LEVENTE VÖLGYESI

The First Building Act of Hungary (Act VI of 1937)

INTRODUCTION

Architecture is primarily an artistic and engineering activity leaving its mark on the society of a certain township. Either we like the surrounding buildings or curse the designer, the developer or the licensing authority for the wrecking of our territory, yet we still cannot choose but live together with these buildings. By rights, no building is allowed to be touched in the absence of a building permit and the designer's (author's) explicit acquiescence. Furthermore, certain buildings, may even reckon upon further, special protection.

Naturally, this was not always the case. Up to the middle of the 19th century, all townships decided the length of the rope they gave to the building spirit of their citizens for themselves.[1] The period of the central legislature's priority – starting off right after the Austro-Hungarian Compromise – called the first central provisions into being in the 1870's, which, in turn, rendered the magisterial building tasks of the first instance under the jurisdiction of the municipalities (counties, major towns) and local authorities (townships, minor towns).[2]

GENERAL BUILDING REGULATION BETWEEN 1937 AND 1965

In spite of the above, the central building statutes appeared only in 1937 (Act VI).[3] Since this regulation was standing on expressly professional grounds – without bearing the political characteristics of the era -, it survived the year of the communist turn in 1948, and – in spite that it was a legislational product of the civic democratic era – could be perfectly applied even in the hardest years of the dictatorship.

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[1] SEEREINER, IMRE: *A területfejlesztés és a területrendezés.* In: DEMCSIK, TAMÁS: Magyar közigazgatási anyagi jog, Szent István Társulat, Budapest, 2006. p. 58.

[2] SZALAI, ÉVA: *A területfejlesztési igazgatás és az építésügy alapja.* In: FICZERE, LAJOS – FORGÁCS, IMRE: Magyar közigazgatási jog. Különös rész, Osiris, Budapest, 2006. pp. 220–221.

[3] Act VI of, 1–29. §§

The Act was divided into three major parts. The first chapter discussed the town planning, the second was concerned with the technical-legal aspects of land division, property line organization and plot restructuring, as well as the necessary – however, highly restrictive to the proprietary rights – expropriation, while the third major unit disposed of the building control authorities, further specifying the hitherto existing authoritarian hierarchy.[4]

Town planning

Town planning was already an important issue before 1937. Initially, the settlements could freely shape up their street network, which resulted in grave concerns in connection to fire-fighting and traffic further on. The era of industrialization, however (when towns set out to develop, sorting out a street network of an almost medieval character), posed a serious challenge. Although the major towns ventured upon making order by ordinances (statutes) – even by establishing a distinct committee –, but were prepared to take such a rough intervention in the city texture (*e.g.* by the demolition of houses, or opening wide roads and squares) on only in a very limited number of instances. By the middle of the 20th century, however, the requirement that the street network and the quality of the buildings of a given town should represent an adequate niveau emerged as a nationwide issue. The act guaranteed it.[5] All towns had to elaborate their urban development plan. On behalf of the town's development, the area intended for urban development had to be appointed, and its horizontal and vertical assessment must have been performed (most of the towns, *viz.* did not even dispose of the precise assessments and maps). General and detailed town planning schemes must have been elaborated on the basis of these assessments, and the introduction of a land register became inevitable.[6]

The segments which have already been built in or are going to be built in of the area intended for urban development must have been assigned in the *general planning scheme*, on the basis of a map on at least the scale of 1:5000, as well as a technical description. The exact character of the construction (development in an unbroken row, free standing buildings, buildings with front yards, *etc.*) that was obligatory on certain parts of the aforementioned area should have also been specified. Furthermore, those parts of the area intended for urban development must have been assigned that have been designated by the town for roads, public gardens, grass courts, railways, as well as noisy, stenchy, inflammable, explosive or otherwise to be separated industrial facilities, and finally health and holiday resort facilities, sports fields, exhibition areas or other major institutions and installations for public purposes.

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[4] ELEKES, ANDRÁSNÉ: *A településrendezés helye, szerepe, jelentősége az építésügyi igazgatásban.* In: I. Építésügyi Igazgatási Konferencia, Építésügyi Tudományos Egyesület, Budapest 1983. (ÉIK) pp. 322–323.

