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Abstract of the doctoral thesis

**Changes in the Structure and Certain Aspects of the Government in Hungary between  
1848 and 1944**

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## I. Research task

*“The task of one who cultivates Hungarian public law scientifically is not to transform the Hungarian concept and lay the constitution on new foundations, not to create a new public law; but to acquaint himself with the existing constitution, to explain its principles and to emphasize the Hungarian concept from the nature of the state.”*<sup>1</sup> I can identify with this statement by Ferdinandy Gejza, and I would like to contribute to this possibility of “*emphasis*” with my research and my dissertation.

It is often said that it is not the form that matters, but rather the content. However, in contrast to the former commonplace, my dissertation does not deal primarily with the content, but rather with the form. It is surprising how many times the form examined here also affects the content. In our case, it can be said that not only what the government does is important, but also the form in which it operates. The ministerial structure as a form is never difficult to describe; during the period under review, it is a list of up to twelve items, with the exception of some wild offshoots of public law development. I have not come across any scientific work specifically aimed at the history and study of the formal ministerial structure. In many cases, the functionalist and institutionalist approaches are a complementary part of a scholarly work, “*servants*” of another perspective. In my research, I try to point out that the changes in the structure of government, when they were still ongoing, pointed to a number of principles and fundamental issues of public law, which are decisive for the development of Hungarian public law in other respects. The ministerial structure can easily seem to be a mere form, this list seems empty without examining the content of the operation. With this dissertation I aimed to present the content of the blank form. To be pictorial: an empty glass is not interesting to many until it is filled with – for example – some good wine. This dissertation is about the material that makes up the glass and keeps the wine in an enjoyable state, shaped into a suitable form.

The primary goal of this doctoral dissertation is to summarize the changes in the structure of Hungarian governments between 1848 and 1944. In this time interval, in addition to the relatively unchanged form of state, many actual regime changes took place from both a public and a political point of view. The dissertation also seeks to answer the question of whether these regime changes were accompanied by a change in the ministerial structure or not.

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<sup>1</sup> FERDINANDY Gejza: *Magyarország közzjoga*. Budapest, Politzer, 1902. 6. o.

During the period of research, the application of the principle of separation of powers and the relationship between the individual branches of power changed several times. Given that the government under study is the top organ of the executive branch, we must also consider its effects. In addition to the fact that the law on which the government structure was based was created during a revolutionary period, even further revolutions may have temporarily created radically new rules. During the examined period, the whole of World War I and most of World War II took place, including the period of preparation for both World Wars. These all affected the structure of the government for a shorter or even longer period of time. Between 1848 and 1944, the territorial integrity of the country changed greatly and several times, which also had an impact on the structure of the Hungarian government. During the period covered by the dissertation, a series of reforms of the executive branch took place, which did not leave the government untouched either. Ultimately, we could not ignore the existence of the historical constitution as an incorporating factor either.

The composition of the government, the ministerial structure, is based on a complex system of principles, which is emphasized by the fact that it is the supreme body of the executive power. From the point of view of legal history, this complexity was my starting point: the government is a social, administrative, constitutional, public good institution at the same time. As Ignác Acsády described: *“In whose hands this administration was, which elements of society influenced it from time to time, it is in any case very instructive to know and it will be the task of finding out the history of the administration. Naturally, the administration has always been as close as possible to existing social organizations.”*<sup>2</sup> It can be considered as a starting point that in 1848 there was a change that broke with the previous model of public law and government, and for which no change was like in the interval examined in the dissertation. Of course, the question arose as to whether, in the knowledge of the antecedents and patterns, the model of the government structure developed in 1848, did not remain unchanged. Any change in the structure of government posed challenges to the 1848 structure. Should the former form be maintained? Or maybe the circumstances have changed in such a way that it is no longer worthwhile or expedient to keep the 1848 model or a later model version? We can state in advance that the 1848 model of the government structure was successful. Even during the period under study, during the period of the Soviet Republic, which is said to differ the most

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<sup>2</sup> ACSÁDY Ignác: *A magyar közigazgatás történetéhez*. Nemzetgazdasági Szemle 17. évf. 1893/1. kötet, 335-336. o.

from the Hungarian public law traditions, they did not deviate very much from the ministerial structure of 1848.

*“Our administrative institutions are the same age as the Hungarian state itself, which would not have existed at all without such institutions. These institutions have, of course, always adapted to the special circumstances, specific spirit and needs of each era, but although in a form different from the present, often under a different name, they have always served the same tasks as in our time, and as a living organism cannot live without certain organs, a state cannot exist without permanent organs.”*<sup>3</sup> These words are obvious, and in this regard, in my formal examination of the composition of the government, I also place an emphasis on reviewing historical transitions.

