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A LATIN KORPORÁCIÓK HATÁSA A KÖZÉPKORI TESTÜLETI ÖNKORMÁNYZATOKRA

THE IMPACT OF LATIN CORPORATIONS IN THE MEDIEVAL CORPORATE LOCAL GOVERNMENT

Az állam, benne a közigazgatás szerepe a közszolgáltatások terén a különböző történelmi korszakokban eltérő feltételek mellett alakult. Konszolidált társadalmi időszakokban, azokban az országokban, ahol ez az állapot tartós, esetleg több évszázados, az állam működése, a lakosság lehetőségei az elkülönült szervezet munkájába való bekapcsolódása a legszélesebb körű, a szervezeti, szervezési újításokban élenjáró. A második világháború után világszerte folytatódott az állami szerepkör növekedése a társadalmi, gazdasági folyamatok irányításában. Alapvetően módosultak az emberi együttélés feltételei és az emberiség irányító eszméi, a korfordulóval az állam is fejlődésének új szakaszába lépett.

The State, including the administration's role in providing public services has formed under different conditions in different historical eras. In stable countries' consolidated social eras, perhaps for several centuries, the state's operations, with the public opportunities, they were widely involved in the work of distinct organizations, which has led to organizational innovations. After the Second World War, the management role of the state has started to increase in the social and economic processes. The conditions of human coexistence have fundamentally changed as well as humanity's leading philosophies. With the change of the century the development of the state has entered a new phase.¹ The duties of the state during the antiquity, the middle ages and at the initial stages of the modern times, historically proven, while relatively substantial literature² exists on Latin professional organizations, which proves the undeniable fact that even those states that existed among the simplest conditions could not perform all the duties of the local government with only a single central authority. One method for the division of labour was that the government's functions grouped around certain principles and certain duties, leaving it to the individual's self-regulation to those who existed outside the state's organization. This method of decentralization is called local-government. The latter forms of decentralization of certain administrative functions were given to citizen's corporate bodies that were shaped in a predetermined fashion, are called local government bodies. There were various priori principles for the formation of various local government bodies including provincial and local government. It is noteworthy that Stephen Ereky differentiates on territorial and personal basis formed local governments, as well as local government bodies formed on a transactional basis.³

The corporate authorities of the Hungarian administrative system play a significant role, such as functional decentralization of institutions. They are similar in their major criteria to those of the European corporate local governments: they are designed to perform specific functions and the members of the local government are entitled to perform those duties. The main motivational force to the existence of the public authorities, is that the individual duties of the state and the public administration to be performed by the stakeholders as a whole, where they perform public duties and their own private affairs at the same time and advocacy activities and activities that are in the common interest of their members.⁴

The establishment of the public authorities or corporate local governments and the basis of their segregation is the same as with the regional governments - the principle of participation, the effectiveness of democracy, i.e. the state entrusts

¹ Dr. Lőrincz Lajos (2009): Az állam szerepének változása, különös tekintettel a közszolgáltatásra, Új Magyar Közigazgatás, március, p.5

² Adolf Berger, Encyclopedi dictionary of Roman law, The Lawbook Exchange Ltd., p. 553.

³ About centralization, decentralization and deconcentration I. Drágffy Miklós (1937): Az önkormányzat múltja és jelene Franciaországban pp. 5-23.

⁴ Ficzer Lajos (1998): Magyar Közigazgatási Jog, Osiris Kiadó pp.109-119.

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the administration with the stakeholders. "People with the same occupation group into professional bodies, or group in other different bodies or organizations, however, it does not only mean the new regulation about the terms of employment, but the new relationship order between the individual and the state. The professional bodies from an organizational point of view are corporate local- governments. As there are territorial local- governments, with the municipalities and juridical bodies, so there are corporate local governments too, where it is in the citizens interest to belong to such bodies, where the professions provide the basis to people's livelihoods".⁵ The professional organizations are also one way to acquire the local government' authority, not only the society, but the state also finds it in this form the institution, that is the most appropriate to organize and manage the economy. These benefits are empirical facts, which are supported by several thousand years of history (economic history).⁶ The continuity of corporate idea, can be found at each era in history and have always played a prominent role in their effects, it is remarkable how the guilds were becoming factors in the economic and political power, during the later ages of the thriving cities.⁷

