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## Particularities of the organization and management of rural municipalities and cities as territorial public corporate bodies (the case of Estonia)

### Abstract

The purpose of this article is to present the reader with the authors' treatment on the particularities of the organization of public territorial corporate bodies and their management compared to other organizations and their management. The authors take the position that territorial communities as membership of public territorial corporate bodies are not organizations but processes that cannot be managed. On the other hand, one can speak of management at the institutional level of public territorial corporate bodies, such as the management of the processes that take place in the council elected by the members of the community and in the government formed by said council.

The article is based on the case of the Republic of Estonia and on Estonian law. It should be stressed that modern Estonian law is based on the law of Continental Europe, and more specifically on the German legal model. The article is the result of independent original research and it contains data never published by the authors before.

**Keywords:** democorpology, institutional management, time, territorial community as a process, management, administration, legal person.

**JEL Classification:** H1, H7, H8, R5.

### Introduction

Public organizations and their management are basically treated as the same or similar to private sector organizations and their management. Drucker (2007, p. 5) has stated that **in order not to be tarred with the business brush management in the public sector was rechristened "Public Administration"** and proclaimed to be a separate discipline – with its own university departments, its own terminology, and its own career ladder.

The object of the research for this article is the organization and management of territorial communities and territorial corporate bodies (except at the county and national level). The goal of the authors is to prove that traditional organizations and territorial communities (such as villages and rural municipalities) are distinct human collectives, and different methods must be used to investigate them.

The research question posed by the article's authors is the following: Can a territorial community (for example, a local government unit) even be treated as an organization, and at what level can we speak of management in the context of a territorial community? The authors have also posed a question regarding the rationality of the rigid management model used in Estonian administrative organization and have arrived at the conclusion that the rigid concept of declaring one model as the "right organization" is detrimental to the state. Drucker also says that one "right organization" does not exist (Drucker, 2007, pp. 7-14).

The article provides a short introduction to **democorpology**, the interdisciplinary method introduced and developed by the authors. The choice of the method is based on the fact that the various disciplinary methods used to research organizations, their members and their activities do not provide a complete picture of territorial communities in their development. Democorpology as a method lays claim to this, although this article primarily includes organizational and management-related interpretations.

The definition of a public organization has been traditionally based on the assumption that territorial communities (such as local government units) are organizations that have been formed as a result of someone's actions, and based on this assumption, have been compared to traditional private sector organizations. The authors take the position that in the case of territorial communities, which are processes (rather than organizations), one cannot speak of formation, since one is dealing with a human association that has developed (historically). The authors regard and treat territorial communities as **evolutionary processes**. When regarding territorial communities as processes, it is important to consider the concept of time.

Are territorial communities even manageable? When searching for an answer to this question, the authors arrived at the conclusion that we cannot speak of the management of territorial communities as a process. However, this can apply to their institutional level.

The authors used the following definitions in this article:

- ♦ *Organization* – an association of people formed and fully organized to achieve the common goals of definite group of people (Üksvärav, 2008, p. 15).
- ♦ *Territorial corporate body* – legal term to mark out a village, small town, rural municipality, city, county (region) or state<sup>1</sup> that has developed historically or been formed, and which has its own territory and membership.
- ♦ *Territorial community* – a human association, membership of territorial corporate body, that identifies itself with a certain territorial corporate body.
- ♦ *Institution* – the elected members of the territorial corporate body's *representative body* and the *administration* it forms (if applicable<sup>2</sup>, then the corresponding regional institutions of a county).
- ♦ *Representative body* – parliament, rural municipality, or city council (if applicable, also county council).
- ♦ *Administration* – Government of the Republic, rural municipality or city government (if applicable, also county government).
- ♦ *System* – an aggregate comprising the territorial corporate bodies and their institutions, and various public organizations.