Another aspect that underlines the importance of the government and the need for a formal investigation cannot be ignored. The structure of the government gives an idea of which areas and topics the government considers to be the most important. On the one hand, it provides guidance to the administration on the most important goals by highlighting some of the huge mass of tasks to be performed by the government by marking them in the names of the ministries. On the other hand, the government structure shows the domestic and international political life and public opinion which are the most important issues and the most significant goals of the government. The most striking example of this is expressed in the period following the adoption of the Act XI of 1917 that provided the creation of ministerial positions without portfolio, which are responsible for resolving significant issues identified by the government (such as suffrage, smallholder affairs, or certain nationalities).

I studied the organization of the government, the ministerial structure and the principles influencing its formation by dealing primarily with the form. I examined the list of ministerial positions that make up the government as an organizational form. Between 1848 and 1944, respectively, there was a need for some change in the structure of government, to a greater or lesser significance and to a greater or lesser extent. I took these occasions all in turn in the dissertation, examining them based on mainly the above sources.

Governments exist independently of the system in the legal and political space, and their operation is shaped by a dual set of rules. Legal constraints generally provide a much more informal, freer room for manoeuvre, since in the language of law a fundamentally political

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<sup>3</sup> ACSÁDY (1893) i.m.: 335-336. o.

institution can only be described in outline.<sup>4</sup> In the XIX. century, the number of laws concerning the government, especially the organization and functioning of the government, is small, and they also contain only general measures.<sup>5</sup> The basic rules for the examined period between 1848 and 1944 were set out in Act III of 1848. Its amendments and additions have given the aforementioned “*main circumscription*” to the functioning of governments. Acts were often supplemented by detailed regulations by government decrees.

The most fundamental question of the research conducted was why the structure of government in the period between 1848 and 1944 was as it was. The forerunner of this is to establish what the government was like in each age. Numerous and innumerable reasons can be given as to why the regulation has evolved the way it is in terms of the structure of government. Moreover, in agreement with Csaba Varga, “*random and possible moments can have a decisive influence from the point of view of the historical process, the specific social mandate or the challenge in terms of what, how or how shaped or prepared the legal toolkit answers to a given question.*”<sup>6</sup> We therefore have to face the fact that it is uncertain or almost impossible to find the influencing factors that determined the structure of government or the change or non-change of government structure in response to a particular historical challenge. However, we should also not overlook the fact that “*instrumental continuity is one of the main elements in the development of law. That is, responses to new challenges are often not created by creating new tools, but (by the power of thought economy and imitation, impotence and habit) often by reinterpreting, combining or transplanting old ones.*”<sup>7</sup> In view of this, I believe that my research should focus to a large extent on the initial period, especially with regard to the structure of the first responsible Hungarian government. Namely, the challenges of the examined almost a century affect mainly the governmental structure pursuant to Act III of 1848., this will be the one on which changes will have to be made by legal means that respond to the current political, economic and social challenges. Citing Csaba Varga once again, the law “*owes its cultural (mental, conceptual, behavioral) roots and connections to the fact that it can sometimes show surprising continuity, and even outright resistance, even to the most drastic storms in history.*”<sup>8</sup> The examined period certainly abounds in “*storms*” (1918, 1919), which

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<sup>4</sup> GOMBÁR Csaba: *Miként minősítjük a kormányt?* In: GOMBÁR Csaba et. al. (szerk.): *Kormány a mérlegen 1990-1994.* Budapest, Politikai Kutatások Központja, 1994. 12-17. o.

<sup>5</sup> CIEGER András: *A kormányzat helye és szerepe a dualizmus politikai rendszerében (1867-1875).* In: PAJKOSSY GÁBOR (szerk.): *Politika, politikai eszmék, művelődés a XIX. századi Magyarországon.* Budapest, ELTE BTK, 2000. 66. o.

<sup>6</sup> VARGA Csaba: *A jog mint folyamat.* Budapest, Szent István Társulat, 2005. 106. o.

<sup>7</sup> VARGA (2005) i.m.: 106-107. o.

<sup>8</sup> VARGA (2005) i.m.: 110. o.

tore the fabric of Hungarian legal continuity in many respects, but the government structure may have proved resilient.

The next question to be addressed is the principles that have defined the structure of government. Did these principles also be stated? If the answer to this question is positive, then they should appear in parliamentary debates, in the daily press and in specialist journals, and in public law monographs. Has there been a change in these principles over the course of nearly a century under study? We would assume that there was a change in the principles, as the situation in 1848 is hardly comparable to, for example, Hungary in the 1930s.

