

RECENT CHALLENGES OF PUBLIC ADMINISTRATION 4

Papers presented at the conference of
'4th Contemporary Issues of Public Administration'
on 10th December 2021

LECTIONES JURIDICAE
29



The background picture of the online conference.

Prepared at the University of Szeged
Faculty of Law and Political Sciences
Public Law Institute

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Professor

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ON 10TH DECEMBER 2021

EDITOR
ERZSÉBET CSATLÓS

*JURISPERITUS PUBLISHERS
SZEGED, 2022*

LECTIONES JURIDICAE

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Technical Editor:
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Responsible Publisher:
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ISSN 2062-5588
ISBN 978-615-6268-21-1
E-ISBN 978-615-6268-22-8 (pdf)

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THE LEGAL INSTITUTION OF INDIGNITY IN THE HUNGARIAN PUBLIC ADMINISTRATION AND EUROPE

I. Introduction

The legal institution of indignity is not an unknown concept in the staff of the Hungarian public administration, yet it does not have the same meaning in the case of persons holding various positions or serving in the administrative apparatus. It has a different meaning for a local government representative and a civil servant or government official.

In the light of this, the organizational structure of the administration should be examined first, followed by the categories and composition of the staff of the administration in accordance with the rules applicable to them. Knowing all this, it is possible to take stock of the differences in the rules of indignity, the possible reasons for this, and to conclude whether it is appropriate to regulate differently for certain actors in the administration and whether it would be more appropriate to define a general concept of indignity.

II. The organizational structure of public administration: a mix of political and professional actors

In order to be able to place the staff of the public administration at the system level, it is important to understand the nature of the organizational system of the public administration itself. The concept of the organizational system of public administration is used in two senses. We distinguish between the system of administrative organization in the narrower sense, which includes the actual administrative bodies, and the system of administrative organization in the broadest sense, which includes all legal entities that perform administrative tasks. These are called para-administrative bodies in a foreign term. The latter includes public institutions, i.e. public bodies, public foundations and public institutions.¹ These bodies performing administrative tasks are subject to special rules whose analysis does not belong to the subject of current research as the study intends to further analyse the rules of indignity applicable to staff in the narrow sense of the administrative organisation.

More accurate determination of the subject of the examination is to delimit civil administration from the armed forces of the executive power. These include the Armed Forces, the Military National Security Service, the police, penitentiary institutions, professional disaster management agencies, the Civilian National Security Service, and the National Tax and Customs Administration.

¹ PATYI, András – VARGA Zs., András: *Általános közigazgatási jog (az Alaptörvény rendszerében)*. Dialóg Campus Kiadó, Budapest, 2013. 257.

These are all armed bodies for the external protection of the state, although some armed bodies also carry out activities in the civil administration and these armed bodies are divided into an extensive system of organizations, within which a strict hierarchy reigns.²

The basis for the delimitation can best be established on the basis of the laws on the various armed bodies. What they have in common is that they perform special tasks with specific conditions of service under which they have special rights and obligations. These are legal relationships based on voluntary commitment, which require sacrifices: the risk to life and physical integrity and the tolerance of restrictions on fundamental rights. There are stricter conditions for the establishment of legal relations requiring unexpected loyalty and courageous settlement for Hungary. Another speciality is the use of various coercive devices and the carrying of weapons.³

It follows from the above that the study will continue to deal with the civil administration organization performing the classical authority tasks.

