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The Legal-Administrative Questions of Environmental Protection in the Republic of Hungary

by

BENKŐNÉ, LODNER Dorottya

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HRUBI, László

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INTRODUCTION

In order to discuss the topic indicated by the title above, some fundamental concepts must be clarified first as to what is meant by environmental protection from the legal point of view, and what its content elements are. When defining the concept of environment, the starting point of the current legislature was an environmental protection and human approach. Only those elements are included which can be influenced by human behaviour, activity or negligence, either in a positive or negative way. Further restrictions of legal regulations – the fact that protection does not cover the whole surrounding environment – can be explained by the following. From one point of view, certain elements of the environment had already been put into different protection categories before the overall legal regulation of environmental protection took place in 1976 (e.g. working environment into labour safety; monument environment into preservation of monuments). From another point of view, and for reasons of justification, only those elements can be included which have a significant impact upon either a wider community or the natural environment. Within the concept of environment two subcategories can be differentiated: natural and artificial. The former refers to the complex of natural elements which together produce an effect on the biological conditions of human life at a given place and time. The latter (the built environment) consists of the environment shaped by people according to their own needs. This differentiation is justified by the need for different types of legal regulation for protection. (The earth and water for instance, as elements of the environment, are managed according to different criteria as compared to the protection of separate protected environmental objects; although the former, in addition to other elements, also appear in the protection regulations of the settlement environment but with a different focus.)

Several concepts have been coined by Hungarian professionals but there is no unified standpoint as far as environmental protection is concerned. These definitions share the following features: human-centredness environmental protection activity is aimed at keeping people and their health safe, and complexity in two different meanings. The first is the complexity of protection which presumes the mutual participation of several components, in close interrelationship with one another (e.g. social, political, legal, economic, technical, biological, ecological etc.). The second is the complex-

ity of elements; protection, with the above mentioned restrictions, covers all the elements of the environment (earth, water, air, flora and fauna, landscape, settlement environment etc.) and manages them as a whole, concentrating on their interrelationships. Although the legal regulation of environmental protection does not define the concept of environmental protection, but rather sets the aims of the law and the task of environmental protection (see Act II on environmental protection in 1976)), the component elements of protection can be deduced from the general regulations. Consequently, environmental protection means a conscious activity to serve the health conditions and interests of both the present and the future generations, including:

- the prevention of dangerous phenomena, environmental damage detrimental to people (damage protection);
- the elimination and reduction of the already existing decline in the quality of the environment (damage limitation);
- the rational social use of utilisable natural resources and natural environmental elements;
- the conservation and rehabilitation of natural areas (nature conservation);
- the creation and continuous improvement of socially favourable living conditions for the future (systematic nature conservation).

Nature conservation, as the list above suggests, is situated within the conceptual scope of environmental protection. It covers the protection, conservation and specific goal-oriented maintenance of both the natural areas, more or less free from human intrusion, with scientific and cultural significance (e.g. caves, certain species of plants); and also products of human creation (e.g. parks).

As a result of the socio-economic changes in the Republic of Hungary, a new attitude can be seen concerning the management of environmental protection issues. The government program, through the uniform adjustment of the natural and man-made environment, has set the aim of developing the conditions and quality of life. This task, however, is far from easy. The decline of environmental quality is a direct consequence of the last four decades' economic policy. The material- and energy-intensive economic structure; the high proportion of pollutive technologies and equally pollutive different branches of industry; excessive economic centralisation; and the neglect of infrastructure were all factors inducing and conserving environmental pollution. The situation of environmental protection was further

hindered by the monolithic political system and the state administration which served it, by giving priority to production interests only and pushing the non-productive sector into the background. As a means of implementing this policy, the regulations, besides declaring the principle of prevention, were characterised by the idea of subsequent intervention. The dominance of the direct commands of authorities; the scattered allocation of tasks and competence; the concentration of sectoral and environmental interest representation and assertion in the hands of a certain ministries (e.g. the ministries of agriculture and industry) were all factors which prevented effective environmental protection activity by the state. The present government wants to stop the disintegration of environmental quality by the millennium. The primary task is to reduce the harmful effects directly endangering the health conditions of the population; that is to improve the air and water quality, and to solve the problem of waste disposal. Other aims of high priority are the conservation of the irreplaceable natural environment and active participation in the regional and global protection of the Carpathian Basin.

In order to achieve these aims it is essential to reform the legal regulations of environmental protection; an environment-friendly jurisdiction should be established and this principle is also endorsed by the legislature. What are the characteristics today of the Hungarian central legislation serving the interests of a healthy environment? Concerning environmental protection, the body of law consists of a vast number of legal instruments, a conglomeration quite difficult to survey. A relatively small number of overall regulations can be found wholly covering the environment protected by law. The majority of present provisions apply first to specific elements of the environment and to the wholly or partly damaging activities (e.g. soil protection: qualitative and quantitative protection of agricultural lands, mineral resource protection; waste: dangerous, solid and liquid, of settlements) and second, they are associated with economic activity in the environment. On the other hand, the provisions concerning environmental elements are often linked with economic activities (e.g. forestry, waterworks, mining). Furthermore, all those legal norms should be mentioned as a result of which, in the context of the socio-economic changes and the renewal of jurisdiction and the state administration system and its operation, environmental protection tasks are determined and allocated and their scope changed.

The fundamental condition of an effective and productive administration is an unambiguous and implementable legal regulation from the point of

view of substantive and procedural law. In terms of environmental protection, the present body of law does not meet these requirements. Concerning the legislation of the recent period following the change of system, three main courses can be differentiated in the updating of legal regulations:

- the modification of certain fields within the area of environmental protection (e.g. the 27/1992 (I. 30.) government decree on the control of the formation of toxic waste and on the activities related to their neutralisation), the re-regulation of general issues (e.g. the 1992 Act LXXXIII on certain separated state funds, including the Central Environmental Protection Fund), and the introduction of new subject matters to be regulated (e.g. the Ministry of Environmental Protection et. al.'s 18/1991 (XII. 18.) decree on the control and check of motor vehicles from the environmental protection point of view; and the 86/1993 (VI. 4.) government decree on the temporary regulation of inspecting the environmental effects of certain activities);
- the integration of environmental protection regulations into the mechanisms „commanding" economic change (e.g. state companies, co-operatives) and the re-regulation of branches of industry (e.g. new laws on mining);
- norms regulating the management and organisation of environmental protection and the restructuring of the scope of tasks and competence (e.g. the 1991 Act XX, 24/1992 (I. 28.) government decree on the modification of environmental protection provisions of the law and on the tasks and competence of the clerk of local government).

As far as the result is concerned, these legal provisions can be considered to be dealing with minor issues, means and organisational framework only without clarifying their content, the essential questions constituting the environmental protection activity of the state. The central legislation still lacks the regulation of procedural issues of environmental protection administration. (In this respect, however, improvement can be expected in the new law on environmental protection.) Even if there are some implications, these are included in the system of a given branch or field with dominant branch-centredness, without paying enough attention to the complexity of environmental protection issues and the complicated inter-relationship between environmental elements and the negative effects on them. Briefly, efficiency is prevented by the fact that there is no synthesising system co-ordi-

nating minor details, and that both the organisation and its functioning are too disparate.