Another set of issues to be examined concerns the legal regulation of the structure of government. Given that this is a fundamental public law issue, we can assume that we will find predominantly laws and statutory regulation among the set of rules on the government. We can also assume that laws can be detailed in government decree-level regulation - obviously within the framework set by law.

And this idea takes us further to approach this issue from a different perspective; what powers the government has or may have in shaping its own organization. Assuming that the structure of the government must always be determined by law, this means that it is not part of the government's administrative organizational power to form its own organization. The fundamental question that must be asked of any change in the structure of government is who or who determines the organization of government in practice, and to whom or who is legally competent to do so. The question of how the structure of the government can be changed also needs to be examined. Finally, an answer must be sought on the arguments, reasons and principles on the basis of which the decision to change the ministerial structure is made, on the basis of which arguments, reasons and principles the new structure is formed, and finally on the basis of which the change is accepted and which arguments are rejected and are not taken into account in the change.

Challenges to the structure of government fundamentally called into question the model developed in 1848. Any change in this model reinterprets the principles expressed in the '48 and subsequent but pre-change models. For most changes, the above questions had to be answered in some way at some point in the model modification process. During the most significant modifications - in 1889 and 1917 - the original model of 1848 was taken out again, the main principles were discussed again and fixed.

## II. Description of the research and sources

I consider it important to explain the significance of the ministerial structure as that is the subject of the study conducted in this dissertation. György Müller refers to the governmental structure as the organization of ministries, sub-ministerial authorities, the appointment of ministers without portfolio and government commissioners or other personal agents, and the establishment of the tasks of governmental centrals.<sup>9</sup> Reduced from this, governmental structure means to me the organization of ministries and the setting up of ministers without portfolios in this writing. This definition can obviously be interpreted only after the establishment of the bourgeois-type, modern Hungarian state, after the establishment of a responsible and independent government in 1848. Compared to previous periods, the meaning of the governmental structure is quite different.<sup>10</sup>

The most important question is which state bodies have some power in terms of the structure of government, and which state body has the most emphatic, decisive power. It is easy to see - and this is also confirmed by György Müller<sup>11</sup> - that few actors can bear the power to form and shape the government structure. Thus, the head of state or government, the government itself or the legislature. According to the Hungarian public law tradition,<sup>12</sup> the legislative body has the most important role. The legislature is the one that defines the structure of the government by establishing a list of ministries, establishing a ministry and abolishing a ministry, reorganizing the ministry structure.<sup>13</sup> It is important to see that this construct limits executive power in establishing its own organization.

According to the later Hungarian public law tradition, the other actor is the head of government in shaping the structure of the government. The prime minister is the one who, if he has the opportunity, can supplement his government with ministers without portfolios.

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<sup>9</sup> MÜLLER György: *Magyar kormányzati viszonyok*. Budapest-Pécs, Dialóg Campus, 2011. 43. o.

<sup>10</sup> See for example: HAJNIK Imre: *Magyar alkotmány és jog az Árpádok alatt*. Pest, Heckenast, 1872. 226. o. (IV. fejezet. A Sz. István-féle kormányrendszer átalakulása), MOLNÁR Aladár: *A magyar Alkotmány történeti kifejlődése*. Pápa, Reformált Főtanoda, 1862. 91., 95. o. (30. § I. Országos (központi) kormány. a) királyi udvar (curia regis)), SZABÓ Károly: *Szabó Károly kisebb történelmi munkái*. Budapest, Ráth Mór, 1873. 174., 230-231. o. (VI. A hét magyar nemzetségről, VIII. Erdély a magyar vezérek alatt), KÖVÁRI László: *Erdély történelme*. Pest-Kolozsvár, Ráth Mór-Stein János, 1866. 21. o., 30. o. (I. Leopold)

<sup>11</sup> MÜLLER (2011) i.m.: 43. o.

<sup>12</sup> SCHMIDT Péter: *A politikai átalakulás sodrában*. Budapest, Századvég, 2008. 170-176. o. és 271-274. o.

<sup>13</sup> MÜLLER (2011) i.m.: 44. o.



