

# From Privatisation to Remunicipalisation: How Returning to Public Control of Water Services Benefits Hungarian Society<sup>2</sup>

## Abstract

*This article examines Hungary's transition from the privatisation of water services in the early 1990s to a reassertion of public control by the 2010s. It situates Hungary's trajectory within the broader context of post-Soviet Central and Eastern European reforms and explores the socio-economic and regulatory implications of privatising essential services without first establishing a stable market framework. Through a critical historical and legal analysis, the paper investigates the motivations behind water sector privatisation, the challenges encountered, and the subsequent remunicipalisation trend prompted by public dissatisfaction with private service delivery. The study highlights the continued primacy of national regulatory discretion in water governance across the European Union, in contrast to more centralised sectors such as energy or telecommunications. Comparative insights from countries like France, and the United Kingdom further contextualise Hungary's experience. Ultimately, the paper evaluates whether the consolidation of water utilities and remunicipalisation efforts served the long-term interests of Hungarian society and contributed to more equitable and efficient water service provision.*

**Keywords:** water services, privatisation, public control, regulation, utilities, governance.

## Introduction

After the collapse of Soviet-style authoritarian regimes across Central and Eastern European (CEE) countries, a swift political and economic transition began.

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Compared to Western Europe's approach to privatisation, which occurred more organically and gradually—undertaken within a stable institutional and legal milieu—the CEE nations endeavoured to expedite their convergence with Western models. However, this approach circumvented the essential step of first establishing the foundations requisite for a functioning market economy, even as extensive privatisation programmes were being implemented. This dual challenge exerted a profound influence upon both the outcomes of privatisation processes and the resilience of the emergent, and inherently fragile, market economies.

For the purposes of our inquiry, we will explore Hungary's approach to the implementation and analysis of privatisation initiatives. Of all CEE countries, Hungary was one of the first to undertake and operationalise the privatisation process.<sup>3</sup> Its experience occupies a unique position and provides salient and instructive insights compared to other countries because, in the wake of the collapse of Soviet-style dictatorships, Hungary embarked on a rapid and large-scale privatisation journey. Our principal focus shall centre upon the privatisation of the water services sector and the transfer of operational and proprietary control to private entities. We aim to elucidate the underlying motivations for the privatisation of water services, the challenges and impediments confronted during its execution, the broader socio-economic ramifications thereof, and the extent to which democratic oversight and operational efficiency were affected under private administration. Additionally, we examine how the positive perspective on privatisation shifted around 2011, prompting a change in approach. Hungary's trajectory in this domain served not only as an early role model but also as an important precedent for other nations undergoing analogous transitions.

In considering the provision of water-related services—namely water supply and sewerage—within the European Union, it becomes evident that the past three decades have witnessed profound transformation.<sup>4</sup> Between the fall of Soviet-style dictatorships and the subsequent reconfiguration of ownership structures in the water sector, the main factor of change can also be attributed to the European Union (EU). This influence, however, must be understood not as supplanting, but rather as complementing, the legislative initiatives of individual Member States. This double-barreled influence raises questions about sovereignty, the approach towards EU-level harmonization, the principle of subsidiarity, and the enduring obligation of the state to safeguard and ensure the provision of essential public services, including access to water, for the common good. The experience across Member States in navigating this evolving landscape has been far from uniform. In several instances, transitions within the water sector were marked by turbulence and uncertainty. Some, like Hungary, experienced a trial-and-error period during which both ownership models and policy orientations were subject to substantial

3 | Boda & Scheiring, 2006, 95–101.

4 | Bolognesi 2014a, 270–281. Bolognesi 2014b, 371–391.

revision as the nation sought to address the multifaceted challenges inherent in the governance of water services.<sup>5</sup>

In contrast with other sectors, such as energy or telecommunications, which fall more squarely within the ambit of direct economic regulation at the level of the European Union, we can observe that the governance of water services remains more firmly rooted in national regulatory frameworks. This divergence is, in large part, attributable to the need for a centralised approach to water services.

Unlike other utilities such as electricity, which lend themselves more readily to supranational coordination, water services are intrinsically more centralised and local in their provision and management. This implies a more immediate and context-specific engagement at the local level as the complexities arising within this sector often demand bespoke, case-by-case solutions rather than uniform regulatory responses. Nevertheless, various efforts have been made to liberalise this sector within the EU. Yet, a comprehensive and binding legislative consensus at the EU level has thus far proved elusive—and, many would argue, justifiably so.<sup>6</sup>

The authority to determine fundamental matters, such as the manner in which a country should organise the provision of water services, allocation of responsibility for such provision, and the extent to which the private sector participation may be permitted—remains, in principle and in practice, a competence reserved to national legislation.<sup>7</sup>

Within the European Union, a variety of models for water service provision coexist. For example, in Germany, water services are still predominantly under public ownership, with services administered at the local level.<sup>8</sup> Although public ownership was not always dominant, public dissatisfaction with the performance of private operators, particularly around the year 2010, precipitated a notable shift in public sentiment—ultimately resulting in a reassertion of public control over water services.

In France, while the legal and institutional responsibility for the provision of water services rests with local authorities, the operational management of these services can be, and is frequently entrusted to private operators under public-private ownership or concession agreements. In contrast, the model adopted in England—though no longer within the European Union, yet historically influential in the broader discourse on water governance—reflects a markedly different trajectory, with water services having been fully privatised.<sup>9</sup> Recent concerns regarding water quality in England alone served as a cautionary tale and may dissuade other jurisdictions from pursuing further privatisation. These examples underscore the considerable diversity in approaches to water governance across

5 | Szabo & Quesada, 2017, 15.

6 | European Parliament, 2003.

7 | Szabo & Quesada, 2017, 15.

8 | Szabo & Quesada, 2017, 15.

9 | Bolognesi, 2014a, 270–281. Bolognesi 2014b, 371–391.

national and subnational contexts. Such variations in water service provision are likely to persist in the future, as an EU-wide common approach remains remote.<sup>10</sup>

By drawing upon comparative examples from other jurisdictions, this article seeks to engage with a central question: To what extent have Hungarian regulatory measures over the past 30 to 35 years influenced the integration of the national water utility sector—specifically through the consolidation of smaller service providers into larger, more robust entities by reducing the number of providers—and, moreover, was this trajectory indeed judicious? To address this inquiry, it is necessary not only to undertake a historical overview, but also to evaluate the broader socio-economic impacts resulting from these regulatory choices.

## Historical context and understanding of water privatisation

The Great Depression of the 1930s in the Western world served as a catalyst for the emergence of the neoliberal movement. Economists attributed the market crash to overproduction and the unchecked expansion of capitalism and turned to government regulation as a corrective measure. Neoliberalism would later crystallise as a dominant economic philosophy in the United States, while under the premiership of Margaret Thatcher, the United Kingdom, along with much of Western Europe, followed suit in embracing its principles.<sup>11</sup> As is often the case with prevailing Western economic ideologies, neoliberalism extended its influence globally—whether through voluntary adoption or external imposition.<sup>12</sup> Thus, privatisation spread worldwide.<sup>13</sup>

One of the principal vehicles for this dissemination was conditional lending: the loans given to third-world nations, both the International Monetary Fund and the World Bank began to attach neoliberal policy prescriptions to financial assistance offered to developing nations.<sup>14</sup>

Throughout the 1970s and 1980s, international development agencies, multi-lateral organisations such as the World Bank, and governmental bodies provided the lion's share of funding for water infrastructure in developing countries.<sup>15</sup> In the 1980s, privatised water systems remained the exception rather than the norm. Until the early 1990s, international financial support for water infrastructure was channelled almost exclusively to public-sector institutions.<sup>16</sup> The Thatcher govern-

10 | Allouche, Finger & Luís-Manso 2008, 221–238.

11 | Petrova, 2006, 591.

12 | Ramos, 2017, 190.

13 | Petrova, 2006, 577–583.

14 | Ibid, 190–191.

15 | Kerr, 1995, 91.