The main courses of the necessary changes are:

- in every aspect, the jurisdiction should consider from an environmental protection point of view (instead of the former practice of pollution neutralisation);
- as a consequence of the principle of the legal state, the regulation should be normative: instead of the „wishful" declaration of environmental protection principles, the executive government and the whole public administration should be given concrete tasks which are defined and surrounded with guarantees;
- the regulations should help to assert the principle of the causer's responsibility: the polluter should pay;
- regulated and fair procedures open to the public should be introduced for cases which cannot be treated within the framework of normative regulations;
- the environmental protection information system should be further developed: it should serve simultaneously the work of the authorities and the evaluation of the state of environment (as a consequence of the latter function, the environmental data of a given region should be accessible for anyone anywhere, in a systemic form);
- a new law on environmental protection should be framed (the draft has already been made);
- the publicity of environmental protection should be stated in this law;
- special rules of the assertion of environmental protection rights, both individual and collective, should be laid down in law;
- state participation in environmental protection cannot be reduced radically; the tasks of the state should be defined and a normative task-financing system should be worked out;
- concerning the fulfilment of environmental protection tasks, the participation of the state and of the persons and institutions involved in the economy, and the financial burden of the population should be regulated by law;
- it is essential that the public administration should be both professional and independent; therefore management and production interests should be separated from each other, the work of the authorities and the government should rely on independent expertise, and the activities of the authorities should be rendered independent from the dominance of local economic interest;

- the multi-level central legislation (law, cabinet decree, ministerial decree) should be limited to a minimum decree as a result of which local governments could gain more opportunities to exercise regulating activities over environmental protection;
- the fundamental elements of the public administrational system of environmental protection, especially the carrying out of local tasks, should be defined in law.

The legal regulation of environmental protection is characterised by creating requirements for different activities. As a consequence, this regulation is essentially a collection of requirements containing the prescriptions of duties. It is public administration law which has a determining role in the regulation, although environmental protection aspects and provisions can be found in other branches of law as well (constitutional, civil and criminal).

I believe, that the question of how to set up and operate a public administration system whose responsibility is to solve the environmental protection problems of pressing necessity cannot be neglected. What I find especially important to consider in connection with the environmental protection legislation and the location of the related tasks and competencies is the aspect of regionality. That is, different problems in different regions, settlement groups and types. Several problems have been induced by the new local governments replacing the former Council system; by the way they have taken responsibility, their opportunities to influence the environmental state of settlements and their regions, and their integration in the administration work of environmental protection.

Therefore, in this paper, I have decided to emphasise the organisation-legal aspects of environmental protection administration. I will show the Hungarian state control of environmental protection, the different types of territorial (local) organisations dealing with environmental protection administration. I will also describe the system of task and competence division in the context of local governments and among deconcentrated state administration organs and last I will analyse the environmental protection activity of local governments on the basis of the legal background and practice.

1 THE STATE CONTROL OF ENVIRONMENTAL PROTECTION

Environmental protection as an aim and task set by the state presupposes an overall and general political control broken down into different units. The more concrete handling of this issue, specified by distinct activities and organised by tasks and competence is the state control. The state control of environmental protection can be divided into two subsystems:

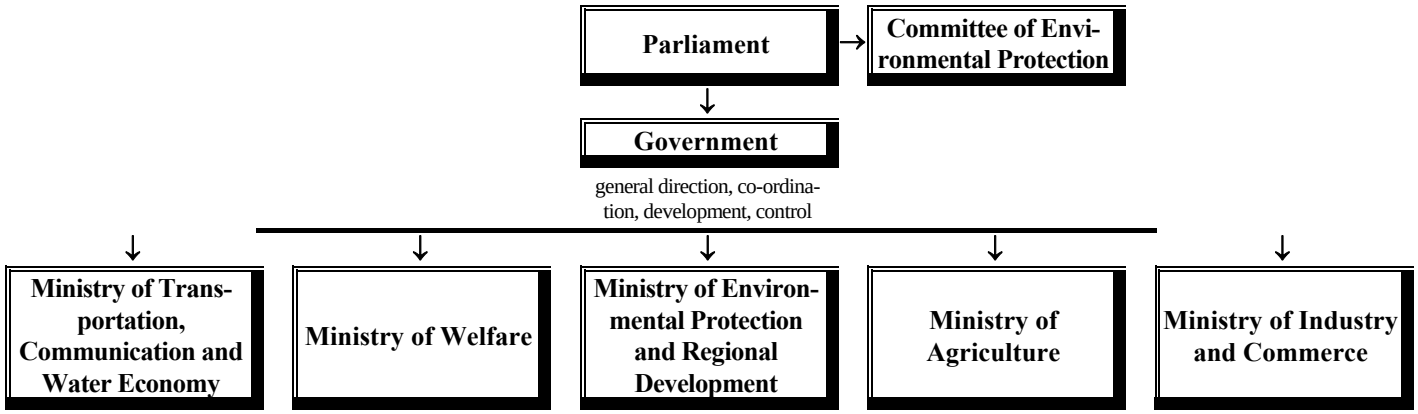
- overall and general control over environmental protection as a whole, including the following: the legislative work of the parliament; the controlling, organising, co-ordinating and supervising activities of the government; the control of the minister and Ministry of Environmental Protection and Regional Development, and the decisions of municipal governments with respect to the whole of the settlement environment (e.g. environmental protection conception and planning);
- control over the special fields of environmental protection, i.e. the control of activities dealing with both the objects of the environment protected by law (earth, water, air, flora and fauna, landscape and settlement environments) and with detrimental phenomena endangering the environment (e.g. noise, waste). The underlying principle of the control of these special fields of environmental protection is that environmental protection as such is not regarded as a distinct branch activity. Consequently, control is still dispersed to a certain extent. There are other reasons, however, rooting in the past; the state administrational tasks of environmental protection had been integrated into the activities of different state administration organs much earlier than the complexity of the environmental protection issue were recognised; state administration was gradually shaped in accordance with the unfavourable changes in the quality of certain environmental elements. The ministers who exercise control over special fields are as follows: the minister of environmental protection and regional development; of agriculture; of social welfare; of industry and commerce; of transport, telecommunications and water management. *Figure 1* and *2* show the state control system of environmental protection and the division of tasks and competence.

In addition to the unified management of the environmental protection issue, state control requires the simultaneous use of differentiated attitudes if

we concentrate on the real chances of implementation. Even in the former system, plans were made to solve the fundamental problems of environment-

Figure 1

Central administration of environmental protection



- tasks from the international cooperation in the environmental protection (water economy issues of the environmental protection)
- definition of the criteria for the use of vehicles (air quality protection)

in the duties of health policy

- specifying health protection tasks in the prevention or reduction of health damaging effects of the environment
- definition of the criteria for the production, storage and distribution of health damaging (toxic) materials
- specifying public health conditions of the planning and operation of establishments

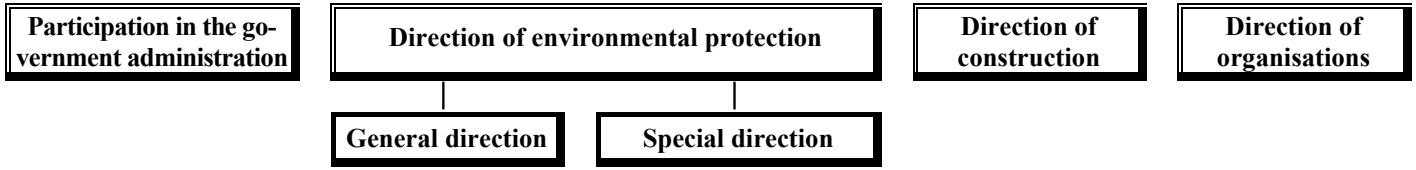
see *Figure 2*

- soil quality and humus reserve protection
- regulated agricultural land use and protection
- realisation of the requirements of agricultural environment economy
- control of recultivation, melioration and irrigation
- realisation of competent forestry
- permission of commerce, quality and right use control of plant protective materials, fertilisers, and meliorative and soil protective materials