[5] SZALAI, ÉVA: *A területfejlesztési igazgatás és az építésügy alapjai.* In: FICZERE, LAJOS – FORGÁCS, IMRE: Magyar közigazgatási jog. Különös rész, Osiris, Budapest, 2006. p. 222., SEEREINER, IMRE: *A területfejlesztés és a területrendezés*, In: DEMCSIK, TAMÁS: Magyar közigazgatási anyagi jog, Budapest, Szent István Társulat, 2006. pp. 43., 58.

[6] KOVÁCS, FERENC: *A tanácsok építésügyi műszaki nyilvántartásának rendszere, fejlesztési lehetőségei.* In: ÉIK, p. 422.

Concerning the areas which have already been built or are going to be built in the levels, elevation conditions and divisions of roads, the building lines and heights, the dimensions of the building plots, the manners of the building in different plots, the placing of the public utility network and some other circumstances that were relevant to town planning must have been determined in the *detailed planning scheme*, on the basis of a map on at least the scale of 1:1000.

With regard to the fact that a state land register (real estate register) had been in existence in Hungary only since 1855, the land register of the towns was only of an informational character.[7] In this register, the market value of all building plots located in the area and included in the general planning, as well as all the rights and duties of a public administrative character, whose record was ordained by the Minister of Industrial Affairs in agreement with the Interior Minister, must have been indicated. The settlements were given six years to complete the aforementioned tasks, except the *detailed planning scheme*, which was to be finalized after the *general planning scheme*'s coming into effect, and in two years concerning the already built-in areas. Thus, these plans mainly came into being only after the World War.

The area intended for urban development, as well as the *general and detailed planning scheme* was determined with reference to Budapest and districts by *the Municipal Public Works Council*, and with reference to the other towns by the local popular representative authority (the *municipal committee* in the major towns, and the *representative body* in the minor townships). *Thè Municipal Public Works Council* was obliged to audit prior to the establishment of the area intended for urban development as well as the *general planning scheme* to the corresponding town's or township's *municipal committee* or *representative body*, and prior to the establishment of the *detailed planning scheme,* to the corresponding town's *major* or the township's *representative body.*

The resolution regarding the establishment of the area intended for urban development as well as the *general planning scheme* was approved by the Minister of Industrial Affairs in agreement with the Interior Minister. In contrast, the *detailed planning scheme* required no ministerial approval. The planning scheme of the neighbouring or otherwise concerned towns must have been taken into account during the establishment of the planning scheme.

A question on the exact extent of the environs of Budapest may naturally emerge in the reader. The Act did not determine it, but rather entrusted it to the Interior Minister, who, in turn, had to enquire beforehand for the opinion of the Minister of Industrial Affairs. It also behoved to the Interior Minister to ascertain the initiation time of the land register.

As it was usually the case with the regional authorities, the Interior Minister obtained strong authorizations. In questions of town planning, however, his scope of powers was shared with the Minister of Industrial Affairs. In cases referring to public interest, the Minister of Industrial Affairs – joined with the Interior Minister – might have bound over the town to alter the planning scheme or to present the complete plan

[7] BÓDINÉ BELZNAI, KINGA: *A törvénykezés szervei.* In: Mezey, Barna: Magyar alkotmánytörténet. Budapest, 2003. p. 438.

of a certain public utility. With reference to the general planning, he could ordain invitation for tender applications, and regulate the achievement of the assessments, the establishment of the planning scheme, and the record keeping of the land register in a detailed manner.

The Home Secretary and the Minister of Industrial Affairs also obtained serious authorizations in other questions, thereby serving the predomination of the principle of centralization, which could be limited only through the monetary circumstances of a given town. The Act, however, also took notice of the principle of subsidiarity. Thus, the Minister could get on with a reference to the planning schemes only if the town was omitted in connection to the violation of a law (*e.g.* it did not prepare its planning schemes to schedule).

Besides the local corporate bodies and ministers, an overview on the proceeding authorities and the structure of the self-governmental building office is of no less importance.