16 | Financing Water For All, 2003.

ment<sup>17</sup> in Great Britain enacted the full-scale privatisation of the country's water utilities in 1989.<sup>18</sup>

However, relatively few countries have adopted the British model of full-scale privatisation. Instead, many have opted for more nuanced frameworks, favouring various forms of public–private partnerships (PPPs). The French model, by contrast, is characterised by a system of concession agreements, granting private companies long-term rights to operate and manage specific functions within public water systems. A third privatisation model has emerged, and has, in some quarters, been commended for its capacity to reconcile the efficiency goals of private shareholders with the goals of equitable access and affordability of public shareholders. This model is exemplified by public water corporations with private and public shareholders (with the latter typically retaining majority shareholding).<sup>19</sup>

## Understanding Water Privatisation

Although the term “privatisation” encompasses a range of interpretations, it generally refers to the transfer of any public duty or obligation to the private sector. In contrast, a transfer of ownership is more precisely referred to as “divestiture” or “asset sale.”<sup>20</sup> The rise of the neoliberal movement in the 1970s heralded a general shift in favour of privatising governmental functions.<sup>21</sup> It was during this period that privatisation ceased to be merely an economic mechanism and instead assumed the character of a deliberate political strategy.<sup>22</sup>

In the context of water utility services, we adopt the definition articulated by Tamás M. Horváth, who posits that: “in the field of public services, privatisation refers to the process whereby [a] public goods become private assets, or [b] the private sector undertakes public tasks on behalf of the administration or otherwise performs tasks of community interest.”<sup>23</sup>

Within the water sector, privatisation often takes the form of privatisation contracts, fostering industry competition and efficiency. However, it is essential to distinguish between full privatisation, privatisation of operational functions, and contractual arrangements.

The privatisation of the water sector falls within the first three of the following categories: (1) full privatisation, (2) operational privatisation, (3) contractual arrangements (4) franchising, and (5) open market competition. Full privatisation

17 | Saal, Parker & Weyman–Jones 2007, 127–139. The Economist 2003.

18 | Financing Water For All, 2003.

19 | Petrova, 2006, 583.

20 | Petrova, 2006, 583.

21 | Cohen, 2016.

22 | Ramos, 2017, 191.

23 | Horváth, 1997, 258.

denotes the outright transfer of ownership from the public to the private sector—often through the sale of public assets. This may occur through the distribution of shares to citizens at no or minimal cost, the sale of assets to a private investor, or the sale of all the shares of the company to be traded on the open market to achieve full privatisation of a government-run industry.<sup>24</sup> A more detailed examination reveals that several water privatisation models have been implemented or proposed worldwide, each differing in terms of ownership structure, degree of control, and the nature of private sector involvement. While privatisation is a multifaceted phenomenon, a clear understanding of its foundational models is indispensable to any comprehensive analysis of the subject. These principal models include: A) The full privatisation model, with complete ownership and control of the water supply system, being transferred to a private company or consortium. The private operator assumes authority over the entire water cycle. B) Concession contracts, in which the government retains ownership of the physical infrastructure but grants a private company exclusive rights to operate and manage water services within a defined geographical area and for a specified duration. The private operator is responsible for maintenance, customer service, and day-to-day operations. C) Management contracts, under which the government contracts a private business to provide daily water services. The private organization handles operations. D) Public and private sectors work together to provide water services through PPPs. The allocation of responsibilities and risk-sharing mechanisms may vary widely depending on the terms of the agreement and the level of each party's involvement. E) Build–Operate–Transfer (BOT) agreements entrust water infrastructure financing, construction, and long-term management to private companies for a defined contractual period, after which ownership reverts to the public sector. BOT schemes are often deployed within concession or PPP frameworks.

The concept of water privatisation has gained increasing prominence in recent years, its trajectory shaped by the ascendancy of neoliberal economic thought.<sup>25</sup> Neoliberalism<sup>26</sup>, a broad political and economic doctrine, advocates for the curtailment of state intervention, particularly in sectors such as industry, agriculture, and the stewardship of natural resources. Central to this philosophy is the conviction that private ownership is the most effective bulwark against the “tragedy of the commons”, leading to the privatisation of public services and assets.<sup>27</sup>

Water, by its very nature a *natural monopoly*—characterised by substantial fixed costs and the irreversibility of capital investments—has witnessed increasing privatisation efforts. Among these, full privatisation, involving the outright sale of government assets to the private sector, has gained particular traction, especially in developing nations. A notable early exemplar of this trend was Chile's ambitious

24 | Ramos, 2017, 193.

25 | Ramos, 2017, 189.

26 | Harvey, 2005, 1–247.

27 | Ramos, 2017, 191.

attempt at full privatisation of the water sector under the influence of the *Chicago Boys*. This marked a significant departure from traditional models of public utility governance.<sup>28</sup> The successful privatisation endeavors in the United Kingdom, including British Airways, British Petroleum, and British Telecom, further exemplified the trend.<sup>29</sup>

The distinction between “competition for the market” and “competition in the market” is crucial in the context of water service provision.<sup>30</sup> Owing to the structural characteristics of water supply—typically classified as a natural monopoly due to the prohibitively high fixed costs and the impracticality of establishing parallel infrastructure—direct competition within the market is frequently unfeasible. Therefore, competitive dynamics primarily revolves around acquiring licenses rather than within the market.<sup>31</sup>

Approaches to the liberalisation of water services vary considerably across jurisdictions. The United Kingdom offers a singular example: it remains the only nation among the countries examined to have effected the full-scale privatisation of operational water services, though this applies solely to England and Wales. In contrast, water services in Scotland and Northern Ireland are delivered by independent entities, publicly owned yet commercially managed and, in some cases, publicly traded. France, too, presents a distinctive model. There, the regional supply areas have been divided among a variety of primarily private operating companies and municipalities.<sup>32</sup> Hungary, by contrast, offers a markedly different trajectory—one characterised by the (re)municipalisation and re-centralisation of water services.

A clear understanding of the various models of privatisation and their implications is essential for comprehending the evolving landscape of water services across diverse regional contexts.

Proponents of water service privatisation advance a number of arguments in support of its purported societal benefits. First, it is contended that private enterprises, by virtue of their superior financial capacity, are better positioned to effectively preserve natural resources. Second, the private sector’s technical proficiency is viewed as conducive to the efficient management of water systems. Third, private contracts often include incentives for better performance and service quality. Fourth, privatisation is credited with facilitating expanded access—especially in underserved or rural regions—by attracting greater levels of capital investment. Finally, the imposition of user charges on consumers is presented as a mechanism for promoting the judicious use of finite water resources.<sup>33</sup>

28 | Opazo, 2016.

29 | Ramos, 2017, 193.

30 | Szilágyi, 2013, 118.

31 | Wackerbauer, 2007, 103.

32 | Wackerbauer, 2007, 104.

33 | Wade, 2008, 191.

## The Case for Public Water Service

Water supply and sanitation services within the EU have achieved commendably high coverage rates, with most countries reaching close to 100% coverage in 2012. However, notable disparities persist. In particular, Romania and Bulgaria have continued to exhibit substantial shortfalls, collectively accounting for approximately ten million individuals lacking reliable access to these essential services across the Union. Additional countries with incomplete coverage include Hungary, the Czech Republic, Slovakia, Slovenia, the Baltic States, and Portugal.<sup>34</sup>

Throughout the EU, water and sanitation services are primarily provided by municipal or public entities owned by local, regional, or national authorities. There are instances of private sector involvement in water provision.<sup>35</sup>

However, the practical experience of water sector privatisation has, in numerous instances, resulted in adverse outcomes. Commonly cited consequences include increased costs for borne by consumers, the repatriation of profits to foreign shareholders, and the erosion of local employment opportunities. A salient example may be found in the case of Paris, which brought back water supply under municipal control in 2008. This decision was prompted by widespread dissatisfaction with services provided by the significant French multinationals Suez and Veolia, which had jointly held the service contract based on geographic zones. The concession arrangement was criticised for generating excessive profits. A comparable scenario unfolded in Berlin, where a concession contract with RWE and Veolia raised water costs. Public discontent culminated in a referendum, the results of which brought to light that the contract secured profits for the multinationals.<sup>36</sup>

The conventional markets are ill-suited to capture the intrinsic and multifaceted value of water.<sup>37</sup> In transactions where water is treated merely as a commodified good, it is solely the legal holder of the water rights who stands to receive financial compensation. For that person, the transaction represents a mere conversion of value—from a liquid natural resource into monetary form. Given that water is typically underpriced, the vendor—particularly in instances involving transfers from agricultural to urban use—may accrue substantial financial gains. Water bills frequently exceed the revenue that water rights holders might have realised through the use of water for irrigation purposes.

