VIII

SIC ITUR AD ASTRA

Collection of papers on Austrian, Croatian and Hungarian legal history

EDITORS
IMRE KÉPESSY
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BALÁZS RIGÓ

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Eötvös Loránd University / Faculty of Law / Department of the History of the Hungarian State and Law

Austrian–Croatian–Hungarian Legal History Summer School

The Croatian–Hungarian (from 2024: Austrian–Croatian–Hungarian) Legal History Summer School was organised for the first time in 2016 in Budapest as a result of the cooperation of the Eötvös Loránd University, Faculty of Law and the University of Zagreb, Faculty of Law. The two History of State and Law Departments of these universities, joined by the University of Vienna in 2024, published the best articles in the Sic itur ad astra series:

- *Sic itur ad astra I* (ISBN 978-963-284-935-5, Eötvös Loránd University Faculty of Law, Budapest, 2017, 64 p.)
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  Our eight summer school was organized in Budapest in 2024. The broad topic was „The development and the progress public law in Austria, Croatia and Hungary".

  We hope that our students will reach the stars and that we will find their names and achievements in similar scientific publications in the future as well.

Budapest–Wien–Zagreb, 2025

The Editors

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Hedvig ATANASZOV: Electoral Reform Attempts and Their Outcomes in the Early 20th Century

Eötvös Loránd University, Faculty of Law

DOI 10.21862/siaa.8.1

1. Introduction

In Hungary, Act 5 of 1848, the new suffrage law introduced parliamentary electoral rights and replaced the previously feudal diet with a democratic representative's parliament. The representatives of the lower chamber of the Hungarian Parliament from then on held free mandates. At that time, 7.1% of the population had the right to vote. This law remained mostly unchanged until 1874, when it was amended by Act 33 of 1874. The need for amendment arose partly from the fact that Act 5 of 1848 was a framework of an electoral law, and at the time of its introduction legislators wanted to further amend it in accordance with the ideas of 1848. However, the defeat in the war of independence delayed it for decades. Furthermore, certain territorial changes also required changes in the electoral law. Act 33 of 1874 remained in effect until 1913, and eleven elections were held under this law.[1] During this period, the proportion of eligible voters hovered around 6%, never reaching the levels seen in 1848. By the early 20th century, there was a demand for electoral reform, but the political elite was unwilling to extend voting rights, failing to introduce both universal and women's suffrage. It was not until 1913 and 1918 that new electoral laws were finally adopted, but no parliamentary elections were never held under these laws. Therefore, there was no significant difference in the proportion of eligible voters until the end of the World War I.[2]

Hungarian electoral legislation was considered modern by European standards in 1848, however by the early 20th century, it had significantly fallen behind. By that time, 20-28% of the population in many European countries had the right to vote, compared to only 6.4% in

[1] PÖLÖSKEI, Ferenc: A választójog és a választási rendszerek 1848-tól 1938-ig [*Suffrage and suffrage law between 1848 and 1939]*. Jogtörténeti Szemle [*Legal History Review*] No. 1998/7., p. 18.
[2] VARGA, Lajos: Országgyűlési választások a dualizmus korában [*Parlamentary Elections in the Era of Dualism*] in Parlamenti képviselőválasztások 1920–2010 [*Parlametary Elections of the Representatives*]. Editor: Földes, György – Hubai, László, Bp., 2010., p. 18.

Hungary during the 1910 elections.[3] The discrepancy became particularly noticeable in 1907 when Austria introduced universal male suffrage with Beck's electoral reform.

In the following pages, I will discuss the attempts made in the early 20th century to extend the right to vote in Hungary, the outcomes of these attempts, and explore the reasons behind them.

2. Act 33 of 1874 – in the footsteps of 1848

Act 33 of 1874 was the legislation that defined the electoral rights in Hungary during the era of the Dual Monarchy. The law aimed to amend and refine Act 5 of 1848, and while it did follow the spirit of the original act in some respects, it changed the basis of the voting eligibility, hence it was previously based on property, however after 1874, it was based on the amount of tax paid. The law provides detailed descriptions of how much tax must be paid by certain citizens (landowners, homeowners, merchants, factory owners, craftsmen) to qualify for voting rights. Intellectuals received the right to vote, regardless of the amount of tax they paid. It is also important to mention that the law excluded numerous groups from voting rights, amongst other people who failed to pay their taxes. The main problem with this was that the modern taxation system was introduced around this time, therefore there was numerous people who could not pay their taxes properly. Impoverished nobles, industrial workers, and peasants who could not pay the Hungarian land tax were not eligible to vote, however among civil servants, the proportion of eligible voters significantly increased.[4]

In Lajos Varga's writings on the electoral rights of the era of Austria-Hungary, we find data regarding the proportion of people eligible to vote in various elections. In 1848, the percentage of eligible voters was 7.1%. However, between 1875 and 1910, when elections were conducted under the Act of 1874, the proportion of eligible voters ranged between 5.6% and 6.4%—this was due to the significant population growth in Hungary during this period.[5]

[3] *Ibid*., p. 21.
[4] VARGA, *op. cit*., p. 18.
[5] VARGA, *op. cit.,* p. 18.

