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**A szerb és a magyar jog harmonizációja az  
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## QUESTIONS OF LOCAL FINANCIAL AUTONOMY IN TIMES OF COVID19 IN HUNGARY

**Abstract:** *The handling of the pandemic needs rapid, decisive and focused actions and harmonized operation between the Government and local self-governments. It requires concentrated and coordinated actions from the Government and these measures necessarily affect the autonomy of local self-governments, nevertheless, they should be important actors in the management of the pandemic. The majority of governmental measures emerged recently reinforced centralization rather than coordination. The paper puts the focus on the financial and economic autonomy of Hungarian local self-governments.*

*The study demonstrates the state of emergency regulations, affected mostly the financial and economic autonomy of local self-governments. Besides, it emphasises the decisions of the Hungarian Constitutional Court, reflected in the constitutional complaints of local self-governments. The paper covers three main issues of local competencies influenced by the legislation of the state of danger, (1) the constitutional background, (2) budgetary conditions and the shaping of the local tax policy and finally (3) the case of the special economic zones. These matters are highlighted through the lens of the Hungarian Constitutional Court since the Constitutional Court considered the constitutionality of pandemic legislative decisions in several cases. The decisions of the Constitutional Court should be analysed whether it can fulfil its substantive legal protection role, even though the Constitutional Court has limited competence in the field of financial and budgetary issues and therefore has no competence to scrutinize this type of Government measures. The paper concludes that the financial autonomy of local self-governments deeply, moreover adversely involved in the analysed subjects.*

**Keywords:** *Covid19 pandemic crisis, exceptional legal order, local autonomy, local tax policy, state of danger.*

## 1. The constitutional ground of the state of danger and the competence of Constitutional Court

### 1.1. The state of danger

The essential constitutional provisions of the state of danger included in Fundamental Law of Hungary (hereinafter: Fundamental Law),<sup>1</sup> entered into force 1 January 2012. Different types of emergencies are classified as the subject of the detailed ruling. Accordingly, Fundamental Law contains a separate chapter entitled special legal order. The term of special legal order can be considered a comprehensive term, different types of state of danger are constituted, as follows, (1) state of national crisis, (2) state of emergency, (3) state of preventive defence, (4) emergency response to terrorism, (5) unforeseen intrusion and (6) state of danger. In this latter situation, the state of danger is the only point that needs to be addressed from the special legal order, due to the topic of the paper.

The state of danger is the sole emergency, which is not intended the armed defence of the State. The scope of this provision is broader than the other types of a special legal order, it could develop a serious constitutional concern because the basic regulation of the state of danger is laid down in Fundamental Law, but detailed rules are covered in Act on catastrophes.<sup>2</sup> According to the Fundamental Law, the main elements of the state of danger are as follows,

(1) this period when the lives of citizens, their material possessions and the territory and the sovereignty of the country requires special protection, that

(2) may need temporary derogation of the normal legal system and governance by regulation may be legitimized, which

(3) may prioritize obligations over certain fundamental rights.

In line with Article 53 of Fundamental Law, the Government shall declare the state of danger and be empowered to introduce emergency measures. This disposal specifies the kinds of emergency in case of state of danger, natural or industrial disaster endangering lives and property to mitigate consequences. Only the parliamentary act provides the human epidemic causing a mass disease, precisely. Provisions introduced by the Government may be the adoption of decrees, suspension of the application of certain provisions or derogating provisions of law and taking the other necessary steps. For this reason, the governmental decrees' and the state of danger's constitutionality was doubtful, for the reason, that the human pandemic is not involved in the list of Fundamental Law.<sup>3</sup>

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<sup>1</sup> Fundamental Law of Hungary (25 April 2011) Special Legal Order Art. 48–54.

<sup>2</sup> Act CXXXVIII of 2011 on catastrophes.