In civil administration in the narrower sense, two subsystems can be distinguished from each other: the public administration and the local government administration. Both spheres have political and professional actors (see tables no. 1 and 2.), the justification of which is that one of them performs purely professional functions, while the other person embodies the political will. Belonging to one of the two groups has serious consequences: they are subject to different rules of dignity and have different expectations of them. This distinction is also unjustified because, in the international area, the *Anti-Corruption Report*⁴ states that the same rules must be applied to all civil servants, regardless of whether they are elected or appointed and the starting point for this would be the summary designation of the posts. Thus, there would be no question as to what level and extent of rules apply.⁵

Public administration	
Political actors	Professional actors
<p>1. Senior political leader</p> <ul style="list-style-type: none"> - Prime minister - Minister - State secretary 	<p>1. Senior professional leader</p> <ul style="list-style-type: none"> - State secretary for administration - Deputy state secretary - Head of government headquarters and central office, and their deputy - Director-general of the government office
<p>2. Political leader</p> <ul style="list-style-type: none"> - Government commissioner 	<p>2. Professional leader</p> <ul style="list-style-type: none"> - Director of the government office - District clerk - Deputy district clerk - Head of general department - Head of department
<p>3. Political adviser</p>	<p>3. In the case of the maintenance of government institutions, they are government officials, government administrators</p>
<p>4. Senior political adviser</p>	<p>4. Civil servants of special status bodies</p>
<p>5. Head of Cabinet</p>	
<p>6. Commissioner</p>	

1. table: Staff of public administration. See Act CXXV of 2018 on government administration, Act CXCIX of 2011 on public servants, Act CVII of 2019 on bodies with special legal status and the status of their employees.

² FAZEKAS, Marianna: *Közigazgatási jog Általános rész I.* ELTE Eötvös Kiadó Kft, Budapest. 2015. 83–84.

³ See: Act XXXIV of 1994 on the Police, Act XLII of 2015 on the conditions of employment of professional staff of law enforcement agencies, Act CCV of 2012 on the status of soldiers, Act CXXX of 2020 on the the status of the staff of the National Tax and Customs Administration.

⁴ EU Anti-corruption Report, Report from the Commission to the Council and the European Parliament, COM(2014) 38 final, 03/02/2014. [EU Anti-corruption Report] 2.

⁵ EU Anti-corruption Report (2014), 9.

Local Government administration	
Political actors	Professional actors
1. Mayor	1. Notary
2. Senior mayor	2. Mayor's Office of civil servants, public service administrators
3. Local government representative	3. Senior government adviser

2. table: Staff of local government administration. See Act CXCIX of 2011 on public servants and Act CLXXXIX of 2011 on local governments in Hungary.

III. Rules of indignity for the actors of the public administration

In the following, the study will examine the regulation of indignity for the actors of the public administration and then the local government administration, although it shall be noted that there is no uniform definition because there are different criteria in both spheres. Indignity itself as a term means not deserving something, not worthy of something. It also means an action or behaviour that is not worthy, not befitting someone or something.⁶ In contrast, the word dignity means that someone or something is worthy of someone or something. Moreover, it also means someone appropriate to someone's person, profession or belief.⁷

III.1. Professional actors in public administration

The status of professional actors in the public administration is regulated by the *Act CXXV of 2018 on government administration* (hereinafter: Kit.), the *Act CXCIX of 2011 on public servants* (hereinafter: Ktv.) and the *Act CVII of 2019 on bodies with special legal status and the status of their employees* (hereinafter: Küt.). It should be emphasized that the provisions of the Ktv. shall apply to the legal relationship between government service and government case manager government official of the government administration bodies or some of its elements, if the Kit. itself provides so, or the Kit. establishes the absence of its effect in respect of the legal relationship or some of its elements.⁸

The Kit. considers the government service legal relationship as a starting point for professional actors, and its system of rules is ordered to be fully applied to government officials and, with certain exceptions, to a senior professional leader⁹ and professional leader.¹⁰ The Küt. itself has its own scope: it applies to independent regulatory bodies and autonomous public administration bodies, as well as to civil servants employed by them.¹¹

⁶ A "méltatlan" szó jelentése. A magyar nyelv értelmező szótára. <https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/melatlan-3F201/> (05.01.2022.)

⁷ A "méltó" szó jelentése. A magyar nyelv értelmező szótára. <https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/melto-3F20C/> (05.01.2022.)