Seeing the Act of 1874 and its provisions, it is clear that the act aimed to regulate electoral rights according to outdated principles. As a result, initiatives to reform the electoral law began in the first decade of the 19th century.

3. József Kristóffy's draft act of the electoral rights – the aim for democratisation

In the elections of 1905, the opposition – not the previous ruling party backed by the king – won a majority in parliament. However, Franz Joseph I did not want to allow the previous opposition parties to come into power, as they wanted reforms that were unacceptable to him. So, Franz Joseph appointed a minority government – the government of Fejérváry.

The first draft act of the electoral rights was submitted by the government in 1905, which aimed to bring about change, is associated with the name of József Kristóffy, the Minister of the Interior in the Fejérváry government.

Kristóffy's draft would have preserved from the legacy of 1848 the idea of defining voting eligibility based on gender and a moderate level of literacy. According to his plans all literate Hungarian citizens over the age of twenty-four would have had the right to vote and would have introduced secret voting – until then voting was open.

Miklós Szalai writes that Kristóffy's draft aimed for tolerance towards the national minorities and a more democratic approach in order to gain support for the minority government. And as such this attempt was fundamentally different for the subsequent electoral drafts and acts.[6] However, Kristóffy himself, in the rationale for the draft, states that general suffrage would lead to the decrease in the ratio of Hungarian voters, hence the requirement of moderate literacy for eligibility.[7]

Kristóffy's proposal won over both radicals and social democrats, which scared the coalition holding the majority in the Parliament. The coalition opposed to the draft act of the minority government, hence the king and the government could only pass the draft act in

[6] SZALAI, Miklós: Választójogi reformkísérlet a századforduló Magyarországán (1908) [*Electoral reform attempt in the turn-of the-century Hungary]*. Múltunk – politikatörténeti folyóirat [*Our Past – political history journal]* No. 2000/45., p. 63.
[7] KRISTÓFFY, József: Választójogi beszédek [Speeches on Electoral Law]. Athenaeum irodalmi és nyomdai r.-t., Bp., 1911. p. 347.

unconstitutional manner. This was acceptable to neither of the parties, therefore they both withdrew.

The government of Fejérváry was unable to build political capital against the coalition parties as a result both the king and the coalition were open to working together. A pact had been made and among other things, it contained that the coalition parties – now governing parties – would accept Kristóffy's electoral reform.

There was no consensus among the coalition parties regarding the need for democratic reforms, however no one really pushed for the extension of suffrage. Nonetheless, the coalition, now in power, had to do something about suffrage, as both their own supporters and the king expected them to do so. Moreover, the labour movement was also a force to be reckoned with outside of Parliament at the time. Working out an electoral reform, acceptable to all, was now the mission of Gyula Andrássy Jr., son of prior Foreign Minister, Gyula Andrássy.[8]

4. Plurality Voting System – Gyula Andrássy Jr.

Another notable electoral reform proposal is associated with Gyula Andrássy Jr., who also served as the Minister of the Interior. In 1908, he attempted to introduce a plurality voting system, which was a foreign concept in Hungary at the time. He based his draft on the Belgian electoral system.[9] Andrássy's goal was to provide suffrage for all social classes without disrupting political stability.[10]

According to Andrássy's plan, every Hungarian citizen over the age of twenty-four would have had the right to vote, however the number of their votes would have varied based on the amount of tax they paid and their level of education. Every literate man over the age of twenty-four would have been entitled to one vote. Dual and triple votes were based on education, military service, the number of legitimate children, employment status, or the number of employees. The concept also included indirect voting for illiterates, in which the primary voter would have voted on behalf of ten illiterate voters.

[8] *Ibid*., pp. 63-64.
[9] *Ibid*., p. 67.
[10] *Ibid., p*. 67.

The introduction of Andrássy's draft would have significantly increased the proportion of eligible voters. Some estimates suggesting that up to 24% of the population of Hungary would have had the right to vote. A significant increase compared to the ratio under the act of 1874.[11]

The plurality voting system would have brought universal (male) — however entirely unequal— suffrage to Hungary. Nevertheless, the concept neither did win the favour Emperor Franz Joseph, nor the public opinion. The proposal was criticized for several reasons. Some believed that it would allow too many of the representatives of the national minorities into parliament, while others feared the rule of the social democrats. The proposal also caused great concern outside parliament since the coalition parties did not keep their word regarding the electoral reform.[12]

According to Miklós Szalai's evaluation, the Andrássy's proposal would not have been as unjust as the public viewed it at the time as some of the conditions making people eligible for two votes were available for the lower classes as well. This type of universal suffrage would likely have met the standards of the time. Maintaining open voting, however overruled the more democratic approach of the proposal and would have led to similarly undemocratic system as the one in use.[13]

Ultimately, after tedious political debate the king approved Andrássy's draft with reservations. The draft act, however, eventually failed due to internal conflicts within the coalition and conflicts between the monarch and the coalition.[14]

5. Act 14 of 1913 – an insignificant step towards change

By the early 1910s, István Tisza – prominent politician at the time – had also realised the need for reform regarding suffrage, and he believed that gradually extending voting rights would be most beneficial for the country. He took part in the drafting of the Act 14 of 1913.