CORPORATE LOCAL GOVERNMENTS OF ANTIQUITY

We do not know much about the origin of the roman professional organizations, but it is certain that the first "corporates" appeared during the reign of the kings.⁸ However, it is difficult to determine whether these primitive organizations were priestly organizations established for the sole purpose of religious worship or organizations for craftsmen as well. It is assumed that the priests' corporate are the origin of public corporates, and probably served as a model for the craftsmen's corporates as well. The bias toward craftsmanship or workmanship was a natural consequence of that the latter body, which was formed to protect the mutual interests, were simple and basic corporates that did not have influence over the public life, although there were ideas, which were the corporates during this early period, were there to satisfy common interests and needs.⁹

The origin of the roman corporates gets lost in obscure tales, the only thing can be stated with certainty, therefore, that the first craftsmanship corporate were simple mergers or bodies, established to protect the common interest, which have little influence over the State. The roman corporates in the political, military and religious history, appeared in the last century of the republic, and this is when the State, for the first time intervenes in their operations. The constant political struggle and the inevitable social change, made the regulation of corporates inevitable.

During the term of Augustus, the law of assimilation gained a political nature. This was reflected in the first major legislation of roman corporativism - attributed to Caesar - Lex Iulia de collegiis (Roman civil law), that the formations of corporates were bound to the authorization by the Senate.¹⁰ The Lex Iulia ordered that the corporate can only operate if the establishment of the corporate was announced at the Senate. Corporates with legal regulation and authorization, by the recommendation of the Senate, and the permission of the Emperor, on the condition, that their operation should not be politically damaging, and it must certify that the organization serves a public purpose. The corporate movement's legal regulation most important consequence was that, the authorized body gained a legal personality. Since that date, we distinguish simple associations (collegium), from the bodies that have legal personality, which are known as corporatio.

⁵ Magyary Zoltán (1939): Államéletünk válsága, különlenyomat az Egyedül vagyunk 6. sz. p. 10, and Némethy Imre (1941): Hivatásrendek a közigazgatásban, no. 1

⁶ Kiss István (1932): Dolgozatok a közigazgatási reform köréből, Magyar Közigazgatási Intézet, Budapest, pp. 11-27

⁷ E.g. the establishment of the Oxford University, in the XII. century (after Paris and Bologna), was established with the help of the flourishing economy achieved by the guilds. Catto, Jeremy (ed.), *The History of the University of Oxford*, [Oxford University Press](http://www.oxforduniversitypress.com) (Oxford, 1994).

⁸ Thomas W. Africa, *The Immense majesty: A history of Rome and the Roman Empire*, State University of New York, Harlan Davidson Inc., 1991

⁹ Tenney Frank, *An economic history of Rome*, The John Hopkins Press, Baltimore, 1927

¹⁰ Lex Iulia was introduced by Julius Ceasar, amendments were made by Augustus. Földi A., Hamza G. (2005): *A római jog története és intézményei*, Nemzeti Tankönyvkiadó, Budapest pp.35-50

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During this time, these organizations were under strong state control, where this power is controlled by the Senate in Italy, and in the provinces by the governors. The dissolution of these authorized bodies was under common law vested with public powers, done by a legislative act, the actual dissolution of corporates was done by administrative action. The Lex Iulia did not only regulate craftsmen's corporates, but in general, the code of right to form associations, which is during this time, was the natural consequence of the socio-economic conditions' development. Oddly, however detailed is the regulation about the rights of the corporates, the organizations did not lose their individuality and private status. In this era, corporates were specifically established to satisfy private interests, in addition satisfy common interest indirectly by their implication.