⁸ Article 1 (2) of Act CXCIX of 2011 on public servants [hereinafter: Ktv.].

⁹ Article 223 of Act CXXV of 2018 on government administration [hereinafter: Kit.].

¹⁰ Kit. Article 250/A.

¹¹ Article 1 (3) of Act CVII of 2019 on bodies with special legal status and the status of their employees [hereinafter: Küt.].

Concerning the professional actors of the public administration, the Kttv. knows the legal institution of indignity as a reason for terminating office, as a mandatory case of dismissal. Government officials become unworthy of their position if they engage in any conduct, either in connection with their work or in breach of duties arising from their legal relationship, or outside their workplace, which is capable of seriously undermining the prestige of their post the reputation of the employer or the confidence in good public administration and therefore the employer cannot be expected to maintain the legal relationship.¹²

In contrast, the Kit. and Küt. does not know indignity, the two laws name a legal institution like this: unworthiness. The justification of the Kit. states that unworthiness is introduced instead of an excuse based on indignity.¹³ Officials shall be rendered unworthy if they engage in any conduct outside their working hours, which is capable of seriously damaging the reputation or confidence of the employing government administration, or they do not perform their duties with the professional commitment, and for this reason, it is not expected to maintain their legal relationship.¹⁴ This concept can be related to the concept of indignity since both have common conceptual elements, which are the following.

Certification of specified conduct is a general requirement of conduct in all three laws: officials must act in accordance with the priority of the public service, taking into account the need to maintain trust in good administration.¹⁵ The Küt. and Kttv. also state that the officials may not engage in conduct outside their working hours, which is directly and effectively liable to misjudge their employer, jeopardize their position, the employer's reputation, trust in the public administration and the purpose of the public service.¹⁶

According to an *employer's reputation*, the requirement demands a common opinion about someone or something, in this case in a good sense.¹⁷

The requirement for *good administration* is set up in the Charter of Fundamental Rights of the European Union¹⁸, which declares the right to good administration, according to this, everyone has the right to have his or her affairs handled impartially, fairly and within a reasonable time.¹⁹ In 2007, the Committee of Ministers of the Council of Europe adopted a Recommendation on Good Governance²⁰, which sets out its principles, expectations for administrative decisions and rules on legal redress. However, the wording of the recommendation has not become binding, but has had an impact on Member States' legislation.²¹

¹² Kttv. Article 63 (2) a), Article 64, Article 64/A.

¹³ The justification of the final drafter for Act CVII of 2019 on bodies with special legal status and the status of their employees.

¹⁴ Küt. Article 39 (18) and Kit. Article 109 (2).

¹⁵ Kttv. Article 9 (1), Küt. Article 9 (1), Kit. Article 66 (1).

¹⁶ Kttv. Article 10 (2), Küt. Article 10 (2).

¹⁷ A "hírnév" szó jelentése. A magyar nyelv értelmező szótára. <http://mek.oszk.hu/adatbazis/magyar-nyelv-ertelmezo-szotara/kereses.php?kereses=h%C3%ADrn%C3%A9v>. (05.01.2022.)

¹⁸ Charter of Fundamental Rights of the European Union. HL C 326., 2012.10.26., 391–407. [Charter]

¹⁹ Charter Article 41 (1).

²⁰ TAKÁCS, Péter – SZEGEDI, László – MÓNUS, Ildikó – GRÓSZ, Tamás – BALOGH, Gergely: A jó közigazgatás. Az Európa Tanács Miniszteri Bizottsága CM/Rec(2007)7. számú ajánlásának magyar szövege. [jogi dokumentum fordítása]. *Pro Publico Bono. Állam- és Közigazgatástudományi Szemle*, Vol. 1. No.1. 2011. 97–104.

²¹ See: BALÁZS, István: A jó közigazgatás követelményei, 2014. Konferencia (Előadás) In: *Magyar Jogászsövetség konferencia*. <http://real.mtak.hu/11110/> (05.01.2022.) 2–4.

