations in force, the government provides for the supervision of the lawfulness of local authorities through the head of the Public Administration Office of the capital and of the counties with the assistance of the Minister of the Interior.

Funds to cover expenditure of these offices are provided by parliament under the budget of the Ministry of the Interior. Only the lawfulness of decisions may be reviewed. Such a review is carried out *a posteriori* and any prior interference in a proposed decision is prohibited.

If an illegal decision is taken by a local or regional authority, the head of the public administration office asks the authority in question to take measures to observe the law within the specified time limit. If the authority fails to remedy a violation of the law, the head of the public administration office may:

- call a meeting of the deliberative body to take measures to eliminate the offence;
- bring the decision to court (if the decision is a resolution);
- initiate an investigation to identify the persons responsible;
- apply to the Constitutional Court (if the decision is a decree) and request the examination and nullification of the decision if constitutional provisions have not been observed.

Legal action against a local authority can be taken in thirty days from the deadline set in the first notice. An appeal does not suspend the execution of the decision unless specifically decided by court, if carrying out the decision would seriously harm public interest or cause irreparable damage.

Only courts may nullify local authorities' decisions. The two parties of the legal proceedings are represented by the mayor or president of the General Assembly and the head of the Public Administration Office. Court may only review the decision after all administrative appeal procedures have been exhausted.

By express provision, the principle of self-government does not apply to delegated powers, which are exercised not by elected local authorities but by an official, the notary, who takes decisions in such matters without the municipal council having any right to intervene. An appeal against decisions by the notary in matters coming under the state's own authority lies with the head of the public administration office (the state supervisory authority), who is empowered to annul, modify or reconsider such a decision.

The State Audit Office is only concerned with the financial management of local authorities, not their legality. The local authority attends to the financial supervision of its own institutions and also provides for internal control of its economic management through a controller with qualifications specified in a legal provision. The financial committee plays an important role in economic control. The local administrative bodies of the counties, towns of county rank, the capital and the districts of the capital shall commission an auditor and shall publish an annual report.

The Hungarian Constitution provides judicial protection against the unlawful exercise of authority by local authorities. According to its provisions, a local administrative body may appeal to the Constitutional Court in order to protect its rights.

A court will rule on the findings of supervision of lawfulness regarding any violation of the law. (The Public Administration Office is not entitled to declare the decision of a local administrative body void or to amend it). A local council violating the law can be dissolved by parliament.

## **10. INDIVIDUALS' APPEALS AGAINST LOCAL AUTHORITIES**

Individuals may appeal against an official decision taken by the mayor (lord mayor) as well as a committee of the local council, a partial local administrative body, within municipal jurisdiction. A review of the local council's decision cannot be requested in an administrative way, but may be requested – with reference to breach of law – from the court, within thirty days of announcing the decision.

## **11. ADMINISTRATIVE STAFF**

Act No. 23 of 1992 on the Status of Civil Servants lays down the legal status and conditions of employment of local authorities' staff. However, this act does entitle local authorities to introduce more favourable provisions by decree, particularly as regards working conditions and working hours. In addition, they may increase salary scales provided they have enough funds at their disposal to cover the extra expenses involved.

All municipal employees fall within the law concerning civil servants. They are divided into four categories according to their academic qualification and experience: staff with a university degree or higher education belong to the first category; those with a complete secondary education come into the second category; and the third and fourth categories are made up of secretarial and technical staff. Executives form a separate category and special provisions apply to them in respect of recruitment, appointment, dismissal, remuneration and leave.

Government decrees lay down the conditions for admission to the various offices. On the basis of a competition, the local representative body appoints a notary who meets the qualification requirements established by law.

There are no obstacles to staff mobility from one local authority to another. To be promoted in grade, a local government officer must:

- be deemed “suitable” for the post;
- have passed the examination provided for by law;
- fulfil the conditions laid down by his/her superiors.