Officials dealing with building affairs on the first instance proceeded on behalf of the mayor or district superior (in cases, they referred to him) in Budapest, and on behalf of the chief judge of the district court in the minor and major townships. On the second instance, the appeals were judged by *the Municipal Public Works Council* in Budapest and districts,[8] the sub-committee for building affairs of the Public Governance Committee in cities with municipal rights, and the county vice-governor in cities with county rights as well as in minor or major townships. A review on the decision of the authorities on the second instance could be requested from the Interior Minister.

The *Municipal Public Works Council* gave its decisions in cases relevant to the environs of Budapest in a council that was supplemented by nine members elected by the *municipal committee* of Pest-Pilis-Solt-Kiskun county. The leader of the State Infrastructure Office of the county, as well as the officials appointed by the representative bodies of each concerned cities with county rights could also be present with consultation rights.

From this point on, the now created sub-committees of the executive committees (operating since 1876)[9] consisted of four members (in addition to the president). These members were the chief public prosecutor (that is the leading legal advisor), the head of the State Infrastructure Office and two members elected from the Public Governance Committee.

With a view to law remedy, the town planning scheme and the building acts (determined by the *Municipal Public Works Council*) must have been considered as public administrative decisions.

An approval given by the Interior Minister in conjunction with the Minister of Industrial Affairs was necessary for the building acts determined by the *Municipal Public Works Council*, and also for the statutes created in cases regulated by this act. The statutes of a city with county rights must have been submitted for approval with the opinion of the *minor municipal committee*.

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[8] POLITZER, TAMÁSNÉ: *A városépítés történetében az építésügyi igazgatás szerepe és fejlődése Magyarországon.* In: ÉIK, p. 393.

[9] Act VI of 1876

The act, furthermore, opened a door to the restriction of proprietorship – however, only so far as each building plot's owner or possessor was obliged to tolerate the fulfillment of the work necessary for the preparation of the planning scheme and the deposition of the required equipment. In turn, the city was obliged to reimburse the damage caused. Since the data was public, anyone might have requested a detailed copy or extract of the land surveying data, maps and descriptions serving as a basis for the general and detailed planning schemes.

Following the act's coming into effect and on the expiration of the regulational time, the installation, the widening and regulation of roads or public utility systems, as well as plot restructuring or construction – and in general, installation of any artifacts or instrumentations – could take place only in accordance with the town-planning scheme.[10]

The fulfillment schedule of the town-planning scheme was determined by the budget of the town. Therefore, a weak financial year, the scheme was shelved, the plans of the town leadership could not be realized at all, and the development of the city could not proceed any further. In order to realize anything from the plans, the minister had the right to take necessary measures in order not to reconcile the infrastructural development of the town.[11]

Building plot restructuring

Following this brief synopsis above, let us direct our attention from the plans of great dimensions to the problems of the individuals: the restructuring, maintenance and division of the individual building plots. Having permission from the building authority was indispensable for the division of the building plots located in specific town areas appointed for building. It is a fact of particular importance, as outside the town area appointed for building – including the area not intended for urban development – permission from the authority for plot division was necessary only in the case if the division resulted in a plot smaller than eight hundred acres. In the latter case, the authority could deny the issue of the permission if – as a consequence of plot divisions – a township inappropriate for the designation of the area and the interests of the town would have arose. Such liberalization would be unimaginable in our present days.

It already alluded to the modern era that – according to the regulations of the authority – the owner of the plot which is divided was obliged to lead the city streets and public utility network to his plot, and furthermore, to provide his plot with streets and public utilities present in the town in an appropriate manner, as well as to cover its costs. The interests of the proprietor as well as the principle of the property liberty was defended by the fact that for the purpose of a road which was about to be established or regulated at the outskirts of the to be divided plot, the owner was obliged to hand over an area corresponding only to the half width of the road, and to cover only half of the costs. There was no compensation due to the section of a plot about to be divided that

[10] LOYDL, TAMÁS: *A város- és községrendezési tervezés hazai fejlődése.* In: ÉIK, pp. 156–157.