The territory of the empire substantially increased during the reign of the emperors; therefore, the governance of this huge territory demanded an advanced administration. The increase in administrative tasks used the corporatism which was ready at hand, to perform these functions, in the beginning which they performed as a privilege, later as a liability. The corporations were given privileges, facilitating their easy incorporation, and furthermore, later, with contribution by the authorities, corporates were established in areas where they were so far lacking. The power of corporations was extended to a wide area. Apart from economic tasks, they performed certain occupation systems' duties. Permitted and tolerated by Lex Iulia these corporates were replaced by bodies assigned to undertake civil service tasks.

The corporate system fully developed during the reign of Alexander Severus¹¹ (208-235). Each occupational branch had its own corporation. Membership was compulsory for all, who are engaged in the specified profession. By this time the spirit of Lex Iulia was forgotten, it was no longer a right to form a corporate but an obligation. The corporates are no longer the units of the free individual initiative, but a state created one by the state's administrative orders to serve as a lobby and administrative organization.

The development of corporates reached its peak during the reign of Diocletian (284-305). By public opinion it was everybody's duty to serve the state either by work or military service. Certain professions could only be practiced by the members of the corporate; the individual liberty is restricted to serve the higher purpose of the state. Many professions became hereditary and their practice became compulsory, in exchange, the individual gained acquaintance from public and military service, as well as exempted from paying extra taxes.

The large number corporates at the late imperial era are divided into three groups:¹²

a.) The exercise of certain occupations, the supply of cities, especially the feeding of their citizens was absolutely necessary. The legal statuses of these corporations were Roman and Byzantine. It is assumed that the other major cities' corporations had similar legislations. These were the bakers, the butchers, the meat transporters, the sailors' corporations.

b.) Carrying out activities related to „Large industrial plants” corporation connected to state monopoly, founded by the state, played an important role. Such as salt and mineral miners, the mint, goldsmiths, gunsmiths, etc. corporates.

c.) Not as distinct role played by those corporates that performed occupations that did not have a significant role in the public supply. These included the carpenters, wool weaver, silk weaver, doctors, veterinarians, and etc. corporates. The relationship between the state and the corporations depended on the above mentioned group, to which the corporate belonged to. Once the entry into corporate was no longer a right, but an obligation, than the dissolution was no longer belonged to the corporate's administrative jurisdiction, but depended on the resolution of state. The corporates operated under administrative and judicial supervision. The main supervisory authority to them was the emperor, whose

¹¹ The last member of the Severus dynasty. [Encyclopædia Britannica, Eleventh Edition](http://en.wikipedia.org/wiki/Alexander_Severus), http://en.wikipedia.org/wiki/Alexander_Severus

¹² Matthews, John F, *Laying Down the Law: A Study of the Theodosian Code*. New York, NY: Yale University Press, 2000

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control powers were exercised by the praefectus praetorio. The State monopolies' staff's corporations as their status, worked as the state's administrative bodies. The corporations' structure was roughly the same, whichever group did it belong to, or even structurally it did not differ much from the previous era's corporations. During this period, the state did not entrust the determination of the type of the individual organizations by their stakeholders, but the principles of Lex Collegio were increasingly determined by the state itself. The patrons (the presidents of corporations), were responsible to the proper management of corporate in two ways: toward the corporate members and the State.

Each corporation was responsible for the service provision, which was composed of its members' professions. The members were universally responsible for the service delivery of any fellow member, (e.g., transportation) they were liable for carrying out the contracts. The operation of the corporations in such a way was a new aspect in their development.

Corporations reach their peak in their development under Diocletianus and Constantinus, their role declined thereafter. The sudden fall of Western Roman Empire puts a sudden end to the life of the corporations; however several other institutions survived in the barbarian kingdoms in Italy, and the Byzanthum; inherited from the Roman Empire. The corporates with religious nature run by priests, the emperor and the senate, by the laws of Lex Iulia, controlled their authorization, controlled and limited their operation and establishment of corporates. Finally they became functional administrative institutions of the empire; corporates have gone through all the major development phrases. The history of the Roman corporations in the ancient world in Western Europe ends here.