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By *trust*, according to the literature, we mean *the individual expectation that the object of trust (person or institution) will behave in the given or expected way in a given situation*.²² There the different radius of trust²³, with interpersonal trust and general trust playing a role in this examination.

Interpersonal trust means that we place more trust in the people closest to us²⁴, and in the case of *general trust*, personal bonding does not play a role. There is no particular element here, it rests on basic cohesive belonging based on social integration.²⁵ *Interpersonal trust* is affected by various factors, such as social culture. These affect the level of trust in a community. It should be emphasized that trust is partly related to its impression related to its specific subject matter, and in addition to the above, it is also affected by the behaviour of the object of trust, which is important for institutional trust.²⁶ Based on this, we can conclude that the interactions of officials affect the trust of clients, and the power they represent as an institution is present in our daily lives, so the client contact with them is partly shaped by the characteristics of their procedure and their experience. Trust is needed because, in the absence of this, they are unable to co-operate with clients, as the procedure of the specialist affects the judgment of clients about administration.²⁷

However, universal trust is also needed because, if we built solely on particular trust, relationships can become informal, reducing transparency and accountability.²⁸ It can be stated that trust between people and towards institutions is essential in societies governed by law. If it falters, possibly lost, then it also threatens democracy itself, as a result of which political processes are initiated that lead to the demise of democracy.²⁹

Comparing the concepts of indignity and unworthiness and their conceptual elements, it can be concluded that it is unreasonable to give two different names to a legal institution serving the same purpose. Nor has the legislature justified the introduction of indignity, but it does not seem appropriate, given that indignity, as will be presented later, also appears in the municipal subsystem, although with a completely different meaning. Moreover, indignity as an expression is more closely related to the nature of the office.

III.2. Political actors in the public administration

The other sphere of public administration is those in political service, who include the senior political leader, the political leader, the political adviser, the senior political adviser, head of a cabinet.³⁰ On the borderline between the two legal relations is the legal relationship of the Commissioner, which – in my opinion – is also one of the political actors, to which the Kit. does not define the requirements to be highlighted from the point of view of the subject.³¹

²² BODA, Zsolt (szerk.): *Bizalom és közpolitika. Jobban működnek-e az intézmények, ha bíznak bennük?* Argumentum–MTA TK Politikatudományi Intézet, Budapest, 2015. 10.

²³ BODA. 2015. 10.

²⁴ BODA. 2015. 10.

²⁵ GRÜNHUT, Zoltán – BODOR, Ákos: „Megbízhatsz bennem, hisz’ ismersz!” Kistelepülési polgármesterek az informalitások hálójában. *Új Magyar Közgazgatás*, Vol. 12. No. 2. 2019. 15.

²⁶ BODA. 2015. 11.

²⁷ BODA. 2015. 11.

²⁸ For more information see: GRÜNHUT–BODOR. 2019. 1.

²⁹ TÓTH, Gábor Attila: Bizalom és bizalmatlanság egyensúlya az alkotmányos struktúrákban. *Közjogi Szemle*, Vol. 5. No. 2. 2012. 10.

³⁰ Kit. Article 3 (2).

³¹ Kit. Article 3 (1) b).

Regarding the political actors of the state administration, the law highlights that the legal relationship of senior political leaders (including the Prime Minister, Ministers and Secretaries of State) if the Fundamental Law of Hungary or the Kit does not provide for anything else, the rules applicable to government officials shall apply. Nevertheless, political leaders are not covered by, among other things, the exemption based on unworthiness.³²

Political leaders, who are government commissioners, are subject to the rules on government services and government officials, with the exception of the provisions on termination of employment and professional ethics.³³

The political service regulations of advisers are also subject to the rules of government service, with certain exceptions, but they can already be dismissed due to unworthiness.³⁴

It can be seen that, with certain exceptions, the rules on the termination and removal of their legal relations do not apply to political actors in the public administration. This means that due to unworthiness, there is no way to remove a political actor from office.