Within our legal framework, the rights and entitlements of communities in relation to natural resources—water chief among them—have seldom been afforded the scrutiny they merit. Water has long been regarded as a resource in which the community has a stake. It resists complete ownership in the conventional

34 | Berge, Boelens & Vos, 2020, 50–51.

35 | Hall & Lobina, 2004, 268–277.

36 | Bauby, Hecht & Warm, 2018, 6.

37 | Sax, 2008, 33.



legal sense, in contrast to almost every other form of property we permit to be completely privatised.<sup>38</sup>

In this regard, the Right to Water (R2W) movement took a stance against private and profit-oriented, cost-recovery-oriented water utilities. Under the rallying cry ‘Water is a public good; not a commodity!’, R2W advanced the principle that water is not a commodity that a market can provide but a human right—one which States bear a solemn obligation to guarantee and protect.

The German public began to lend its support to the R2W initiative in response to the emergence of the proposed Concession Directive. This legislative proposal called upon Member States to liberalise markets in respect of public services, expressly identifying water services as one such area—thereby giving rise to widespread apprehension regarding the potential privatisation of water provision. The controversy surrounding the European Citizens’ Initiative (ECI) was not, in its essence, directly concerned with the formal recognition of access to water as a human right<sup>39</sup> Rather, the debate was principally animated by a more fundamental question: whether water ought to be regarded as a communal good held in the public trust, or instead as a commodity to be allocated through market mechanisms.

Water rights are undermined by market creation. The application of market principles to water supply runs the risk of excluding vulnerable and economically disadvantaged groups, who may find themselves unable to meet the newly imposed tariffs. Thus, unless the privatisation of the water supply is accompanied by a universal—such as a statutory prohibition against disconnections—and underpinned by a robust regulatory framework governing price controls, service quality standards, infrastructure maintenance, and long-term investment therein, it stands in fundamental contradiction to the human right to water. That said, even under such conditions, a private operator holding a monopoly position would not be precluded from generating profit.

There exist compelling arguments against privatisation of water services, chief among them the risk that such arrangements may fail to cater to marginalised communities, particularly where the requisite investments are not deemed financially attractive. Privatisation may exacerbate existing socio-economic disparities, as natural monopolies—when left unchecked—tend to charge excessive prices while providing insufficient services. Also, public involvement can be excluded or reduced when water services are privatised.

A privatisation model driven primarily by profit imperatives may fail to give due regard to environmental impacts and downstream users’ needs. It can

38 | Sax, 2008, 40.

39 | Berge, Boelens & Vos, 2020, 55.

compromise recognising water and sanitation as essential public goods, thereby diminishing the degree of vigilance exercised in safeguarding water quality.<sup>40</sup>

## Historical Development of Water Services in Hungary

The evolution of the Hungarian water service sector reveals a trajectory marked not by steady progression, but by a series of abrupt shifts—neither gradual nor cohesive in nature. Here, the sector has undergone integration and fragmentation periods.<sup>41</sup> This reflects a recurring pattern shaped by political and economic shifts, as well as shifting public and academic attitudes concerning the ownership and governance of essential utilities, prominently water services.

This article resumes the historical narrative—our Ariadne’s thread, so to speak—from the collapse of Soviet-style dictatorships. Yet, a proper understanding of that era requires us first to briefly revisit the preceding developments that laid the groundwork for the current state of affairs.

To this end, and for the sake of clarity and analytical structure, we divide the article into three major sections, each covering distinct phases in the evolution of Hungary’s water utility landscape. We can distinguish three main periods from 1948 to the present day. The first, spanning from 1948 to 1989, may be referred to as the integration wave, where the number of providers drastically shrunk from 430 to 34.<sup>42</sup> The second period, spanning 1989 to 2010, represents a period of fragmentation, during which the number of providers skyrocketed to 450. Lastly, unfolding from 2010 to 2024, signals a renewed turn towards integration, the period of (re-) municipalisation, during which the number of operators consolidated to a comfortable 36.<sup>43</sup>

In defining water service integration, the number of providers serves as a principal indicator. A lower number of water service providers typically signifies a more integrated system, whereas a higher number is indicative of systemic fragmentation. Beyond mere quantity, the relative size and capacity of these providers also warrant consideration. Within an integrated sector, providers tend to be larger in scale, possessing greater resources and operational capabilities to deliver services effectively. This structural transformation also carries significant implications for regulatory oversight, consumer protection, and the long-term sustainability of water services.

Inherently, a fragmented sector is comprised of smaller-scale service providers.<sup>44</sup> Thus, a comprehensive assessment of the water services landscape requires

40 | Wade, 2008, 191.

41 | Szabo & Quesada, 2017, 15.

42 | Szabo & Quesada, 2017, 15.

43 | MEKH, 2018.

44 | Szabo & Quesada 2017.

not only an analysis of ownership structures but also a careful examination of the number and scale of operators.<sup>45</sup>

In accordance with the economic principle of supply and demand, the water services sector must respond to societal needs by enhancing both the coverage and quality of supply to secure the well-being of the population. Where ownership resides with the state, these responsibilities intervene with broader public policy objectives. Here, the questions of equitable access, affordability, and sustainable resource management come into play. The involvement of the state introduces an inherent tension between the imperatives of financial sustainability and fulfilment of public service obligations. State ownership presupposes the need to balance between economic efficiency and wider social and environmental priorities—frequently necessitating that public welfare be given precedence over private profit.

When viewed over extended temporal horizons, we can correlate the different waves of change in water service provisions to major regime changes.

It is within this legal-historical framework that one finds the necessary foundation for understanding the regulatory reforms in Hungary—an understanding that must extend beyond the domain of privatisation alone in order to capture the full complexity of the sector's evolution.

The transition from public to private ownership in the field of water utility services has long been highly debated by academia.<sup>46</sup> However, revisiting the points of reform highlighted earlier offers the prospect of shedding new light on this enduring discourse. It is important to highlight the role of the Hungarian state as owner, regulator, and sometimes facilitator of these reforms. Its evolving role may be construed as a reorientation towards centralisation and remunicipalisation—an interpretation that shall be explored in greater detail in the ensuing chapters.

The principal focus of this inquiry shall rest upon the historical evolution, but the factors precipitating these developments will also be examined. The reforms will be presented through the prism of key legal instruments, most notably the Constitution and other seminal legislative acts. In essence, the study aspires to offer a nuanced account of public service governance within transitional contexts.

As Szabó and Quesada<sup>47</sup> have already highlighted identified the principal legal instruments pertinent to this domain, this analysis shall build upon their foundational work, while also incorporating additional legislative acts which, in our assessment, merit inclusion by virtue of their relevance.

45 | Szabo & Quesada 2017, 16.

46 | Boda & Scheiring 2006, 95–101. Boda et al. 2008, 178–202.

47 | Szabo & Quesada 2017, 16.

### **1948–1989: The Wave of Integration**

Under the socialist regime, Hungary's water service sector underwent a process of centralisation and state-led consolidation. The legal instruments of the time focused on nationalisation and systematic organisation of water management within a rigidly planned economy.

1. Decree 207.760/1948 on the Organisation of the National Water Management Office.
2. Act XX of 1949 of the proclamation of the Constitution of the Hungarian People's Republic.
3. Act IV of 1964 on Water.
4. Act IV of 1959 on the Civil Code.