[11] KÖRNER, ZSUZSA – NAGY, MÁRTA: *A városrendezési szabályozások története Magyarországon.* Műegyetemi Kiadó, Budapest, 2004. pp. 113–118.

was utilized for the purpose of a road but did not exceed the one-third of the plot, as well as for buildings or any other parts residing on the area utilized for the aforementioned purpose. The owner could freely disassemble and remove these buildings or any other parts. If the authority obliged the proprietor for the aforementioned purpose of handing over more than one-third of the plot about to be divided, the building plot proprietor was due for a compensation for the overhead. By calculating the one-third, the original area of the plot must have been taken into account. If the construction of a public facility became inevitable through the division of a major plot or a bunch of plots, the proprietor was obliged to hand over at least one-fifteenth of the original plot area for this purpose to the town (in exchange for a recompensation).

The part of the plot which was about to be divided that was utilized for public purposes became a publicly owned land, when the ordainment of the requisition came into legal force, upon the grounds of expropriation, but without an expropriation process. Either the town or the building plot proprietor might have requested registration to the land register without the consent of the concerned parties of the land register. The recompensation must have been defined according to the value of the plot prior to the division.[12]

In parallel to the plot restructuring and division, the arrangement of the property lines also became regulated in detail. If one or more of the directly neighbouring plots could not have been built in accordance to the regulations, arrangement of the property lines must have taken place. The new common border was determined by the building authority in response to the request of any of the concerned building plot proprietors, or – in case of public interest – even in the absence of such a request. The new common border must have been determined in a way that was preferably fitting to the request of the concerned plot proprietors. No building permit could have been granted prior to the exact determination of the new property lines. Elements of the private law also appeared in this case. A person whose plot grew due to the arrangement of the property lines, was obliged to compensate the proprietor of the neighbouring plot. With regard to the amount of the recompensation, as well as any private law demands in connection with the arrangement of the property lines, the land register authority was in charge of making decisions. The cadastral implementation of the property line arrangement was ordained by the land register authority upon the basis of the building authority's decision on the newly defined property lines. The concerned parties of the land register had to tolerate the arrangement of the new property lines. It became obvious from the former regulations that the liberal property politics of the 19th century already belonged to the past. The dominance of the public interest already refers to the 20th century, where the law permits the sacrosanct of the property liberty to be stepped over in many cases.

In the case of a certain bunch of building plots in the town area were already appointed for building, but were not suitable - – through its location, shape or unsatisfactory size – for building in according to the regulations, a room opened for plot restructuring. In the case of inevitable necessity, even building plots otherwise suitable

[12] F. KÖRNER,, ZSUZSA – NAGY MÁRTA: *A városrendezési szabályozás története Magyarországon.* In: Építés-Építészettudomány, XXX. (ed. Vámossy Ferenc) MTA, Budapest, 2002. pp. 143–144.

for building in could be drawn into the procedure. Upon the request of the concerned parties, a plot restructuring process could only be started if the petitioners constituted a majority, according to the number and size of their plots, and if the alterations were not interfering with the public interest. A process from public interest could be started even in the absence of the request of the concerned parties.

Taking into account that in the previous cases a strong restriction on the proprietorship occurred, the Act deployed the burden of decision-making on the top-ranking local collective decision-maker authority, rather than on the official in charge. In the subject of the initialization of the plot restructuring process, the verdict was returned by the *municipal committee* in cities with municipal rights, or the *representative body* in cities with county rights. The plots to be restructured and the publicly owned lands must have been precisely indicated in the resolution. Plot restructuring in reasonable cases could be either extended to an area bigger than what was appointed at the actuation of the procedure, or limited to a smaller area. The actuation of the procedure must have been recorded in the land register.

Naturally, in cases connected to the establishment of the plot restructuring plan, as well as the evaluation of the area drawn under alteration, the building authority made the decisions (in the possession of upper resolution). The authority could also involve professionals in the procedure. Subsequent to the actuation of the procedure, it was not allowed to accomplish such changes in the area drawn under restructuring that might change the condition of the plot or encumber the realization of the restructuring by any means. The extent, to which a construction that had already been initiated prior to the procedure could continue, was determined by the authority. The plot proprietor or owner must have tolerated the completion of the assessment and alignment necessary for plot restructuring, and the storage of the necessary instrumentats. The caused damage was reimbursed by the petitioners (if the course of a procedure was initiated by the request of the concerned parties), and by the city (if the course of a procedure was initiated in the absence of the request of the concerned parties).

