

Title: Models of Administrative Supervision of Local Government in Central and Eastern European Countries. – a typology

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Abstract:

As rightly noted, “The supervision of local authorities’ activities is probably the very backbone of local autonomy. If local self-government means the capacity of local authorities to decide free from political intervention of the «higher» levels of government, any form of or «supervision» has to be carefully analysed.” (Moreno, 2012). If the supervision of LG reaches in the essence of their activity, their autonomy becomes fictitious, while if the central administration has no real possibility of supervising the legality of LG acts, the sovereignty of state may be questioned.

There is a lack in the literature when it comes to the description and comparison of the LG supervision models. The comparative typologies of LG systems in Europe do not include the problem of supervision system at all (Heinelt Hlepas 2006; Swianiewicz 2014) or cover it in an insufficient way (Ladner, Keuffer, Baldersheim, 2016).

The European Charter of Local Self-Government constitutes two principles of the supervision.

- Legality. Supervision is exercised only according to procedures and in cases provided by law. Limitation of the supervisory activities to the review of lawfulness of the local authorities activities;
- Proportionality. Supervision is exercised in such a way that the intervention of authority is proportional to the importance of the interests which it is intended to protect.

In 2019 the new Recommendation of the Committee of Ministers of CoE on supervision of local authorities’ activities has been issued. It states i.a. that the administrative supervision should meet such requirements as:

- Take place a posteriori (a priori measures should be used only as exceptions);
- Cover only LG activities clearly described in law;
- Be described in appropriate legal and institutional framework;

My paper will describe the CEE countries – members of CoE supervision systems in terms of the abovementioned norms. I will take into consideration such factors as:

- The constitutional provisions concerning the supervision and its legal protection (those two issues are related, the existence of the effective judicial review of the supervision is one of the guarantees of its proportionality). I will investigate how clear and in-depth are the constitutional provisions in this matter;
- The institutional setup of the supervision. I will find out which organs are responsible for execution of the supervision, whether these are the representatives of government (as in Poland and Hungary), Public Prosecutor Offices (Slovakia) or Ministry of Home Affairs (Czech Republic);
- The procedure of supervision. I will research i.a. whether the government officials are able to quash the LG acts or only to lodge the complaint against them in courts.
- The measures available to LG against supervisory acts and effects of the supervisory acts (e.g. suspensive, non-suspensive) and the practice in this matter.

The preliminary findings based on the research of the constitutions, as well as of the regular reports of the Council of Europe Congress of Local and Regional Authorities and the literature review show the huge diversity between the CEE states in such aspects. What is more, some of countries seem to undergo the recentralization tendency (Poland – vide Sześciło 2018, Hungary, vide Pereira, Cukur 2013), while others introduce the decentralization reforms in this aspect (Czech Republic – vide Calota, Receveur 2012). The collected data, in comparison with other published research, will allow to find out how much the supervision system influences the general level of decentralization of the CEE countries.