<sup>3</sup> Tímea Drinóczi, Hungarian Abuse of Constitutional Emergency Regimes – Also in the Light of the COVID–19 Crisis. *MTA Law Working Papers* 2020/13, 17, Gábor Mészáros, Indokolt-e különleges jogrend koronavírus idején? Avagy a 40/2020. (III.11.) Korm. rendelettel összefüggő alkotmányjogi kérdésekről. *Fundamentum* 2019/3-4, 68-71, Gábor Mészáros, Carl Schmitt in

The principle of temporality shall prevail, given the decree of Government shall remain in force only for 15 days, except if the Government extends the effect of the decree – based on the authorization from Parliament. A state of emergency is by definition a state, which must be exceptional and temporary. Therefore, it must also be provisional. The emergency rule must be – as it was referred to – strictly limited in time. It must last no longer than the emergency itself and cannot become permanent.<sup>4</sup> The principle of *rule of law* requirements shall be applied. Public and private interests deserve protection, and therefore emergency may lead only to a temporary derogation from certain human rights and to an extraordinary division of powers.<sup>5</sup> Any kind of emergency measure shall be maintained as long as it is necessary and only for a certain, limited period, therefore the principles of necessity and temporality shall prevail.

The exceptional authorization, like the state of emergency, requires guarantees, ensuring the temporary nature of the situation. The most important principle is, that the special legal order must be only maintained as long as causes exist which justify the application of such measures.

The absence of effective application of the principles of necessity and temporality affects adversely local self-governments. Insufficient enforcement of these principles in process of legislation would undermine local self-governments' interests and such legislation may also conflict with the European fundamental values of local democracy and local self-governance.

## 1.2. The limited competence of the Hungarian Constitutional Court

The Constitutional Court has limited competence in the field of reviewing public finance acts since 2010 According to the Fundamental Law, insofar as the level of government debt exceeds half of the gross domestic product, the Constitutional Court shall have powers to review laws on the central budget, the implementation of the central budget, central tax revenues, duties and contributions, customs duties, and on the central government conditions for local taxes for conformity with the Fundamental Law solely as of inherent rights to life and human dignity, the right to the protection of personal data, the right to freedom of thought, freedom of conscience and freedom of religion, or the rights in connection with Hungarian citizenship, and may annul such laws only in the case of any infringement

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Hungary: Constitutional Crisis in the Shadow of Covid-19. *MTA Law Working Papers* 2020/17, 7-8, Zoltán Szente, A 2020. március 11-én kihirdetett veszélyhelyzet alkotmányossági problémái. *MTA Law Working Papers* 2020/9, 15–18.

<sup>4</sup> Compilation of Venice Commission Opinions and Reports on States of Emergency CDL-PI (2020)003 The Compilation serves as a frame of reference. VII. Duration of the state of emergency 21.

<sup>5</sup> European Commission for Democracy through Law (Venice Commission): Rule of Law Checklist CDL-AD(2016)007-e II. A. 6. Exceptions in emergency situations. 13-14.

of these rights. The Constitutional Court shall have powers to annul the aforementioned laws unconditionally if the formalities and procedures laid down by the Fundamental Law concerning the adoption and publication of those laws are not satisfied.<sup>6</sup>

Provision on the limited power of the Constitutional Court in the subject of public finance acts has been incorporated into the former Constitution of the Hungarian Republic. The purpose of the amendment of the Constitution presumably was to eliminate those constitutional reviews, which could obstruct the achievement of the government's then economic policy goals.<sup>7</sup>

## 2. local revenues and Local Tax Policy

### 2.1. The regulation on financial resources and the effect of pandemic measures

The financial, budgetary conditions of local self-governments have significance for the local autonomy. The European Charter of Local Self-Government<sup>8</sup> (hereinafter: Charter) declares the significant elements of local financial autonomy as fundamental requirements to ensure the core content of the right to local self-governments and functionality. The Charter confirms that local self-governments shall be entitled to adequate financial resources of their own, of which they may dispose freely within the framework of their powers, in general terms. On this ground, the certain part of financial resources shall derive from local taxes and charges of which, within the limits of legal acts, they have the power to determine the rate.<sup>9</sup>