The new building plots and publicly owned lands were to be established in the plot restructuring plan with respect to the town-planning scheme. The new building plots were to be distributed in a way through which preferably everyone could get that plot that formerly belonged to him on the whole or in the greater part, and that at least the former plot proprietors wouldn't remain without a new building plot. That part of the plot, which was bearing a housing, could have been allocated into the possession of someone else only with the consent of the previous proprietor. A person who received a building plot of a greater value was obliged to pay the sum of the margin into the treasury of the town. A person, who received a building plot of a smaller value or did not receive a plot at all, must have been compensated by the sum of the margin. In contrast, no one could claim right to reject a building plot that was bestowed to him during the plot alteration procedure, and demand pecuniary claim instead. If a certain building stepped into the possession of a new proprietor during the plot alteration process, he was obliged to reimburse the former proprietor of the building. If a certain building were to be disassembled due to building plot alteration, a compensation was due to the building's proprietor by the petitioners (in case if a building plot alteration

was requested by the petitioners), or the town (in case if a building plot alteration was in the absence of any request). The petitioners were obliged to advance the possible amount of the compensation. The sum of the compensation for a building that came into the possession of someone else or was disassembled during the plot alteration process was determined by the mortgage registry, according to the regulations of the expropriation compensation.

With respect to town planning, the intervention with the traditional city texture was of great importance – particularly in such cases, when it did not endanger the built legacy. Therefore, those building plots were expropriable for the town's purposes, which were necessary for the establishment, broadening or regularization of a road, and whose building in was not fitting any more to the subsequently town-planning scheme or building regulations about to be ratified; and furthermore, which were of fundamental importance for the implementation of the town-planning scheme or in general, for the favorable shaping of the townscape and averting any obstacle that might inhibit the natural development of the town. Similarly, the city could expropriate those areas which were necessary for the establishment or expansion of the work estate or network of any public utilities, as well as any public buildings or installations, for industrial, national monument or national defense area, and for the establishment or expansion of medicinal or holiday resorts. For the conduct of the expropriation, the consent of the responsible minister was also necessary in many cases.

The regulation, according to which the building authority could ordain the demolition of a tower or other part of building that was serving only an ornamental element for the purpose of the more favorable shaping of the townscape without expropriation process is of particular importance. In such cases – as the piece was not in use – there was no place for compensation. The cost of the demolition – as well as the consequent alteration – was debited to the town. The building materials originating from the demolition could be used for the aforementioned alteration, the unused part remained in the possession of the proprietor of the building.

In case if any of the industrial sites (in consideration to their big extension, noisiness, stinkiness, inflammable or explosive running nature, or other grounds that fell under objection, due to public interest) obstructed the implementation of the subsequently ratified town planning scheme, the Minister of Industrial Affairs could authorize expropriatory rights for the town, with regard to the building plot – and furthermore, for the town or the proprietor of the plot, with regard to the building plot and building necessary for the relocation of the site. If such a site was established in contrary to the regulations concerning its allocation and in the absence of the magisterial permit, the Minister of Industrial Affairs had the right to ordain the abrogation or relocation of the site without compensation. At the same time, abrogation of piggeries also started in places that were located outside the area appointed for this purpose by the town-planning scheme generated on the mandate of the Act.

On roads, where construction in closed raws was obligatory, the front yard could be joined to the area of the road upon the grounds of expropriation without an expropriatory process, if the traffic of the road rendered it necessary. The recourse of the front yard could be ordained in Budapest and surroundings by the *Municipal Public*

Works Council, in other *towns with municipal rights* by *the public administration committee*, and in *cities with county rights by* the *representative body*. The demolition of the front yard – and the consequent alteration – was the obligation of the town. The superfluous wrecking material could remain in the possession of the plot proprietor. There was no compensation for an area expropriated for a new road's institution or regulation, if the expropriated area did not exceed one-third of the original plot area. When calculating the one-third, it was necessary to ask take notice of the area that had been resorted from the building plot for the purpose of a neighboring road without compensation not earlier than thirty years. If the construction of the road was not finished in three years, compensation was due to the proprietor of the plot for the whole resorted area.

