

**THE LEADERS OF LOCAL ORGANISATIONS
IN THE STATE ADMINISTRATION
DURING THE COUNCIL SYSTEM PERIOD (1950–1990)**

**Az államigazgatás helyi szerveinek vezetői a tanácsrendszer időszakában
(1950–1990)**

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Abstract: The main topic of my study is the parallel elements between the person(s) carrying out the local tasks of state administration and the clerk in the council system period (1950–1990). Despite the fact that the notary post was terminated in 1948, the circle of tasks and powers of the notary thereafter were carried out by the secretaries of the executive committees, that is by the ec-secretaries (the managing officials of the council system); at the administrative departments these tasks were carried out by the managers of the departments.

The post of the ec-secretary was terminated by the introduction of the local government system in 1990. The Act LXV of 1990 on the Local Governments restored the local government system and together with it, the notary post, too.

Keywords: *council system, notary, ec-secretary, council laws*

Absztrakt: Tanulmányom fő témája az államigazgatás helyi feladatait ellátó személy(ek) és a jegyző közötti párhuzamos elemek vizsgálata a tanácsrendszer időszakában (1950–1990). Annak ellenére, hogy maga a jegyzői tisztség a 1948-ban megszüntetésre került, a jegyző feladat- és hatáskörét a továbbiakban a végrehajtó bizottságok titkárai, vagyis a vb-titkárok (a tanácsi szervezet vezető tisztségviselői) láttak el, a szakigazgatási szerveknél ugyanezen feladatokat a szervek vezetői végezték.

A vb-titkár tisztsége az önkormányzati rendszer bevezetésével szűnt meg 1990-ben. A helyi önkormányzatokról szóló 1990. évi LXV. törvény visszahozta az önkormányzati rendszert, s ezzel együtt a jegyzői tisztséget is.

Kulcsszavak: *tanácsrendszer, jegyző, vb-titkár, tanácstörvények*

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Introduction

The title of my doctoral research is '*The changes of notaries' status in Hungary since the 19th century until now.*' My research is basically related to legal history, the purpose of which is to introduce the changes of the notary status reaching back to as far as the 19th century. In my current study, I am going to present the parallel elements between the person(s) carrying out the local tasks of state administration and the clerk in the council system period (1950–1990). I consider it is important to introduce this period, because following the WWII, the local governments were liquidated, and thus the notary post was also terminated. The secretary of the executive committee (in short ec-secretary) was one of the managing officials of the council organisation during the council system between 1950 and 1990. The ec-secretary was a professional state administration worker, the assistant of the president of the council in organising his/her activity. His/her task was to ensure the socialist legality, the effectiveness of the activity of the authority, the order of the office work. The ec-secretary managed the unified administrative department, similarly to the present day notary.

The post was established with the introduction of the council system in 1950 and was terminated with the introduction of the local government system in 1990.

1. The development and the role of the clerk post in the period before the Council System, that is, the conceptual foundation

In this subchapter I think it is important to clarify what we consider the essential element of the legal status of the clerk.

It is a fundamental preliminary question whether we consider the local governments before 1950 the forerunner of the current local governments. In the period of council administration, however, the public administration situation was definitely different, as one sub-system of the civil public administration was completely missing (See: 2.1. *The historical background of the council system*). The legal status of councils also changed in the given period, as at the beginning they became state power-, later on state administration bodies.

The notarius (notary) was a hired official carrying out the orders of the county. It was a paid post. He/she carried out a written, administrative activity. The notary was freely elected by the municipality; they could elect another one to replace him/her. The first and second municipality laws reinforced the position of the notaries; at that time, the notary was elected on the basis of an open application for an indeterminate period.

The 19th century can be considered as a milestone in relation to the notary post, as the Act XVIII of 1871 brought about significant changes in this field. The bidirectional dependence (between the state and the municipality) prevailed; however,

change took place, as the notary, the official of the municipality, became an executor of state administration at the same time.¹

It was recorded in the law that the notary can hold his/her office throughout a lifetime, that is, he/she is elected for an indeterminate period, as at that time the position was not filled via appointment. In relation to the Act of 1881, it can be said that by recording the rules of the remuneration and dismissal, the stabilisation of the position of the notary was realised.

After the Act XXII of 1886 on Municipalities came into effect, the notary of the municipality is more and more actively joins the management of the cases in the municipality. Beginning from the 1890s, he/she presents the cases to be discussed to the representative body.²

The Act XVIII of 1897 obliged the municipalities to have a notary, settled the legal problems of the notary post and that early, it required passing the notarial exam to fill in the post, which legislation prevailed up to the WWI. Although there were no significant changes between the two world wars, the deputy-lieutenant was at the top of the counties, subordinated to him the notary chief and the deputy notary, who carried out drafting-presenting tasks; nevertheless, the institution and the person of the notary deserves a special attention, as handling public administration on a scientific level started in Hungary only in the 1930s.³

Not long after overthrowing the Hungarian Soviet Republic, the government placed reforming public administration on the agenda. The Hungarian Law Association also put the reform of training public administration officials on the agenda.