This departure from the professional sphere is unjustified because of the Kit. that states in its preamble that this law was enacted to regulate the employment of high-level government officials serving the nation to create a modern and efficient system of government administration. This high standard can also mean efficiency and high expertise, but it is accompanied by the high standard that the average citizen expects from the apparatus of public administration, regardless of the sphere in which it is located. All the more so, as there are stricter rules of Conduct for professional actors, those in the political sphere are still more interested. can't they be expected to meet a higher standard? It should be emphasized that even the private sector also defines a general behavioural requirement against workers in *Act I of 2012 on Labor Code*: during the employment relationship, the employee may not engage in any conduct that would jeopardize the legitimate economic interests of his employer, nor may he engage in any conduct outside his working hours that endangers the good repute of his employer. In light of this, political actors can be expected to behave in a manner that is consistent with trust in good administration, both inside and outside the workplace.³⁵ In light of this, senior political leaders and political leaders are also expected to behave with trust in good administration, both inside and outside the workplace.

IV. Rules of indignity for actors of local government administration

IV.1. Professional actors of local government administration

According to the provisions of the Kttv., the professional sphere of the local government administration includes the notary, the civil servant of the mayor's office of the representative body and the senior government adviser.³⁶ Dignity is used for them in the same sense as a ground for dismissal, as explained in the special part of the public administration, as the rules applicable to government officials apply mutatis mutandis to civil servants.³⁷

³² Kit. Article 181.

³³ Kit. Article 206.

³⁴ Kit. Article 214 (5).

³⁵ Article 8 (1)–(2) of Act I of 2012 on Labor Code.

³⁶ Kttv. Article 1.

³⁷ Kttv. Article 231 (1).

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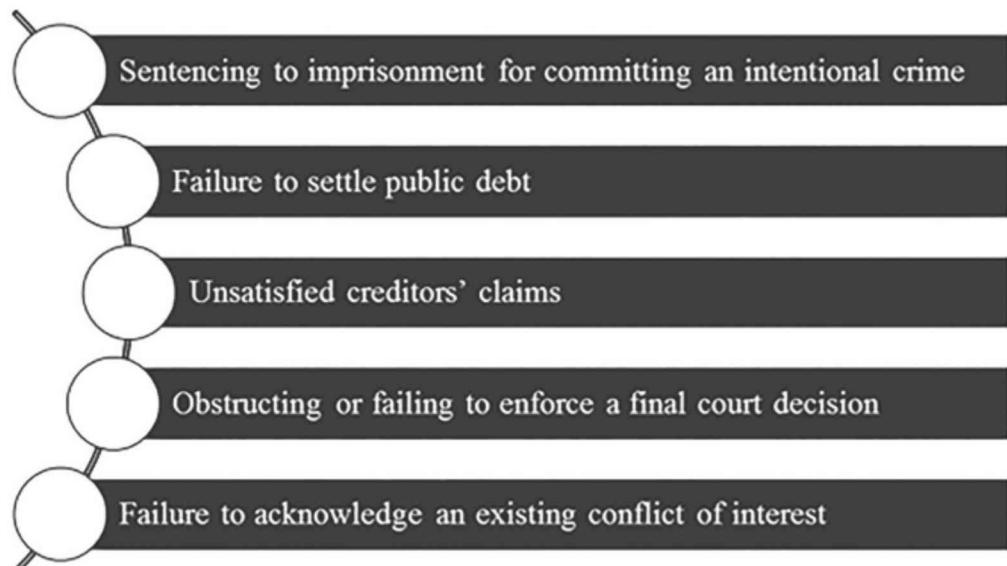
IV.2. Political actors in the local government administration

As shown in the figure, the political actors in local government administration are mayors, deputy mayors, and local government representatives. The highest legal source for the legal status of all three of them is the Fundamental Law of Hungary, which lays the foundation for the regulation of local governments.³⁸ The laws are on the second level of the hierarchy of sources of law, the current local government law named the *Act CLXXXIX of 2011 on local governments in Hungary* (hereinafter: Mötv.), the *Act L of 2010 on the election of local government representatives and mayors* (hereinafter: Övjt.) and the *Act XXXVI of 2013 on the electoral procedure* (hereinafter: Ve.).