- direction of the activities of of discovering and complex utilisation of mineral resources

Figure 2

Administration activities of the Ministry of Environmental Protection and Regional Development



- national programme, budgetary resources – recommendation
- foreign relations (assertion of the environmental protection interests)
- development of regulation of the economy (assertion of the environmental protection interests)

- *environmental policy*: a definition of the strategy purposes
- *environmental quality*: evaluation of the environmental conditions
- *monitoring*: system of the statistical information (harmonisation and functioning)
- creation of the system and methodology of environment analyses
- means, methods & know how of the environmental protection: environment-friendly, energy-saving and waste-less technologies (incentives, development)
- public relations (with civil organisations and movements)

legislation (decrees), lawfulness, supervision, control, organising, co-ordination

Air quality protection

General landscape protection

Water protection

Nature protection

Protection against radioactivity

Protection against noise and vibration

Neutralisation of waste

Protection of mineral resources, soil, flora, fauna and forest (participation)

- harmonisation of the built and natural environment
- architectural protection of the settlement's environment
- technical, ecological and aesthetic respects in the spatial structure of the built and natural environment (in the land use management)

- subordinate institutes, other budgetary organisations (Institute of the Environmental Policy)
- organisations of the regional public administration and other regional budgetary institutions

al protection – but without considering the reality of realisation. In the field of legal regulation, the troubles stemmed from the implementability of provisions (obligations and prohibitions) and assertability of environmental protection interests; while they contributed to – or at least did not prevent – the serious environmental problems arising parallel with the economic problems of the country. In this respect, the present task is to achieve the simultaneous consideration of economy and environmental protection in the development programs of depressed areas, since these regions are struggling not only with an economic but also with an ecological crisis.

The state of the Hungarian environment is declining continuously. This tendency, however, varies by degrees in the given fields of environmental protection and in the different areas suffering from environmental pollution problems. 65% of the drinking water supply does not enjoy natural protection against pollution of aboveground origin. Drinking water in one third of the villages is detrimental to health and the long-term postponing of sewage-building further endangers the drinking water supply usable at present. 44.3% of the population living in settlements on 11.2% of the whole territory of the country, mainly along the Northeast–Southwest industrial axis, must inhale highly polluted air. The majority of municipal dumps in the settlement networks do not meet the present environmental protection and public health regulations. About 52–55% of the population must suffer from traffic noise pollution, and the list of problems of pressing necessity could be continued.

The government program mentioned in the introduction ranks the tasks to be solved assigning priorities to them. These objectives concentrate mainly on the special fields of environmental protection but, at the same time, their being related to the endangered areas and regions is obvious. As a part of the determination of task-groups in detail, the goals of the air protection strategy can be mentioned as an example for the management of environmental problems differentiated by territories: the improvement of the air quality of highly polluted areas, including the capital and bigger cities; the conservation of the air quality in non-polluted areas; the protection of sensitive ecosystems; the fulfilment of tasks of international obligations primarily and naturally focusing on highly polluted and border areas. The task of supplying healthy drinking water is referred to the competence of local governments by legislation (with the provision of available target-supports from central sources), and this problem is acute in certain areas only. In

the body of law on environmental protection, the question of regionality is raised in connection with almost every element of the environment under protection, although to different degrees depending on the special features of specific branches. To name a few examples: the protection of air and water quality is based on the division of the territory of the country into qualitative categories; nature conservation is related to, inter alia, protected regional categories (national park, area of outstanding natural beauty, and protected nature conservation area of national or local importance). The presence of this aspect is obvious in the case of settlement environment protection connected with limited areas determined by public administration boundaries. In this respect, regionality enjoys general legal protection in terms of environmental protection as a multi-compound object of environmental protection; an environmental unit representing a special independent quality. I would like to emphasise here that, because of the complexity of environmental problems, the expertise-, means- and financial resource-intensity of environmental protection, and also the „disrespectful" nature of pollution to public administration boundaries, make it necessary for municipal governments, struggling with similar problems to think in terms of regionality and to co-operate with each other.

In most cases, the solution of regional environmental problems is realised either on the level of central state administration or by being broken down to the level of individual settlements, usually in decisions aimed at improving the quality of environments isolated from one another. In practice, the implementation of tasks is embodied in the activities of the deconcentrated organs of the ministry responsible for environmental protection through administrational means of authorities. As will be discussed later in the chapter on the environmental protection activities of local governments, there is a missing link in the chain between the centre and settlements. The umbrella management of the environmental problems of settlements would require the substantial involvement of county governments, but this is not possible within the present framework of legal regulations.

2 TERRITORIAL DIVISION OF LABOUR IN THE ADMINISTRATION OF ENVIRONMENTAL PROTECTION

In spite of the establishment of environmental protection organs with a general scope of authority, and the continuous expansion of their competence, the territorial (local) administrational, organisational system and its operation, in charge of implementing the state tasks of environmental protection, is still characterised by disunity. What are the characteristic features of the territorial organisational structure of environmental protection administration?

At present, there are three different types of organs endowed with a general scope of authority concerning environmental protection: the environmental protection inspectorate, the national park (nation conservation) directorate and the county and municipal organs of the State Public Health and Medical Officer Service. Nevertheless, the word „general" has slightly different meanings in these cases. Environmental protection inspectorates play a determining role in their regions. A few examples of their tasks from the Ministry of Environmental Protection and Regional Development's (KTM's) 1/1990 (XI. 13.) decree, article 6, paragraph (2) are: in its operational area, the inspectorate is responsible for the following tasks affecting environmental protection as a whole:

- the observation and evaluation of the state of the environment and environmental protection; the forecast of significant predictable effects on the environment and data service concerning these;
- the territorial and professional co-ordination of environmental protection tasks which require the synchronised participation of many different organs; and
- laboratory activities in connection with professional administration.

The inspectorate's functioning as an environmental protection authority with a general scope of competence is strengthened by the recent 86/1993 (VI. 4.) government decree on the temporary regulation of inspecting the environmental effects of certain activities. According to this, the inspectorate is the authority endowed with the right to authorise environment impact inspection; compulsory activities and facilities required for their implementation.

In addition to the above-mentioned functions, the inspectorate carries out tasks of professional administration (professional authority), in connection with the protection of air quality, qualitative and quantitative protection

of waters, protection against the detrimental effects of waste, radioactivity, noise and vibration although with not a full scope of competence since other deconcentrated organs and municipal governments also have tasks and scopes of competence in these fields. (This division will be discussed later.)

National park (nation conservation) directorates are competent not only to carry out the territorial tasks of professional administration and (professional) authority in connection with nature conservation, but they also enjoy tasks and competence regarding other fields of environmental protection. Therefore, on the basis of the 3/1990 (XI. 27.) KTM decree, article 2, paragraph (1), they are entitled to exercise authority and professional authority in the first instance concerning the following issues: general protection of landscape, forest and mineral resources; and protection of flora and fauna. Their expanded scope of tasks can be illustrated well by the content of paragraph (2) of the same decree; although a little „blemished", their practical implementability – because of the naming of tasks without specifying their content – seems to be doubtful. I would like to mention only a few examples to support the above facts. In its operational area (nature conservation region), the directorate performs the following in accordance with territory development:

- tasks in connection with areas of nature not enjoying protection;
- participation in the management of mineral resource protection and in the performance of environmental protection supervision of mineral resource exploration, production and utilisation, etc.