[11] BOROS, Zsuzsanna – SZABÓ, Dániel: Parlamentarizmus Magyarországon 1867-1944 [*Parlamentarism in Hungary 1867-1944].* ELTE Eötvös Kiadó, Budapest, 2008., p. 142. table No. 5
[12] SZALAI, *op. cit*., pp. 67-70.
[13] SZALAI, *op. cit*., pp. 84-85.
[14] *Ibid.*, pp. 89-90.

His contribution, however had to be kept in secret due to his controversial role as Speaker of the House.[15]

Eventually an electoral reform took place in 1913. Nevertheless, the new act was still a far cry from the electoral standards at the time. The act attempted to favour the national minorities as in the pre-war atmosphere the Triple Alliance desperately needed to win over the countries – in this case, Romania – not yet committed to either side.[16]

The rationale for the act contains the principle that electoral reform should be carried out without *"subverting the social conditions of the country and compromising the national interest*". Although the draft did not provoke the same kind of opposition as the Andrássy's proposal, some considered it too permissive – as it contained no requirement for literacy in Hungarian – and others considered it a poor achievement in the light of the earlier proposals.

The act set the minimum age for voting at twenty-four and people with lower levels of education were granted voting rights in a higher age with more taxes paid. The ratio of eligible voters would thus have risen to 9%, however due to the World War I no elections were held under this legislation.

6. Act 17 of 1918

The Act of 1918 was originally drafted by Vilmos Vázsonyi, a member of the 'Választójogi Blokk' – an organization fighting for universal suffrage – and the minister without portfolio responsible for electoral law. Vázsonyi's draft based suffrage on a moderate literacy to be eligible to vote. Moreover, it was the first draft submitted by the government proposing women's suffrage. The government party did not enjoy the support of a majority in parliament, thus Várzsonyi's original draft was revised by the House of Representatives' electoral law committee. Women's suffrage was removed from the draft altogether and stricter rules regarding literacy were introduced. However, front-line fighters and war wounded were granted the right to vote.

[15] PÖLÖSKEI, *op. cit*., p. 19.
[16] *Ibid*., pp. 19-20.

The final version of the act according to János Kende in his paper on 'Lajos Varga: Országgyűlési választások a dualizmus korában [*Parlamentary Elections in the Era of Dualism*]' : *"It is astonishing that in the Hungarian parliament in the spring and summer of 1918 it was possible to discuss at length whether women should be granted the right to vote, when they had long since been forced to become 'equal' with men in factories, on the land, at office desks and at work. That the subject of securing Hungarian supremacy was up for discussion at a time when the death sentence of the monarchy and of Hungary with its historical borders was already in the making. "*[17] (Kende, 2005., p. 327.)

The law was in force for only for a few weeks, as the Austro-Hungarian Monarchy collapsed in November 1918. For a brief period of time following the Aster Revolution owing to the Mihály Károlyi-led government a law guaranteeing universal suffrage was in effect.

7. Reasons behind the lack of universal suffrage in Hungary

It is worth examining why Hungary could not keep up with the standards regarding voting rights in Europe. One reason for the reluctance of the political elite to extend suffrage was the national minorities of the country. In the decades following the birth of Hungarian nationalism, the national minorities living in Hungary also began developing a nationalist sentiment and demanded rights and autonomy for themselves. The issue of territorial autonomy and a wider use of their native language often was often a source of conflict between national minorities and the Hungarian political elite. The Hungarian politicians feared that if the national minorities were given broader representation, these issues would be decided favouring the national minorities. They also feared that the feelings of the national minorities towards the Monarchy would surface, believing that the nationalities would not support the Monarchy in time of need. Mihály Réz's summarizes that the leadership of the time believed that electoral laws should serve the supremacy of the Hungarians.[18]

[17] KENDE, János – Varga Lajos: Kormányok, pártok és a választójog Magyarországon 1916–1918 [*Governments, parties and suffrage in Hungary between 1916 and 1918*]. Múltunk [*Our Past*], No. 1, 2005, p. 327.

[18] RÉZ, Mihály: A választói jogról [*About the suffrage*], In: Tisza István Választójog. Tanulmányok. [*Suffrage. Studies]* Magyar Figyelő, Budapest, 1913.