The subject of and conclusions drawn in this article provide a new method – democorpology – for the examination of territorial communities and territorial corporate bodies. The authors enrich science with a cursory theoretical treatment that corresponds to the format of the article, which states that territorial communities and territorial corporate bodies are not organizations, and one can speak of management only in the context of their representative bodies. This approach that territorial communities and territorial corporate bodies should be treated as unmanageable processes is new.

## 1. Method

Territorial communities (such as villages, but also local government units, since the authors treat the latter in two roles – as communities and territorial corporate bodies) are complicated human associations, which cannot be equated one-on-one with traditional types of organizations. Different disciplines have different objects of research. Thus, territorial communities cannot be examined as objects using the same methods that are used in organiza-

tional theory to research ordinary organizations. It is also important to note that, in the context of the criticism of current administrative-territorial organizations, only a systematic approach can be used, and this is not possible using any currently recognized discipline, either as a method or theoretical basis. However, it is possible to explain territorial-corporative phenomena based on a systematically and theoretically substantiated interdisciplinary democorpology, and, if necessary, to criticize and suggest new systematic solutions.

As a method, democorpology enables territorial corporate bodies to be examined from the bottom up – from the individual to the general – i.e., it uses an inductive method to deal with the topic and draw generalizing conclusions. With induction, we draw generalizing conclusions from our empiric observations. People and their freely made decisions related to the creation and development of their territorial communities are at the center. **Communities develop, they are not established.** Therefore, we can speak of the decisions made at the community level not as decisions for the establishment of communities, but decisions in the interests of the community, for instance, related to the administration of the community, etc.

The democorpologic interpretation of territorial corporate methods and forms of people's collective or societal interaction during their development are based on people and their freely developed will. According to a democorpologic treatment, which also conforms to the standpoints of Estonian theoretical legal sources (e.g., the theory of free community described in the commentaries on the Estonian Constitution or theory of the natural rights of the community), the right of a community to arrange its own affairs is just as natural and inalienable as people's rights and freedoms. The principle of the power of the people or democracy is a recurrent trait of local communal governments. This theory is based on the ideas of natural rights<sup>3</sup> that recognize local government as a primary source of power and substantiates the state's obligation to respect communal administrative freedom and the inalienability of communal rights (*Kommentaariid*, 2008, p. 721).

Disciplines such as sociology, organizational theory, cultural anthropology, legal anthropology, legal sociology, human geography, political and management sciences deal with the study of organizations and their

<sup>1</sup> This article does not treat the organization and management at the state and county level, although the authors' assessment is that the same logic applies.

<sup>2</sup> In Estonia, there is no local government at the regional level, and pursuant to the law, in the counties only national administration is executed by the county governors and government agencies.

<sup>3</sup> Natural rights are defined in legal philosophy as rights that precede positive rights regulated by social norms and which stand above the latter. According to the legal philosophy, natural rights are basic norms that correspond to human nature. Therefore, positive legal norms are only real, valid and fair if they correspond to natural rights. Legal positivism contrasts with legal philosophy. The norms of natural rights are included in many regulations of positive rights.

members; each bases its studies on its own objects and the methods based thereon. Thus, we obtain results on territorial communities that are related to political science, legal anthropology or organizational theory. However, this approach does not provide a systematic and complete picture of territorial communities, to which democorpology, as a new method, lays claim.

The democorpologic interpretation and/or treatment of the territorial corporative methods and forms of people's collective or societal interaction in their development are based on the people and their free will. According to the democorpologic concept, the right of a community to decide its own affairs is just as natural and inalienable as the people's rights and freedoms. The recurrent trait of a communal local government is the power of the people or the principle of democracy. This theory is based on the ideas of natural rights that recognize local government as a primary source of power and substantiates the state's obligation to respect communal administrative freedom and the inalienability of communal rights. This right has developed and been appropriated in the course of historical processes.

**Democorpology as a method is an interdisciplinary scientific research method that integrates the research objects and methods related to the treatment of territorial communities and public territorial corporate bodies and their management adopted from other disciplines.**

## 2. Is a territorial community an organization?

### 2.1. The "right organization" and its implementation in the context of a territorial community.

The first scientists to deal with the internal processes of organizations were sociologists Auguste Comte, Max Weber, et al. Max Weber's legacy is also the introduction of the concept of bureaucratic organization.