All these are beyond its environmental protection scope of competence.

In the field of environmental protection, there is also a certain division of tasks and competence between the territorial organs of ministries (directorates) and local governments.

All of the tasks which fall outside the scope of environmental protection (e.g. the protection of landscape, forest, mineral resources, flora and fauna) cover only participatory (partial) competence. The authorities of these fields, which should represent, among others, the interests of environmental protection, are different deconcentrated organs subordinated to the ministries of agriculture, and of industry and commerce. The administrational activities performed by the territory-level public administrational organs of the ministry responsible for environmental protection, complement one another, covering more or less all fields of environmental protection. The only element

which falls outside their competence is soil protection. This is especially true in the case of the qualitative and quantitative protection of agricultural lands, and more or less in the case of the protection and rational utilisation of mineral resources. The former is referred to the competence of plant and soil protection agencies; the latter, according to the new law on mining, primarily to the competence of the district inspectorates of mines and also, in specific cases, to the public geological service.

The following conclusion can be drawn regarding the management of the environmental issue: in one group of fields, it is connected with economic activities (e.g. agriculture, mining) which potentially imply the endangering and damaging of the given environmental element or, as a consequence of a chain-reaction, of the whole environment. In the other (e.g. water management and the qualitative and quantitative protection of waters), the separation of economic activity and environmental protection was one of the reasons behind the reorganisation of ministerial and territorial organs (e.g. formerly the Ministry of Transport, Telecommunications and Water Management, presently the Ministry of Environmental Protection and Regional Development; formerly the water management directorate, presently the environmental protection inspectorate; in the former system, water management and environmental protection belonged to the same ministry, that of Environmental Protection and Water Management; territorial tasks, as a consequence of the centralised management, were referred to the environmental protection and water management directorate, including nature conservation which did not have a separate territorial apparatus.)

These facts are partly responsible for the disparate state of environmental protection administration, especially as far as the ministry of agriculture is concerned. Each of the different types of deconcentrated organs, such as the land office, the office of agriculture, the plant and soil protection agency, the animal and food inspection agency, forest inspectorate, perform the professional administration of environmental protection, in certain cases as each other's professional authorities.

In order to promote the efficiency of administration, considering the deconcentrated organs of this ministry, I would find it more useful to increase the concentration of the tasks and task-groups, and to link the different activity fields, which are strongly connected to one another, in fewer types of organs.

On the basis of similar considerations, since our environment is a unified whole and cannot be protected separately, and also because of the fact

that nature conservation – despite its specific features – is an integral part of environment protection, I think it would be worth considering the amalgamation of nature conservation directorates and environmental protection inspectorates. In my opinion, it is hardly justifiable to operate two independent organisations for one and the same purpose. It would save much time and energy not to mention the advantages provided by the concentration of physical resources, technical means and the possibility of quick decision-making which could contribute to the management of problems on a more complex level.

Although not being an organ of environmental protection, the third type in the list, the State Public Health and Medical Officer Service, is to perform a fundamental role in this issue. Its special importance is given by the activity it performs: while overseeing public health, it examines and evaluates the current state of all the elements of the environment and their effect on the population; it lays the scientific foundation of public health requirements whose observance and assertion make it possible to prevent the development of environmental damage and consequent health problems (see the 1991 Act XI on the State Public Health and Medical Officer Service). Besides being empowered with general tasks to protect the health of the population, it has concrete duties in each field of environmental protection: e.g. the regular check of the air-pollution levels of settlements; the inspection of drinking water, mineral and medicinal water and aboveground waters from the point of view of public health in places of human use; the examination of the detrimental effects of dangerous (toxic) waste and its virulence; the set-up and assertion of hygienic limit values of noise, vibration and particulate pollution of mineral and plant origin.

Last but not least, the official authority of the service must be mentioned which covers, with the exception of the armed forces, all natural and legal entities and partnerships which have not legal entities. It has almost unlimited rights of supervision; and in its decisions, if the presence of conditions defined in the legal regulation is given, it may go as far as to constrain or suspend the complete functioning of an institution or facility, or to stop its activity detrimental to and jeopardising health. In cases of the danger of serious or large-scale health damage, it is entitled to perform all measures which are necessary to avert danger.

The scope of tasks and competence of further organs dealing with, among others, environmental protection administration, covers certain fields of environmental protection and, within these, certain specific groups of tasks. Besides those mentioned earlier, the following organs belong here: the county transport inspectorate (the check and control of motor vehicles from

the environmental protection point of view), the quite recent chief architect and his office (21/1992 (XII. 4.) KTM decree on chief architects); the Public Administration Offices of the capital and the counties in the threefold role:

- sees to legal supervision (over the decisions of local governments concerning environmental protection),
- judges the possibility of legal remedies submitted against the official decisions affecting environmental protection made by the mayors or the clerk; participates in the performance of tasks and competence of environmental protection or in close relation to it (e.g. atomic energy, flood-prevention and inland waters, local water-damage prevention),
- performs territorial co-ordinating activities.

In my opinion, this latter type of activity, which is to provide the synchronised operation of environmental protection activities, is a cardinal question, since the development and operation of a synchronised system of activities, which depend on one another, is the essential condition to achieve efficiency in the fields of planning, development, decision-making and checking in terms of environmental protection. The question of how to assert the interests of environmental protection in state and local government and national and local relationships („local" including not only settlements but settlement-groups, regions, counties, if the legislation acknowledges the existence of independent county-interest; regions); furthermore, among the specific fields of environmental protection (e.g. protections of plant, soil, water supply, air-cleanliness); and also during the procedures of special authorities are all issues which require both co-ordination and its legal and financial guarantees. The question of territorial co-ordination in environmental protection has not been solved so far. Even though several types of organs perform co-ordination (the environmental protection inspectorate; in principle the county government whose detailed discussion comes in the next section; the municipal government and the Public Administration Office empowered with general territorial competence of co-ordination by the 1990 Act LXV, article 98, paragraph (2) modified by 1994 Act LXIII, article 52), the regulation does not cover the whole scope of this activity. Consequently, the environmental protection administration activity is not free from troubles.

From the point of the division of the scope of tasks and competencies it is important to mention the method of how to develop their operational areas; a question which is one of the fundamental conditions of co-operation amongst the organs of environmental protection administration and those which carry out this sort of tasks as part of their activities. In the thinking of the ministry responsible, there are two types of territorial units: settlement and region. The regions of environmental protection and those of nature con-

servation do not overlap each other and even their centres do not always coincide. The regions limiting the operational areas of inspectorates do not have full scope in their performing of tasks and competence, since several fields of environmental protection activities are assigned to other deconcentrated types of organs, organised quite often within the framework of the county.