The Közigazgatási Kislexikon (small encyclopaedia on public administration) writes the following about the 'municipality notary':

*'The municipality notary is the spiritual leader of the municipality's magistracy, its most important member. The municipality (district) notary, involving the other members of the magistracy, administers the enforcement of laws, decrees, ordinances, he/she carries out the written tasks in the circle of cases of the municipality administration, he/she governs the life of the local government and administers, manages the assets-management and economy of the municipality. His/her job is for a lifetime.'*⁴

The most prominent representative of the Hungarian civil public administration science is Zoltán Magyary. Magyary established the thesis that at the necessary number of staff, in addition to the amount of the work and the way of proceeding, the decisive factor is the staff, on which the selection, qualification and certification of the staff has the greatest significance.

¹ FEIK Csaba: Gondolatok a jegyző önkormányzati rendszerben elfoglalt helyéről. *Új Magyar Közigazgatás* 2012/7–8., 73.

² Act XXII of 1886 On Municipalities.

³ CSIZMADIA Andor: *A magyar közigazgatás fejlődése a XVIII. századtól a tanácsrendszer létrejöttéig*. Bp., 1976, 38.

⁴ BÁRDOS László: A jegyző. (Jegyzői annotációk) *Új Magyar Közigazgatás* 2011/5., 41.

The party considered one of the most significant tasks of 1949 to prepare a fundamental reform of the public administration. They considered the extension of notary courses as one of the tools of the public administration reform, so that the notary of the future is suitably prepared from political point of view and excellently prepared from professional point of view.⁵

At the end of this sub-chapter we can establish that in the council period we cannot speak of the notarius, that is, the clerk, at least not in the sense as in the previous period, beginning from the 19th century; what is more, not even of a person who could parallel it, maximum certain parallels can be discovered. As we will see, it was the ec-secretary who carried out similar tasks to those of the clerk, which were mainly state administration tasks. [See: 2. *Parallel elements between the person(s) carrying out the local tasks of state administration and the clerk in the council system period.*]

2. Parallel elements between the person(s) carrying out the local tasks of state administration and the clerk in the council system period

2.1. The historical background of the council system

Following the WWII, significant changes took place in our country's public administration. Between 1949 and 1956, the Soviet-type state arrangements developed in Hungary, which can be conceived as a strongly ideological⁶ state formation, building on foreign traditions, rather different from the usual Eastern-Middle-European state arrangement.

The first written, chartal constitution of our country, the Act XX of 1949⁷, was created in 1949, by which the councils were established, which functioned as the local organisations of the units and the centralised state power. This constitution can be conceived as a Stalinian' constitution, which was opposing the most important principles of civil democracy, namely rule of law and the achievements of European legal culture that can date back to several thousand years.⁸

The Act I of 1950 on the Councils was created, which organised the councils (county, district, city, municipality) after the Soviet model. Electing the bodies of the council took place in a closed-circuit listed system, first on 22 October 1950. It was headed by a president, who had limited ordinance-creating powers. The local administration was headed by the executive committee. Between 1950 and 1953, the central governance of the councils was carried out by the Minister of the Interi-

⁵ BESZTERI Béláné: *A Tanácsrendszer létrehozása, a tanácsok tevékenységének alakulása a szocializmus lerakásának időszakában. Vizsgálat a Veszprém megyei modell alapján (1945–1962)*, 38. http://publicatio.bibl.u-szeged.hu/19367/1/1979_beszteri_belane_2.pdf, 1 April 2021.

⁶ See more about the ideological basis: MEZEY Barna: *Magyar alkotmánytörténet*. Osiris Kiadó, 2003, 463–467.

⁷ See more about the elaboration of the Constitution: MEZEY: op. cit. 469–470.

⁸ MEZEY: op. cit. 468.

or, in 1953–1954 by the Council of Ministers, without their countersignature, none of the regulations of the council could enter force. Later this rigour showed certain détente. In accordance with the legislation, the establishment of a local council was required in settlements where the number of residents exceeded 500 persons.⁹ In settlements where the number of residents is under 500 persons, a joint municipality council has to be established.¹⁰

The Act X of 1954 was the so-called second council law, which regulated the operation of local councils in our country between 1954 and 1971. The law introduces an individual electoral district system and established the councils' own development- and reserve fund. In their operation area, the councils carried out their state power activity in accordance with the Constitution and within the framework defined by constitutionally created legislation and the higher state power bodies. In the circle of their activity, they participate in the continuous increasing of the standard of living of the public, ensure the implementation of tasks referred to their powers, and make decisions about issues of local significance.¹¹