Local authority staff remuneration includes:

- a basic salary established in view of the post (per category of civil servant);
- a complementary bonus of service as a percentage of the basic salary;
- an allowance for staff working under difficult or dangerous conditions or holding a foreign language certificate.

Transformation of the promotion and wage regulations for civil servants, local governmental and central governmental wage scales, salaries and other allowances will be co-ordinated into a single system.

Every year, parliament establishes a reference salary rate on the basis of which staff remuneration is calculated. In any event, the reference salary rate cannot be lower than that of the previous year.

Local staff members are affiliated to general social insurance schemes to which they contribute (6 per cent of the wage for the pension scheme and 4 per cent for the rest). The employer's contribution amounts to 44 per cent.

Local authority staff may freely create trade unions and participate in them. The managers of civil servant trade unions enjoy a legal protection greater than that of other members of trade unions. Civil servants' trade unions are part of a consultative body, the so-called "Forum for the Conciliation of Civil Servants' Interests" which comprises, in addition to representatives from these trade unions, representatives from the government and the local authority associations, as well as the Chamber of Public Administration as an observer.

In June 1997, there were 1 956 civil servants in the county council offices and 39 362 in those of municipalities. The present number of civil servants working in local authorities is 43 517 and 66 748 in public state administration.

## **12. ONGOING OR PLANNED REFORMS**

One of the aims of the new government which came to power in 2002 was modernisation of the public administration. The three main areas of concern in the field of local government are: setting up a micro-regional system, regional governments and introducing a new financial system for local governments.

Territorial collaboration was considered to be the central element in modernisation of public administration. It has been most successful in terms of the micro-region and its most effective structure has proved to be the multipurpose association.

The essence of cooperation between micro-regions is that those public services requiring higher skills and greater administrative capacity, provision of which cannot be guaranteed in all municipalities or at the required level, will be provided efficiently via a system of multipurpose associations set up in the micro-regions. As a result, the quality of public services and the treatment of official matters of micro-regions will be improved. The borders of 168 micro-regions have been decided (see map of micro-regions). Parliament has accepted the Act on multipurpose associations of local governments, although enactment of this is still to come.

The setting up of regional government is essential partly because of fragmentation of the local government system and partly because of the decentralisation process. The aim is to establish regional governments with an elected body, on the basis of existing territorial development regions (see the map showing territorial development regions), in order to transfer powers of the Government to the regional governments. Its preparation is underway.

The reform proposal for the local government financial system, which aims at increasing cost-effectiveness, has been accepted. Under this proposal better public services have to be provided and administrative tasks have to be performed better, whilst keeping within the same expenditure. The proposal also sets out tasks and duties for regions and micro-regions. The aim is that performance of the tasks undertaken by the established micro-region associations – education, social and child-protection, and support for the internal audit association – must be stimulated by 2005. As for local taxes the aim is to increase local government's own income which can be achieved by tax harmonisation, and by putting an end to other taxes at the same time.

The improvement measures mentioned above contribute to the transparency of local administration, to the efficiency of administrative action at local level and to the improvement of the quality of service provided for citizens.

The evaluation and improvement of the external financial supervision of local authorities appears as one of the government's further aims.