A new element in the law is the criterion of the “*dignity required for the performance*”³⁹ of the mandate, i.e. the legal institution of indignity, which entered into force before the 2014 elections took place. The new rules of indignity are equally to be applied to the mayors as well as to municipal representatives apply.⁴⁰

Dignity as a concept is “*the judgment of the value of a community, small or large, against one person or an entire body. An important requirement for the local government representative is the certification of socially expected, dignified behaviour, therefore the local government representative may also become unworthy of this position. There may be several measures of indignity as a subjective value judgment, and their weight may be extremely different, so it cannot be determined objectively.*”

⁴¹The law exhaustively lists the causes of indignity, which are shown in the figure below.



3. table: The causes of indignity. From: Mötv. Article 38 (1).

³⁸ Article 31–35 of Fundamental Law of Hungary.

³⁹ FARKASNÉ GASPARICS, Emese: Magyarország helyi önkormányzatairól szóló törvény születéstörténete és jelene. *COMITATUS*, Vol. 28. No. 229. 2018. 25.

⁴⁰ Mötv. Article 72 (4).

⁴¹ BALÁZS, István – BALOGH, Zsolt Péter – BARABÁS, Gergely – DANKA, Ferenc – FAZEKAS, János – FAZEKAS, Marianna – F. ROZSNYAI, Krisztina – FÜRCHT, Pál – HOFFMAN, István – HOFFMANNÉ NÉMETH, Ildikó – KECSŐ, Gábor – SZALAI, Éva: *A Magyarország helyi önkormányzatairól szóló törvény magyarázata*. HVG–ORAC, Budapest, 2016. 167.

IV.3. The explanation of the reasons for indignity – Sentencing to imprisonment for committing an intentional crime

The concept of public trust is based on the indignity of a custodial sentence imposed for the commission of an intentional criminal offence. This definition contains conjunctive elements, so in the event of a negligent crime, it is not possible to establish uncertainty but in the case of mixed guilt. It is also a condition for a legitimate loss of imprisonment taken by the court. This provision shall also apply if the representative is sentenced to a suspended custodial sentence.⁴²

IV.4. Failure to settle a public debt

Who plays a significant role in the functioning of the local government does not belong to the public because it becomes unworthy of trust.⁴³ The concept of public debt is defined in *Act CL of 2017 on the system of taxation* (hereinafter: Art.). Public debt is:

- a payment obligation prescribed by law to cover the tasks to be performed from the budgets of the general government subsystems, the establishment, control and recovery of which falls within the competence of a court or administrative body,
- the statutory obligation to pay for the operation of the public body provided that it has not been voluntarily fulfilled when it falls due,
- aid and contributions wrongly used or misused by the budget of the general government subsystems, the payment of which is ordered by the competent body and is not made by the debtor within the prescribed time limit and for which the public tax and customs authority, at the request of the body, the budget also exercises the right to withhold aid in respect of these debts.⁴⁴

The law also deals with the tax-free taxpayer database, which is a register published on the website of the state tax authority – in Hungary, it is the *Nemzeti Adó- és Vámhivatal*, – (NAV) – which contains the name, title and tax number of the taxpayer and keeps records of the taxpayers who meet the following conditions on the last day of the month preceding the publication:

- has no net debt or public debt registered with the state tax and customs authority,
- the taxpayer has declared that he/she has fully fulfilled the obligation to declare and pay the due payment;
- no bankruptcy, liquidation, compulsory cancellation or liquidation proceedings have been initiated against him;
- if there is a case of group value-added tax, that group value-added tax is not subject to value-added tax;
- if there is a case of group corporate taxpayer, this group corporate taxpayer has no corporate tax debt;
- you have no overdue debts as a taxpayer.⁴⁵

⁴² BALÁZS et al 2016, 167–168.