An in-depth overview of organizations as rational, natural, and open systems and their various schools has been provided by Scott (1992, p. 23) in his book that is referred to below, in which he stresses among other things the differences between structural type organizations and other types of collectives, such as primary groups, families, communities, and social movements (see also Scott, 2003, p. 27). This differentiation allows one to take the position that Scott does not consider, *inter alia*, communities to be organizations. In his works, Scott refers to Hillery (1968, pp. 145-152), who also stressed that communities are characterized by a low level of goal specificity and formalization.

Effective functioning in today's world assumes that the public sector changes with the times and adapts to change. Posing questions about which organizational form is appropriate, or could be implemented

under various circumstances, is very important in the Estonian context, because the established legal framework is rigid and does not allow for flexible solutions. Public organizations are often forced to react to events in the external environment and adopt new work principles. In this case, rigid procedural rules start to impede changes. **Rigid rules and an inflexible system are a serious impediment to the development of the public sector and the necessary changes therein.**

Despite the need for rules, **they should not be overemphasized or made more important than general objectives.** It should be remembered that rules should be established in order to better guarantee the population's public welfare.

Estonia (and probably all post-Soviet countries) needs a certain paradigm shift, as well as an updated and flexible public administration system, which is based on a functional model that guarantees public welfare, not on quantitative indicators such as the number of residents in the local government unit or the size of its area. As Drucker (2007, p. 1) has written, the discipline's basic assumptions about reality determine what it focuses on. They determine what a discipline considers "facts", and indeed what it considers the discipline itself to be all about. These assumptions must be the basis for the construction of an organization's functional model(s).

The second half of the 19<sup>th</sup> century saw the development of large organizations – in both business and the public sector – which were accompanied by an interest in the study of organizations and their management. Thus, the first to start dealing with the organizational culture of businesses and the organizational issues related thereto were the practitioners Henry Fayol in France, as well as John D. Rockefeller, Sr., J.P. Morgan and Andrew Carnegie in the United States.

Everyone, for instance, Frederick W. Taylor and Henry Ford, did not place importance on the functional structure of organizations. However, the First World War brought forth the need for formal organizational structures, while at the same time demonstrating that Fayol and Carnegie's functional structures were not the only possible ones (Drucker, 2007, p. 8).

Immediately after the war, first Pierre S. du Pont and then Alfred Solan, developed the concept of decentralization.

Today, for instance, we have come to consider teams to be the best organizations for every life situation and declare that in the 21<sup>st</sup> century, team players and teamwork are here to stay<sup>1</sup>.

<sup>1</sup> It's the Twenty-First Century: Team Players and Teamwork Are Here to Stay (Drucker, 2007, p. 4).

Drucker (2007, p. 7) has convincingly refuted the concept of a “right organization”. He writes that from the very beginning more than a century ago, the study of organization has rested on one assumption: **There is – or there must be – one right organization.** What is presented as the “one right organization” has changed more than once. But the search for the one right organization has continued and continues today.

By now, however, it should have become clear that there is not such thing as the one right organization. There are only organizations, each of which has distinct strengths, distinct limitations and specific applications. It has become clear that organization is not an absolute. It is a tool for making people productive in working together. As such, a given organization structure fits certain tasks in certain conditions and at certain times (Drucker, 2007, p. 8).

At least two traits can be highlighted that differentiate organizations from other human groups. According to Roots (2006, p. 10), the only two traits that differentiate organizations from other forms of human association are the objectives established by the members, solely and specifically for their organization, and its clearly defined membership.

In the context of territorial corporate bodies and also territorial communities, the following clarification must be made regarding the objectives established by the members: **the objectives are not established by its members (residents), but by the representatives of the members (politicians).**

Speaking more specifically about territorial communities, one must agree with Lithuanian philosopher Antanas Maceina (1990), when he says that communities, as compared to states, lack objectives outside themselves – there is only an idea that is realized by its existence.