Another reason why the ruling class was afraid of extending suffrage was the working class. Andrássy Jr., for example, believed that the working class would not support the Monarchy on the long run, a role that only the upper classes could fulfil. He believed that bringing the masses to power would result in an unpredictable political environment, hence it should be done gradually.[19]

8. Austria and Hungary - differences in the light of universal suffrage

At this point, we can ask what led to the ratio of eligible voters in Hungary differing so much from the other half of the Monarchy. Why were the Austrians able to introduce universal suffrage for men as early as 1907, when the proportion of eligible voters in Hungary was only around 10%?

Before delving deeper into the differences, it is important to examine exactly how universal suffrage was implemented in Austria. Universal male suffrage was introduced in 1907 for all men aged twenty-four or over, who had lived in an Austrian province for at least a year. In theory, this suffrage was equal, however due to the electoral division the Polish-speaking urban population and the German-speaking rural population were over-represented, as they reliably supported the parliamentary forces that aimed to maintain the monarchy.[20]

There are several differences between the Austrian and Hungarian suffrage systems; however, the main reason lies within the political elite. In Austria, the political parties were more similar to the ones known today, because they were formed by social and economic problems and their responses to them. By comparison, in Hungary political parties were largely so-called 'club' parties – loose gathering, based on the English and French clubs – formed based on their relationship to the Monarchy. The governing party emerged from a parliamentary majority which accepted the Austro-Hungarian Compromise, while the opposition typically fought to achieve greater independence from Vienna. The near-

[19] SZALAI, *op. cit.,* p. 81.
[20] THOMSON, Henry: Universal, Unequal Suffrage: Authoritarian Vote-Seat Malapportionment and the 1907
Austrian Electoral Reform. University of Minesota, 2013, pp. 2-3.

constant parliamentary majority was therefore reluctant to let in new voters to protect the monarchy. [21]

There were also significant differences in the way the question of national minorities was handled. One of the main reasons for the Hungarian political elite's opposition to the extension of suffrage was the national minorities and their supposed opposition to multi-national country. In Austria, on the other hand, it was precisely the extension of suffrage that was seen as an opportunity for the political elite to preserve their own power and keep the Dual Monarchy intact. Democratisation in Austria, too, however could only be achieved through universal suffrage, which was not entirely equal.[22]

In Hungary, moreover, the emergence of the working class in political life would have changed the composition of the political elite. New elite would hardly have supported the aristocratic ruling class, therefore they were not welcome into parliamentary politics. In Austria, the process of democratisation was gradual after 1848. In Hungary however the same steady progress could not happen due to the conflicts with the Emperor between 1849 and 1867.[23] The lack of sufficient management of extending suffrage left society very divided. In Austria, new parties such as the Social Democrats and the Christian Socialists were able to emerge and gain support. In contrast, in Hungary, there was less ideological difference among the parliamentary parties.[24]

Some believe that István Tisza was the main reason behind keeping the fraction of those who had the right to vote low. He believed that voting rights of the lower classes were a threat to the national interest and believed that the future of Hungary – at least with its historical borders – could only be maintained within the Monarchy. Therefore, did everything in his power to ensure the survival of the Monarchy.[25]

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[21] MURBER, Ibolya: Válság és demokratizálás [*Crisis and Democratization*]. Múltunk [*Our Past*], No. 4., 2023, pp. 18-19.
[22] *Ibid*., p. 19.
[23] RIGÓ, Balázs: 1867 as the Year of Constitutional Changes Around the World. *ELTE Law Journal* No. 2. 2017. pp. 43-45.; KÉPESSY, Imre: Föderalizmus, centralizmus, dualizmus - avagy a kiegyezéshez vezető út [*Federalism, centralism, dualism – or the way to the Compromise*]. In: MEGYERI-PÁLFFI, Zoltán (ed.): Szuverenitáskutatás [*Reseach on Souveregnity*]. Budapest, Gondolat, 2023. pp. 93-112.
[24] *Ibid*., pp. 20-21.
[25] RÉZ, Mihály: Gróf Andrássy választójogi tervezete [*Count Andrássy's draft act on suffrage*] In: Tisza István Választójog. Tanulmányok. [*Suffrage. Studies*] A Magyar Figyelő, Budapest, 1913, pp. 80–81.

9. Summary

In Hungary, electoral reform remained an unresolved issue in the era of the Dual Monarchy. The effect of the act of 1848 can be discovered in all acts regarding suffrage passed during that time. The drafts that were not adopted contained many compelling elements, but the politicians of the time did not take the risks they entailed.

Kristóffy's proposal sought both to create a solid foundation for the minority government and to move towards a more democratic system, while maintaining the monarchy. His idea for the Hungarian system was something very similar to what the Austrians achieved later.

Andrássy took a very conservative approach, and his aim was the opposite of Kristóffy's. The pact, however required him to respect the promised broad suffrage. By circumventing the promises, he wanted to ensure the survival of the political elite at the time, while at the same time widening the circle of those entitled to vote.