### **1989–2010: The Wave of Fragmentation**

Following the political transition in 1989, Hungary embraced a model of decentralisation and market liberalisation, which gave rise to a highly fragmented water service sector. This period was marked by legislative efforts that strengthened local autonomy and opened the sector to private participation.

The following legal instruments were of particular significance during this era.

5. Act XXXI of 1989 on the Amendment to the Constitution.
6. Act XIII of 1989 on the Transformation of Economic Organisations and Business Associations.
7. Act XXIII of 1989 on the Registration of Companies by the Court, and the Legal Supervision of Companies.
8. Act LXV of 1990 on Local Municipalities.
9. Act LXXXVII of 1990 on Pricing.
10. Act XVI of 1991 on Concessions.
11. Act XX of 1991 on the Scope of Duties and Jurisdiction of Local Governments and Their Organs, of the Delegates of the Republic and of Certain Organs of Central Subordination.
12. Act XXXIII of 1991 on the Transfer of Certain State Assets to Municipalities.
13. Act LVII of 1995 on Water Management (Vgt.).
14. Act No. LXXXIX of 2003 on Environmental Pollution Charges (Ktd. tv.).
15. Act CXXI of 2006 on Amending Various Acts Founding the Budget of the Republic of Hungary for the Year 2007.
16. Act CVI of 2007 on State Assets.

## **2010–2024: The Wave of Remunicipalisation**

In response to the adverse consequences of the prior fragmentation era, this period witnessed a strong push toward the recentralisation and remunicipalisation of water utility services. This transformation was underpinned by a series of legislative measures designed to consolidate control under state and local public entities.

17. The Fundamental Law of Hungary (Constitution).
18. Act CCIX of 2011 on Water Utility Supply.
19. Act CXCVI of 2011 on National Assets.
20. Act XXII of 2013 on the Hungarian Energy and Public Utility Regulatory Authority (MEKH Act).
21. Act CLXXXIX of 2011 on Local Governments of Hungary (Mötv.).
22. Act LIV of 2013 on the Implementation of Utility Cost Reductions.

**In addition to these, a suite of subsequent regulatory decrees served to further support the process of remunicipalisation and to enhance regulatory oversight:**

- | Government Decree 58/2013 (II. 27.) on the Implementation of Certain Provisions of Act CCIX of 2011 on Water Utility Services (Vhr.)
- | Ministerial Decree 16/2016 (V. 12.) of the Ministry of Interior on the Water Management and Water Protection Professional Requirements, Scope of Investigations, and Content of Data Reporting to be Fulfilled during the Operation of Public Drinking Water Utilities and Public Sewerage and Wastewater Treatment Utilities
- | Ministerial Decree 61/2015 (X. 21.) of the Ministry of National Development on the Detailed Content and Formal Requirements of the Renovation and Replacement Plan and the Investment Plan as Part of the Rolling Development Plan of Water Utilities
- | Ministerial Decree 47/1999 (XII. 28.) of the Ministry of Transport, Communication, and Water Management on the Fees Payable for Drinking Water Supplied from State–Owned Public Water Utilities and the Use of State–Owned Public Sewerage Facilities
- | Ministerial Decree 24/2023 (XII. 13.) of the Ministry of Energy on the Water Utility Development and Compensation Fund
- | Ministerial Decree 25/2023 (XII. 13.) of the Ministry of Energy on the Determination of Water Utility Service Fees for Non–Residential Users
- | Government Decree 5/2023 (I. 12.) on Drinking Water Quality Requirements and the Regulation of Its Monitoring

## 1948–1989: The Wave of Integration

### Our point of departure:

In accordance with the prevailing European tradition, the local authorities in Hungary were responsible for water service provisions. By the 1940s, approximately 340 council–founded companies provided water supply where a pipeline existed, and these operated independently from each other. While this decentralised arrangement permitted a semi-functional system at the local level, it yielded a system devoid of national coordination or unified oversight.<sup>48</sup>

Following World War II, Hungary witnessed the first significant wave of integration within the water utility sector. This pivotal transformation entailed the assumption of direct control and ownership by the central state<sup>49</sup>—a development that resonated with the wider ethos of state-led economic planning characteristic of the socialist regime.

In 1948, a new National Water Management Office (*Országos Vízgazdálkodási Hivatal*) was established to oversee the provision of water services.<sup>50</sup> Although this entity did not constitute a regulatory authority in the strict sense, it played a formative role in integrating local water service companies into regional ones under the aegis of central government.<sup>51</sup> The state's intervention thus marked a decisive departure from municipally-driven service provision towards a more centralised model.

Act IV of the Hungarian Civil Code from 1959 was a major legislative milestone in the regionalisation of water service providers. The Act endowed state-owned enterprises with legal personality and delineated their competencies, including the execution of public service tasks.<sup>52</sup> It established the framework for the nationwide, unified administration of water utilities.

Further centralisation and regulatory refinement were achieved through Act IV of 1964 on Water, a statute of enduring influence until the end of the socialist era in 1989. The Act covered the conditions for service provision, water right licensing criteria for providers, and addressed the fiscal responsibilities for construction, renovation, maintenance, and operation of public water infrastructure—whether undertaken by the State or other public entities. Also, key regulatory tools were added that guided investment decisions and operational standards.

48 | On the creation of the Act XXIII of 1885 on the basis of which the municipal water service was established and the foundations of regulation, see Koncz, 2019, pp. 103–111.

49 | Art 6, Act XX, 1949.

50 | Decree 207.760/1948.

51 | Szabo & Quesada, 2017, 16–17.

52 | Chapter VI of the Civil Code.

State-owned management bodies were tasked with acquiring, managing, and operating large-scale public-purpose water infrastructure. While the overarching framework was centrally coordinated, provision was nonetheless made for the involvement of other legal entities—provided they conformed to the regulatory standards in force. Though fundamentally centralised, this model retained a degree of scope for local participation, albeit within the bounds of state supervision. Post-World War II political and socio-economic realignment were the catalyst for the initial wave of integration of water services. A decisive reconfiguration of the ownership of natural assets was undertaken, and operational management was restructured under the direct authority of the central government. These were mirrored in other sectors as well. The effect of this was the birth of 34 county and city water and sewerage companies, which integrated the previous 430 individual smaller water utility council companies. We count here five regional state-owned companies as well; these were called “regional waterworks”: DRV Zrt.; EDV Zrt.; DMRV Zrt.; ERV Zrt.; TRV Zrt.<sup>53</sup> These entities were conceived to extend water service provision to previously unserved territories, thereby addressing the stark disparities in access between urban and rural regions. Yet, notwithstanding the formal extension of service areas under this regulatory reorganisation, the sector was persistently hampered by inadequate technical, financial, and organisational conditions. These systemic deficiencies presaged the eventual deterioration of the sector. Despite the ambitious integrative intent, the sector struggled under resource constraints and inefficiencies typical of centralized models.

## 1989–2010: The Wave of Fragmentation

As 1989 marked the end of the Soviet-style dictatorship in Hungary, the water service utility system also underwent profound transformation. Under the auspices of market liberalisation, the previously centralised system was swiftly dismantled, with water suppliers multiplying rapidly. What had been a coherent structure of 34 integrated service providers fractured into a highly decentralised landscape comprising approximately 450 individual entities by the turn of the millennium. The centralized system was now disassembled, pointing at a fragmented landscape dominated by numerous smaller entities.

This dramatic proliferation of service providers was primarily driven by private operators interfering with water utility services. At this time, the Hungarian government also encouraged privatisation and decentralisation, which led to the fragmentation of the water utility market.<sup>54</sup> This shift aligned with the economic

53 | Szabo & Quesada, 2017, 16–17.

54 | Szabo & Quesada, 2017, 16–17.

reforms aimed at dismantling the planned economy and enabling competition in the market.