The council performs its tasks with the permanent contribution of the council members. The council members take part in the creation of the council's resolutions and regulations, in the council's organising and educational work, in monitoring the implementation of the created resolutions and regulations.¹²

We refer to the Act I of 1971 as the third council law, which defines the councils as representative local government and state administration bodies. It decreases the rigour of the central governance, as their functioning is no longer determined by instructions, but legislation and legislation of other level disposed of this.¹³ The bodies of the council included the executive committees, the committees, administrative departments, in the districts the district office, in the independent city (with county licences) the District Office.¹⁴ The state administration tasks directly affecting the public belonged to the councils' powers.¹⁵

Despite the fact that the notary post itself was terminated in 1948, the circle of tasks and powers were performed by the secretaries of the executive committees, that is, by the ec-secretaries (the managing officials of the council organisation); at the administrative departments these tasks were carried out by the managers of the bodies. Among others, the task of the ec-secretary included preparing the council sessions, checking the legality of proposals and the council regulations, proclaiming them, preparing the annual working plan, unifying the management of internal bodies, monitoring the activity of administrative departments, as well as exercising

⁹ Act I of 1950 on Councils 3. § Paragraph (3).

¹⁰ Act I of 1950 on Councils 9. § Paragraph (2).

¹¹ Act X of 1954 on Councils 6. §.

¹² Act X of 1954 on Councils 7. § Paragraph (1).

¹³ Law disposes of the establishment of the Hungarian council system. *Múlt-kor Történelmi Magazin* <https://mult-kor.hu/cikk.php?id=9649>, 1 April 2021.

¹⁴ Act I of 1971 on Councils 2. § Paragraph (2).

¹⁵ Act I of 1971 on Councils 6. § Paragraph (1).

the legal supervision of the council bodies.¹⁶ In the first period of the council system, the ec-secretary task was rather of political nature.¹⁷

The above-mentioned Act X of 1954, that is, the second council law, elevated the ec-secretary to the rank of deputy-president.¹⁸

2.2. The change of the legal status of the ec-secretary in the Council System

Along with the political changes taking place in the years of 1945–1950, as a ‘result’ of building the Soviet-type state, almost all the independence of the local society ceased to exist. In 1948, the clerk positions became terminated, then in 1950, the local governmental public administration was terminated as well. It was the ec-secretary who carried out similar tasks to those of the clerk, which were mainly state administration tasks.¹⁹ The Act XX of 1949 disposes of our Constitution, councils were established, which were defined as the local bodies of the unified and centralised state power. Paralelly with this, local governmental public administration and the clerk position were terminated, this is verbalised in the I. council law of 1950. However, it is important to emphasise that the council system left the clerk’s circle of tasks and powers unseparated; one part of them was carried out by the secretaries of the executive committees (ec-secretary); at divided organisations the leaders of administrative departments got them; the minor part – mainly the employer rights – were assigned to the president of the council.

As a matter of fact, the tasks similar to those of the notary, mainly of state administration nature, were carried out by the ec-secretary.²⁰

The secretary of the executive committee (ec-secretary) was one of the head officials of the council organisation. Their task was to ensure legality in the work of the council organisation, checking the administrative departments, work of bodies, and matters concerning the authorities. In the first phase of the council system the ec-secretary job was also rather of political nature, who actively participated in shaping the party politics. The changes in the power system almost completely excluded the ec-secretary from the local public and the social circulation; it made him an executive bureaucrat.²¹

The ec-secretary was a professional state administration worker, the assistant of the president of the council. His/her task was to ensure the socialist legality, the effectiveness of the authorities’ activity and the order of the office work. In this

¹⁶ BÁRDOS: op. cit. 40.

¹⁷ BALOGHNÉ NAGY Erika: A jegyző helye, szerepe a magyar önkormányzati rendszerben. *Comitatus-Önkormányzati Szemle* 1993/7–8., 79.

¹⁸ VEREBÉLYI Imre: *A tanácsai önkormányzat: Önkormányzat és központosítás*. Közgazdasági és Jogi Könyvkiadó, Bp., 1987, 411.

¹⁹ BÁRDOS: op. cit. 40.

²⁰ BÁRDOS: op. cit. 40.

²¹ SZÁNTÓ Mária: Községi jegyző helye, szerepe a magyar önkormányzati rendszerben: helyzetelemzés egy községi jegyző mindennapjain keresztül I. *Comitatus: önkormányzati szemle* 1994/4., 53.

period, the commission of the ec-secretary lasted to the constituent sitting of the new council following the expiration of the council that elected him/her.