In plot-alteration cases, the statutes of the county must have been applied in the minor and major townships. The regulations of the Act of 1937 concerning the distribution of plots and property line marking, and also the instructions regulating the expropriation concerning not only plots and buildings falling under the town planning scheme, but must have also been applied in the minor and major townships. With regard to the limited monetary funds of the townships, the Interior Minister could give a dispensation from the implementation of the legal regulations.

Individual building regulations

The last one-third of the Act was dealing with the building regulations. This was at least as important as the aforementioned topics, as the legal security was served by the fact that the designer and the builder – with full knowledge on the nationwide and local regulations – might face a uniform magisterial legal practice everywhere.

Therefore, the permission of the building authority was inevitable to construct a building or to put it in practice. The authority could permit only such constructions where the submitted plan was conformed to the conventions of the building law enforcement, and – in areas falling under the town-planning scheme -, to the town-planning scheme. In areas not appointed for building in, construction of public or other buildings could be carried out only in case if they were fitting to the designation of the respective area. Construction of a building could be subjected to conditions determined out of public interest in the building license – even the obligation of the subsequent alteration could be ascertained. If the construction was inconsistent with the still not approved town-planning/alteration scheme, or might elevate the costs of the planned alteration's implementation (or rendered it more difficult by any other means), the requested permission had to be refused, or a bond of subsequent alteration must have been established in the permit.

In case if a certain building was not in correspondence to the regulations already being in force at the time of the construction, or was not fitting to the magisterial permissions given for the construction, the authority could ordain the alteration of the building through public interest. If the building could not be properly reshaped, the authority had the right to ordain the demolition of the building in cases of serious threatening of public interest. The authority could take measures only in five years

following the arrival of the magisterial permission on the building's putting in practice to the legal force – or in case if the building was put in use in the absence of a magisterial permission, in the ten years following the building being put into practice. The authority could also appoint a later deadline for the alteration or demolition of the building. In case if a building's state worsened the townscape, the authority could ordain a renovation. The cost of the implementation of these magisterial bonds encumbered the proprietor of the building.

During the course of the construction, the road had to be adapted to the level that had been determined by the town-planning scheme. In case if the actual level of the road did not correspond to the level determined in the town-planning scheme, the building authority could give permission for a construction adapting to the actual level. This was, however, not the interest of the builder, as by the repositioning of the road to the appropriate level, the proprietor of such building was obliged to fulfill the subsequent alteration at his own charge in a reasonable time. In case the previously established level of the road was changed, the authority could ordain the consequent alteration of the building. The proprietor of the building could claim cost compensation from the town or township in one year subsequent to the coming of the corresponding regulation to legal force.

The proprietor or owner of all buildings was obliged to tolerate the authority to inspect the construction work or the state of the building. A reimbursement of any harm or cost resulting from the application of a valid way of the magisterial supervision, or from the omission of the magisterial supervision was not demandable from the public institution applying the official agent.

The designer and contractor of the construction, the expert employed by the construction as well as the artificer performing the construction were the people responsible for the retention of the building regulation, if the application of the regulation fell under their responsibility.

The building permit could be issued only to a person who proved his entitlement by virtue of his proprietorship or by any other legal title proving that he is entitled to build on the plot. The issue of the building permit had to be refused if it proved to be obvious that the intended building violated the rights of anyone else. The building authority could deny the issue of the building permit on the account of a plea based on the violation of the civil law, even if the thoroughness of the plea was not apparent, but the building would have caused an unredeemable harm to the disapproving party. The issue of the building permit must have also been denied in case if it could be ascertained beforehand that the establishment or maintenance of the building results in a surreptitious affectation on the other building plot. It was particularly forbidden to affect the other plot by water, steam, smoke, smut, heat, stench, noise, vibration or by other means in a way exceeding the ordinary manner according to the local circumstances or corresponding function, and also restrict the normal usage at that particular place in a significant manner.

In the absence of an easement defending the view or any license of similar nature, the conditions of the building permit were – as far as possible – established by the

authority in a way that the building should not detract the view, sunshine or airflow from the other building plot in an unreasonable manner.