According to the Fundamental Law and the requirements of financial autonomy, local self-governments in connection with local public affairs the municipal government may (1) exercise ownership rights concerning the property of the municipal government; (2) determine its budget and autonomously manage its financial affairs on the basis thereof; (3) have the option to engage in business activities using its assets and revenues; and (4) decide on the types and rates of local taxes, within the limit of the law.<sup>10</sup>

The budget items and authorisations of local self-government own revenues are determined in Local Government Law.<sup>11</sup> Details of regulation, such as revenues

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<sup>6</sup> Fundamental Law Art. 37. par (4).

<sup>7</sup> Nóra Chronowski, A korlátozott alkotmánybíráskodásról. [http://real.mtak.hu/11497/1/chronowski\\_lib.am.kotet.pdf](http://real.mtak.hu/11497/1/chronowski_lib.am.kotet.pdf) 1–11, Nóra Chronowski, Az alkotmánybíráskodás sarkalatos átalakítása. *MTA Law Working Papers* 2014/8, 3-4.

<sup>8</sup> European Charter of Local Self-Government Strasbourg, 15.X.1985. ETS No. 122.

<sup>9</sup> Charter, Art. 9. Financial resources of local authorities.

<sup>10</sup> Fundamental Law Art. 32. par. (1), points e) – h).

<sup>11</sup> Act CLXXXIX of 2011 on Local Self-Governments of Hungary Art. 106. par. (1). local taxes, revenue, profit, dividend, interest and rent arising from own activity, undertaking and

of local governments from the central budget, division of certain resources between the state and local governments are laid down in the annual budgetary acts.<sup>12</sup> In Hungary, the task financing system is effective, as a very tough accounting system. The state finances only the mandatory tasks of local self-governments established by statutory acts, and on the other side, local self-governments shall expend sources transferred from the state only for these tasks, and shall account with them. Although there are some own revenues, serving the additional sources for mandatory tasks and voluntary tasks, like the different forms of local taxes and charges. Local taxes<sup>13</sup> have outstanding relevance, by the reason of they cover almost one-third of the local revenues.<sup>14</sup> In Hungary, local taxes were imposed in 3,156 settlements, based on 2019 data, from 3,197 local self-governments. Data shows that 99.3 % of municipalities levied a local tax.<sup>15</sup>

It is necessary to examine, how the epidemiological measures affected the sources of local self-governments, in particular about local taxes.

To illustrate the reduction of local self-government sources, that affected local governments as a result of the Government measures, only a few items of local own revenues, such as (1) vehicle tax, (2) local business tax, (3) tax on tourism have to be highlighted.<sup>16</sup>

The vehicle tax was a divided financial resource between the state and local government; 40 % of the collected vehicle tax belonged previously to the local self-governments.<sup>17</sup> This type of revenue does not represent a significant source in the municipal budget, it is under 2 %, but, it was a freely usable source, served the correction of sources for mandatory tasks, or might be the source of voluntary tasks.

The Government adopted exceptional regulation on different rules of the 2020 central budget of Hungary in the period of a state of danger.<sup>18</sup> The government decree established three different funds to serve the defence against the pandemic, the Fund against the Epidemics, the Fund of Economy Defence, and

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utilisation of the local government property, monetary assets received, duties, penalties, fees payable on the basis of law to the local government, other peculiar revenues of the local government and its institutes.

<sup>12</sup> e.g. Act XC of 2020 on Central Budget of Hungary 2021.

<sup>13</sup> Act C of 1990 on Local Taxes.