The ec-secretary, as the head official of the council organisation, embodied the local public administration. His/her work could partially be related to the council, council committees and council members. As main tasks, he/she performed the following: took part in the preparation of the sessions; carried out checking the legality of proposals, council regulations, proclaimed them, prepared the annual working plan for the executive committees; unified the management of the internal bodies and monitored the authoritative activity of the specialised administration bodies. As his/her most important activity, we can highlight the legal supervision over every council body.²²

Despite all this, the I. council law is very restrained to defy the tasks of the ec-secretary, who at the time undertakes an active role in local party politics as compared to the II council law of 1954.²³

This regulation brought about a fundamental change in the life of the ec-secretary, it elevated his/her position to the deputy-president level. Basically, he/she became the implementer of the presidential tasks, carried out the supervising and coordinating activity of the administrative departments.

The Act I of 1971 was the third council law, which considerably altered the standpoint of the ec-secretary compared to the previous ones. It appointed him/her 'as the deputy of the president of the council' and as a matter of fact, he/she was supposed to supervise the legality of the complete specialised administrative organisation.²⁴

From 1971, the situation of the ec-secretary significantly changed. From then on, his/her post was considered a state administration function, therefore he/she did not have to be a member of the council, but qualification requirements were set. Beginning from this time, this post was not elected by the executive committee, but by the body of the council, and the appointment was for an indeterminate period.²⁵

2.2.1. The tasks of the ec-secretary

If we wish to summarise the tasks of the ec-secretary on the basis of my previous chapter (2.2. *The change of the legal status of the ec-secretary in the Council System*), then we can say that the tasks of the ec-secretary were partially related to the council, council committees and the council members, but the main centroids of his/her activity directed to the executive committee and the administrative departments. In relation to its content, it mainly served ensuring legality in the work of the council bodies.

²² BÁRDOS: op. cit. 40.

²³ BALOGHNÉ NAGY: op. cit. 79.

²⁴ Act I of 1971.

²⁵ HOLLÓ András: *A végrehajtó bizottság titkára által gyakorolt törvényességi felügyelet*. Akadémiai Kiadó, Budapest, 1981, 9–18.

The grouping of his/her tasks:

- In accordance with the instructions of the president of the council, he/she took part in the preparation of the council sessions (at least 4) and ensured the preliminary legality inspection of proposals, resolution drafts (regulations). He/she looked after the proclamation of council regulations.
- He/she prepared the annual working plan of the executive committee, based on this, the sessions of the executive committee (at least 12). He/she was responsible for carrying out the tasks management related to the functioning of the executive committee (for instance writing the minutes/ having them written).
- He/she checked the authoritative activity of the administrative departments (in concrete cases with decision-making power) and coordinated the management of internal organisations. In municipalities, he/she was the manager of the unified administrative department.
- His/her legal supervision ensured that in all council bodies tasks are carried out in accordance with the legislation. If he/she found any infringement at the dispositions of the council, the executive committee(s) or the president of the council, he/she had an obligation to indicate (to signal) it towards these bodies. If he/she found the activity (legal activity) of one of the administrative departments unlawful, he/she called the managers of the body so that they saw to terminating the infringement in his/her own powers. In case of the inefficiency of the call, he/she suspended the procedure, the execution of the disposition. He/she forwarded the case for decision to the executive committee, or in cases concerning the authorities to the body possessing power for proceeding. (See: 2.2.2. *The legal supervision of the ec-secretary*)
- He/she reported to the council, the executive committee, as well as to the president of the council about his/her audit work in the above-mentioned cases.
- The audit work of the county, capital executive committee secretaries covered the complete area of the capital or the county. He/she assessed the complaints against the second instance decisions of the county, capital administrative departments.²⁶

The Act I of 1971 writes the following about the secretary of the executive committee:

‘55. § (1) The secretary of the executive committee:

- a) ensures that the council bodies carry out their tasks in accordance with the legislation; sees to the termination and remedies of infringements, as well as initiates measures;
- b) takes part in the preparation of the council sessions, prepares the session of the executive committee, organises and monitors the implementation of their dispositions; sees to the proclamation of council regulations and executive committee resolutions of general binding; participates in organising the council work;
- c) monitors the authoritative activity of the administrative departments;

²⁶ HOLLÓ: op. cit. 18.

- d) is answerable to the council, to the executive committee and to the president of the council for the implementation of his/her tasks;
- e) manages the administrative department in the municipality.

(2) The secretary of the capital-, county- and the independent city (with county licences) executive committee assesses the complaints against the second instance decisions of the county, capital administrative departments.