It is obvious from the aforementioned rule that – in the absence of a common law codex – this regulation was forced (in spite of the fact that it declaratively regulated an administrative legal area) to lay down the regulations of the neighborhood law, too. The Act, therefore, also ordained that a building plot cannot be deepened in a way that the neighbor's building plot or building would lose the necessary ground support – unless the one who is responsible for the deepening provides a way of underpinning. If the imminence of the collapse of a building or the falling of its parts to the neighbouring plot and damage it, the proprietor of this plot could demand the performance of the measures necessary to avert the harm from the one who would be responsible for the resulting damage. In case if the construction, renovation, alteration or disassembly of an already existing building could be implemented in a way that either stands had to be placed over the neighbouring plot, building materials were transported through or placed on this plot, or the plot was crossed, the neighbour was obliged to tolerate it at a charge of a recompensation, but only in case if he was provided a prior bond for the recompensation at his request. These regulations were transferred into the Civil Code coming into effect in 1960.[13]

The Act did not consist of further detailed regulations, but rather gave authorization to regulate them by ministerial decrees.

Vindicative and other instructions

It is of particular interest that the building plot proprietors – parallel to the development of their settlement and also in proportion to the establishment of the infrastructure – could be obliged to pay an acquiescence assessed and collected as common charges. In this particular case, rather the plot and not the person carried the burden, therefore the all-time proprietor was burdened with the task of cashing in. Its legal basis was provided by the fact that the value of the plot has been ascending in proportion with the development of a given part of the settlement, and this is by no means due to the virtue of the owner but rather of the community. Therefore one should not just enjoy the achievements of the community, but also share its burdens.

The act, however, also ordered for the settlements that all incomes arriving to the town in the frame of the construction regulation should be used exclusively in the area of building affairs.

The act also contained vindicative regulations. Those who implemented a plot distribution or construction (which was bound to an official permit) or put an already constructed building in use without an official permission or did not observe the rules of plot distribution, building or utilization permit, committed an offence and could be punished by a penalty. If the offence was committed in connection with a building used for human residence and thereby endangered or harmed major public interests, the offence had to be punished by an occlusion for up to two months. In case if the construction was implemented in absence of or in contrast to the permit, and – as a

[13] Hungarian Civil Code (Act IV of 1959) 100–106. §§

consequence – the builder came to property benefit, the authority had the right to tax a penalty as a fine up to one-tenth of the real estate's value, regardless of whether the builder was responsible for the offence or not. The penalty had to be collected in the formr of public taxes, and the town (minor or major township) – in Budapest and environs, the capital monetary fund – was entitled to it.

OUTLOOK: THE SECOND PERIOD (1964-1997)

The Act of 1937 made its exit only in the ultimate year of laying down socialism's foundations (1964) – the autarky was taken over by the Act III of 1964.[14] The act became so much autocratic as to integrate even the regulation of the protection of historic monuments. The question naturally emerges that if the Act of 1937 was standing exclusively on professional basis, why was it necessary to alter it? The reason is very simple. All that was possible was lifted over from the previous Act. The radical changes in the proprietary relations, the rolling-back of the private property and the predominance of the state's role and investments, however changed the investment, planning, licensing and construction in such a degree that they justified the birth of a new regulation. The state architectural offices took over the place of private architectural offices, and similarly, in many cases the Hungarian State itself became the investor, the licenses were filled out by councils as polity authorities, and only the state building undertakings could come into question by the constructions, while the presence of the major private undertakings (except the handicrafts) was precluded. It was practically a notional impossibility through ideological reasons.

The main reason for the emerging state predominance laid in the fact that private persons could not get a hold of considerable real estate property. The very idea of the private property was basically a persecuted – or at the outside, tolerated – idea, and was considered harmful from the ideological point of view. Instead, the concept of personal property – a neutral expression from the point of the Marxist understanding – was used. However, the personal property excluded the considerable possession or usage of real estates. Those who still came to an excess real estate property (*e.g.* through inheritance), were obliged to convert it into money.[15]

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[14] SZALAI, ÉVA: *A területfejlesztési igazgatás és az építésügy alapjai.* In: FICZERE, LAJOS – FORGÁCS, IMRE: Magyar közigazgatási jog. Különös rész. Osiris, Budapest, 2006. p. 223., MADARÁSZ, GABRIELLA: *Az épített környezet alakítása és védelme.* In: PETRIK, FERENC: Az építésügy kézikönyve, HVG-Orac, Budapest, 1998. p. 10.