It can be mentioned as a further characteristic feature that regions do not respect public administration boundaries, which applies to both county and settlement boundaries. The picture is further coloured by the fact that several deconcentrated organs with environmental protection activities (forest inspectorate, district inspectorate of mines, geologic service, territorial chief architect) are organised on a regional basis; occasionally with the internal units of county offices. These regions do not overlap either each other, or the regions covering the competence area of the territorial organs of the KTM. (The degree of deviation varies from one county to another; it will not be discussed in detail.) At the same time the State Public Health and Medical Officer Service, as I have already mentioned, functions by focusing on the totality of the environment and the interrelationships of the specific elements of the environment; in the organisational arrangement based on the county (town). The result of this situation suggests that the expertise of the specific ministries did not agree as to how to prevent, eliminate or reduce detrimental environmental effects: in the case of the environmental protection inspectorate, for instance, air quality protection activities are determined by catchment basins, because these are what the set-up of regional boundaries of environmental protection are based on; in the case of the State Public Health et. al Service, by the town or county; in the case of municipal governments, by the public administration boundaries of settlements. (In my opinion, one of the reasons behind this is the multiple reorganisation of the central state control and organisational system of environmental protection, which can be traced back to the early 70s.) Obviously, this does not make any difference as far as the facts are concerned; certain professional tasks of environmental protection of a similar nature enjoy a double moral: they can be carried out within the framework of public administration boundaries or by neglecting them.

The crucial problem, I think, is that the maintenance of a healthy human environment should be done on settlement-level, treating the environment as a whole; and it is the duty of local government, to carry out this task, as will be mentioned later. Nevertheless, the decisions of authorities

which are able to support the achievement of this aim are unique and divided by the special fields, or even within them. Another preventative factor is the lack of a unified territorial strata to handle the environmental protection issue: it is based on the county, for example, in the case of certain particular and partial tasks and concerning the activity of the State Public Health et. al. Service, motivated by the sanitary protection of people and covering the totality of the human environment; with regard to the inspectorates, which carry out the general tasks of environmental protection as well, it is fundamentally regional, without respect to public administration boundaries. And a third factor, concerning the division of the scope of tasks and competencies, the legislation does not know about anything else between the sphere of state and local government but settlements; if it is a task to be performed by either local governments or public administration.

In my opinion, in order to support the productive environmental protection activity of local governments and to increase the efficiency of environmental protection administration, it would be necessary to manoeuvre the operational areas of organs, empowered to carry out the tasks of environmental protection administration on the spot, closer to each other. One of the possible options is to set up multi-county regions. The different organs could exercise their environmental protection activities in operational areas based on a common agreement among themselves; their management would be provided from one and the same central settlement; and, if necessary, they could function broken down into county- or local-level organisational units.

In the following section I will discuss the environmental protection activity of local governments which has already been referred to quite frequently so far.

3 THE ROLE OF MUNICIPAL AND COUNTY GOVERNMENTS IN ENVIRONMENTAL PROTECTION ACCORDING TO THE LEGAL BACKGROUND AND PRACTICE

Environmental protection activity means the simultaneous performance of several groups of tasks in order to contribute to the development, maintenance and continuous improvement of a healthy and aesthetic environment.

The protection itself is carried out on several levels, whose main types are as follows:

- the elimination of existing detrimental environmental effects, such as polluters;
- measures affecting environmental protection to improve the environmental state of particular settlements, settlement-groups, counties and special regions;
- the solution of specific problems emerging from the certain fields of environmental protection (e.g. management of toxic waste, supply of healthy drinking water);
- the assertion of environmental protection requirements during the procedures which affect or utilise the environment.

As a general rule, protection against detrimental effects is realised in the activity of authorities. The establishment of these official measures for environmental protection requires a high-quality professional background and knowledge, and special material conditions (e.g. a laboratory network). All of these can be found either at the environmental protection inspectorates or the different deconcentrated organs. The central jurisdiction, however, has assigned some concrete scope of authority to the mayor and the clerk of municipal governments while ignoring the complete set up of required conditions.

During the shaping and protection of the environment, every citizen must be provided with an acceptable environmental quality by the state (see the relevant constitutional provision on the right to a healthy environment). Without the meaningful participation of the population, however, this aim cannot be achieved; the mere external intervention of the entitled authorities cannot serve the purpose. The activity of local governments is essential. Realising the importance of this fact, the local government act – unlike the former Council Act – declares the protection of the man-made and natural

environment as one of the local public services of municipal governments. The intention behind this is, that, in terms of environmental protection, local governments should assert the will of the community within their own scope of tasks and competence, in accordance with the local characteristics and claims. As a result of these types of considerations, the tasks of environmental protection of local interest and importance are assigned to municipal governments. Their activities in environmental protection administration are of different origin: one part of the tasks and competence is inherited from the former Council system (local or county), either unchanged or passed down to settlement level; another part derives from the reorganisation of the scope of tasks and competence of environmental protection and water management directorates (the legal predecessor of environmental protection inspectorates); and there are some new types of competence as well, which are intended to create the conditions for the active participation of local governments in environmental protection activities (e.g. regulation, planning and co-ordination on local government level, the establishment and independent management of environmental protection funds of local governments).

When analysing their scope of tasks, the general provisions of the local government act provide a useful starting point. In connection with local government rights, the law declares the following:

- local government proceeds autonomously in public affairs of local concern that fall within its scope of tasks and competencies;
- local affairs involve supplying the population with public services, exercising public power locally, and creating the organisational, personal and financial conditions for all the forgoing;
- within the framework of this law, local government may independently regulate, or in individual cases freely administer, local affairs in accordance with its duties and competence. Its decisions may be superseded by the courts, and by the Constitutional Court, but only in the case of a provision of the law being violated;
- the law may set the compulsory tasks and competence of the local government. Simultaneously, the Parliament ensures the financial conditions necessary for implementing them and decides on the measure and manner of budget allocations.

On the basis of the above mentioned provisions, the following conclusions can be drawn concerning the scope of tasks of local governments in the case of environmental protection. According to the local government act, the main idea is that, depending on the needs of the community and the avail-

able financial resources, local governments are free to decide as to which tasks to perform and to what extent.

Among the other compulsory tasks, the provision of healthy drinking water is one of the most important. Since it belongs to the group of compulsory tasks, in this case the parliament takes the responsibility of ensuring the necessary financial conditions as well (see above). Depending solely on the financial capabilities of local governments, fulfilment of this requirement would be rather doubtful. In practice, the solution requires the set up and maintenance of a target-support system.

As a result of the division of competence among the territorial organs of the KTM and local governments, which was carried out on the basis of environmental effects and the importance of natural areas, the scope of competence of typically environmental protection administration assigned to local governments by different laws[1], covers three different fields, i.e. the protection of air quality, noise and vibration, and nature conservation. Concerning the official affairs in these fields, the division of competence is based on the importance of activities violating the protection of environment. Local governments are assigned to perform tasks of local concern; to be more exact, to judge the illegal activities of plants performing public service, and to determine their related rights and duties.

In terms of nature conservation, local governments are assigned to attend to protected areas of local concern. That is those which were not qualified earlier as having national importance, but which were declared as being protected, therefore their maintenance and protection justified.

In addition to the duties described above, they are to perform the following tasks either of environmental protection or related to it:

- within the framework of local water management: drainage, sewage treatment, rainwater drainage, flood and inland waters prevention, local water-damage prevention;
- within the framework of community management: the management of liquid and solid settlement wastage, ensuring the cleanliness of communal areas, and the maintenance of green areas;
- within the framework of agricultural administration: animal carcasses, certain partial tasks of animal sanitary matters and plant protection;

[1] 1990 Act LXV on local governments; 1991Act XX on the scope of the tasks and competence of local governments and their organs, Commissioners of the Republic and other centrally subordinated organs (law on competence), etc.