As Fábiónné Kiss Erzsébet stated, “*the number of statutory provisions dealing with the Council of Ministers is negligible.*”<sup>14</sup> Quantitatively, the number of laws dealing with the Council of Ministers or the government is really not very large, and even the number of related decrees is not very high. The number of laws can be given in the order of ten, the number of decrees – as they are directly related to the laws – is of a similar order of magnitude in the examined period, i.e. between 1848 and 1944. However, this raises the question of whether the substantive issues were regulated in this small number of pieces of legislation, or whether there were temporary or temporary settled issues, and whether there were any questions to which the practice provided answers. To answer this question, we must keep in mind the findings of Csaba Gombár and András Cieger regarding the government. They agree that governments operate in a double system of rules. Legal constraints generally provide a much more informal, freer room for manoeuvre, since in the language of law a fundamentally political institution can only be described in outline.<sup>15</sup> This was also the case in the last century: as I have just mentioned, there was little legislation on the functioning of the government, and they contained at most general expectations.<sup>16</sup>

According to Károly Kmety, “*the number, seat and denomination of Hungarian and joint ministerial posts are determined by law, they can only be changed by law.*”<sup>17</sup> It is important to note that this is one of the most important items of the present dissertation, as well as the most important issue. Towards the end of the period under study, this also seems essential. Thus, for example, in 1936, Zoltán Magyary also confirmed that “*the number of ministers is determined by law.*”<sup>18</sup> Of course, it is a different question what each author understood by ministerial positions and the number of ministers. The basic problem was already in Act III of 1848, its rapid creation and very concise wording.

I cannot completely identify with Andor Csizmadia's statement that “*the organization and powers of the ministry have been meticulously elaborated by law (Act III of 1848).*”<sup>19</sup> Csizmadia made this statement in light of the fact that in his opinion, in the case of counties

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<sup>14</sup> F. KISS Erzsébet (szerk.): *Az 1848-1849. évi minisztertanácsi jegyzőkönyvek.* Budapest, Akadémiai, 1989. 10. o.

<sup>15</sup> GOMBÁR Csaba: *Miként minősíthetjük a kormányt?* In: GOMBÁR Csaba-HANKISS Elemér-LENGYEL László (szerk.): *Kormány a mérlegen 1990-1994.* Budapest, Politikai Kutatások Központja, 1994. 12-17.

<sup>16</sup> CIEGER András: *Kormány a mérlegen a múlt században: a kormány helye és szerepe a dualizmus politikai rendszerében (1867-1875).* Századvég, 4. évf. 1999/4. sz. 79-81. o.

<sup>17</sup> KMETY (1900) i.m.: 290. o.

<sup>18</sup> MAGYARY Zoltán: *A közigazgatás legfőbb vezetése szervezési szempontból.* Budapest, Budapest Székesfőváros, 1936. 140. o.

<sup>19</sup> CSIZMADIA Andor (szerk.): *Bürokrácia és közigazgatási reformok Magyarhonban.* Budapest, Gondolat, 1979. 13. o.

and city administrations, the laws laid only the framework,<sup>20</sup> the detailed rules were planned to be developed later, while in the case of the government not only the framework but also detailed rules were developed. There is no doubt that in the case of the government, the Act III of 1848 does contain detailed rules, such as a seemingly list of ministries, but it has not laid down many – otherwise very important – rules. Such was, among other things, the competence of the individual ministries or even the tasks and powers of the Council of Ministers, which were either developed later or never, and acted on the basis of practice. We cannot go beyond the fact that the list provided by Section 14 Act III of 1848 is necessary to make subject to investigation.

According to Zoltán Szente, *“in a time of dualism, the recurring argument of those who advocated domestic parliamentarism, that is, even in England the ruler appoints ministers, was therefore as misleading as if it had been argued - formally correctly - that the English constitution does not know the institution of the Cabinet Council (i.e. the government).”*<sup>21</sup> This dissertation, apart from the right of appointment of a monarch-head of state, touches on this topic. Károly Kmetty stated in 1900 that *“the organization of the responsible government of the Hungarian state has been formed according to the principles of the government of the parliamentary state since 1848.”*<sup>22</sup> Kmetty thus stated that although the specific structure of government may have changed (as it has changed), the essential principle is that the structure of government should conform to the principles of the parliamentary form of government.

Emil Nagy, former Minister of Justice, made the following statement in an article in the Pesti Hírlap in September 1928: *“The concept of the constitutional nature of a responsible ministry does not tolerate changes in the public law of the executive branch responsible to the legislation without law, without a mandatory order of distress.”*<sup>23</sup> I think most former and then public lawyers would have agreed with this sentence. What is more exciting is what is meant by the content of the sentence above. The situation is like the case of the smart Aladdin with the genie, who wished himself three more wishes with one of his three wishes. Is this possible? This case and question, translated into the topic of the dissertation, reads as follows. Can the structure of government be changed only directly by law, or is it possible to change in another way under the authority of the law? The dispute was not resolved by the end of the period under

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<sup>20</sup> az 1848. évi XVI. törvénycikk és az 1848. évi XXIII. törvénycikk

<sup>21</sup> SZENTE (2011) i.m.: 259. o.

<sup>22</sup> KMETY (1900) i.m.: 287. o.