Vázsonyi, feeling the winds of change, wanted to introduce a broad suffrage for both men and women. But even amid the war, on the verge of the collapse of the Monarchy, the ruling class still did not see the need for change.

Therefore, in the era of the Dual Monarchy, no truly democratic act — at least according to the standards of the time — could be passed. The situation was no better after the World War I, as the elite of the Horthy era also hoped to maintain authority with the help of electoral laws. The first ever democratic election based on universal suffrage was held in 1945.

Zsófia GÉMES: The main tool of the subversion of the church: recruitment and network

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1. Introduction

After World War II, Hungary became part of the Soviet sphere of influence. Due to the Soviet occupation, the country could not fully regain its sovereignty, and consequently, classical intelligence services, which aim to protect and preserve the internal and external sovereignty of the state, could not be established. In contrast, the Soviet intelligence model was characterized by the class-oriented, constant, structured, uninterrupted search for enemies, forming the foundation of state security.[1] The communists considered the church and religion among their greatest political and ideological enemies. To reduce the risk the church posed, the communists relied on state security services in their anti-religious and anti-clerical struggle.[2] My study follows an organizational overview of Department III/III of the Ministry of Internal Affairs. I will examine subversion as a primary strategy in the fight against clerical reaction, as a state security tool, focusing particularly on its indispensable pillar, the network, and illustrate its practical implementation by describing a recruitment document.

2. Establishment of the Department III/III

According to a decision of the Political Committee of the Central Committee of the Hungarian Socialist Workers' Party, the state security organization was reorganized, resulting in the formation of the form of state security structure in 1962 that, with minor

[1] SZ. KOVÁCS Éva: Néhány gondolat az egykori magyar állambiztonság működéséről (elvek, eszközök, akciók) [Some reflections on the functioning of the former Hungarian state security (principles, instruments, actions)] In: *Levéltári Szemle [Archives Review]* 61. 2011, No. 1, p. 5.
[2] KÓSA László: Jelentés a „klerikális reakció" elleni frontról [Report on the front against "clerical reaction"] In: *Kommentár [Commentary] 2012, No. 3. p.* 113.

modifications, operated until the regime change.[3] Up to this point, the activities of state security were characterized by a high degree of continuity, primarily evidenced by the personnel, and the methods employed to acquire information.[4] As a result of the reorganization, the division into main directorates and departments replaced the previous system. The Ministry of Internal Affairs Department III (hereinafter referred to: MIA III) was responsible for carrying out state security tasks within this system. The activities of the MIA III were overseen by the main director, who was directly subordinate to the Minister of the Interior, and its activities were complemented by the county police headquarters, which essentially operated as the MIA III's county branches. Within MIA III, 5 departments were established, among which Department III/III was responsible for countering internal reactions, and its 1st department was responsible for countering ecclesiastical reactions (this form was established in 1972). Countering ecclesiastical reactions extended to all state security tasks that arose within all churches, sects, and religious orders. Accordingly, within the 1st department, tasks were divided as follows: countering internal reactions connected to the Roman Catholic Church and its leadership, countering internal reactions connected to Protestant and other churches, and countering sects.[5] It is important to note that the operation of the department as described was not yet fully established in 1962. After the reorganization, Department III/III required modification within a short period, and its organizational regulations only took their final form six months later. As a result, the organizational structure for countering internal reactions stabilized only in 1963.[6]

3. Subversion as a state security tool

Among the tools of Department III/III, subversion, along with isolation, discrediting, and detachment, were the most used. Subversion is a set of state security tools aimed at weakening groups, institutions, and disrupting group cohesion. Although the use of these tools was not novel, as similar combinations had been used previously, their significance increased with the change in the security mindset within state security, to which their

[3] BM KI 2180/1963. Qoted from: CSEH Gergő Bendegúz: *A magyarországi állambiztonsági szervek intézménytörténeti vázlata [The institutional history of the Hungarian state security services], 1945-1990,* In: Gyarmati György (ed.): *A Történeti Hivatal Évkönyve [Yearbook of the Historical Office].* Budapest, Alföldi Nyomda, 1999, p. 79.
[4] TABAJDI Gábor*: A III/III krónikája, [The Chronicle of III/III].* Budapest, 2013, Jaffa Kiadó, p. 13.
[5] CSEH, *op. cit*., pp. 79-85.
[6] TABAJDI, 2013, *op. cit.* p. 15.

dissemination is also attributable. The transitional period and the feeling of sufficient power by the one-party state after 1962 led to the omission of continuous demonstrations of power. The declaration of the consolidation of the system served as the background for the establishment of the MIA III. In contrast to the Rákosi era's "whoever is not with us is against us" mentality, the Kádár regime translated into practice the slogan "whoever is not against us, is with us" in the state security practice, leading to the spread of covert, sophisticated methods manipulating human relationships. Subversion and discrediting methods that did not disturb social peace were sufficient for managing groups that remained hostile even after prolonged retribution. In line with these trends, the primary task of state security agencies was primarily to prevent the development and seriousness of criminal activities rather than to impose retrospective penalties. Therefore, the primary goal was to interrupt hostile activities at an early stage without resorting to legal means.[7] The following section provides a more detailed examination of subversion among the mentioned tools.