(3) The secretary of the capital-, county- and the independent city (with county licences) executive committee decided about cancelling the fine for committing an offence²⁷

From the tasks of the ec-secretary (See: in the current chapter: 2.2.1. *The tasks of the ec-secretary* and from the sections of the previous chapter. *The change of the legal status of the ec-secretary in the Council System*), we can see that up to 1971, the ec-secretary was elected by the council's executive committee from among its own members with the approval of the superior council (in case of the capital- or county ec-secretary by the Council of Ministers). The executive committee could even withdraw its secretary, but similarly to his/her election, the superior approval was required. In this period the commission of the ec-secretary was for the same duration as that of the executive committee, that is, it lasted to the constitutional sitting of the new council following the expiration of the council that elected him/her. Strangely, the first council law²⁸ did not require the agreement of the involved council itself for the election and for the withdrawal, only the second council law stated it from 1954.²⁹

From 1971, the third council law³⁰ entering into force, the situation of the ec-secretary changed significantly. From then on, the post of the ec-secretary was considered a state administration function, therefore he/ she did not necessarily have to be a member of the council, but needed specified (either state administration or legal) qualifications. He gained his/her post not via being elected by the executive committee, but via appointment by the body of the council, and for an indeterminate period. However, the council could not freely decide about the appointment, as the candidate for the post of the ec-secretary was recommended by the executive committee of the superior council (in case of capital- or county ec-secretary by the Council of Ministers), therefore the body of the council only had the right of approval, which in most cases was only a formality.³¹

²⁷ Act I of 1971.

²⁸ 1950: Act I.

²⁹ Act X of 1954.

³⁰ Act I of 1971.

³¹ VEREBÉLYI Imre: *A tanácsi önkormányzat: Önkormányzat és központosítás*. Közgazdasági és Jogi Könyvkiadó, Budapest, 1987, 411–432.

2.2.2. The legal supervision of the ec-secretary

If on the basis of my main chapter (2.2. *The change of the legal status of the ec-secretary in the Council System*) we would like to summarise the legal supervision of the ec-secretary, we can state that there are very tight-lipped dispositions about the tasks and powers of the ec-secretary in the first council law.³²

The second council law significantly changed the legal status of the ec-secretary, essentially, he/she got to deputy-president level, became a contributor to the realisation of the ec-president's tasks. Among the tasks, it has to be highlighted that, inter alia, controlling, monitoring, coordinating the work of the administrative departments was partially realised by the deputy-president (deputy-presidents).

The third council law resulted in further significant position changes of tasks and powers, modification for the ec-secretary. As the 'state administration deputy' of the president of the council, he/she was considered as the person responsible for the lawful functioning of the apparatus (specialised administrative body). Enforcing legality supposed the continuity of the legal supervision, not its cyclical functioning.

According to the wording of the legislation, the monitoring task of the ec-secretary extended to council bodies, he/she was responsible for the lawful functioning of the council bodies. In order to terminate any infringement, he/she took measures, or initiated measures. In addition to the general legislation, also generally but from body- and operational aspects in a specified way, the ec-secretary monitored the authoritative activity of the specialised administrative body.³³

2.2.3. The ec-secretary's qualifications, employment right status and correct election

Beginning from the third council law³⁴ entering into force, the president of the council and the deputy president of the council were still elected; the secretary of the executive committee became not an elected, but an appointed official, whose employment was for an indeterminate period. In addition to the requirements set to managers, (There was a triple requirement-system. 1. Political reliability [Did not have to be a party member] 2. Professional reliability 3. Reliable attitude), in accordance with an internal resolution³⁵, he/she also had to meet qualification requirements. Namely, the ec-secretary of a settlement and major settlement had to have council academy-, college- or university qualifications, as well as a two years' council experience.

Every other ec-secretary had to have state- and legal science university degree and at least a four years' state administration experience at the council. In 1951 the new Labour Code was created, which regulated the employment of workers in a unified way. Due to a political decision, the so far separated employment relations became under the effect of the same rules. As a result of this, the provisions concern-

³² 1950: Act I.

³³ HOLLÓ: op. cit. 9–18.

³⁴ Act I of 1971.

³⁵ 1020/1970. (VI. 7.) Governmental Decree.

ing civil servants and public servants became a part of the labour law. The new approach abolished the previous view, according to which the public service law constitutes a higher level of legal status. Endeavours to highlight labour law and to amalgamate public service could be observed. According to the Labour Code of 1967, the subjects of the legal status are the worker and the company, that is, the employer, which, however, also included the independent budgetary authorities of the state.³⁶

However, there were problems with the envisioned socialist-based public service model. The unified legislation desired to be created was not realised to the full extent. Obviously, the ever-existing Labour Code, as a general rule, continuously prevailed, but the Council of Ministers had the opportunity to create the special rules. Among others, the Nr 31/1952. (I. 31.) Council of Ministers Decree relates here, which included the concept of the public service employee, according to which, one must mean the staff with a regular salary elected, appointed or employed with a contract to carry out public service tasks of the central and local bodies of state administration. The created system, however, did not seem lasting, as the salary systems collapsed by the second half of the 1970s, which partially were related to the expansion of public administration. The Nr 38/1973. (X. 27.) Council of Ministers Decree regulated certain issues of state administration and justice workers' employment relations.³⁷