- within the framework of industrial and commercial administration: some specific tasks related to mining and recycling;
- within the framework of environmental protection and territorial development administration: the co-ordination of tasks concerning environmental protection, the regulation of social affairs on local level, the working out of management plans and programs, etc.

During the implementation of these tasks, as I have already mentioned, they may exercise their right to independent regulation, by framing decrees in order to handle the social affairs on a local level not regulated by law and, on the basis of empowerment by law, to ensure their implementation. It must be further emphasised that, empowered by law, local governments have the right to freedom of speech and initiative concerning the questions of local concern but outside the scope of tasks and competencies of local governments; and, as a guarantee, those who are concerned are obliged to be accountable in turn. This competence has a significant role in matters of environmental protection, since the overwhelming majority of official measures belong to state administration organs of environmental protection. In order to ensure the implementability of their voluntarily undertaken tasks, municipal governments must take up other opportunities given by the local government act: especially with the right to establish different types of associations (water supply, sewage management, wastage collection and neutralisation, etc. not completely without tradition); to set up companies and institutes to provide public services together with the self-organising communities of the inhabitants. I would like to stress here an urgent need, awaiting legislation, for the lawful declaration of the special regulations of environmental protection publicity and the individual and collective assertion of civic rights regarding environmental protection (e.g. by the institutionalisation of *actio populis*, which has been urged for quite a long time in the professional literature[2]).

Simultaneously, the information system of environmental protection should be further developed in order to provide both a foundation for official activities and also data required for the evaluation of the state of the environment. This goal must be achieved as soon as possible. The environmental data of each region must become available for anyone in a unified and systemic form. To outline our duties to be done, I would like to refer to the Nº 1 decree of the XVIII general assembly of the Council of European Settle-

[2] See *Tarr, Gy. 1991.*

ments and Regions entitled „The quality of life and the environment of the peoples of Europe". This document specifies several tasks which are worth considering in our country: settlements and regions must play a fundamental role in the realisation of the environmental policy; they must endeavour to involve citizens and to form a dialogue with all the different forces of society, especially with companies; the competence and intervention ability of territorial governments must be expanded according to the needs and requirements of the local community; the data list on environment must be made compulsory and the citizens' right to inquiry in this respect must be guaranteed.

Municipal governments possess the following rights in environmental protection matters:

- regulation (framing of decrees) belongs to the competence of the body of representatives, e.g. declaration of protected natural areas of local concern, determination of local noise- and vibration-protection requirements; the regulation of air-pollution caused by household activities;
- the tasks and competencies of functionaries, the mayor and the clerk of local government are also regulated by the central legislation. The following tasks are referred to the competencies of the mayor, with the restriction mentioned earlier: protection of air quality, noise and vibration which are defined to be dangerous to the settlement, judgement of activities violating nature conservation (service activity in the first two cases and in connection with natural areas of local concern). Other environmental protection affairs of local interest are performed by the clerk.

The scope of authority of the mayor:

- restriction or suspension of the operation of industrial facilities polluting the environment e.g. noise-pollution to a dangerous level;
- in favour of the protection of air quality, obligation to use e.g. other energy resources or operational modes; the restriction of water consumption;

The scope of authority of the clerk:

- giving permission concerning e.g. vineyard and fruit plantation, tree- and vine-surgery, stubble-burning;
- prohibition e.g. regarding nature conservation;
- determination of discharge emission limit values e.g. in the field of protection of air quality, noise;

- imposing fines, e.g. regarding nature conservation, air-pollution;
- supervision, e.g. protection against damaging agents in the field of plant protection, etc.

In practice, the assigned tasks of environmental protection to municipal governments raises several problems. To examine a couple of them settlements have been given one of the most difficult tasks in the field of environmental protection (air, noise). To be able to make decisions they need measurements, a professional standpoint and expertise. Since they are not able to provide these on their own, they cannot do anything else but turn to the inspectorate, and pay for their services should they have the financial resources to cover the expense.

„Settlements are many, inspectorates are few" – the projects are lagging behind, and the decisions of settlements are often made without considering the regulations on environmental protection.

Even in general, they have been given too many tasks without having the essential conditions for them; no professionals, no financial resources, no technical apparatus. Ignorance is quite typical; the environmental protection issue is often ranked at the bottom of priorities of the settlements. The natural areas are not always considered to be important and the lack of money hinders their restoration and conservation. Solid waste disposal is still uncontrollable at present and municipal dumps are of extremely low technical quality. The practice of „one settlement, one well, one dump" is becoming more frequent, which, besides the small financial means, might expose the underground waters to further dangers.

Although the conditions of instrumental measurements are missing, the mayor – as we have already seen – may, for instance, stop the functioning of a plant. (The measure should be immediate, the reality of this competence is questionable.) The measurements made by the inspectorates at the request of local governments keep stalling, since they also struggle with the lack of professionals (staff numbers), not to mention the often long distance between the headquarters of the inspectorates and the given settlements. The inspectorate is not compelled by law to provide a professional foundation for the official decisions of local governments. The practical solution is realised by the entrepreneurial form of operation in market conditions. Occasionally, on the request of local governments, the inspectorates provide their services on the basis of administrative co-operational agreements (called entrepreneurial contracts).

The increasing independence of settlements within the framework of the local government system brings about more important administrative tasks in the case of environmental protection as well. To meet these requirements, however, neither local governments nor their administrative apparatus are prepared. At the same time, the environmental conflict situations and the increasing presence of economic and market interests increasingly must be taken into account. Essentially, what is needed is the gradual reduction of the central role and the effective assertion of civic freedom and self-governing. It would be desirable, especially in the case of villages, to assign realistic, implementable and controllable rights and obligations to local governments. First of all, some education and attitude-shaping would be required, since the ignorance of the population, and in some cases even of the local government is so deep that it prevents the efficiency of environmental protection activities. Municipal governments could be supported to undertake environmental protection roles by the involvement of independent professional organs, which could be employed when needed. As far as the efficiency of their activity is concerned, it is not without importance how the other type of local government, that is the county governments, takes part in the performance of environmental protection tasks. In the rest of my paper, I will elaborate on this question.

The starting point of an evaluation concerning the environmental protection activities of counties is provided by the legal provisions regulating the scope of tasks and competencies of county governments.[3]

As a matter of fact, the laws regulating the scope of tasks and competencies of local governments did not take the counties into account in terms of environmental protection affairs, before the modification of these laws in 1994. The problem I find most crucial here is that the legislature seems to have completely ignored the special nature of environmental pollution in that it does not respect settlement boundaries, and also the impossibility of protection and development when isolated by settlements and centrally commanded. The county government task in connection with environmental protection is named in paragraphs (1) and (2) of article 80 in the law on competencies:

- The synchronisation of tasks in connection with settlement development and landscaping, and the protection of the built and natural environment – except for the tasks of conservation of monument

[3] Related legal norms: 1990 Act LXV on local governments modified 1994 Act LXIII.

buildings which either belong to authorities or are defined in other separate legal provisions – is assigned to municipal governments in their operational area; furthermore, if they cover the majority or the whole of the county, to the county government.

- The preparation and implementation of local decisions and opinions in regard to the local government tasks cited under the paragraph above, are referred to the competence of the representative body of the settlement or the chief architect in the office of county government.