<sup>14</sup> Gábor Kecső, Reforms of Local Finance and Taxation in Hungary, Milestones and Junctions Since 1990, [http://real.mtak.hu/123746/1/PSZ%202020.%20angol.szam\\_21.pdf](http://real.mtak.hu/123746/1/PSZ%202020.%20angol.szam_21.pdf) 336-337.

<sup>15</sup> Jelentés, A helyi önkormányzatok adóztatási tevékenysége, Állami Számvevőszék, 2021. [https://www.asz.hu/storage/files/files/elemezsek/2021/helyi\\_onkormanyzatok\\_adoztatasi\\_tevékenysége\\_20210323.pdf?ctid=1259](https://www.asz.hu/storage/files/files/elemezsek/2021/helyi_onkormanyzatok_adoztatasi_tevékenysége_20210323.pdf?ctid=1259) 6-8.

<sup>16</sup> István Balázs – István Hoffman, Administrative Law in the Time of Corona(virus): Resiliency of the Hungarian Administrative Law? *Studia Iuridici Lublinensia* vol. XXX, 1 2021 113–115.

<sup>17</sup> Act LXXI of 2019 on Central Budget of Hungary 2020 Art. 37. par (1) point a).

<sup>18</sup> Government Decree 92/2020. (IV.6.) on different rules of 2020 central budget of Hungary in the period of state of danger



the Fund against the Epidemics from the EU. All three funds are centrally managed financial appropriation, they ensure resources against the epidemics and restarting the economy. According to the Decree of Government, the vehicle tax entirely as part of the Fund against the Epidemics revenues in 2020. Due to the Budgetary Act of 2021, the vehicle tax remained entirely the revenue of the state.

Local self-governments – municipalities and county self-governments also within the limit of the law – may impose the local business tax. All business activities pursued in the territory of local self-government shall be subject to taxation. It is evident, that the economic conditions of local self-government are different, therefore only certain local self-government may impose the local business tax. In 2019, 2,896 local self-government imposed local business tax.<sup>19</sup>

The Government adopted a Decree<sup>20</sup> on 22 December 2020 on certain measures necessary to mitigate the impact of the coronavirus pandemic on the national economy, which also affects local tax revenue for local self-governments. Under the provision of it, in 2021, small and medium-sized enterprises shall pay business tax only at a maximum rate of 1 % (the upper limit of business tax is 2 %). The Government has granted aid for municipalities with a population of fewer than 25,000 inhabitants to compensate for lost revenue, while the financial situation of larger municipalities has been reviewed on a case-by-case basis and compensation has been established, but not on the normative basis.<sup>21</sup>

The Government Decree related to tax on tourism laid down, that after the spent guest night the tax does not have to be paid by the taxpayer, the person obliged to collect the tax does not have to collect or pay, in the period from 26 April 2020 to 31 December 2020.<sup>22</sup>

The Government adopted the Decree on the local tax measure necessary to mitigate the effects of the coronavirus epidemic on the national economy.<sup>23</sup> The Decree contented a provision on the freezing of local tax rates, prohibiting tax increases for the local self-governments. The local self-governments shall not impose new local taxes and settlement tax. This measure of the Government was rather sensitive for local self-governments, as shown by the number of constitutional complaints were submitted to the Constitutional Court.

The Association of Municipalities (*Települési Önkormányzatok Országos Szövetsége: TÖOSZ*) as a municipal interest association regrouping and represents

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<sup>19</sup> Ibid, 15

<sup>20</sup> Government Decree 639/2020 (XII.22.) on certain measures necessary to mitigate the impact of the coronavirus pandemic on the national economy.

<sup>21</sup> The Government with the Decision of 1987/2020 (XII. 22.) declared the launch of the aid program and with its Decision of 1721/2021. (V.17.) determined the aid for 43 municipalities.

<sup>22</sup> Government Decree 140/2020 (IV.21.) on tax facilitations.