<sup>23</sup> NAGY Emil: *Alkotmányvértés*. Pesti Hírlap, L. évf. 208. sz. (1928. szeptember 14.) 2-3. o.

review either, as even at the end of the period under review, during World War II, the governor appointed ministers without portfolio on the basis of Act XI of 1917.<sup>24</sup>

The principles concerning the editing and structure of the Hungarian government were developed during the constitutional revolution of 1848 and the Austro-Hungarian Monarchy, so they necessarily bear the marks of the aspirations of the time. The special periods, the time of the People's Republic and the Soviet Republic, tested the traditions and principles of the Hungarian governmental structure. However, even during these periods, in many cases, despite foreign influence, the foundations of the traditional government structure remained. The Horthy era, as in other respects, returned to the traditional structure of government in the context of the continuity of public law, and the principles of government formation developed during the Monarchy were applied.

I can describe the real political significance of the ministerial structure as follows. The government structure is like a poster in an advertising campaign, showing a self-defined image of the government. And this picture shows the emphases, i.e. which state tasks and which state affairs the government considers so important that it intends to appoint a separate ministerial position (with or without a portfolio). This picture also shows which are the state tasks that the government does not consider so important, significant, emphatic, that it should be assigned a separate ministerial position (even without a portfolio). A great example of this is the formation of the governmental structure under Act III of 1848 regarding the question of naval affairs. At the district meeting, it was suggested that the navy be given a separate class in the ministerial list in the bill. Lajos Kossuth reacted to this proposal in such a way that the issue of Hungarian shipping was not so developed yet that it could receive a separate ministry.<sup>25</sup> A similar situation arose in 1889 during the transformation of the names (and responsibilities) of two ministries. The first speaker in the debate on the bill was József Madarász, who, as an old opposition, did not support the amendment and complained that the names of the ministries would henceforth lack a reference to industry. On the one hand, he believed that if industry was considered so important in 1848 that it was included in the name of a ministry, then it was needed in 1889 as well. On the other hand, he expressed the hope that the government did not want to please Vienna by making it appear as if it considered industry less important than in 1848.<sup>26</sup> From both

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<sup>24</sup> Lásd például: „*Kedves Györfly-Bengyel vezérezredes! A magyar királyi miniszterelnök előterjesztésére Önt az 1917. évi XI. törvénycikk alapján magyar királyi közellátásügyi tárcanélküli miniszterré kinevezem. Kelt Budapesten, 1941. évi szeptember hó 15. napján. Horthy s. k. Bárdossy László s. k.*” *Közgazdasági Értesítő*. 1941. szeptember 21. XXXVI. évf. 38. sz. 1. o.

<sup>25</sup> RUSZOLY József: *Újabb magyar alkotmánytörténet 1848-1949*. Budapest, Püski, 2002. 10. és 19. o.

<sup>26</sup> *Képviselőházi Napló (KN)*, 1877-1892. XI. kötet 73. o.

cases, it is clear that the image that the government structure shows to the outside world, both abroad and domestically, is of great importance.

In addition to the above, the ministerial structure can carry an even clearer message; when it presents the short- or medium-term objectives of the government, the tasks it considers important, in the form of a ministerial position. The possibility of this existed before, however, the real possibility was founded by Act XI of 1917 by creating four ministerial posts without portfolios but did not define their exact (but not even approximate) responsibilities. Thus, the law left it to the government to define the emphatic tasks. As a result, in 1917 and thereafter, we may encounter ministerial positions dealing with the issue of suffrage, smallholders, one of Hungary's minorities, labour or public welfare, and later propaganda or mobilization, thus declaring the importance of tasks beyond ordinary state affairs (i.e. the tasks that can be performed in the government's average structure).

A third set of emphasis that can be expressed with the structure of government is also conceivable in my opinion. This is the case when the new prime minister wants to express his relationship with the previous government or the previous prime minister. This was also feasible before 1917, but there was no example of it given the few changes in government structure. The new prime minister could take over the government of his predecessor even without any changes: he did not change either in the structure or in the person of the ministers. This was the case after the government of Móric Esterházy in the case of the Wekerle government on 23<sup>rd</sup> August 1917.<sup>27</sup>

In the course of my research, I mainly used the original sources: the available minutes of the Council of Ministers, the protocols and documents of the House of Representatives, the Upper House, and the National Assembly. I also placed emphasis on the processing of contemporary scientific works. I did not find it possible to skip the appropriate press releases, so I did the research for the major journals.