CORPORATIONS IN THE MIDDLE AGES

After the fall of the Western Roman Empire, the development of the corporations was divided into two. Corporations survived in the eastern empire, where between Europe and Asia advanced trade had developed. Byzantium, an industrial and commercial centre, where corporations continued to exist, although in specific forms. The corporates undertook production and trade throughout the empire. Byzantium's eparches monitored their operation, whereby the management of the entire economy was part of the public administration. Professions were no longer inherited; entries – conditions vary – depended on a competency exam. The professional practice was not connected to a compulsory corporate membership.

The situation was different in Italy, where with the conquering barbarian tribes- just like the rest of Europe where population movements have been taking place- urban and rural institutions and the economy were fundamentally transformed. The once flourishing ancient cities shrank or disappeared, and if they survived, their role was transformed, often lost their former importance.¹³ With the wake of population decline, the needs of the population became modest. The Roman's developed economic life was replaced by the conquering nation's management system, characterized by the household economy. A nation or a tribe produced to satisfy all its needs. The household-management system survived as a permanent establishment of the invading nations and the kingdoms that were founded after, and even in the era of feudalism evolved only to the extent that now constituted the feudal estates – became not only a political, but also – an economic unit. The so-called courtyard system (sistema curtense, Hofsystem) at the age of the household-management centred on the landlord's castle, all the consumer goods were produced here. In the modern sense we can not talk about commerce because of the public security situation and the strict customs and taxation by the feudal estates. The feudal world strived to attain full self-sufficiency in its economic system, the industry, commerce and agriculture were under the absolute power of the landlord, the landlord had ruled out independent economic activities, so it was understandable that during this era we can not talk about local governments and public administration. The

¹³ Luigi Dal Pane describes the guilds in details: *Il tramonto delle corporazioni in Italia*, Milano, 1960

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feudalism's economic and political system was not favourable to the corporations, in addition to the German legal concept presented an obstacle, where it did not recognize anything else apart from the family, the tribe and the state as an institution, economic activity was carried out within the family, which made job or occupation searching as well as workers association into a corporation unnecessary.¹⁴

The question arises, whether the roman corporations in Europe did survive history? The guilds in Italy and France were partly based on and originated from the corporations, the initiative of the Roman emperors. In the rest of Europe, the guilds can be traced back to associations and corporations with a religious nature. In the flourishing cities the guilds become the factors of economic and political power. The citizens of the new guilds, the middle class displaced the traditional urban nobility, and increasingly has had taken over the over political power as well. The political leadership - which temporarily belonged to the guilds, under the direct influence (as in Florence in 1282, in Bruges in 1302 in Strasburg in 1332, and in Cologne in 1370) became their duty to participate in the protection of the cities: the guilds equipped with their own flags and coats of arms, were in charge of the city's reinforcement and the maintenance of its buildings.¹⁵

Belonging to the guilds had different conditions. Knowledge and skills were investigated, among free legal status and good reputation. The craftsmen who could easily become full members of the guild even alone, servants and apprentices were at a much disadvantageous position. Regarding the guilds' economic and political affairs the masters' meeting decided. The merchant and craft associations fixed their product prices, determined the number of students they could have, verified the quality of their products and excluded competition by pressure of the guild, and ensured social sustenance, catering for the sick and paying burial expenses.¹⁶

Occupational corporations in the Middle Age were when the industry and trade gains momentum in its development. The increased needs of the population growth generated new solutions. The gradual development of the economic life introduced a new social class, which lived separately from the people living outside the landlord's castle and settled down in castles and fortifications. The new social class did not need the support of the weak central power- with the help of congenital instinct to form associations - generated a strong power to form groupings that could face the landlord's power. The cities independence struggle was launched throughout Europe during the XII-XV century. There was hardly a medieval town with a history that did not participated in the independence struggle. This process could be found in Hungary' own history as well, for example Kőszeg the city's history. Such a struggle could be seen between Késmárk town and the noble family of Thököly.¹⁷ In this struggle, the new industrialists and merchants' associations played a significant role, despite the fact that in the beginning they were formed to perform religious and charitable purposes. During the feudal system' social and economic decline in the XII century, new corporate entities were formed, which were found in Lombardy, in France, England, Germany, Padua, Florence, Bologna, etc, and in our country (known as guild).¹⁸ The history of medieval guilds almost coincides with the histories of the cities; most cities were established by the guilds, because with their increasing economic power their political power grew as well. They were consulted on all