Under Act XXXI of 1989, the 1949 Constitution underwent extensive amendment. This reform effectively dismantled the socialist model of a planned economy, laying the legislative groundwork for the establishment of a capitalist market economy.<sup>55</sup> This encouraged the turn to private operators by establishing the right to private property and subsequently ending public ownership over key supply systems, like the water utility one. The private property rights created a legal foundation for private actors to enter sectors previously monopolized by the state.

Under Act LXV of 1990 on Local Municipalities, Part II, Duties sphere of authority, organs of settlement government, Section 8, point 4, explicitly mandated that: “The local government must ensure a healthy drinking water supply.”<sup>56</sup> This provision imposed a binding obligation on municipal authorities to guarantee the availability of potable water. Further to this, Act XX of 1991 formally vested the duty of operating water utilities in municipalities. The legal basis for this devolution of competence was reinforced by Act XXXIII of 1991—commonly referred to as the Assets Act—which provided for the allocation of water infrastructure to local governments. This act established Asset Transfer Committees, tasked with the oversight of the transfer of former state assets, including water system assets, which were allocated to municipalities individually, jointly, or by technical separation, depending on their usage. Where system elements could not be distinctly attributed to a specific settlement, ownership of the infrastructure was retained by the state.<sup>57</sup>

It is also essential to note the significance of Act XIII of 1989, commonly referred to as the “Transformation Act”, concerning the transformation of economic organisations and business associations. This legislation served as a cornerstone in Hungary’s transition to a market economy, catalysing the commercialisation of assets that had previously been in the public domain by altering their legal and economic character to conform with market principles. This act imposed a statutory deadline for state-owned companies to change to limited liability companies or joint-stock companies.<sup>58</sup> Consequently, water utility assets were rendered subject to commercial transactions, including the transfer of corporate shares and business quotas.

The transaction was problematic in the case of water assets because of how the Act defined these concepts. The Act’s definitional scope did not adequately clarify the nature or management of water utility infrastructure. These ambiguities created loopholes in the legal framework that allowed privatisation practices beyond the original intentions.

55 | Act XXXI of 1989, § 2, replacing Chapter I of the Constitution with new Articles 1, 2(1), 9(1), and 12(1).\*

56 | Szabo & Quesada, 2017, 16–17.

57 | Kis & Ungvári, 2019, 79.

58 | Szabo & Quesada, 2017, 18.



However, during liquidation proceedings, the water utility assets were frequently not recognised as municipal property, thereby enabling their unfettered sale to private operators. This led to a gradual yet accelerating increase in water utility operators following the enactment of the Assets Act. The proliferation of these operators further enhanced the fragmentation of the water sector, effectively thwarting attempts to coordinate water services on a broader scale.

By the early 2000s, numerous local companies had emerged across Hungary. These developments left the sector with uneven service quality across the country, financial instability, and rising regulatory challenges. These structural deficiencies would, in time, give rise to growing demands for reintegration and systemic reform.

### **The Role of Foreign Investment and Concession Agreements**

The privatisation of Hungarian water services was frequently characterised by the involvement of foreign capital. Multinational enterprises such as Veolia, SUEZ, RWE, E.ON, and Berlin Wasser assumed a prominent role in operating water utilities through concession agreements.<sup>59</sup> In some cases, local private companies also participated in the privatisation process. A principal deficiency of this model lay in the absence of robust national oversight. Unlike many of its Western European counterparts, Hungary lacked a centralised public authority endowed with the responsibility to regulate the economic and financial dimensions of water management. Consequently, the task of contracting and supervising complex concession arrangements fell to local governments, which, though endowed with broad autonomy, were often ill-equipped in terms of technical and legal expertise to discharge such duties effectively.

A further complication emerged in connection with the valuation of assets during privatisation. In numerous cases, municipal authorities acquired water systems without conducting proper assessments of either asset value or physical condition. This opacity in asset valuation compounded difficulties in both infrastructure planning and financial management.

### **Budgetary Considerations and Investment Challenges**

One key motivation underpinning the privatisation of water services in Hungary was the aim of generating immediate fiscal revenue. As for Hungary, when Budapest Waterworks was partially privatised, it was already a well-functioning and financially stable entity, with no pressing investment needed for its operation. The decision to sell a 25% stake with management was primarily driven by the desire to generate immediate and substantial budgetary income. The Budapest municipal

59 | Boda & Scheiring, 2006, 95–101.

government opted to divest a 25% share—together with associated management rights—to a Franco-German consortium composed of RWE–Thames and SUEZ. The transaction, valued at approximately 15.5 billion Hungarian forints (circa 75 million USD), conferred management control upon the private consortium for a period of 25 years.<sup>60</sup>

The anticipated benefits of this arrangement, however, were not as successful as intended. Significant infrastructure investments remained reliant on public expenditure. For example, the Budapest Sewage Works, where the significant improvements were funded by the government budget rather than private capital.<sup>61</sup>

Similarly, the municipality of Pécs revisited its privatisation arrangement in 2004, attributing its concerns to escalating water tariffs and the private operator's failure to deliver adequate investment. In this instance, the private partner was again the widely criticised company SUEZ. Another negative example of partial privatisation was the limited access of municipalities to European Union development funds earmarked for water infrastructure projects.

## 2010–2024: The Wave of Remunicipalisation

The adoption of Act CCIX of 2011 on Water Utility Supply (hereinafter referred to as the “Water Utility Act”) marked the commencement of a new regulatory wave that has characterised the period from 2010 to the present. This legislative shift reinstated principles of integration and regionalisation within the water services sector. Also, the principle of regionalisation is reintroduced, highlighting the shift back towards a more centralised and coordinated approach, wherein larger water operators serving broader geographical areas could concentrate more on accessibility, accountability, and financial sustainability. Although the Act does not stipulate the exact size of service providers, its provisions aim to foster consolidation in practice. Three key measures can be identified within the Act may be identified as critical to this structural transformation: (1) Clarification and Transfer of Water Utility Asset Ownership. The Act clearly defined water utility assets, designating those directly performing municipal tasks as “water utilities” while considering other assets as “operating assets” owned by enterprises and subject to sale. The legislation introduced clear procedures for the separation of these categories and the return of water utility assets to municipalities charged with the provision of water services. This legal clarity was a direct response to the uncertainties and legal loopholes that had characterised the earlier privatisation era. (2) Regulation of Service Operation Contract. The Water Utility Act delineated the permissible

60 | Boda & Scheiring, 2006, 95–101.

61 | Boda & Scheiring, 2006, 95–101.

contractual frameworks through which water services could be operated: namely, concession agreements, lease contracts, and asset management contracts. It shows a clearer delineation of rights and responsibilities between municipalities and service operators. (3) The Establishment of a National Regulatory Authority for Oversight and Enforcement. In this context, it is essential to recall the earlier introduction of concession arrangements under Act XVI of 1991 on Concessions, which conferred upon local governments the legal competence to delegate the provision of water services either to private undertakings through concession contracts or, alternatively, to state-owned enterprises. Liberalised concession-type contracts can be established without formal concession procedures (Section 2(1)). These agreements empower operators to manage water assets and collect fees in return for lease payments to the respective municipalities.<sup>62</sup> The mechanism thus introduced a significant degree of flexibility into the regulatory landscape by providing an open-door approach for private operators.

Prior to the onset of the third wave of transformation, lease-based operational arrangements were widely used within the framework of water utility management. These structures enabled the involvement of private capital in service provision without necessitating the initiation of a formal concession tendering process. Although private equity was initially statutorily capped at 49% in operating companies, this threshold was frequently surpassed through the use of syndicated contractual arrangements, thereby allowing investors to exercise greater influence.<sup>63</sup> A 2007 amendment to the law prohibited private equity participation in water utility operators in future contracts, but it did not apply retroactively.<sup>64</sup>

Ownership changes were largely shaped by the application of subsidiarity.<sup>65</sup> Local governments, as infrastructure owners, assumed the role of principal shareholders in county-level service companies, with their shareholdings proportionate to the scale of the respective systems. In regional systems, high operating costs in less populated areas prompted denser, lower-cost settlements to secede from these arrangements and set up independent providers in pursuit of more favourable pricing. This dynamic precipitated the rapid disintegration of the integrated structure of local government-owned utility enterprises.