For the emerging personnel of Department III/III, a comprehensive system of new solutions was available from 1963.[8] Subversion techniques were applied in four cases:

"1. in the case of small-scale, loose groupings, where no deep hostile activities were uncovered in the background (e.g., friendly or class reunions, card parties, rural cellar gatherings),
2. to prevent more serious crimes,
3. in the case of broader hostile activities, to detach the misguided,
4. if there was an opportunity to interrupt the entire operation by highlighting a single person."[9]

Such measures could only be taken after careful consideration. Before initiating actions, it was necessary to consider the domestic and foreign policy situation, as well as whether the activities of the hostile group were adequately controlled, investigated, and documented. Furthermore, care had to be taken to monitor and observe the leading figures. Various types of subversive procedures were applied, enumerating which highlights the possibilities that

[7] TABAJDI Gábor – UNGVÁRY Krisztián: *Elhallgatott múlt: A pártállam és a belügy, A politikai rendőrség működése Magyarországon 1956-1990, [The Silenced Past: The Party State and the Home Office, The Political Police in Hungary 1956-1990*] 2008, 1956-os Intézet, Corvina Kiadó, pp.168-169.
[8] *Ibid*., p. 169.
[9] *Ibid.,* p. 169.

could be deployed by state security. Two main groups can be distinguished, direct and indirect methods, which can be further subdivided into numerous subtypes.[10]

Within the direct subversive procedures, three subgroups can be distinguished: open police measures, covert police measures, and actions to be carried out by agencies. In the case of open police measures, attempts were made to achieve a deterrent effect through demonstrations of public authority by law enforcement agencies. These included open, violent, operational measures, such as violent surveillance or police identification checks. A telephone threat, warning, sending anonymous letters, or misusing some compromising information unknown to others about the target person also qualified as covert or veiled measure. The dissemination of such rumors (essentially slander) was frequently applied, and established practice by the political police at the time. Actions in the third subtype, i.e. subversive measures via agencies, could only be carried out after the establishment of an appropriate network. Special attention had to be paid to legalizing the data so that the person infiltrating the target group did not become suspicious of their associates. In cases where state security had several network people in a particular group, different roles were planned. In such cases, the main goal was for the infiltrated person to become a leading figure in the group and gradually steer meetings in a direction compatible with the one-party state. Exploiting the institutional system of social relationships proved to be an effective method to dismantle and divide the target group. An example is when a member of a group sentenced to subversion is obliged to report on the group's activities, and thus the "connection" itself essentially begins to subvert the group.[11]

Indirect subversive methods encompassed the application of various types of propaganda. However, the lack of their application appeared as recurring negative feedback in the state security summaries. Nevertheless, several cases became known where the publication of certain messages on television, press, and radio was motivated by some state security initiative.[12]

4. Church Subversion

[10] *Ibid*., p. 169.
[11] *Ibid*., pp. 169–170.
[12] *Ibid.,* p. 170.

During the organization of Department III/III of the Ministry of Internal Affairs III, commander István Berényi (who was already experienced in "clerical reaction suppression"), briefed on future tasks and past experiences for the personnel, with particular emphasis on intelligence work against the Vatican. In his presentation, he clarified the purpose and exact meaning of subversion in relation to the Church within the conceptual framework of the political police:[13] "*Using standard operational tools and other possibilities, we identify and search for internal contradictions within the category (ideological, personal, material positions, etc.), or we create such artificially to divert and weaken the strength of the category through internal conflict and discord, to bring opposing groups to the surface and expose them, to push reactionary elements out of their positions, to bring progressive forces to the forefront, and finally - since our presentation deals with the Church - to disillusion the believers.*"[14] Berényi also drew attention to the perspective based on experience, highlighting that stoking conflicts and tensions, and subverting the Church should be the focus, as this is far more valuable in the long term than arresting a certain number of priests. Additionally, he advocated for the immediate nationwide coordination of political police activities, operations, and surveillance. Subversion aimed, among other things, to influence the Church press and integrate into the Catholic Episcopal Conference. However, the primary focus of Department III/III was the detection of centers of clerical reaction, but their activities also aimed to map and manipulate the hidden connections with the Vatican. To achieve this, emphasis was placed on increasing tension between the Episcopal Conference and priests and weakening our connections with the Vatican. It is also important to note the goal of integrating into seminaries, students, and faculties, and special attention was paid to those who left the profession, as they were considered potential recruits, thus expanding the network within the Church.[15]

5. The Significance of Networks in Hungarian State Security Operations

The primary tool of covert operations was the network, consisting of collaborators of state security services and agents.[16] The pivotal role of network activities was due to their unique