At the end of this subchapter of my study, I find it important to demonstrate with examples how the election and appointment of officials took place in the Council System period. I would like to illustrate it with an example from Veszprém County. The Veszprém County Committee of the MDP dealt with the council election tasks in details for the first time during its session of 12 September 1950. The account presented the central directives. It thoroughly dealt with the correct election of the president of the council, the deputy president and the secretary. In relation to the president function, in addition to the suitability for the management of the local public administration, it stressed that the candidate should be a person who is well known in the community and who has prestige. In relation to this, it stated that the notary or the chief notary could be nominated for the post if they are politically suitable among the public, but it considered more practical if he/she is nominated to be the secretary because of the nature of the function.³⁸

2.2.4. The ec-secretary as the manager of the administrative department

From one side, carrying out specialised administrative tasks was characterised by professionalism, from the other side by the requirement of (socialist) legality. The administrative department of the council was less divided compared to the administrative departments of national level. On municipality level, a unified administra-

³⁶ MÉLYPATAKI Gábor: *A közszolgálat egységesítésének elméleti és gyakorlati problémái, és kapcsolata a munka magánjogával*. PhD-értekezés, Miskolc, 2016, 161–162. <http://midra.uni-miskolc.hu/document/24234/19627.pdf>, 2 April 2021.

³⁷ MÉLYPATAKI: op. cit. 163.

³⁸ BESZTERI: op. cit. 59–60.

tive department without the internal, independent units functioned. Its manager was the ec-secretary that functioned in the executive committees in direct subordination to the county-, city councils. He/she could supervise the decisions made during sectoral, political and local socio-political tasks. The executive committee exercised annulling and altering rights over the resolutions of the specialised administrative body, which violated legislation, or the interests of the public.³⁹

The minister carried out the central governance of the specialised administrative activity via the county (capital) executive committees. He/she monitored the execution of legislation of higher level and the implementation of sectoral tasks.⁴⁰

The administrative department carried out the institution-governance tasks. They took part in the elaboration of development proposals. The manager of the capital-, and county administrative department appointed the managers of council companies and institutions. In the districts, the state administration tasks were carried out by the district office. In independent cities (with county licences), the county city council established a district office or offices for carrying out first instance cases.

The directives and interests of division of the administrative department were determined by the President of the Council Office of the Council of Ministers (MT TH) in agreement with the ministers. The power list of departments, groups, independent rapporteurs was compiled by the ministries.

The administrative departments exercised their authority powers enforced by law independently and in this power, they were not instructable. The interested parties could appeal against the first instance decision within 15 days.

To realise administration work brought closer to the citizens, local administrative branches could be established.

The organisation of joint councils and the major settlement form allowed for the wide-range of decentralisation of the first instance official procedures. The administration tasks transferred together with the economic powers also increased the role of local councils in satisfying the demand of the public.⁴¹

3. The notary in the 1990s and restoring the post of the notary

The post of the ec-secretary ceased to exist in 1990 with the introduction of the local government system. The Act LXV of 1990 on the Local Governments (Ötv.) reintroduced the local government system and together with it, the post of the notary as well.

This is the period of the establishment of mayor's offices, district notary offices. Notaries have to meet qualification requirements defined by legislation; their ap-

³⁹ SCHMIDT Péter: *Alkotmányjog*. Tankönyvkiadó, Budapest, 1976, 433–436.

⁴⁰ POPOVICS Béla: *Államigazgatás A-TÓL Z-ig*. Budapest, 1973, 786–787.

⁴¹ SZÜCS István: A hatáskörök általános rendezésének néhány kérdése a tanácsai igazgatásban. *Acta Juridica et Politica* Tomus VIII. Fasciculus 8., Szeged, 1961. http://acta.bibl.u-szeged.hu/6303/1/juridpol_008_fasc_008_001-023.pdf, 2 April 2021.

pointment is for an indeterminate period and are appointed by the representative body via application. Legislation wished to ensure the notaries' independence from the political power that be and their impartiality.