The great public lawyers and administrative lawyers – although most of them only expressed themselves for a few sentences – also manifested themselves in the question of the organization, origin and development of the government. Thus the processing of their works (Acsády Ignác, Balogh Arthur, Beöthy Zsigmond, Concha Győző, Egyed István, Ferdinandy Géza, Haendel Vilmos, Harrer Ferenc, Kmety Károly, Magyary Zoltán, Márkus Dezső, Mártonffy Károly, Nagy Ernő, Polner Ödön, Schvarcz Gyula, Timon Ákos, Tomcsányi Móric)

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<sup>27</sup> BÖLÖNY (1987) i.m.: 91-92. o.

was inevitable. It was also unavoidable to get to know the works of the legal historians and historians of recent times (Bihari Ottó, Bölöny József, Cieger András, Csizmadia Andor, Hajdu Tibor, Kajtár István, Kállay István, Máthé Gábor, Mezey Barna, Ruszoly József, Szabó István, Szenté Zoltán, Urbán Aladár) for the preparation of the dissertation. During this work, I used the writings of some authors as great help, especially the work of József Bölöny related to Hungarian governments, Győző Ember's writings on the Council of Governors, Erzsébet F. Kiss (Istvánné Fábián) on the ministry of 1848-1849, András Urbán's, Árpád Molnár's and Árpád Károlyi's writings on Batthyány and 1848, the works of Monika Kozári, Béla Sarlós and Éva Somogyi on the compromise and dualism, and Antal Meszlényi's writing on the Ministerial National Temporary Committee.

In addition to basic journals for legal history works (Jogtudományi Közlöny, Jogelméleti Szemle, Jogtörténeti Szemle), I found articles on the topic related to the dissertation in legal, historical and other social science journals (Századok, Történelmi Szemle, Társadalomkutatás, Múltunk, Közigazgatástudomány, Magyar Tudomány, Magyar Szemle, Budapesti Szemle, Aetas, Nemzetgazdasági Szemle, Filológia, Alkotmánybírósági Szemle, Huszadik Század), and in some cases articles important for my topic have also appeared in journals of marginal interest (Vasúti és Közlekedési Közlöny, Agrártörténeti Szemle).

Processing the contemporary press in terms of my topic was not only an indispensable part of my dissertation, but also a fantastic experience. Reports, opinions, and debates in the press in the daily newspapers and other periodicals (Pesti Hírlap, Népszava, Pesti Napló, 8 Órai Újság, Az Est, Budapesti Híradó, A Hon, Hon és Külföld, Politikai Ujdonságok, Nemzeti Újság, Magyar Polgár, Esti Kurír, Múlt és Jelen, Magyar Ujság, Magyarország, Marcius Tizenötödike, Uj Idők) highlighted the government's main emphasis during the period, making changes in governmental structure easier to interpret and bring to life. Not only these, but also publications in local and specialist journals and journals not dealing with daily information have been valuable sources for my research (Ügyvédek Lapja, Borsod, Köztelek, Szegedi Híradó, Borsszem Jankó, Nyugat, Kossuth Hírlapja).

The structure of the dissertation is simple: after the foundation, I present the changes of the government structure with temporal linearity compared to the model specified in the Act III of 1848. The foundation part mainly contains three definitions (government, council of ministers, minister) and addresses concerns about these concepts and the structure of government. On the other hand, the foundation chapter lists possible patterns and examples for the Hungarian government structure; thus the imperial governmental organs, the National

Temporary Ministerial Committee, the joint ministry, the Austrian government, the Croatian government, and other possible foreign samples (England, France, Belgium, Württemberg, and Saxony). Of course, the selection of possible samples was not driven by convenience, but rather by the control of sources commonly referred to as samples or the identification of sources named as samples by contemporaries and later researchers.

Considering that posterity considers the Act III of 1848 as the Holy Grail of the Hungarian civil government, so I considered it essential to present it from the point of view of government structure. The laws of the age of dualism concerning the governmental structure (Acts VII, VIII and XII of 1867, Act XVIII of 1889 and Act XI of 1917), the regulation of the People's Republic and the Soviet Republic, and the period between the two world wars, the legislation of legal continuity (Act I of 1920, Act XII of 1932, Act VII of 1935 and Act XXII of 1938) are built on this very act. The majority of the dissertation is the interpretation of these legal regulations, the establishment of their relation to the governmental structure according to Act III of 1848, evaluation of the arguments and counterarguments and concerns that have arisen.

### III. Scientific results and possibilities of utilization

Neither the dictatorship of the Szálasi era nor the post-1949 Soviet-type dictatorship was favourable for building the government system on or maintaining the foundations of 1848. The Republic of 1946 and the 1989 regime change also reflected on the 1848 laws. It can be said that Act III of 1848 not only was of paramount importance in the period under study, but it was also used as an example to be followed when the aim was to build a new system of the rule of law.