[15] VÖRÖS, JÓZSEF – KARSAI, JÓZSEF: *A lakásépítés (-vásárlás), -felújítás és -korszerűsítés, valamint a telekgazdálkodás pénzügyi szabályai.* Saldo, Budapest, 1985. pp. 9-17., Government Decree No. 31/1971 (X.5.) Korm., Government Decree No. 32/1971 (X.5.) Korm., Decree No. 25/1971 (X.5.) ÉVM-IM of Minister of Building and Town Development – Minister of Justice, Decree No. 26/1971 (X.5.) ÉVM-IM of Minister of Building and Town Development – Minister of Justice

Conclusion

Act VI of 1937 was an epoch-making legal product in the regulation of the Hungarian construction law. As a consequence of its regulations, planning of the settlements became uniformed. Eventuality it was replaced by centrally controlled coscious work taking a maximal notice on the professional considerations. In spite that we may find very attractive architectural constructions from the end of the 19th and the beginning of the 20th century, the era of the sporadic "good solutions" became replaced by planning on professional grounds. Starting from 1937, the legal specialization has been taking up the duties of the high-toned Hungarian building art at the level of the law, creating the legally regulated basis of the engineering work through regimes, and passing the test of the time.

VÖLGYESI LEVENTE

AZ ELSŐ ÉPÍTÉSÜGYI TÖRVÉNY MAGYARORSZÁGON (1937. ÉVI VI. TÖRVÉNYCIKK)

(Összefoglalás)

A 19. század második feléig a törvényhatóságok nagymértékű autonómiával rendelkeztek, s eleve kudarcra voltak ítélve a központosítási kísérletek. A modern kor magával hozta a jogegységesítés igényét, amely az építésügyet sem kerülhette el. A magántulajdon szentségének óvása következtében mégis 1937-ig kellett várni az országos jogszabály megszületéséig. Ez a törvényi szabályozás lehetőséget teremtett az eddigi partikuláris kezdeményezések egységesítésére. A központi végrehajtó hatalom szintjén a belügyi igazgatás kapott meghatározó szerepet, elsősorban a rendezési tervek határidős elkészítésének megkövetelésével.

Az átfogó településrendezési szabályozás mellett végre egyértelmű szabályozást nyert a telekalakítás is, amely a gazdaságos és használható léptékű ingatlan-alapterületek megvalósítását segítették elő. Az egyedi építésügyi szabályok pedig a köz és az építtető érdekében, illetve az építészeti-műszaki szempontok betartatását szolgálták.

A jogbiztonságot segítette elő, hogy az országos és a helyi rendelkezések ismeretében a tervező és az építtető mindenütt egységes hatósági joggyakorlattal találkozhatott. Tehát épület építéséhez, valamint használatba vételéhez az építésügyi hatóság engedélyére volt szükség. A hatóság csak olyan építésre adhatott engedélyt, amelynek bemutatott terve az építésrendészet szabályainak, városrendezési terv alá eső területen pedig a városrendezési tervnek is megfelelt. Beépítésre ki nem jelölt területen csak középület és olyan épület volt építhető, amely az illető terület rendeltetésének megfelelt. Az építésre adott engedélyben az építést közérdekből meghatározott feltételekhez

lehetett kötni, sőt későbbi átalakítás kötelezettségét is meg lehetett állapítani. Ha az építés a városrendezésnek vagy a városrendezés megváltoztatásának még jóvá nem hagyott tervével ellenkezett, avagy a tervezett rendezés végrehajtását később megdrágította, illetőleg másként megnehezítette volna, az építésre kért engedélyt meg kellett tagadni vagy az engedélyben későbbi átalakítás kötelezettségét kellett megállapítani.

Az 1937. évi VI. törvénycikk magas szakmai színvonala legegyértelműbben mégis azzal támasztható alá, hogy átvészelte az 1948-as fordulatot, s egészen 1964-ig szolgálta az építészet ügyét, amikor egy új törvény, de csak részben új szabályokkal vette át a megváltozott társadalmi és tulajdoni viszonyok rendezését.