The local government legislation of 1990 reached back to the public administration traditions. In the period before the council system, the notary used to be the public official of the state, the manager of the municipality public administration. The notary post developed in Europe in the 19th century, while in the Hungarian public administration it became regulated, general during the reign of Empress Maria Theresa. The role of the notary was characterised by duality from the beginnings, that is, from the 17–18th century. This originated – and it still holds – that the notary is on the one hand, the local official of the settlement, an organisation of the local government's representative body, on the other hand, a public administration authority having state administration powers. From the 1990s, the most powerful wording perhaps has been by Kéki Zoltán, according to whom the 'day labourer and at the same time, the foundation stone⁴² of Hungarian public administration' is the notary. He/she is the recipient of almost all first-instance state administration powers. This duality results in a two-way dependence in the legal status of the notary, which is complicated by the peculiar situation that the decision about employing the notary has always been made on local level. This decision took place through election or designation. The 'most ideal' form for establishing the public service legal status of the notary is appointment for an indefinite duration, which has prevailed exhaustively only since the entry into force of the Ötv. of 1990.⁴³

We can establish that one of the main characteristic features of public administration is the continuous change and renewal. The deliberate transition of public administration was created in 1990.⁴⁴

It is important that the legislator had the intention to create a notary status which is independent of the representative body and the mayor as well, he/she manages the office, and what is perhaps the most important that the notary must not be subordinated as an employee to the mayor.⁴⁵

The notary is the head of the office of the municipalities' local governments, who is selected from among the applicants, then is appointed for an indefinite duration by the representative body. His/her employer is the representative body; the other employer rights are exercised by the mayor. In relation to his/her qualifica-

⁴² KÉKI Zoltán: *A jegyzői szerepkör változása* című előadása a XX. Országos Jegyző- Közigazgatási Konferencián, Keszthely, 2012. szeptember 26–28.

⁴³ FEIK Csaba: A polgármesteri hivatalok irányítása és vezetése, az abban közreműködők feladat-és hatásköre. *Szakmai Fórum* 2014, 134–135.

⁴⁴ MÁTHÉ Gábor: A jegyzői jogállás változásai a magyar jogrendszerben. *Jegyzők 2. országos konferenciája*. Siófok, 1994. szept. 1–3. Összeáll. Várszegi Erzsébet. Szerk. Kolber István. Magyar Közigazgatási Kamara, Infomark, Bp., 1994, 21–25.

⁴⁵ BALOGHNÉ NAGY Erika: A jegyző helye, szerepe a magyar önkormányzati rendszerben. *Comitatus: önkormányzati szemle* 1993/7–8., 78–88.

tion, the Act on Public Administration (Ktv.) rules.⁴⁶ For his/her appointment management-organisation or state- and law science doctoral qualification and at least a two years' professional experience are necessary. The notary is the person of the local government, though has general powers, he/she is a local state administration organisation at the same time, as he/she is the recipient of several state administration powers.⁴⁷

The dual-modelled system of the local government is determined by the special legal status of the notary. Namely, the notary can be considered as an independent administration manager in the Ötv. system. Though it is true that the other employer rights over the notary are exercised by the mayor, but the notary is appointed, and is relieved from his/her duties by the representative body for an indefinite duration, as well as the representative body exercises the discipline powers, too.⁴⁸ On the basis of this, the notary cannot be considered as a mayor's subordinate, as the establishment of his/her appointment does not depend on the mayor. The special legal status of the notary is also shown by the fact that the Ötv. and the Ktv. determine strict employment conditions from which exemption can be given only in exceptional cases. The purpose of these professional conditions is that the notary is an administration professional, who applies the professional aspects of public administration during the everyday local government operation. On the basis of this, it can be said that theoretically the notary is impartial and neutral, as opposed to the non-professional and local political element of the representative body, its committees and the mayor as well.⁴⁹ Moreover, the notary is the guard of legitimacy at the local government, an embodiment of professional element opposed to politics.⁵⁰

The clerk has to take part in the sessions of the representative body and has to and is obliged to indicate any fact of law infringement by the representative body. I can say from experience that this does not prevent the representatives from making the criticised decisions; however, it is recorded in the minutes in every case. The Clerk has an important role in preparing the sessions of the representative body and committees and the mayor's professional decisions. As far as the execution of tasks is concerned, a significant part of the tasks rests on his/her shoulders. Although the resolutions of the body typically name the mayor as the responsible person, in practice, their operative execution is carried out by the Clerk and the public servant staff.⁵¹

⁴⁶ 8. § Section (1)–(2) of the Ktv. (Act on Public Administration).

⁴⁷ KÉKI Zoltán: A jegyző szerepe az államigazgatásban a járáások megalakulása után. *Szakmai fórum* 59.

⁴⁸ CSEFKÓ Ferenc (szerk.): *Önkormányzati iránytű. Gyakorlati útmutató a helyi képviselők, polgármesterek, köztisztviselők számára*. Új Historica Kiadó, Villány, 1999, 141–142.

⁴⁹ CSEFKÓ: op. cit. 143.

⁵⁰ FEIK Csaba – TÁBIT Renáta: Önkormányzati ismeretek és praktikák polgármesterek részére. In: Boros Anita – Budai Balázs – Feik Csaba – Szalai András – Tábit Renáta – Temesi István: *Az önkormányzati működés alapjai*. Polgármesteri Akadémia, 2009, 12.