Fortunately, the event that took place on 30<sup>th</sup> September 1919, at a meeting of the Council of Ministers is unparalleled.<sup>28</sup> At that time, István Bethlen was made a secret minister, so we can say that apart from this one difficulty (and the haste of fast and inaccurate legislation of the revolutionary times), to determine the government structure in the period I have examined is always easy, almost at a glance. József Bölöny has already resolved the more significant and less significant concerns in his huge and thorough work.

In the event that the answer to the question of the traceability of the government structure is positive, I have asked the further question of why the government structure is as it is. The short and simple answer to this is that the structure of government is determined by law, namely acts. All the regulations concerning the structure of the government that can be found in the period are most often built on Act III of 1848 many times expressed. Based on the findings of the above dissertation, the answer to the same question can still be briefly given that the governmental structure in the period under study stems from an almost random tradition, followed by the struggle of current governments to change that tradition. The tradition, the existence of which was also mentioned in the dissertation (as the first principle), and which was confirmed by our great public lawyers without exception: the number, name and tasks of the ministries are determined by law. It also followed that only the law is a permissible tool for changes in the government structure. In other words, a body at the apex of the executive cannot form its own organization without the support of the legislature. It is even more remarkable to be able to record that this principle emerged when the government's responsibility to parliament was part of the constitutional tradition, not written law. The responsibility of the government (according to the concept of a constitutional monarchy) lay with the ruler. In accordance with

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<sup>28</sup> MNL W12 Minisztertanácsi jegyzőkönyvek (K27) 1867-1944. 1919. szeptember 30.

the first principle, in the period under review, a law (or under other names the highest level legislation) served to establish and change the structure of the government. (Although the number one principle is that the names, numbers, seats and powers of ministries should be regulated by law, a number of regulations help to interpret them and lay down the relevant detailed rules.) This was also true during turbulent periods when, at least verbally, during the First People's Republic and the Soviet Republic. One might think that the public law challenges that valued the structure of government in the period under review (World War I, preparation for World War II, asters revolution, Soviet republic) were somewhat bent on the enforcement of principles. In the case of both the People's Republic and the Soviet Republic, it is surprising that their governmental structure is in keeping with tradition. Even the governmental structure of the Soviet republic is more similar to that of the previous Hungarian governments than to the contemporary Soviets.

The principle that the structure of government should be regulated by law was first clearly stated in 1889, then in 1917, and was followed throughout. I also presented references from the contemporary literature, the daily press, and parliamentary debates. This principle was changed only once, in 1917, in Act XI which was intended to be temporary, but nevertheless remained decisive World War II. According to the amended version of the principle (second principle), the structure of the government must be defined by law, however, in exceptional situations, law may authorize the government to form its own organization within certain limits.

I hold that the basis for the tradition of government structure mentioned above was accidental. Of course, the means of establishing the bourgeois state, of enshrining the achievements of 1848, was the law. Thus, apparently, a law was also the tool for developing the new governance model. However, the greatest influence on the whole of Act III of 1848 (probably the coincidence here) was probably that Lajos Kossuth gave the task to Kálmán Ghyczy and asked him to draft the law apart from a few minor parts. We do not know exactly what was on his mind when he drafted the sections on the structure of the government, for example. We know that there are known constitutions that have list of ministries like in Act III of 1848. We also know that the French government in operation at the time has a very similar structure as the Hungarian government pursuant to Act III of 1848. We also know that Kálmán Ghyczy did not expect the draft he had prepared to be approved by Parliament so soon and with so few amendments, and that it would soon be sanctioned. We may think that not a mature piece of legislation has emerged in such circumstances.



As I originally assumed, it is almost impossible to find and list the influencing factors that determined the structure of government. In view of this, two aspects were necessary, which I reviewed in the dissertation. On the one hand, I examined the period immediately preceding the adoption of the Act III of 1848 and the period shortly after its entry into force: the appointment of Batthyány as prime minister, the operation of the National Temporary Ministerial Council, the debate of the bill at the district meeting and the Parliament, the construction of the government, the beginning of the ministers' work, the formation of the tasks of the ministries. On the other hand, I also examined all the models of foreign government structure, the connection of which I found with the Hungarian, or it was clear that they could be related to the Hungarian regulation. The result of the comparative analyses carried out in this section was the surprising finding of the significant similarity between the Hungarian and French governments of 1848.