From a phenomenological point of view, the people always reveal themselves as a *hic et nunc* human collective that should not be confused with a mechanical human aggregate. Human collectives can be divided into social and legal collectives.

According to Kliimann (1939, pp. 90-102), a social human collective is a multitude of connected and united individuals; whereas, a legal human collective or organization is a manageable human collective, where power appears. In the case of territorial communities, one cannot speak of the management of its members (leaving aside whether people can be managed at all). **A territorial community is a social human association.** We should also add that **communities are not formed, they originate.**

The authors take the position that in the case of the legal human collectives named by Kliimann, we can

also speak of political human collectives. After all, political interests are a specific and generalized form for the expression of social interests, because they represent an expression of social interests within the field of power relations – social interests are transformed into political aims. Of course, not all community members have political interests (in Estonia, only 3-4% of the population belongs to political parties, and on average, half of the voting-age population votes), but one must assume that the majority are interested in their neighborhoods and the local communities.

Based on the socio-political scale, on the one hand, and the formation-development scale, on the other hand (see Figure 1), the following diagram can be drawn:

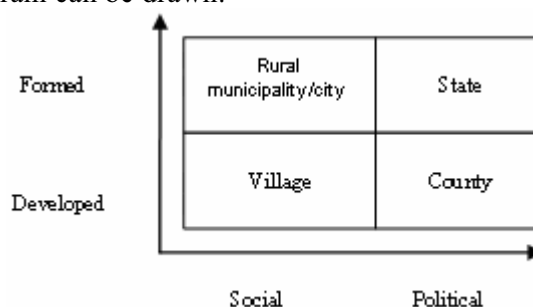


Fig. 1. Socio-political and formation-development scale for determining the communality stage of territorial corporate bodies

Based on this diagram, the state is a political and artificial formation. As opposed to the state, village communities have developed over time as the result of a need for social cohabitation. Rural municipalities and cities are the result of the development of these social cohabitation needs, which also demonstrate signs of formation (more exactly formal development). However, from the standpoint of the authors, they can be treated as village communities that have developed from historical village communities, whereas subsequently naming them rural municipalities or cities and/or formally legalizing/fixing the existing reality cannot be treated as formation. A county is a cooperative territorial region of village communities (and depending on the country, also a second-level local government) that also carries marks of political aims.

Organizations are necessary in order to establish and fulfill objectives that exceed the capabilities of individuals. In the course of fulfilling their functions, organizations enable a division of labor, which, in turn, is accompanied by a structure of jobs and the mutual coordination of work. It is important to stress that **territorial community differs significantly from classical organizations, in that, in addition to the fact that the members of territo-**

**rial communities do not establish their own objectives, they also do not fulfill them. They do not “work” in the territorial community; a division of labor does not take place among them; they do not create any structures, etc. The thing they do is to elect a representative body to deal with all of the above. Therefore, there is a need to analyze the possible differences in organizations and management in the context of territorial communities.**

All the above provides a basis for the first assertion, that **territorial communities are not organizations.**

Üksvārav's definition of organizations that is cited above stresses the formation of organizations. The authors take the position that **territorial communities are not formed – they originate and develop evolutionarily.**

This provides an additional basis to assert that **territorial communities cannot be regarded or treated as organizations, and certainly not the only possible ones.**

Estonia's legal order recognizes three types of public persons. These are public **corporate entities, agencies, and foundations** (Merusk, 1994), but not all of them can be treated as organizations. We should mention here that various theories also recognize **real corporate entities** and **united corporate entities**, which do not exist in Estonia.