<sup>23</sup> Government Decree 535/2020. (XII.1) on the local tax measure necessary to mitigate the effects of the coronavirus epidemic on the national economy.



the interests of more than half of Hungarian municipalities, conducted a series of surveys among its members on Government's measures. The experience of these surveys in May 2020 could be summarized, on the ground of cc. 400 responses, as follows. Measures of the Government crucially affected the financial, budgetary conditions of the local self-governments; they are not able to correct with their measures the situation. The vast majority of local self-governments reduced the operational expenditure, which could lead to staff cuts, dismissals. They decided on the suspension of applications for projects and ongoing investments. It is a sad fact, that the local self-government does not possess sufficient financial resources.<sup>24</sup>

Examining the change of local business tax sources, at least two types of effects can be visible. Reduction in resources derived on one hand from the government measures concerning local business tax, freezing of revenues and the introduction of a non-normative balancing mechanism, but on the other hand, it has resulted from the decline of economic downturn. The impact of the latter case is still difficult to quantify.

## 2.2. The assessing of the government measures' constitutionality or the lack of it

The Government Decree on different rules of the 2020 central budget of Hungary in the period of the state of danger<sup>25</sup> raised the question of unconstitutionality, therefore 54 MP-s submitted a claim to the Hungarian Constitutional Court to establish the infringement of Hungarian Fundamental Law by the Government Decree. Their posterior norm control aimed at establishing the lack of conformity with the Fundamental Law and annulling the provision of Government Decree laying down derogations applicable to the central budget of Hungary for the year 2020 during the period of the state of danger. The distraction of vehicle tax from local governments and the limitation of the local governments' property rights in a state of danger was considered as an infringement of the autonomy of local self-governments. Proposers invoked that the Government Decree conflicted with an international contract, with the European Charter of Local Self-Government.<sup>26</sup>

The Constitutional Court rebuffed the motion aimed at establishing the infringement of Fundamental Law and annulling it.<sup>27</sup> This decision followed from

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<sup>24</sup> See also: Judit Siket, Centralization and Reduced Financial Resources: A Worrying Picture for Hungarian Municipalities, *Central European Public Administration Review*, 19(1), 261–280, See results of the survey <http://xn--tosz-5qa.hu/news/594/73/A-ToOSZ-felmereseben-resztvevo-onkormanyzatok-tobb-mint-felenek-legfeljebb-kethonapnyi-tartaleka-van/>

<sup>25</sup> 92/2020. (IV.6.) on different rules of 2020 central budget of Hungary in the period of state of danger.

<sup>26</sup> Charter Art. 3. point (1), Art. 9. par. (1), (2), (4).

<sup>27</sup> Constitutional Court Decision 3234/2020. (VII. 1.) CC

the restricted competence of the Constitutional Court, that there is no competence for the Constitutional Court to review on the substance the motion related to the distraction of tax vehicle from the local self-governments. In connection with the infringement of the European Charter of Local Self-Governments, the Constitutional Court stated that there is no constitutionally assessed relationship between the general fiscal and budgetary provisions of the Charter and that provisions, according to the vehicle tax shall be the source of the Fund against the Epidemics.

The establishment of conditions for local self-governments to ensure the autonomous management of local public affairs is essential for sovereign functioning. The Government Decree on tax measures in December 2020<sup>28</sup> had remarkably severe effects on local self-governments. The Constitutional Court decided on a total of six cases (Kaposmérő, Budapest XI. District, Budapest VII. District, Budapest XVIII. District, Gödöllő, Budapest XIX. District) concerning the constitutionality of the Government Decree on the tax measure. The concerned local self-governments submitted constitutional complaints in all cases. Generally, the local self-governments shall adopt and promulgate the decrees on local taxes 30 days before the entry into force.<sup>29</sup> Corresponding to this provision, the local self-governments adopted local tax decrees in November 2020. The Government Decree was promulgated 1 December, therefore the decrees of local self-governments shall not enter into force, confusing the budget planning procedure also. The local self-governments involved in submitting the constitutional complaints proposed to establish the infringement of Fundamental Law, the autonomy of local self-government and to annul the Government Decree. The proposers complained about the infringement of the right to local self-government, the violation of the right to impose local taxes and the loss of public revenues. They also argued that the decree removed the right of local self-governments to set tax rates, hence it is a constitutional guarantee of financial and economic autonomy.