[13] TABAJDI Gábor: *Bomlasztás, Kádár János és a III/III, [Subversion János Kádár and the III/III]* Budapest, 2019, Jaffa Kiadó pp. 37–39.
[14] ÁBTL 4.1. A-3794. In: Ibid., pp. 37–38.
[15] *Ibid*. pp. 37–39.
[16] Sz. KOVÁCS, *op. cit*., p. 6.

capacity for in-depth intelligence gathering, unmatched by any other means, as political investigators owed much to this method. Within the scope of this intelligence work, network personnel could gather secret data and evidence about individuals, groups, and organizations, infiltrate organizations performing subversive activities, and obtain state security-relevant information from capitalist countries. Furthermore, they could detect and document traces, and anomalies, uncover the locations of documents and records, gain access to premises, and introduce operatives where it would not have been possible by other means and tools. The framework and comprehensive regulation of network operations were defined during the stabilization of state security in 1963. The operation of the network, and certain mechanisms, was carefully, and in sufficient detail.[17]

It is important to mention that the operational forces of state security, which, as an official, social relationship, or occasional operational connection, were composed of those who did not form part of the agent network directly; however, like the state security, they expected reports from them. They could be categorized as official contacts, leaders of social and economic life, party secretaries, various ranks of military leaders, factory directors, etc. Due to their position, they were obliged to cooperate with state security, as when they accepted the given position, they essentially committed to cooperating with state security, but they were not registered. Unlike agents, their reports were always verbal, which was recorded by a professional state security officer. The loyalty of people to power was a social relationship that was considered, which approached or volunteered information, and supported state security work. Foreigners, foreign citizens, who volunteered to cooperate out of leftist ideological conviction, formed this group. Those in the category of official contacts were not registered either and did not have a file or a cover name. They did not sign a cooperation agreement, as they were not established with them by recruitment, but were commissioned into the service of state security. Their main task was primarily information sharing, which they collected at political and social events, and during foreign trips. The third category, that is, the occasional operational relationship, was represented by individuals who assisted in the work of state security agencies in a specific action. As with the other two categories, they were not registered, acted without a cover name, and their reports were also verbal.[18]

[17] TABAJDI, 2019, *op. cit*., pp. 171-176.
[18] Sz. KOVÁCS, *op. cit.,* p. 7.

6. Tasks of the Recruited Individuals and their Recruitment Process

In addition to their tasks of secret information exploration and collection, the recruited individuals had numerous tasks. Among other things, research, enemy mining intensification, surveillance, prison exploration and prison clearance, positive influence, or, on the contrary, isolation, and detachment also fell within their responsibilities. Furthermore, in addition to these state security-relevant tasks, it was also important for the network to carry out important activities, such as finding and studying candidates and in certain exceptional and justified cases to execute foreign recruitment, thereby ensuring their connection. The previously detailed subversive activity was also part of their job description, which detailed the ecclesiastical aspects later. The recruited people had specific obligations. In addition to the precise execution of the tasks they took on, they were required to continuously update and expand their operational opportunities and political knowledge, as well as report on relevant state security data and the criminal activities that came to their knowledge. Following the greatest obligation, they were required to prevent serious crimes against the state, risking not only exposure but even their lives. It was a unique feature of Hungarian state security that it not only defined the duties of the employed but also set out their rights and informed them of the compulsory recruitment when commissioned. Based on these, the network personnel were entitled to compensation if they were harmed in the course of their duties. In the event of long-term and "fruitful" cooperation, they were able to seek assistance in the event of existential, financial problems. Furthermore, the actions they carried out under instructions did not burden them with responsibility, as it was the state security service that bore responsibility. The very first step in the recruitment process was the selection of candidates, which took place along four basic principles: the reliability of the person in question, the goal, suitability, and the possibility of establishing secret cooperation. For example, they considered the person's relationship with the target objectives as an operational opportunity, possibly even the person's position there. Ecclesiastical centers also counted as target objectives. This step was followed by the candidate's study and verification through complex steps. Part of this was a personal acquaintance, which an experienced operational officer, who reacted well to unexpected situations, usually took on. This recognition could be open or covered. In the latter case, the officer measured the candidate through a fictitious identity, with a fabricated excuse, in a well-justified meeting. It is important to mention that at this stage, it was prohibited to take

any recruitment or recruitment steps. The next task was to process the collected data and based on these conclusions and analyses, proposals and acquisition plans had to be prepared, specifying the place, time, the basis of recruitment, and its method, as well as the candidate's specific and frame-based tasks. In carrying out the acquisition, it was crucial to write the declaration of cooperation, which, along with personal data, had to be signed by hand under a real name in one copy. If incriminating data played a role in recruitment, the declaration stated that after a certain time worked off, the candidate would be relieved of their responsibilities.[19]