This legal provision is open to criticism from several points of view:

- the location of tasks and competence under the chapter title of environmental protection and territorial development is regulated within the framework of construction affairs. Consequently, territorial development administration as a county-level task is equal with construction administration; involving settlement development, landscaping and environmental protection;
- the declaration of environmental protection as construction affairs implies the unreasonable limitation of this task's scope;
- the wording of the regulation is too general, involving interpretation problems.

It is not quite clear what is meant by the task in connection with the protection of the built and natural environment covering the majority or the whole of the country. It is essentially the same as the environment regulated by the law and its protection. Although this protection is realised in the tasks of several authorities and local governments, the concrete scope of tasks and competencies of county governments is still missing in the legal regulations. It is also ambiguous what the legislator has meant; protection and synchronisation, or the synchronising of the performance of protective activities. The question of synchronising itself is not without problems either. As I have already pointed out, the inspectorate, functioning as a professional administrative organ of environmental protection on a territorial level, is responsible for the territorial and professional co-ordination of environmental protection tasks which require the synchronised function of many organs.[4] The Public Administration Offices of the capital and the counties also have certain co-

[4] 1/1990 (XI. 13.) KTM. decree, article 6 paragraph (2) c.

ordinating tasks and concrete competencies.[5] When considering these facts, it seems to be obvious that the synchronising activity of county governments is „up in the air". It's a task without the minimum guarantees of conditions regarding its implementability, in contrast to the concrete tasks and competencies of the above mentioned deconcentrated organs.

Neither the law on environmental protection in force at present – nor the draft of the new one – takes county governments into consideration when discussing the allocation of tasks and competencies. They are not mentioned more than once: municipal governments must co-operate with county governments, among others.

In spite of these facts, in practice the counties have declared they will deal with the environmental problems on their territories as voluntarily undertaken tasks. In their organisational rules, regulating both the establishment of committees and the division of the general assembly's office, the issue of environmental protection is also present as a result of their independence, in quite different forms.

The following common and generalised features can be summarised.

- The establishment of a committee with exclusively environmental protection tasks is exceptionally rare, there are none among the official organisational units.
- In the case of several counties, the term „environmental protection" does not even appear in committee names (e.g. the committee of infrastructure and tourism).
- In most cases, the title of the unit of the office empowered to perform environmental protection tasks does not contain any hint as to environmental protection (e.g. the department of territorial development and communal affairs).
- In some cases, it is rather difficult to derive the environmental protection task from the title (e.g. financial and economic secretariat).
- The most frequently connected tasks, reflected in the naming as well, are the following: territorial development, communal affairs, economy; other examples: agriculture, enterprise organisation, tourism, monument conservation, architecture.
- The fact that environmental protection has been pushed into the background is obvious when examining the tasks declared; the „connected tasks" mentioned earlier mean the complementing other,

[5] *See* the points d) and p) of the (2) paragraph of article 98 of the 1990 Act LXV modified by 1994 Act LXIII.

often quite detailed, branch-activities with the tasks of environmental protection.

- In some counties, the county-level co-ordination of environmental protection tasks is entitled to function and position (e.g. in Baranya county the councillor in charge of construction, water management and environmental protection exercises supervision over the implementation of the tasks of this field, as defined by the general assembly; in the counties of Borsod-Abaúj-Zemplén and Vas, environmental protection falls under the competence of the chief architect of the county). The lack of professionals in the area of environmental protection in counties has already led to problems. Only a few counties employ special engineers qualified in environmental protection. (Formerly, these professionals carried out tasks related to environmental protection and nature conservation.) If the function of county governments does not change essentially (if they are not assigned to perform a concrete scope of tasks and competencies), it would seem to be a real danger that the enthusiastic professionals who are both able and willing to act will leave the administrative apparatus.
- In some cases, this task has been located in the so-called background organs, probably as a result of the prioritisation of tasks and the significant limitation of meaningful activities (minimal scope). The organisational structure and the consequent division of tasks provide only the framework for particular actions. Still, I do believe that the level of the actual activity can be negatively affected by the fact that the office tasks of environmental protection are connected to the activity of the assembly through a series of linked transmissions.

Following the brief summary of structure, I would like to deal with the tasks and competencies named in the regulations applying to counties. Among the tasks and competencies of the assembly, article 80 paragraph (1) of the law on competence is reiterated in the regulations of each county, although differently worded.

The naming of these tasks usually takes place within the scope of economic and territorial development tasks. The main types of tasks defined as environmental protection and which are voluntarily undertaken by county governments are as follows:

- working out of plans and conceptions;
- analyses of the environmental state of the county and the related protection activities;

- tasks aimed at the improvement of environment quality;
- activities concerning nature conservation;
- support of the environmental protection activities of municipal governments;
- performance of territorial tasks in connection with environmental protection.

The way these environmental protection tasks are undertaken is well reflected by the assembly agendas and decisions. The tasks which the counties dealt with and the subject matters they declared as scheduled tasks in 1991 and 1992 are as follows:

- the situation of county-level environmental protection and nature conservation;
- the tasks of county governments related to the protection and development of built and natural environments;
- the working out of an environmental protection concept and an action plan on a county level;
- concepts and study plans with environmental protection considerations and effects;
- concept for sewage treatment and drainage;
- a complex waste disposal study plan, a municipal dump system;
- county government tasks of infrastructure development;
- the launching of the working out of a territorial development strategy (concept), involving the tasks of environmental protection;
- the program of work of county governments in 1992–94 (although with different wording and content, each program deals with county-level tasks favouring environmental protection);
- agendas affecting particular small areas (e.g. the protection and utilisation of the river Tisza in Csongrád county).

On the whole it can be concluded that county governments have undertaken the improvement of environmental quality in their areas, and they are ready to act. The practical implementability of this task, however, seems to be rather doubtful in most cases.

Returning to the different forms of practical activity of counties, I would like to draw attention to the positive instances of regional inquiries in certain counties, launched on the basis of empowerment by the assembly. The project was based on the undertaking of co-ordination tasks of regional concern by the assembly. The office staff travelled all over their counties;

giving out questionnaires, inquiring about the problems and plans of municipal governments. The final aim is to work out the territorial development concept of county, including the definition of tasks of environmental protection on a county-level.

The following group of activities contains the different forms of support given to municipal governments to help with the implementation of their tasks and to enable them to cope with their problems in environmental protection affairs:

- information service in various forms, for example the organisation of public meetings by districts (water management, sewage, the future of public utilities etc.); an information service for the publication of tenders in the official paper of the local government and also for the legal regulations of environmental protection tasks in the competencies of municipal governments;
- training, refresher courses, and attitude-shaping among the population, e.g. organisation of lecture-series given by the local professionals on environmental protection; publication of notices in the local paper; organisation of environmental protection days, and public relations action;
- professional and technical consulting and support in environmental protection affairs, e.g. participation in the economic and technical preparation of decisions on development issues; in smaller settlements, the project management of water supply public utilities;
- tasks of organisation: co-ordination, e.g. in the case of nature conservation, sewage and waste disposal affecting multiple settlements;
- nature conservation: the special duty of county governments in this field stems from the fact that formerly the protection of natural areas of local concern was referred to their competence; they kept giving support to settlements, especially in the period of transition, but also since then, e.g. proposal declaring particular natural areas to be protected; professional help related to the management of protected areas, the identification of endangering phenomena, and proposals to take the necessary measures;
- the set-up and organisation of associations with tasks concerning regional-level environmental protection, or issues related to it; e.g. forest and game management, water and communal waste management. One of the biggest hindrances to the problem-management of environmental protection is the isolation of settlements. The associ-

ations, set up on the basis of county initiatives, and functioning often with the participation of the county, are aimed at improving this situation. I find this form of co-operation extremely effective; its increased spread and extension with environmental protection tasks is worth considering;

- the development of the county's environmental situation with financial means. The subsidies are designed to provide financial support and orientation for the implementation of regional-level tasks. The budget and target-support conceptions of some counties even express this aim concretely.