The Constitutional Court declared the lack of competence and rebuffed all the motions, because of the limited competence in financial and budgetary cases. The Fundamental Law provision excludes the possibility of constitutional review.<sup>30</sup> As a result of this, the Constitutional Court has been able to exercise its constitutional legal protection function in none of the cases.

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<sup>28</sup> Government Decree 535/2020. (XII.1) on the local tax measure necessary to mitigate the effects of the coronavirus epidemic on the national economy.

<sup>29</sup> Art. 32 Act CXCV of 2011 on the Economic Stability of Hungary.

<sup>30</sup> 3280/2021 (VII.7) CC, 3281/2021 (VII.7) CC, 3282/2021. (VII.7) CC, 3283/2021 (VII.7) CC, 3363/2021 (VII.28) CC, 3364/2021 (VII.28.) CC.

### 3. The special economic zone<sup>31</sup>

During the state of danger, the Governmental Decree<sup>32</sup> authorized the Government to declare a territory or a part of the territory of the municipality as a so-called ‘special economic zone’.<sup>33</sup> Taking into account the most important conditions of such qualification, (1) the Government shall declare the investment of major importance from the national economic aspect, (2) the cost of the investment may exceed 100 billion HUF and (3) the investment affects the significant part of the county. The link between the declaration and the state of danger was that this measure (4) shall be suitable to avoid mass loss of jobs and (5) establish a new investment or expansion. The first zone, according to the Governmental Decree<sup>34</sup> was the city of Göd. Under the regulation, Governmental Decree aimed to defend more than 1.500 jobs threatened by the state of danger and to establish more than 2.500 new jobs.

The general reasons given for the proposal by the Government pointed out that the designation of special economic zones contributes to restarting the economy. The tasks and competencies of the local self-government, specified by the law, shall be performed by the county government in the territory of special economic zones. Every local tax imposed by the county government decree and the revenues belong to the county government, as well. Only 5 % may be the source of operation of the county government because from this source the county self-government supports the development and operation of the local self-governments, based on the knowledge of the economic and employment position of the county.

The Hungarian Constitutional Court has already examined the case of special economic zones. First, fifty-nine MPs submitted a constitutional complaint to the Constitutional Court to establish the infringement of Fundamental Law and to annul the Governmental Decree. The *ex-poste* norm control aimed at establishing the lack of conformity with Fundamental Law, principles of rule of law, prohibition of retroactive legislation, right to legal remedy, breach of the principle of hierarchy of

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<sup>31</sup> See also in details: Judit Siket, Veszélyben a helyi önkormányzatok funkcionalitása? A pandémia hatása a helyi demokráciára, In: Rixer, Ádám (ed.): A járvány hosszútávú hatása a Magyar közigazgatásra. Károli Gáspár Református Egyetem Állam-és Jogtudományi Kar, Budapest, 2021, 203–222.

<sup>32</sup> Governmental Decree 135/2020. (IV.17.) on necessary measures for the stability of national economic in the context of state of danger.

<sup>33</sup> Balázs István – Hoffman István: Közigazgatás koronavírus idején – a közigazgatási jog rezilienciája? *MTA Law Working Papers* 2020/21. 15., Hoffman István – Balázs István: Administrative Law in the Time of Corona(virus). p. 115. *Studia Iuridica Lubliensia* vol XXX, 1, 2021 103-119.