⁵¹ BÉRCESI Ferenc – FÁBIÁN Adrián (szerk.): *A jegyző helye és szerepe a magyar közigazgatásban*. Pécs, 2010, 87–88.

In addition to the powers defined in local government matters, the Clerk performs delegated state administration powers as well. On the basis of § 7 Paragraph (1) of the Ötv., the primary recipient of state administration powers delegated to local government organisations and office-holders is the clerk. In Hungary, within the administration organisation system, there is a strong separation of the manager proceeding in delegated state administration matters and in local government cases. The organisational rules of the Ötv., as well as the rules of transferring administrative powers also ensure that the mayor cannot instruct the clerk in relation to decisions made in delegated state administration powers. Unfortunately, not every mayor keeps to this, and in many cases, they try to interfere despite the fact that they do not have powers in the given matter. This is further reinforced by the above-mentioned image in the public, who as they assess the mayor's activity in the efficiency of the mayor's official work, they confuse the state administration and local government powers. These two powers are not separated in their way of thinking, regardless of the fact that they are legally rigid in relation to the Clerk's state administrative powers. Comprehending this cannot be expected from an average person, as seemingly there is no difference. On the basis of the Ötv., the Clerk is present during body and committee sessions; on them, he/she has consultation rights. In addition, on the basis of legislation in Point a) of 36. § Paragraph (2) of the Ötv., the Clerk ensures performing the tasks related to the operation of the local government. On the basis of this, the Clerk takes part in the role of preparing decisions in managing local government powers as well. However, the Clerk cannot actually perform the state administration management separately, free from the influence of the representative body and the mayor, because via exercising employer rights, the representative body and the mayor have a significant influence on the activity of the Clerk. As far as the legal status of the Clerk is concerned, the period between 1990–2000 can be considered as the age of heroism. During this period, the task and powers of the Clerk are the same. The recipient of almost all first-instance state administration powers is the Clerk. The period between 1990–2000 are the years of establishing and consolidation of the new local government system. This is when mayor's offices and district Clerk offices are established.⁵²

We can state that the Hungarian local government system developing in 1990, taking the previous legislation abilities and historical traditions into account, established a dual system with strong, direct body management licences by institutionalising the roles of the local politician mayor and the administration professional notary.⁵³

As a summary, we can say that Act of 1990 on Local Governments (Ötv.) regulated the legal status, tasks and powers of the notary based on the traditions of Hungarian public administration history, too. On the one hand, the legislator

⁵² FOGARASI József: Jegyzői szerepkör és jogállás újragondolása. *Magyar polgármester* 10. évf., 2008/5., 10.

⁵³ HOFFMANN István: Modellváltás előtt a magyar önkormányzatok igazgatási szervezetszerkezetének vezetésében – nemzetközi kitekintéssel. *Közjogi Szemle* 2011/4., 19.

reached back to the old name, title; on the other hand, he/she restored the fundamental rules of tasks- and powers of the era before the first Council Law.⁵⁴ That is, on the one hand, the notary, as the head of the office of the representative body, is responsible for preparing the decisions for local government cases and for their implementation; on the other hand, he/she is the recipient of powers in state administration circles. Placed in the system of the Hungarian public administration, the notary is a local first-instance state administration organisation with general powers. The Act on Local Governments of 1990 tried to establish and define his/her independence of the current political power, that the notary was selected by the representative body via application from among the applicants and his/her appointment is for an indefinite duration. Following the Act of 1990, the expectations from the notary were: impartiality, neutrality and outstanding professional qualifications.⁵⁵

Finally, it was important to state that after the change of the régime, the clerk was a body of dual legal status, which paralelly carried out local government task and administered the state administration cases on the lowest level. The situation partially changed in 2013 with the establishment of the district offices. The clerk's state administration role of general powers was shared by the district office, as several powers of his/her were transferred there.

Summary

In my study, I have presented that following the WWII, the local governments were liquidated, and thus the notary post was also terminated. Instead of the notary post, the Act I of 1950 on the Councils established the post of the executive committee secretary (ec-secretary). The secretary of the executive committee (ec-secretary) was one of the managing officials of the council organisation. Their task was to ensure legality in the work of the council bodies, to monitor the administrative departments and the matters concerning the authorities. Actually, tasks similar to those of the notary, mainly of state administrative nature, were performed by the ec-secretary.

The post of the ec-secretary was terminated with the introduction of the local government system in 1990. The act LXV of 1990 on Local Governments reintroduced the local government system, and together with it, the post of the notary as well. The local government legislation of 1990 reached back to the public administration traditions. In the period before the council system, the notary used to be the public official of the state, the manager of the municipality public administration.

⁵⁴ 1950: Act I.

⁵⁵ KÉKI Zoltán: A jegyző szerepe az államigazgatásban a járások megalakulása után. *Szakmai fórum* 61–63.

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