There are two types of public corporate entities – **territorial corporate bodies** and personal corporate entities. Of these, the authors believe only personal corporate entities can be treated as organizations. **Territorial communities are human associations that define themselves based on the principle of territory.**

Here, the authors question the concept of legal persons in the context of territorial communities or territorial corporate bodies. The analysis of the authors, which cannot be treated in depth here, provides a basis for the position that **territorial communities are not legal persons.** Based on established law in Estonia, of the territorial corporate bodies, state and the local government units are public legal persons<sup>1</sup>. This has not always been true – pursuant to the law that was valid at the end of the last century (1989-1993), the legal persons at the local government unit level were the institutions of the territorial corporate body (council and government)<sup>2</sup>. The treatment of the state, which is a territorial corporate body, as legal person has been called into question by a number of authors, including

Schneider (1998), who stressed that the roots of this construction could be found in monetary sovereignty (J. Bodin ja J.J. Rousseau), Germany's unique national reality, and the theories of German scientists, as well as the implementation of the idea of monetary sovereignty in Germany's 19<sup>th</sup> century constitutional models.

The authors are not calling into question the concept of legal persons as such. Quite the opposite, the authors recognize that territorial corporate body institutions, or more exactly the representative body, can be treated as organizations and persons. Here we need to achieve a consensus regarding the ruling legal interpretation, based on which territorial corporate bodies are regarded as organizations and legal persons. The position of the authors is that in the context of territorial corporate bodies, **the members of the representative bodies elected by the members of the territorial corporate bodies (such as parliaments and local government councils) can be legal persons.**

**2.2. Can territorial communities be regarded as processes?** As stated above, territorial communities have usually originated and developed as an evolutionary process. Of course, even today territorial reforms are possible new villages, and cities can be created from “nothing”. In the case of the former, it should be stressed that erecting buildings and changing territorial borders in the course of reform cannot be treated as the formation of communities – although, under these new conditions, communities may develop.

Territorial communities are in a constant state of development, or process, without having any objectives outside themselves. Their internal objectives are existential in nature and related to satisfying the needs of their members. The development of territorial communities in Estonia confirms that from ancient times to the present day, despite various foreign occupations that destroyed the country, as well as devastating epidemics and wars that destroyed entire villages, the drive for social cohabitation or the habit of living together communally have survived.

According to the authors' more philosophical interpretation, **a territorial community without an external objective is a (self-) existence process, a community association in actual transformation or, as Estonian poet Hando Runnel has said the “solidarity of destiny”.**

A territorial community can be examined and analyzed both diachronically (historically) and synchronically. Lorents (2001, pp. 119-121) takes the view that at every fixed moment in time, for example  $t_0$ , we are dealing with a **state** of the sys-

<sup>1</sup> General Part of the Civil Code Act § 25 lg 2. State Gazette I 2002, 35, 216.

<sup>2</sup> ESSR Law on the Bases for Local Government § 6 lg 12. ESSR Supreme Soviet and Government Reporter 1989, 34, 517.

tem (at the moment  $t_0$ ). Therefore, if at moment  $t_0$ ,  $P_0=P (...t_0...)$  and  $S_0=S (...t_0...)$ , we can say that the system  $\langle P (...t...); S (...t...) \rangle$  at moment  $t_0$  is in the state  $\langle P_0; S_0 \rangle$ . Here the basic amount and the signature have been viewed based on time, or as a value of functions in which one argument is time. If the system is a sequential pair  $\langle P; S \rangle$ , in which **P** is the aggregate of some fixed elements or the **basic amount** and **S** is the aggregate of the fixed connections between the elements of the amount or the **signature**, then based on the new definition, the system is a sequential pair  $\langle P (...t...); S (...t...) \rangle$ , in which **P and S are functions, of which one argument is time (t)**. Or, in the case of each  $t$  value,  $P (...t...)$  is the value of the volume of fixed elements;  $S (...t...)$  is the value of the volume of the aggregate of fixed connections between the elements  $P (...t...)$ .

Specifying at some moment in time (e.g.,  $t_0, t_1, t_2...$ ), we can immediately fix the corresponding states (e.g.,  $\langle P_0; S_0 \rangle, \langle P_1; S_1 \rangle, \langle P_2; S_2 \rangle, ...$ ). The sequence of the system states is called a **process**. However, it is not impossible that in the case of some processes, all the states are similar. In such cases, we can speak of systems that are in a **stationary state**.