<sup>34</sup> Governmental Decree 136/2020. (IV.17.) on designation a special economic zone in the administrative territory of the town of Göd. Göd is a town in Pest county, located in the agglomeration of the Capital of Hungary, Budapest. The population is approximately 18,000.

norms and the conflict with the international treaty, the Charter. The Constitutional Court examined only the Governmental Decree on special economic zones. Given the fact that this governmental decree has been expired, the motion was rejected for reasons of mere formalism.<sup>35</sup>

The Constitutional Court on a consequent constitutional complaint submitted by the local self-government of Göd concerned, examined the new legal framework of special economic zone, the Act LIX of 2020 on the designation of special economic zones. This time, the Constitutional Court has the chance to sit the case for a second time however, rejected it again, nevertheless, a constitutional requirement was established *ex officio*.

According to the constitutional requirement, the Parliament must ensure budgetary and financial support proportionally for local self-governments to mandatory tasks performed by them. During a state of danger, Parliament has the power to reduce these resources if public interest demands so, but it must not render to exercise their function impossible and must not deprive them of their constitutionally protected powers.<sup>36</sup> The Constitutional Court underlined in its decision, that the property results in social responsibility, thus the local self-government must also bear this responsibility exercising the right to ownership. However, the local self-government shall bear in mind that the ownerships' rights of public property are limited by law to serve social commitments. Such commitment may be changed when the execution of public tasks requires so. The transfer of property may happen without any compensation, free of charge, thus in the form of socialization, expropriation. Meantime, property rights shall be subject to limitation, but the limitation of property rights shall pass the necessity and proportionality test to maintain its conformity with constitutionality. Therefore, the intervention of state organs is not excluded if the constitutional guarantees are respected. The Constitutional Court also emphasised, that the contested regulation results in no distinction between legal entities concerned, moreover, no prohibited retroactive legislation can be found in the case under examination. The Constitutional Court did not declare the unconstitutionality of the legal framework of special economic zones, nevertheless, the application of a legal consequence, the declaration of unconstitutionality in the form of the failure of the legislator could have been inferred from both the parallel and minority opinions could have been a greater guarantee for the protection of local government rights.<sup>37</sup>

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<sup>35</sup> Constitutional Court Decision 3388/2020. (X. 22.) CC.

<sup>36</sup> Constitutional Court Decision 8/2021 (III.2.) CC.

<sup>37</sup> Detailed analysis of the Decision of the Constitutional Court see: Judit Siket, How to Preserve Local Autonomy? Special economic zones through the lens of constitutional requirements. *Jogelméleti Szemle*, 2021/3, 71-83. [http://jesz.ajk.elte.hu/2021\\_3.pdf](http://jesz.ajk.elte.hu/2021_3.pdf)

#### 4. Conclusions

The study aimed to give a short overview of measures of the Hungarian Government concerned with local self-governments during the pandemic. The examination of economic decisions specified how these measures served the interests of local self-governments and their population. Another issue was the presentation of decisions related to the governmental measures of the Hungarian Constitutional Court, so that an assessment may be outlined concerning the fulfilment of constitutional requirements.

The analysis on local self-governments' revenues has confirmed, that an excessive centralization process has taken place, but not temporary, as it has been demonstrated. The discretionary power of the Government, the lack of normativity and predictability may cause a serious breach of financial, economic and functional autonomy of local self-governments.

The Constitutional Court decisions under discussion may be of concern from several points of view, but the main question is whether the Constitutional Court is capable to comply with its function in a state of danger. The analysis demonstrated that the Constitutional Court did not or only partially defended the legal interests of local self-governments. The governmental measures 'have stood the test of constitutionality. The limited competence of the Constitutional Court was detected in several cases, which constitutes an obstacle of the effective constitutional review.