⁴³ FÁBIÁN, Adrián: *Kommentár a Magyarország helyi önkormányzatairól szóló 2011. évi CLXXXIX. törvényhez (archív)*. Wolters Kluwer Netjogár. 113.

⁴⁴ Article 7 point 34. of the Act CL of 2017 on the system of taxation [hereinafter: Art.]

⁴⁵ Mötv. Article 261 (1).

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Local government representatives must apply for inclusion in this database within thirty days of being elected. They must certify before the last day of the month following the month in which they have been recruited that they have been recruited.⁴⁶ This is done by requesting the admission of the representative electronically via a so-called *KOMA-form*⁴⁷, for which an Ügyfélkapu⁴⁸ is required.

The form is available on the website of the NAV and is submitted by ÁNYK (general form filling program). The representative can confirm the entrant's application with an eBEV⁴⁹ acceptance receipt returned by the system. If the application has been received until the last day of that month, it will enter the database at the earliest day of the next month if it meets the conditions.⁵⁰ If, after the recruitment of a representative, the tax authority finds that it does not meet the conditions for recruitment, it shall send a written notice to that effect to the Board of Representatives and the Government Office.⁵¹

The certificate of admission must be submitted to the Committee on Conflicts of Interest⁵² within the time limit laid down by law, in case of failure to do so, by setting a deadline, the commission shall request the representative to comply.⁵³

If the omission is not remedied, the committee shall conduct the unfairness procedure, informing the representative board.

The Mötv. does not specify exactly the occurrence of the public therefore it can be interpreted to cover all financial issues that happened even before the election of the local representative. It will be indign if the public debt is legally present during its term of office and the obligation to pay is notified but fails to comply with it within sixty days, except in the two cases provided for by law.⁵⁴ Under the notice, the request for payment of public debt must be understood, as the committee conducting the procedure of indignity must examine whether the notification has been made in order to conduct the procedure. If all the conditions set out in the Mötv. are not met, a representative cannot be prosecuted.⁵⁵

IV.5. Unsatisfied creditors' claims

The *Act V of 2013 on the Civil Code* contains provisions on companies in the Third Book. It regulates the cases where the manager, officer or owner of a liquidated company is liable for outstanding debts after the liquidated economic debts. In such cases, these persons acted in bad

⁴⁶ Mötv. Article 38 (4).

⁴⁷ Összenvont nyomtatvány a köztartozásmentes adózói adatbázissal kapcsolatos ügyek intézéséhez. Nemzeti Adó- és Vármhivatal. Nyomtatványkitoltő programok. Kérelmek. <https://www.nav.gov.hu/nav/letoltesek/nyomtatvanykitoltoprogramok/nyomtatvanykitoltoprogramok/nav/kerelmek/koma.html> (05.01.2021.)

⁴⁸ Ügyfélkapu is the government's electronic identification system that provides users with one-time access to e-government and service providers.

⁴⁹ On the eBEV Portal, you can view all messages sent by NAV (acceptance / rejection receipts, notifications, notices, etc.), download copies of received documents, and perform various queries.

⁵⁰ Önkormányzati Tudástár- az Önkormányzati Hírlevél 2015. évi 2. különszáma. http://www.kosz.hu/upload/content/H%C3%ADrlev%C3%A9l/%C3%96nk_%20H%C3%ADrlev_2015_%C3%A9vi_6_sz%C3%A1m_Tud%C3%A1st%C3%A1r.pdf (05.01.2021.) 29.

⁵¹ Mötv. Article 38 (4).

⁵² This is an organ of the representative body.

⁵³ Önkormányzati Tudástár (2015) 33.

⁵⁴ Önkormányzati Tudástár (2015) 34.