In the case of many systems, the processes related to them can still be affected by us, and this creates the basis for the **management of processes**, which in brief means that, in the course of some process, the system transfers from one state to another thanks to the effects of the influence factors altered (or not altered) by us. Therefore, we could **call management an activity that consists of the implementation of factors in systems for their transfer from one state to another, desired or pre-determined state**. However, based on the above, it is clear that the transfer of systems from one state to another can be managed (with the help of the corresponding influence factors), or in other words, **processes can be managed**. Depending on the systems, factors and the nature of their impact, we can speak of processes that can be managed **totally, partially or not at all**.

The fact that territorial communities could be treated as processes is also recognized by Morgan (1997, p. 31), who writes that by treating an organization's activities as a rational and technical process<sup>1</sup>, the mechanical figurative system tends to diminish the human aspects of organizations and to ignore the fact that assignments facing organizations are often much more complicated, vaguer and more

difficult than the majority of operations executed by machines.

Having received confirmation from the above, the authors have taken the view that **a territorial community is a self-regulating human association connected to a territory and its sequence of time-related states is called a process. It follows that a territorial community is a process – whether it can be managed or not is a separate issue**.

**2.3. Time as a constituent trait of a territorial community.** A distinctive feature of the world we live in is the existence of time and the dependence of many things on time. We know that time cannot be stopped or turned back. But what is time and what does it mean in the context of a territorial community?

Based on the possibility that a territorial community is a process, one must assume that **a process has a beginning, duration and end, since it is not possible to imagine a process without a temporal dimension**.

When speaking of time, usually two things are meant – *moments in time* (when?) and *periods of time* (how long?). The following questions are posed: *when did it start and when did it end?* Or, *from what moment to what moment?* The interval between moments in time is called *the duration or length of the time period*.

According to Lorents, the *interval between moments in time* is not the same as an *arithmetic difference in numbers*, because, although a moment in time *may* to a certain extent be *regarded* as a number in the interest of a simplified interpretation, this does not make a moment in time a number. Another source of confusion is caused by the *use of the same designation, on the one hand, for moments in time, and on the other hand, for time periods* (Lorents, 2006, p. 117).

We are actually lacking any information on the beginning of territorial communities as processes. We may read something about it in historical records and be pleased to discover the first mention of one or another village. Some village communities may be more precisely dated, or a territorial unit formed on basis of a manor may have given a rural municipality name. However, it should be emphasized that **granting a functioning community the rights of a rural municipality, for instance, does not denote the beginning of the community, just a specific moment in the development of that community, which precedes a subsequent moment**.

Mention should be made again of the establishment of new villages by the recipients of new lands at one

<sup>1</sup> I.e., the fact that organizations to which, in general interpretations, territorial communities are subordinated can be considered processes, and not just technical processes.

time, and today's new villages that are established as the result of real estate development. However, despite certain traceable legal and other facts, it is not possible to precisely determine when territorial communities originate in today's new villages. Building permits and completed buildings do not make a territorial community. However, what applies to new villages, does not apply to the completion of new developments in existing villages, or the construction of individual new houses, which are only one of many moments in the development of specific communities.

The authors stress that new territorial communities, once they have originated, also develop spontaneously, following their own sequence of temporal states, and we have no reason or need to treat newly developed territorial communities differently than older ones.

We do not know, and cannot know, when communities started to originate, or at what moment of time this was. We can only hazard a guess about the beginning of one or another territorial community – nothing more. This is one difference compared to traditional organizations.

Every system must have its own dependence on time or development. If one is dealing with discernible systems, such as various local government units, the respective dependencies must also differ and *vice versa*. For instance, in the context of a village's development, a foreign occupation and/or change in regime is a moment in time just like many others, while it may mean the demise of a state. Against this background, the difference described above between social and political human associations is clearly visible.