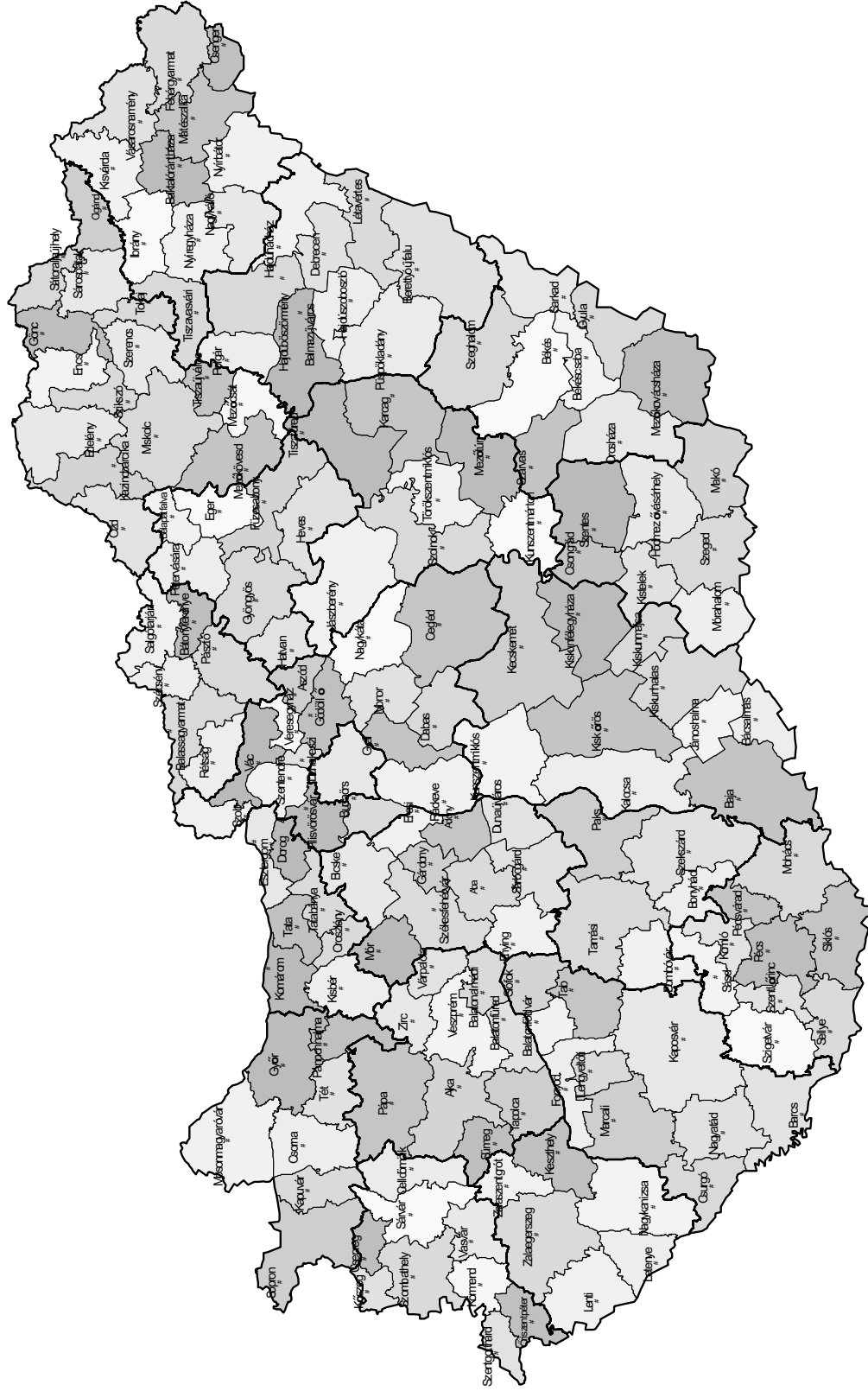
The government resolution on the improvement of public administration attaches special importance to the further qualitative development of all public administration personnel. This includes the issue of training in local and territorial public administration.

Finally, attention is drawn to the government's programme which includes the preparation of an integrated information system.

In the second half of 2004 the new elected government continued the comprehensive reform in the field of local and regional democracy.