Both the definition of concrete tasks and the forms of support show extreme variety; e.g. the establishment of an Environmental Protection Fund to help the environment management activities of counties on settlement level; county funds to set up municipal dumps and to support the implementation of community tasks in settlements and regions.

On the basis of practical experience, it can be said that, in spite of their difficult financial situation, counties are endeavouring to influence environmental protection activity and to relieve the environmental problems of specific settlements and settlement-groups.

Within the framework of the Hungarian public administration system, the county can be generally said to have lost its basis, and to lack the opportunity of playing an integrative role for political reasons. Nevertheless, the country must be run and this is a professional (public administrational, legal, technical) matter, not a political one. This general statement is also true for environmental protection.

Although co-ordination, professional consultation and organisation are all essential elements of environmental protection activity, they are not regulated appropriately by legal regulations. One chain is missing in this field: the county. The „interdependence" characteristic in environmental protection is not realised on the legislative level. When a specific issue affects more settlements, its management cannot be left to chance. The different interest relations and the conflicts of interests within and among settlements make it necessary to have an intermediate level for the sake of co-ordination and the optimal management of environmental problems. State power asserts a central will, while the settlements are incapable of co-operating. Spontaneous co-operative connections are organised, but not for the systematic development of a best possible solution.

It is inevitable that the intermediate-level co-ordinating organ is missing at present; what exists is disorder, and no one is ready to undertake the territorial co-ordination of environmental protection.

As far as environmental protection is concerned, the opportunities of the county are limited, because:

- it is allowed to exercise a consultative sort of activity only, but the problems require intervention; cities of county rank, for example, function in isolation, polluting the neighbouring settlements; to set up so many „islands" is not a solution in regional affairs;
- it is hopeless to co-ordinate and organise without the necessary means; from the legal point of view, a county does not co-ordinate; it might perform the co-ordination of regional-level solutions, but presently it does not have the means.

Co-ordination with settlements is unaccomplishable. Conceptions and plans are made (e.g. waste management) but their being accepted by every settlement is just impossible. It is a fact that no one is responsible for general and branch plans on a territorial level.

Seeking a way for the future, the following aspects should be considered.

Environmental protection, as an organic part of the complex scope of territory development, cannot be solved by mere central control. This is because each county has to face its own special problems, and each has different potentials and opportunities. When managing their problems, settlements are not able to think in terms of regionality. Consequently, territory development should be dealt with by county governments.

Environmental protection and environment shaping requires decisions prepared by professionals and legitimised by elected organs. They cannot be solved by exclusively official means. When regulating the environmental protection functions of county governments, it is their self-government aspect which should be strengthened – or better to say, established – instead of their being empowered with official tasks of authority.

It is desirable to concentrate further the official tasks of environmental protection at the inspectorates. The breaking down of regional organs of environmental protection and nature conservation to county-level units could provide a possible alternative, which could upgrade the role of county governments and contribute to a more efficient co-operation on a regional level.

To support the implementation of developments which go beyond the interests of particular settlements, but at the same time benefit the given region, are both required and needed. On the basis of experience, it can be concluded that infrastructure development and updating can be one of the most effective means of environmental protection.

After these preliminary remarks, I would like to deal with the desirable tasks of county governments which serve environmental protection.

- *Analyses of the environmental situation of the county; the ranking of tasks and assigning of priorities; the schedule of implementation*. To achieve implementability, it would be required to set up a county-centred information base on the state of the environment (specified by different fields as well) relying on the computer database of inspectorates. Simultaneously, all the authorities concerned should be compelled to provide information on environmental protection by the law.
- *Development of decision-making competencies, development of and agreement to concepts* (e.g. the issue of setting up of dumps cannot be left within the competence of local governments). The development of the water supply, solution to the problem of waste water: settlements and settlement groups can be connected efficiently to a purifying plant system with suitable technical procedures and, on the basis of this, the orientation of settlements to co-operate with one another on small area solutions concerning dumps and waste transport.
- *Co-ordination*. Legal and financial guarantees are required to synchronise the environmental protection concerns settlements, settlement groups and the state. As I have stressed several times so far, these problems do not respect settlement boundaries and cannot be solved without the state undertaking tasks; regional co-ordination is essential. The co-ordinating activity of counties may cover the co-ordination of developments (on condition of an information base), the implementation of legal provisions and the environmental protection activities of settlements. Concrete fields of co-ordination might be as follows:
  - dumps providing district-based solid waste disposal,
  - the placement of sewage treatment plants,
  - development of sewage system, water supply and gas network,
  - water management of surface waters (planning, project management),
  - reconstruction, afforestation, etc.,
  - settlement interests, organisation.

- *To launch and support associations would require the survey of needs and concrete organising activity*. For example, a small area of a certain size would provide enough tasks for an environmental protection administration association. The organisation, developed on the basis of mutual agreement and with respect to the official competence of the clerk, would function with professional responsibility and perform different tasks, e.g. surveys, investigations and proposal-making, etc.
  Another possible alternative would be the county's support concerning the involvement of external experts to help the environmental protection activities of municipal governments (e.g. with an information service, and organising activity). This form might be made continuous as well, should more settlements require and utilise collectively the useful potentials hidden in it.
- *Giving opinions, making proposals*. County governments might be given an opinion-giving and proposal-making competence in the case of assessing tenders with the (partial or complete) objectives of environmental protection concern. This could contribute to a better assertion of regional viewpoints (economical, technical) when making decisions, since it is not always considered at the central level, who is going to receive the given subsidy (e.g. two neighbouring settlements when it is not reasonable).
- *Education, attitude-shaping and refresher-courses*.
- *Financial means for environmental protection purposes, and perhaps a share of fines to eliminate county and small area environmental problems; as a support for meaningful co-ordinating activities, but without the function of distributing money*.

As a result of my experience, based on inquiries to the counties, I do believe that their work is needed, and despite their extremely constrained opportunities, they want to make efforts for the sake of the protection of the environment.

4 CONCLUSIONS

We must be aware of the fact that it is simply impossible immediately to solve all the problems accumulated during the past decades and to carry out the radical changes required by both the social-economic changes and the advance towards Europe. We must, however, set the goal and pursue it consistently by all means to prevent the making of decisions affecting and utilising the environment without imposing prevention and the production of new crisis centres. To achieve these goals, the framing of the new law on environmental protection based on new principles cannot be postponed any longer. This law is responsible, among many other things, for the establishment of a clear-cut system of division of tasks, responsibility and burdens among the population, local governments, the state and the participants in the economy. This constitutes the framework within which the reformed regulation of the structural and operational system of environmental protection administration could be carried out. To consider the complex interrelationship of environmental elements and effects, to set up realistic objectives and tasks, to establish suitable (legal, economic, technical) conditions and, last but not least – in terms of my special field of research – to establish an effective and productive, reliable and accountable administration are all principles which must be fundamental for the legislation. The environmental protection function of local governments must be re-considered, and the role of county governments cannot be neglected.

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