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## A helyi önkormányzati autonómia kérdései Magyarországon a covid 19 idején

**Absztrakt:** A világvárvány kezelése gyors, határozott és összpontosított intézkedéseket kíván, amelyek a Kormány és a helyi önkormányzatok harmonikus együttműködésén alapulnak. A kormányzati intézkedések szükségszerűen érintik a helyi önkormányzatok autonómiáját. A helyi önkormányzatok ugyanakkor elvitathatatlanul fontos szerepet töltenek be a járvány hatásainak enyhítésében. A kormányzati intézkedések többsége a centralizációt erősíti, az együttműködés helyett. A tanulmány a magyar önkormányzati rendszer pénzügyi és gazdasági autonómiájára gyakorolt hatásokat helyezi az elemzés középpontjába.

A tanulmány bemutatja a veszélyhelyzeti jogalkotást, amely érintette a helyi önkormányzatok pénzügyi és gazdasági autonómiáját. Ezzel összefüggésben vizsgálja az Alkotmánybíróság döntéseit, amelyek a helyi önkormányzatok alkotmányjogi panaszbeadványait bírálták el. A tanulmány a veszélyhelyzeti jogalkotással érintett önkormányzati feladat-és hatásköröket tárgyalja a következő szerkezetben, (1) az alkotmányos szabályozás, (2) a költségvetési, gazdálkodási feltételek és a helyi adópolitika alakulása és végül (3) a különleges gazdasági övezetek kialakítása. A témakörök az Alkotmánybíróság döntésein keresztül kerülnek bemutatásra, mivel több alkalommal is állást foglalt a társas testület egyes kormányzati intézkedések alkotmányosságával összefüggésben. Azt a kérdést is felveti a tanulmány, hogy az Alkotmánybíróság képes-e betölteni alkotmányos jogvédelmi szerepét, hiszen csak korlátozott hatáskörrel rendelkezik a pénzügyi és költségvetési ügyekben. Ennélfogva az ilyen tárgyú kormányzati intézkedések vizsgálatára nem jogosult. A tanulmány arra a következtetésre jut, hogy a helyi önkormányzatok pénzügyi autonómiáját rendkívül hátrányosan befolyásolták a veszélyhelyzeti intézkedések.

**Kulcsszavak:** Covid19 világvárvány, rendkívüli jogrend, helyi autonómia, helyi adópolitika, veszélyhelyzet.

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## Питања локалне финансијске аутономије у време COVID-19 у Мађарској

**Сажетак:** Суочавање са пандемијом захтева брзе, одлучне и концентрисане радње и услашен рад Владе и локалних самоуправа. То захтева концентрисано и координисано деловање Владе и ове мере нужно утичу на аутономију локалних самоуправа које ипак треба да буду важан учесник у управљању пандемијом. Већина Владиних мера које су се недавно јојавиле ојачале су централизацију више него координацију. Рад ставља фокус на финансијску и економску аутономију мађарских локалних самоуправа.

Студија показује да пројиси ванредног стања највише јојављају финансијску и економску аутономију локалних самоуправа. Поред тога, она ставља нагласак на одлуке мађарског Уставног суда, које се оледају у уставним жалбама локалних самоуправа. Рад обухвата три главна питања локалних надлежности на које утиче законодавство стања опасности, (1) уставна позадина, (2) буџетски услови и обликовање локалне јореске јолијике и најзад, (3) случај јосебних економских зона. Ова питања су освешљена кроз визуру Мађарског Уставног суда, будући да је Уставни суд у неколико наврата размајрао питање уставности законодавних одлука у области пандемије. Одлуке Уставног суда треба да буду анализирани са аспекта да ли овај Суд може да испуни своју улогу (обезбеђивања) јравне заштите у суштинском смислу, иако има ораничену надлежност у области финансијских и буџетских питања и стога нема надлежност да размајра ову врсту Владиних мера. У раду се закључује да је финансијска аутономија локалних самоуправа дубоко, штавише нејативно, укључена у темама које су предмет анализе.

**Кључне речи:** пандемијска криза Covid19, нередован јравни јоредак, локална аутономија, локална јореска јолијика, стање опасности.