By 2010, almost 400 organisations were engaged in the provision of drinking water and wastewater services, with the 33 most significant companies serving 85% of the population.<sup>66</sup>

The Water Utility Act expanded the remit of the Hungarian Energy and Public Utility Regulatory Authority (HEA), initially established in 1994 as the Hungarian Energy Office, to regulate the water sector. From 2012 onwards, the HEA has borne

62 | Szabo & Quesada, 2017, 18–19.

63 | Szabo & Quesada, 2017, 19.

64 | Act CXXI of 2006, § 10(1), replacing § 9(1) of Act LVII of 1995 (Water Act).

65 | Kis & Ungvári, 2019, 79.

66 | Ungvári & Koskovics, 2010, 305–328.

responsibility for the supervision of water utility companies, issued and managed operational licenses, ensured compliance, and proposed annual consumer water tariffs to the Ministry of National Development for final determination.

Reports issued by the State Audit Office observed that “[i]n many cases, local governments set prices below actual costs, considering the population’s capacity to pay” (SAO 314, 1996). Additionally, it was noted that “the depreciation included in the fees failed to fully cover asset renovation and replacement” (SAO T/7309, 2012).

The uneven distribution of financial burdens also gave rise to a proliferation of local regulatory measures.<sup>67</sup> As previously discussed, price regulation was a ministerial task for the five state-owned water utilities (under Act LXXXVII of 1990); however, in the case of all other service providers, this authority was vested in local governments. This resulted in dozens of different pricing schemes under a single provider. In a sector already characterised by fragmentation, this state of affairs exacerbated disparities not only in tariffs but also in the quality of services rendered. In view of these shortcomings, there emerged an unequivocal demand for unified regulation and oversight of water utility provision. This impetus culminated in the enactment of Act CCIX of 2011, which sought to establish a more sustainable and stable water service sector that “largely vindicates consumer protection principles and the adoption of objective and transparent rules ensuring equal treatment” (Act CCIX of 2011).

The newly enacted legislation ushered in a series of pivotal reforms. It established a central water utility regulatory authority and created a licensing system based on uniform requirements. Furthermore, it brought the professional oversight of water utility operations under formal regulatory supervision. Sectoral integration was promoted through a multi-tiered stage minimum size requirement, while operators were required to prepare 15-year rolling development plans, subject to approval by the authority. The Act also addressed property rights issues and introduced pricing based on justified costs, aimed at ensuring the sector’s long-term economic sustainability.

As previously noted, the lawmakers in the Water Utility Act set minimum size thresholds, expressed in “user equivalents”<sup>68</sup> (encompassing both residential and non-residential consumers), as prerequisites for operational licenses.<sup>69</sup> These thresholds increased exponentially over the years as part of a strategy to centralize water utility services. In 2013, the minimum was set at 50,000 user equivalents; by 2014, it rose to 100,000, and by the end of 2016, it reached 150,000. The legislation defined these minimum thresholds in three stages: fifty thousand by May 31, 2013; one hundred thousand by December 31, 2014; and one hundred and fifty thousand by December 31, 2016.<sup>70</sup>

67 | Kis & Ungvári, 2019, 80.

68 | Kis & Ungvári, 2019, 81.

69 | Frontier Economics, 2014.

70 | Kis & Ungvári, 2019, 81.

The establishment of these thresholds precipitated the gradual attrition of smaller utility services, who, faced with regulatory non-compliance, either amalgamated with larger entities or relinquished their operating rights by way of contractual arrangements. Research confirmed that economies of scale were most evident in water utilities serving populations between 100,000 and 1,000,000, thereby rendering mergers a pragmatically advantageous course for smaller providers confronted with the demands of the new legislative framework.<sup>71</sup>

Cost efficiency served as the rationale for introducing uniform pricing in the water services sector, which explains why smaller water utilities have largely disappeared. The reform measures further imposed an express prohibition on private ownership or operational involvement in the water utility domain. Henceforth, water utility infrastructure, such as treatment plants and pipelines, as well as service providers, was required to be held in public ownership, whether by the State or by municipal authorities.. Previously privatised assets were mandated to be re-transferred into public hands. Existing contracts with private operators were allowed to run their course but could not be renewed or replaced with new agreements. International practices and academic literature remain divided on the role of private investors in water utilities. Certain jurisdictions, such as the United Kingdom, have undertaken extensive privatisation initiatives, albeit with results that have been markedly varied..<sup>72</sup>

In parallel with the imposition of ownership restrictions, it became imperative to fortify regulatory oversight to ensure that only financially and technically competent service providers might remain active in the sector.

The Hungarian Energy and Public Utility Regulatory Authority (HEA) exercises rigorous scrutiny over water utility undertakings, evaluating financial stability, staff expertise, environmental compliance, and adherence to the “consumer equivalent” index—a statutory benchmark prescribing the minimum number of consumers a supplier must serve. The Authority is vested with the power to refuse or revoke operational licences in instances of non-compliance.

In pursuit of further sectoral consolidation, the Government imposed procedural fees and a “public utility tax” calculated on the basis of pipeline length. These measures, combined with stricter regulations, precipitated the amalgamation of numerous smaller operators into fewer, more efficient entities. As a result, the number of water service providers dropped from 450 in 2010 to 42 by 2015 and further declined to 36 by 2024, creating a sector of larger operators with better resources and capacity to meet legal requirements.<sup>73</sup>

Access to safe drinking water and wastewater treatment is now widely recognised as a fundamental human right. This recognition elevates water utility

71 | Ferro, Lentini & Mercadier, 2011, 179–93.

72 | Herrera & Post, 2014, 621–641.

73 | Szabo & Quesada, 2017, 19.

services beyond the confines of mere commercial transactions, underscoring their social function and public interest character.<sup>74</sup> Consequently, the governance and financing of such services must reconcile the imperatives of operational efficiency with the overarching duty to uphold the welfare of the publi.

Fixed and Specific Costs in Water Utility Services

In contrast with other sectors of the market economy, the provision of water utility services presents two particularly acute structural challenges. The first concerns the prevalence of fixed costs, which is primarily the construction and maintenance of the water infrastructure (pipelines, infrastructure, etc.), which could amount to as much as 70–80% of total service costs. High capital costs act as a barrier to market competition and render full cost recovery a persistent difficulty for service providers. The second challenge pertains to what may be termed specific costs, arising from the inherent heterogeneity of the sector. This includes the territorial fragmentation of water supply systems due to the geographic distribution of water sources. Also, technological divergences between two operators, variations in consumer numbers, or differing degrees of pipeline obsolescence can also cause challenges.<sup>75</sup> These disparities impede the implementation of standardised tariffs, complicate long-term investment planning, and compromise efforts to ensure consistent service quality across regions.

Year	Drinking water pipe length (Km)	Number of apartments connected to drinking water service (Million)
1985	44000	2,9
1990	52419	3,3
2009	65000	4
2010	66000	4,1
2016	66300	4,2
2019	66900	4,246
2023	67900	4,383

Source: Hungarian Central Statistical Office (KSH), Public Information Database, Statistics<sup>76</sup> The table provides a summary of the processes of the reviewed period. The investments undertaken therein have increased both the size of the network and improved access to services.

74 | Kis & Ungvári, 2019.  
75 | Kis & Ungvári, 2019.  
76 | Hungarian Central Statistical Office 2020. Hungarian Central Statistical Office 2024. Hungarian Central Statistical Office 2022. Hungarian Central Statistical Office 2023.