As I wrote above, and it can be seen from the dissertation that the government has constantly struggled with the tradition that the government organization should be regulated by law, i.e. that the government's power to form an administrative organization does not include the formation of its own organization. On the one hand, regulation by law does not allow for the quickest possible response if the structure of government needs to be changed. On the other hand – and this was the more serious obstacle – the organization of the government was regulated by Act III of 1848. This article of law is one of the most important of the April laws, one of the most significant achievements of the revolution and the largest step towards the creation of a bourgeois state, measurable to the establishment of the lower house based on popular representation. This was reluctant to be changed, even in 1867, only because the new state structure and the monarch demanded it. Living with the possibility provided by Article 16 of Act III of 1848, the government freely transformed the tasks of the ministries, the ministerial affairs. These transformations were also legally confirmed by the budget act each time the individual ministerial chapters were drafted in accordance with the new, amended division of responsibilities. By 1889, a reorganization of responsibilities was planned to such an extent that the results would no longer have complied with the original names of the concerned ministries determined by Act III of 1848. Thus, in obedience to tradition (and because an amendment to the law was needed) in Act XVIII of 1889 the names of two ministries were changed by a law.

The next and most significant stage in the government's struggle with tradition was in 1917. At that time, as the war, which was seemingly coming to an end, provided a great opportunity and a good reason. On the proposal of the government, the National Assembly

adopted the Act XI of 1917 that created four positions of ministers without portfolios, which the government could essentially fill with content at its discretion. In fact, with this law, the parliament gave the government the right to form its own organization – at least within the framework provided by Act XI of 1917. Although this legislation was intended to be temporary according to the ministerial reasoning of the bill, it was nevertheless confirmed by Act I of 1920, and the governments of the interwar period also used the possibilities provided by the law to varying degrees, from greater to a lesser extent. This is proof that the government needed the power to shape its own organization. This was so even if it was contrary to the tradition founded in 1848. Accordingly, the first principle, according to which the organization of the government must be defined by law, has been amended so that the organization of the government must be defined by law or, within the framework provided by law, by the government itself.

#### IV. The list of publications in the topic of the dissertation

BATHÓ Gábor: *A kormány szerkezete és működése. A minisztertanács működésének gyakorlata 1867 és 1944 között.* Budapest, Nemzeti Közszerológati Egyetem Közigazgatási Továbbképzési Intézet, 2020. 68 p. ISBN: 9789634982425

BATHÓ Gábor: *A mintakövetés kérdései a magyar kormánystruktúrában 1848 és 1944 között.* Jogtörténeti Szemle, 2019/3-4. sz. pp. 67-75.

BATHÓ Gábor: *A főrendiház közjogi pozíciója a köztársaság kikiáltása után Wlassics Gyula és Rudnyánszky József álláspontján keresztül, 1918–1920.* Állam- és Jogtudomány, 60. évf. 3. sz. pp. 3-17.

BATHÓ Gábor: *A Népjóléti Minisztérium megszüntetése.* Annales Universitatis Budapestensis de “Metropolitan” X. kötet, pp. 69-78.

BATHÓ Gábor: *Changes in the ministerial structure of the Hungarian government between 1848 and 1917.* In: Andreja KATANCEVIC-Milos VUKOTIC-Sebastian VANDENBOGAERDE-Valerio Massimo MINALE (szerk.): *History of Legal Sources: The Changing Structure of Law.* Belgrád, University of Belgrade, 2018. pp. 19-28.

BATHÓ Gábor: *Minek nevezzék?: A minisztériumok elnevezésének egyes kérdései a dualizmus korában.* Forum: Publicationes Doctorandorum Juridicorum VII. kötet pp. 35-58.

BATHÓ Gábor: *Az 1917. évi XI. törvények és fogadtatása.* In: KIS Norbert-PERES Zsuzsanna (szerk.): *Ünnepi tanulmányok Máthé Gábor oktatói pályafutásának 50. jubileumára.* *Studia sollemnia scientiarum politico-cameralium.* Budapest, Dialóg Campus-Nordex, 2017. pp. 81-88.

BATHÓ Gábor: *Die Frage des ungarischen Gefängniswesens vor dem Ministerrat 1867-1920*. Rechtsgeschichtliche Vorträge 73. kötet pp. 55-66.

BATHÓ Gábor: *The importance of the historical aspect in public administration reforms on the examples of Hungary* In: Zeljka PRIMORAC-Candida BUSSOLI-Nicholas RECKER (szerk.): *Economic and Social Development (Book of Proceedings), 16th International Scientific Conference on Economic and Social Development – "Legal Challenges of Modern World"* Split, Varazdin Development and Entrepreneurship Agency, University North, 2016. pp. 558-566.

BATHÓ Gábor-LOSONCZI Eszter-MEZEY Barna (szerk.): *A magyar jogtörténet válogatott bibliográfiája 1560-1860*. Budapest, ELTE ÁJK Magyar Állam- és Jogtörténeti Tanszék, 2016. 142 p.