More than one person is needed for social communications. Organizations cannot exist and a division of labor cannot be organized if there are less than two members (as an aside, a reference to the situation in Estonia, which is not massive in scale but quite popular, of private limited companies belonging to only one person, who is also the only employee of the company). Therefore, **territorial communities develop and last until there are members (people) in the community. Of course, a state or business can also end for the same reason, but as a comparison – a state can also end even if the people of the state have not “spilled” one drop of blood<sup>1</sup> and a business can be forced to close without creating any great problems for the organization's members.**

In the case of traditional (business) organizations, time is also important. The difference with territorial communities is that we can relatively precisely determine the founding of an organization, document every moment of its existence, as well as its demise. Similarly to traditional organizations, this is also possible in the context of territorial community institutions, which we describe below.

In summary, the authors take the position that **time is a constituent trait of a territorial community that constantly underlines development, which is often not dependent on us. We can never know precisely when a territorial community began and we assume that its demise will not arrive. We live from moment to moment and think that we can influence the change of the system's current state (for instance, by managing processes) into a desired state. Retrospectively, we can say that in some ways this has succeeded.**

### 3. Can a territorial community be managed?

Economist and management experts agree on two things related to public and private sector management: 1) private and public organizations are different; and 2) there is much in common between the management of private and public organizations.

According to Drucker (2007, p. 7), **management is the specific and distinguishing organ of any and all organizations**, which also means that it is not just the birthright of private sector organizations. The majority of people – whether they are involved with management or not – consider management to be *business management*, although this field of management did not develop until quite recently.

At the same time, Drucker (2007, p. 6) has asserted that ninety percent or so of what each of the organizations is concerned with is generic. And the differences in respect to the last 10 percent are no greater between businesses and non-businesses than they are between businesses in different industries, for example, between a multinational bank and toy manufacturer.

It would seem that it is impossible to collect and analyze all the definitions of management concepts proffered in the world, although someone might deal with this. The authors think it is necessary to define management as a general concept, as the authors understand it. One has to agree with the general belief that the concept of management is inseparably tied to the concept of an organization, and the multitude of definitions is the reason for the existence of various management theories and positions. The fundamental idea that dominates many of them is that **management** is the conscious and purposeful direction of human activity and behavior in order to

<sup>1</sup> This is what happened in Estonia in 1940.

achieve the organization's objectives and satisfy the needs of its members.

Based on the given principle, the authors, hereby, undertake an ambitious goal to provide their own definition for management: **Management is a mode of human activity whereby, through the involvement of other people and the planning, organizing, leading, developing, and controlling of activities, directs and influences manageable processes.**

Pollitt (1990, pp. 2-3) finds that management is a separate function in an organization. In the context of territorial communities as processes, where we can speak of organizations at the institutional level, we can also speak of management at the **institutional level**. Here the management objects are the representative bodies and administrations, and the processes occurring in these structural units. However, even here, we must be guided by Pollitt's statement cited above.

Public and private sector organizations have been compared in depth by Rainey, Backoff and Levine (1976, pp. 235-241), and the results have been grouped into several categories: **environmental factors** (market exposure, legal constraints, political influences); **organization-environment transactions** (coerciveness, breadth on impact, public scrutiny, unique public expectation) and **internal structures and processes** (complexity of objectives, evaluation and decision criteria, authority relations and the role of the administrator, organizational performance, incentives and incentive structures, personal characteristics of employees). The authors support this interpretation.

The differences between the institutions of territorial communities as organizations and private sector organizations are the reason why differences are to be found in the management of these organizations in almost all management areas. This results from the goal of territorial community institutions to **exercise public power** and **provide** the population with certain **services**, for which the state (and local government units – author's addition) has assumed responsibility. In the private sector, earning a profit is primary, but in the public sector, earning a profit cannot be a goal in and of itself. Of the two management goals – to achieve a result and be economical – only one remains (Alas et al., 2006, pp. 20-21). In the context of today's economic recession, economizing is occurring in all fields of life, including the public sector, which is more of an objective inevitability than a goal achieved by management. In a normal situation, an official's welfare or existence does not depend on economizing, and services are paid for by involuntary financing from taxes.