## Lessons Learned

The collapse of centrally planned economic regimes in Central and Eastern Europe in 1989 and 1990 marked the end of communist governance and ushered in a period of profound economic transformation.<sup>77</sup> These nations collectively pursued the development of capital markets and the privatisation of commerce and industry to build resilient market economies. However, lifting the Iron Curtain compelled these countries to confront not only grave environmental issues within their own jurisdictions but also their concern for creating new political and market structures.<sup>78</sup>

From the 1980s onward, a significant change in international political ideology known as the “Washington Consensus”<sup>79</sup> emerged. This framework championed liberalisation and privatisation as universal remedies for a wide array of structural issues.<sup>80</sup>

Financial institutions assumed a pivotal role in the promotion and enforcement of liberalisation and privatisation within the water sector. Nevertheless, the introduction of long-term contractual arrangements in the water sector has frequently curtailed competition and created environments conducive to corrupt practices. Such corruption may not always take overtly unlawful forms but may manifest through the strategic support of political entities or other ostensibly legitimate means. The cumulative effect of these practices can significantly obstruct the implementation of essential infrastructural and institutional developments.

The Hungarian Constitution, formally designated as the *Fundamental Law*, accords particular prominence to fundamental rights, notably those pertaining to environmental protection and public health —rights which are materially supported through the guarantee of access to potable water. Constitutional clauses that address the protection of future generations are also important. Article P) of the *Fundamental Law* declares that Hungary’s water resources to form part of the nation’s common heritage, expressing sovereignty over the waters within Hungary’s territory.<sup>81</sup>

Further affirmation of the essential character of water is found in Article XX, which establishes a direct link between access to water and the constitutional right to physical and mental health. This provision asserts that the right to physical and mental health may be realised only through agriculture free from genetically

77 | Kristiansen, 1996, 627.

78 | Ibid.

79 | The “Washington Consensus” is a term used to describe a set of economic policy recommendations and principles that emerged in the 1980s and 1990s. International financial institutions, such as the International Monetary Fund and the World Bank, broadly promoted these recommendations.

80 | Szilágyi, 2013, 181.

81 | Szilágyi, 2016, 73.

modified organisms, by ensuring access to healthy food and drinking water, by organising occupational safety and health care, by supporting sports and regular exercise, and by ensuring the protection of the environment.

In the years following the political transition in Hungary, there was a movement towards privatising water utility services. Notwithstanding this trend, the process of privatisation remained incomplete, as in December 2011 the Hungarian Parliament enacted a new regulatory framework governing the operation of water utilities.<sup>82</sup> The new regulations were designed to rectify deficiencies inherent in earlier statutory instruments, and improve water utilities' sustainable operations and development. This included determining the value of water utilities, which was crucial due to the lack of accurate data on their condition and value.<sup>83</sup>

In December 2011, the Hungarian Parliament resolved to overhaul the regulatory framework governing water utilities, thereby addressing a long-standing and pressing need for comprehensive legislative provisions in this domain. Although earlier statutes—most notably the Water Act and the Water Utility Act—had sought to regulate particular facets of the sector, they failed to provide an integrated and coherent legal structure. A principal deficiency of these antecedent enactments lay in their omission of key provisions concerning several fundamental and operationally critical matters.

The new regulation sought to revamp the governance of water supply services, anchored in the fundamental legislation of the Water Utility Act of 2011. This core statute was complemented by Government Decree No. 38/1995 (IV. 5.) Korm on Drinking Water Supply and Sewage Disposal Services, and the Ministerial Decree No. 21/2002 (IV. 25.) on the Operation of Water Utilities. Additionally, other laws played a formative role in shaping the broader regulatory landscape. The overarching objectives of this renewed framework were articulated as follows: (a) to ensure that water utility assets are held exclusively in national ownership; (b) to require that newly established water utility service providers likewise be nationally owned [albeit this provision appears not to have been fully enforced in practice]; (c) to introduce a system of operational licensing for the provision of water utility services; (d) to implement uniform, state-determined pricing mechanisms;<sup>84</sup> (e) to prevent cross-subsidisation and to safeguard the integrity of the water tariff structure; (f) to secure the systematic maintenance and planned renewal of water infrastructure; and (g) to strengthen the role of the State in the strategic planning and development of the water utility sector.<sup>85</sup>

In addressing the matter of water utility ownership, the legislator unequivocally declared that water utilities may be owned solely by the state or by local municipalities. The Water Utility Act imposed a significant statutory duty on water

82 | Raisz, 2012, 47–51. Fodor, 2013, 334–345.

83 | Bándi, 2013, 11–30. Bányai, 2014, 16–55.

84 | On the pricing of water services and the role of water charges, see Nagy, 2019, pp. 171–173.

85 | Szilágyi, 2013, 198.



utility owners, requiring them to conduct valuations of their assets in order to remedy the prevailing deficit of accurate information regarding the condition and value of said utilities.

Hungarian policymakers established the regulatory body for water utility supplies tasked with the oversight of water utility services.<sup>86</sup> The provision of water utility services is inextricably linked to the fundamental rights to water and sanitation.<sup>87</sup> The sector's regularisation, nationalisation, and (re)municipalisation form the cornerstone of the new system. In practical terms, this entails the retransfer of certain competences over water service provision—formerly vested in central or regional authorities—back into the hands of local governments. Such decentralisation is intended to enable municipalities to adapt the provision of water services more closely to the particular requirements of their communities.

Also, as of 1 January 2021, the National Water Works (Nemzeti Vízművek) has been entrusted with exercising, on behalf of the Hungarian State, all ownership rights and obligations over state-owned water utility service providers and state-owned water utility systems. This institutional arrangement operates under the strategic supervision of the Ministry of Energy and is designed to ensure the broader distribution of water services across the country, while also strengthening the State's capacity to regulate tariffs and oversee service quality.

Recognising that access to drinking water constitutes a fundamental human right, as mentioned in the Fundamental Law,<sup>88</sup> the Government maintains that the uninterrupted provision of public services is of paramount importance. Accordingly, it is imperative that the functions entrusted to water utility service providers are executed consistently and without delay.<sup>89</sup>

## Lessons from Comparative International Experience in Relation to Hungary

The provision of water services is predominantly governed at the local level, in closest proximity to the consumers. Typically, the components of water networks remain under the ownership of national, regional, or local governmental bodies. In contrast to other industries, the water industry has a significant public sector presence. Experience demonstrates that permitting private participation frequently results in market fragmentation and suboptimal performance. A principal cause of such market failure is the flawed planning of privatisation processes, which

86 | Szilágyi, 2014, 144–162.

87 | Szilágyi, 2016, 77.

88 | Szilágyi, 2018.

89 | Magyarország Kormánya, 2021.

frequently overlooks crucial elements such as regulated market opening, effective oversight, and ongoing monitoring.

Countries including France, the Netherlands, the United Kingdom, Spain, and Germany have undertaken extensive restructuring of their water management and pricing frameworks to ensure compliance with the cost recovery objectives set forth by relevant directives. In parallel, in Hungary, Act CCIX of 2011 comprehensively reorganised its water services market, introducing a new regulatory agency, whilst vesting a government ministry with responsibility over pricing decisions.

Over the past decade, numerous nations have begun reevaluating their water management and pricing strategies, guided principally by the full cost recovery principle enshrined in the Water Framework Directive (WFD). This principle has gained significant attention and now occupies a central place in the European Commission's policy deliberations and initiatives. Countries such as England and Wales, France, Germany, and, more recently, Hungary—following a comprehensive sectoral reform—have emerged as exemplars in Europe for implementing a national regulatory approach consistent with these objectives.

Private entities also play an influential role in determining human rights goals, especially regarding the right to water, through their participation in water development and distribution agreements. Holding private actors responsible for protecting water rights within the framework of national governance is, therefore, essential.<sup>90</sup> Nations are not the only players that impact human rights goals; private actors influence the right to water by contracting for water development and distribution. Accordingly, private actors should be held accountable for ensuring the right to water through national governance.

Several municipalities in France, the country from which the largest privately owned water service companies originate, have rejected privatisation. Notably, in 2010, the City of Paris decided to return water services to municipal control after these had been managed by the two principal private providers, Suez and Veolia, for some thirty-five years. Since this remunicipalisation, water prices in Paris are now lower. Cities such as Grenoble and Cherbourg have reinstated local authority management of water services, while numerous others, including Bordeaux, are actively contemplating the same course of action.