⁵⁵ Önkormányzati Tudástár (2015) 34.

faith, and a final judicial decision establishing this may shake the trust placed in them, because they did not act in accordance with the rules of good financial management, so their indignity can also be established.⁵⁶

IV.6. Obstructing or failing to enforce a final court decision

The reason for the enactment of this ground of indignity is that a representative who engages in obstructive or reprehensible negligent conduct is not law-abiding. It objects to the observance of binding decisions taken by the public authorities in the performance of its unworthy position.⁵⁷

IV.7. Failure to acknowledge an existing conflict of interest

This reason for indignity means that a representative is subject to a conflict of interest. This rule intertwines the two grounds for termination: conflict of interest and indignity, and clarifies the legal consequences of a representative's silence if there is a cause of conflict of interest which he does not report to the representative body.

If any of the reasons for the injustice explained above are present, the representative body shall conduct the injustice proceedings and, if the representative is found to be unworthy, shall lose his or her mandate.⁵⁸

Based on the above-mentioned facts, it can be concluded that, for the political actors of local government administration, indignity has a completely different meaning than in the case of professional actors. The Ktv. emphasizes the proper conduct of a civil servant, which must be interpreted more broadly than those laid down in the Mötv. The Ktv. operates with an abstract concept, while Mötv. lists cases that ignore those that severely undermine public confidence. On the other hand, if we consider municipalities to be the "extended arms of state power," both members and mayors should meet at least such behavioural criteria.

Based on these, it can be concluded that in the professional sphere of local government administration, the institution of unworthiness is also rubber-based, while the regulation of unworthiness of representatives based on public trust is exhaustively listed and not organized around the element of trust, but mostly by another body. The reason for the difference is, as follows, that one has a political function and the other a professional function. In the case of civil servants, the state makes sure that they are good and loyal to their leader and maintain confidence in the public administration. The question may arise who cares about local government representatives. If the quasi-principal of the representative is considered to be the electorate, they should be given a similarly rule-based say in conduct that is incompatible with the office of a representative. Currently, they only have the opportunity to come to terms with the fact that they can be replaced in the next election, drawing the lesson that the representative has not lived up to expectations.⁵⁹

⁵⁶ BALÁZS et al 2016, 170.

⁵⁷ BALÁZS et al 2016, 170.

⁵⁸ Mötv. Article 38 (3)–(5).

⁵⁹ For more information see the dissenting opinion of Béla Pokol constitutional court judge on the declaration of a principled opinion related to the dissolution of the representative body operating unconstitutional, Constitutional Court Decision 18/2013. (VII.3.), ABH2013, 758.

V. Conclusions

The results so far show that there is no uniform standard for the regulatory environment of indignity for different actors of public administration, even though all fill positions of trust. Government officials and civil servants must maintain public trust in administration while they perform their jobs, especially the political actors and local government representatives, who get their mandate by local election. The electorate of the local community casts their vote for those they trust. As a result of the fact that both administrative actors must meet the requirements of trust, public trust and the public interest, the regulations applicable to them should be standardized, and the same requirements should apply to those holding positions in the political and professional arena.

If this were to happen, the concept of indignity could also be uniformly defined, incorporating the key elements of the legal provisions presented earlier.

As an experiment, the concept of indignity could be defined for the whole administration by combining the conceptual elements that have been explained in detail earlier (public trust, dignity, different behavioural requirements, etc.) with the principles of professional ethics that are binding on members of the profession area.

As a result, we can give a definition that has the following elements:

- Administrative officials, including political and professional actors in public administration and local government administration,
- being unworthy of trust to hold the office if,
- do their duties by ignoring the public interest,
- provides breach of trust in good public administration,
- does not comply with the principles of professional ethics applicable to him (these, however, should also be uniform in both spheres), or
- engages in conduct in his spare time which is capable of seriously undermining trust in good administration.

With this concept, the same system of indignity would be achieved, which is the most important step in eliminating regulatory differences between political and professional actors in the public administration.

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