¹⁴ Ibrányi István (1961): A gazdasági élet fejlődésének hatása a közog és a magánjog viszonyára, Magyar Jogászegyleti Értekezések pp.158-179

¹⁵ The large guilds gained the governing power in Florance (arti maggiori). In 1293 guild provost office is established (gonfaloniere), who replaces the governor's (podestat) office. The highest authority, becomes the Signoria, under the authority of gonfaloniere. The constitution of 1282. a new era starts in the history of Florance, where the city becomes the leading power in Middle-Italy.

¹⁶ Bodo Harenberg (1990): Az emberiség krónikája, Officina Nova, pp.322-323

¹⁷ Dános Árpád (1935): Az iparszabadság a magyar ipari közgazgatási jogban, Budapest, p.108

¹⁸ The new corporations are named as the latin coetus, from the lower latin it becomes coeha, from whic the german Zöch and Zech, from which the hungarian céh word originates. Dános Árpád (1935) id.m.: p. 95

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major public issued for their views; the leaders of the guilds became the leaders of the city. Public office was only worn by those, who were members of the guild, and membership was a prerequisite to acquire citizenship.¹⁹

The medieval guild systems fall under three main categories.

a.) the traders were relatively in a privileged position, their organization structure was determined by the statue, which usually was part of the city, and were endowed with a legal personality.

b.) the freelancers' corporates were similar to the Roman jurist corporates (in particular, judges, doctors, pharmacists guilds play an important role in the cities)

c.) most widespread were the craftsmen guilds.²⁰

History repeated itself with the development of the guilds. The first guilds were for religious and philanthropic purposes had developed and were widespread. Parallel to their growing economic significance –from the beginning of the XII century – they gained more and more influence over public functions, and the political power was in their hands, which phenomenon was found all over Europe.

While the antiquity and Middle Ages, produced highly sophisticated corporate local government systems, while the modern ages, the corporate local government show in its history a decline and regression. The guild system, performing its role disappeared during this era from the scene. All this contributed to the late Middle Age, when the European society was undergoing a great transformation. Reformation started the religious wars, which accelerated the dissolution of the guilds. The discovery of America was a fatal blow to the guild systems, via the "new Indian route" raw materials and gold streamed into Europe, new industries arisen and old ones disappeared. With the industrial and technological developments, the production patterns changed. The guilds could not adapt to the new needs of the new times. Manufacturing was established, that is, a lot of workers, but without machinery were working in the heavy industry. Then, when this mode of production could not satisfy the growing demands, the steam engines entered the manufacturing industry.

The state's action against the guilds swept throughout Europe, which lead to their total elimination. The twist of history that the final blow to the guilds was given during the French Revolution's measures. In fact, the National Assembly on August 4, 1789 declared that it wished to manage the industry without the guilds. Finally, the Constituent Assembly on June 14, 1791, as a declaration of human freedom, banned guilds. The French Revolution's philosophy spread all over the Europe.

In Hungary at the eighteenth century, the government and the counties often interfered with the internal affairs of the guilds in order to prevent abuse. In 1715: under the Law LXXIX., it abolished all the rules, which prevented membership to the guilds. Finally, II Joseph, in 1786, abolished the entire institution.²¹

This brilliant era of corporate local governments - and as mentioned, the guild era - ends, not quite one and a half century later, in the XX century, revival of the corporate local government took place.

Kulcsszavak: helyi közszolgáltatás, önkormányzati modell, kiváltságok

Keywords: local public service, local governmental model, privilege

¹⁹ Csizmadia Andor (1941): A magyar városi jog, Kolozsvár, p. 27

²⁰ Menczer Károly (1941): A munka alkotmányának jogi jellege, Közigazgatástudomány, Budapest, pp.96-98

²¹ Laky Dezső (1930): Az iparosok szociális és gazdasági viszonyai Budapesten, pp. 11-12, and Csizmadia Andor (1938): Érdekképviseltek és a magyar rendi állam kialakulása, Győr p.5

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