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## Territorial set-up - Micro-regions



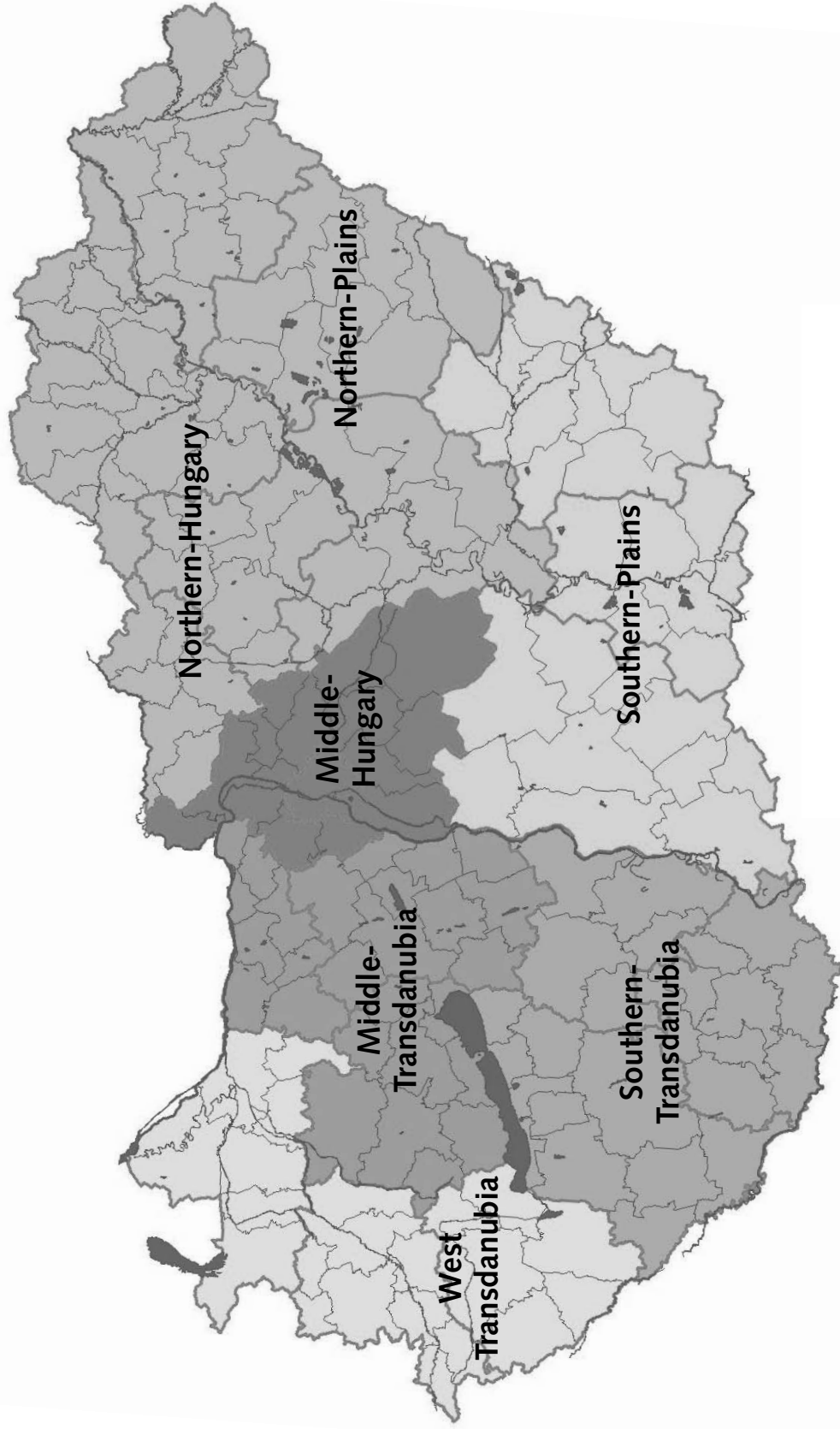
# : seat of the micro-region  
Fine print: without city rank

— : county border  
colours: micro-regions



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*Territorial set-up – territorial development regions*



The study series "Structure and operation of local and regional democracy" is prepared under the authority of the Steering Committee on Local and Regional Democracy (CDLR), which comprises representatives of the national ministries responsible for local and regional authorities. It deals with the main aspects of local and regional self-government in the member states of the Council of Europe.

The studies present the legal and institutional framework of local and regional authorities in Europe, as well as their operation, including their competencies and financial and human resources.