According to Merusk (1996), the institutions of both state and local government units, as well as the agencies administered by them, or the agencies of executive power, exercise the state's (and local government unit's – authors' comment) executive function, which in turn is divided into **governing** and **administrating** functions.

In practice, in the context of local government units, the difference between governing and administrating can be discerned by the fact that governing includes the authorization to impose local taxes and restrictions, as well as levy duties or grant discounts. Administrating comprises only the provision and supervision of public services.

Based on the authors' definition, **public administration** is the activity of a state or local government unit's executive official related to the implementation of the administrative policies of the state or local government unit.

**Management** in the public sector is one part of administrating and governing, as an activity of the institutions of state and local government units.

According to the authors' definition, **governing** is the activity of the legislative or statutory power of the state or local government unit in establishing the objectives of the state or local government unit, the development of appropriate administrative policies for the achievement of these objectives, and the supervision of their execution.

These authors' definitions of public administration and governance are intentional, in order to differentiate between governing by the legislative or statutory power<sup>1</sup> and the administration by executive officials. This in turn is accompanied by the need to analyze whether and how to differentiate between the management of these two powers.

"Who is actually doing the managing and what is being managed?" is a somewhat spiteful question because the "right" answer known to the asker may actually not be right. And can a territorial community as a process be managed at all, and if it can, who is managing what?

The result of the analysis conducted by the authors shows that **depending on the systems, factors and the nature of their influence, we can speak about a process that can be managed totally, partially or not at all. Management occurs at the public organizational level, i.e., in the territorial community institutions (representative bodies and administrations).**

<sup>1</sup> This is a legal singularity of a local government unit as a territorial corporate body. Local governments have the right to issue legislation for the resolution of local issues (statutory right) without the provision delegating authority of the law.

## Conclusion

The rigid regulation of management models at the level of territorial community bodies, including those of territorial corporate bodies, is not beneficial for the state. For instance, based on the capabilities, size and other criteria of the local governments, communities should have the right to decide whether a management model for a large, mid-sized or small local government unit is appropriate for them, because one rigid model that should apply to both the capital and a rural municipality with a few hundred people is not sensible. The law must provide flexible solutions regarding management models. Estonia (probably all post-Soviet countries) needs a certain paradigm shift, as well as an updated and flexible public administration system, which is based on a functional model that guarantees public welfare. **Rigid rules and an inflexible system are a serious impediment to the development of the public sector and the necessary changes therein.**

The treatment of territorial corporate bodies as legal persons must be abandoned. A community as a process and territorial corporate body is a reality (real life), not fiction or a legal construction. However, the representative bodies of communities, including territorial corporate bodies, may be treated as legal persons, as was true in Estonia in 1993. The corresponding fundamental change must be enacted by an amendment to the law. The authors are not calling into question the concept of legal persons as such. Quite the opposite, the authors recognize that

territorial corporate body institutions, or more exactly the representative body, can be treated as organizations and persons. Here we need to achieve a consensus regarding the ruling legal interpretation, based on which territorial corporate bodies are regarded as organizations and legal persons. The position of the authors is that in the context of territorial corporate bodies, **the members of the representative bodies elected by the members of the territorial corporate bodies (such as parliaments and local government councils) can be legal persons.**

There is no basis to treat territorial communities, including territorial corporate bodies, as organizations, since they lack organizational traits (**the members of territorial communities do not establish their own objectives, they also do not fulfill them. They do not “work” in the territorial community; a division of labor does not take place among them; they do not create any structures, etc.**). Representative bodies and the executive bodies created by them can be labeled organizations. Therefore, the authors take the position, for instance, that theories related to organization and management cannot be applied to the examination of local governments as a whole – these can be applied only to the examination of local government bodies.

The authors are proposing an interdisciplinary research method – democorpology – which allows communities and territorial corporate bodies to be examined as a whole.

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