In Hungary, the city of Pécs restored water management to local authorities in 2010, terminating its contract with the subsidiary of Suez, a move subsequently mirrored by the municipality of Kaposvár.<sup>91</sup>

Numerous studies have sought to compare the efficiency of privately owned and state-owned water service companies across various countries. An extensive university review from 2008 showed that the majority of such studies found no

90 | Belényesi, 2014, 17.

91 | PSIRU, 2012.

material difference in either pricing or efficiency between private and state-owned companies. A comprehensive British investigation, focusing on the nation's largest water service privatisation, revealed that privately-owned companies were less efficient after 11 years of privatisation than state-owned operators, notwithstanding their access to superior technological resources.<sup>92</sup>

Furthermore, a global survey of empirical evidence related to water and energy services, undertaken by the World Bank in 2005, corroborates these findings by demonstrating that, statistically, no significant difference exists in efficiency between private and state-owned service providers, whether from a technical or economic perspective. The lowest water leakage rates in Europe are found in countries like the Netherlands and Germany, where service systems are mostly state-owned.<sup>93</sup>

Privatisation entails further expenses, such as application fees and costs of oversight arising from privatisation failures and their consequent challenges. For instance, in Hungary, notwithstanding the private ownership of water services in certain municipalities, investment expenditures were nevertheless borne by central authorities.<sup>94</sup>

## Policy Recommendations and Concluding Remarks

### i. In the Event that Privatisation Proves Unavoidable

Should a state find itself compelled to pursue the privatisation of water services—whether in whole or in part—owing to financial exigencies, a cautiously moderated approach would advocate for partial privatisation as a potentially tenable course of action. However, this process should be preceded by a multi-layered framework of transparency, open debate, and rigorously constructed procurement procedures. These measures are indispensable to prevent businesses from influencing public authorities to establish biased conditions or engage in strategic underbidding practices.<sup>95</sup> The privatisation process must afford due prominence to the voices of citizens, thereby ensuring that it adequately represents those who may benefit or suffer harm from the transition to a privatised utility system. Any contractual arrangement must include clear provisions to pre-empt potential service degradation, discriminatory practices, and affordability risks. It should also ensure that the human right to water takes precedence if the state opts to proceed with privatisation.<sup>96</sup>

92 | PSIRU, 2012.

93 | Ibid.

94 | Ibid.

95 | Sternik, 2022, p. 535.

96 | Ibid.

## ii. Public–Private Partnerships (PPPs) and Their Limitations

Public–Private Partnerships (PPPs) have emerged as a favoured mechanism for retaining some government control over utilities while attracting external funding.<sup>97</sup> Promoted vigorously by the World Bank during the 1990s, particularly within the context of infrastructure and service development in emerging economies,<sup>98</sup> PPPs were heralded as a means of injecting private-sector expertise, financial resources, and operational efficiency into public service delivery. Nevertheless, the suitability of private sector involvement in the management of public utilities—especially in the water services sector—remains a matter of substantive contention.<sup>99</sup> While early opposition to PPPs was frequently dismissed as ideologically motivated, a growing body of empirical research has since lent credibility to those initial reservations.

Most instances of water sector privatisation are effected through the framework of PPPs, whereby the public authority retains ownership and supervisory control of the infrastructure network, whilst the operational functions and service provision are entrusted to a private undertaking.<sup>100</sup>

This model, however, tends to diminish the democratic influence and oversight exercised by municipalities and local residents over the governance and availability of public water services.<sup>101</sup> The two French multinational corporations in the water sector, Veolia and Suez, either wholly own or maintain significant stakes in nearly all private water service providers across Europe, with the exception of the United Kingdom. Such concentrated ownership has significant ramifications for tariff regulation, as well as the management and decision-making concerning water resources, as well as the threat of private monopolies, underinvestment, and corruption.<sup>102</sup>

In an evaluative study on the performance of PPPs in the context of urban water utilities in developing nations, the World Bank reported that “around 50 million of the 160 million people served by private operators in 2007 are served by PPP projects that can be classified as broadly successful.”<sup>103</sup> While the report refrains from explicitly categorising the remaining initiatives as failures, it does concede the inherent limitations of the traditional PPP model. It posits that their primary contribution lies in instilling a sense of competition and accountability in the water sector. This raises questions about the necessity of traditional PPPs, when individual state advisory committees could potentially teach the economic principles

97 | The World Bank, 2021.

98 | Marin, 2009.

99 | See also: James-Leigland, 2018.

100 | van den Berge, Boelens and Vos, 2020, p. 56.

101 | Hall and Lobina, 2004.

102 | van den Berge, Boelens and Vos, 2020.

103 | Marin, 2009.

of accountability and competition without resorting to them. In light of these considerations, the continued advocacy of traditional PPPs by the World Bank may well encounter increasing scrutiny and resistance.<sup>104</sup>

### **iii. Modified hybrid PPPs**

Modified or hybrid PPPs may prove suitable in developing nations where water infrastructure suffers from inadequate economic governance, limited financial viability, and substandard customer service. In such contexts, state or federal regulatory intervention should not only promote but, where appropriate, require private actors to assume enhanced responsibilities commensurate with the public interest they are expected to serve. Moreover, international pressure can also encourage private companies to prioritise the right to water.<sup>105</sup>

### **iv. The idea of remunicipalisation**

The restoration of water utility control to the local level, where it can be most effectively exercised, serves to prioritise equitable, affordable, and universal access to water. Through the reassertion of public ownership, communities can significantly enhance both the resilience and long-term sustainability of their water services. Concentrating authority closer to the needs of local communities also promotes transparency and supports vulnerable groups more directly. As evidenced by numerous international precedents, remunicipalisation is increasingly recognised as a practical solution to the challenges created by privatisation. Thus, remunicipalization emerges not only as a viable corrective measure to the shortcomings of privatisation but also as a powerful strategy to safeguard public interests, protect human rights, and enhance sustainable and equitable water governance.

## **Conclusion**

The Hungarian experience with water privatisation offers vital insights into the intricate realities and unforeseen repercussions that may arise when public utilities are transferred to private hands. While privatisation was initially seen as a vehicle for enhanced efficiency, revenue generation, and capital influx, its practical outcomes have proved far more intricate and nuanced.

The evolution of Hungary's water utility sector may aptly be likened to a river's course, sometimes fragmented into shallow tributaries, sometimes gathering

104 | Sternik, 2022, p. 536.

105 | Ibid 537.

force by coalescing into a single, unified channel. As with many rivers shaped by both human intervention and natural forces, Hungary's path from integration to fragmentation and, more recently, to remunicipalisation mirrors broader currents in European and global public utility governance.

The initial push for centralization after 1948, much like a dam redirecting streams, aimed to create a coherent and controlled system. Yet, the tide of liberalisation following 1989 swept away these structures, unleashing a fragmented network of local providers, each carving its own bedrock without coordination. The subsequent wave of remunicipalisation post-2010 may be read as a deliberate redirection—an effort to reunite disjointed streams into a single navigable course, balancing efficiency with the protection of public interests.

Hungary's story is far from unique. Just as Paris reclaimed municipal control from private conglomerates or Berlin reasserted public stewardship over vital services, Hungary's remunicipalisation underscores a growing conviction that water—unlike electricity or telecommunications—flows best when managed with local accountability and a broader social vision.

Water privatisation is not a matter reducible to black-or-white choice; it is fraught with nuances and complexities, which we have attempted to demystify throughout this article. Yet one principle stands resolute amid this complexity: the point where citizens' rights yield to customer prerogatives, the human dimension is threatened. Ensuring the protection of fundamental human rights proves elusive when individuals are viewed merely through the lens of market participation.

Ultimately, water is not just a commodity flowing through pipelines—it is a public trust. The sector's legal journey underscores the ongoing negotiation between economic rationality and social responsibility. Hungary's path, like that of many nations, is defined by its ongoing effort to balance the often-competing imperatives of market mechanisms and communal welfare.

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