7. Church personnel's recruitment

Recruitment affected numerous church personnel, enabling infiltration to initiate the internal erosion of the church. This, along with employing other tools of erosion, significantly impacted church operations and consequently increased the vulnerability of worshippers to political interests. The phase functioning as the antechamber to church-related recruitment required special attention during candidate scrutiny to the candidate's position and placement within the group they sought to infiltrate. This was primarily due to the hierarchical structure of the church, which posed limits on information acquisition. Higher-ranking church officials often deemed it inappropriate to engage in confidential discourse with those lower down in the hierarchy. Therefore, despite the potential for a candidate's recruitment to serve as valuable reconnaissance, hierarchical constraints could hinder the acquisition of relevant information. Thus, during candidate selection, it was essential to designate individuals who held equivalent authority within the target group or category, treating them as peers. Furthermore, considerations included understanding relationships, friendships, and conflicts among the target group and the candidate, as well as assessing the candidate's level of fanaticism. Evaluations also focused on the candidate's suitability and aptitude, with significant emphasis placed on understanding their life, environment, habits, and mindset. Knowledge of these aspects was crucial for recruitment, as familiarity with them facilitated leveraging information disparities in favor of state security. Information gathering encompassed organizational structure within the church, distinctive features of the candidate's diocese, and its issues. This ensured candidates recognized and internalized that all information regarding them and their surroundings was known, leaving no room for evasion. Prior to recruitment, research was conducted into the

[19] TABAJDI, 2019, *op. cit.,* pp. 171–176.

candidate's political, moral, and economic activities, as compromising aspects therein were often utilized during recruitment.[20]

Officers utilized persistent and extensive fatigue tactics preceding actual recruitment. This involved years of regular visits by handlers to prospective candidates, gradually involving them in network activities step by step, a process that could extend over 6–7 years. Following the assessment of church personnel in their prospective roles, the recruitment process ensued. Specific methods of handlers differed from standard recruitment practices at certain points. Notably, with clerics, their unique spiritual perspective from years of communal living was considered as was their higher intelligence, enabling them to easily detect inconsistencies and draw conclusions. Thus, handlers generally avoided using authoritative or confrontational tones with church personnel. They approached these individuals with patience, emphasizing their willingness for state security work, while reinforcing their steadfast faith in God. For cases where clerics insisted on limiting their availability to certain areas or conditions, recruitment hinged on evaluating the utility of their potential activities, ensuring confidentiality and agreement. To prevent agent exposure, church personnel were strictly prohibited from being recruited in internal ministry or police settings, as initial suspicion in ecclesiastical circles was directed towards anyone connected with law enforcement. Among the most pressing concerns during clerical recruitment was the risk of conscience. While this issue also existed among secular individuals, it posed a particularly high danger to clerics, given the methods affecting the consciences of the masses employed in priestly activities. Consequently, it was mandatory to meet with new agents during the most critical period, 3–4 days following recruitment, establishing a sincere atmosphere to unearth specific information during potential confessions.[21]

In addition to recruited church connections, state security agencies maintained "social relationships," which proved notably effective, as clerics were more inclined to accept this type of engagement over an agent position. Although Catholicism was the focal point of counterintelligence activities, state security agencies employed agents and social connections in every church, including unrecognized religious congregations, from upper leadership circles down to lower clergy.[22] Surprisingly, the most revealing venues for recruitment were church-affiliated,

[20] KISS Réka – SOÓS Viktor Attila – TABAJDI Gábor: *Hogyan üldözzünk egyházakat? Állambiztonsági tankönyv tartótiszteknek [How do we persecute churches? State security textbook for prison officers]*, Budapest, 2012, L'Harmattan Kiadó, pp. 140-142.
[21] *Ibid*. pp. 142-143.
[22] KÖBEL Szilvia: „Aktív ateista propaganda" Politikai rendőrség és egyházpolitika ["Active atheist propaganda"- Political police and church politics] In: *Beszélő [Speaker]*, 2002. szeptember-október, No. 9-10. p. 70.

particularly Catholic secondary schools. During the period under review, Hungary had such schools, each with an average of 300 students, half of whom resided in boarding facilities. In the 1960s, state security agencies conducted reconnaissance and counterintelligence through a "factional agency" concerning ecclesiastical secondary schools. However, reports from monks primarily concerned factional activities, limiting the political police's access to information crucial for erosion (teacher-student relationships, internal life within secondary schools, hostile expressions). This led to a strategic shift in the mid-1960s, emphasizing recruitment among young students, identifying those suitable for information service and agent duties, and expanding "social relationships" into this realm.[23] Related to this, I will summarize the content of a report made about recruitment.

8. Recruitment of Agent Musician - study of a symptomatic case

Following an overview of the cornerstones of political police activities, church subversion, and recruitment, I am analysing an excerpt from a description of a recruitment process. This detail allows for a comprehensive examination of how the stages interweave during recruitment, illustrating the practical application of various techniques and tools. The description focuses on the recruitment of a candidate under the codename "Musician".[24] But how did agents of state security establish close contact with a student from a monastic high school?

Those responsible for recruitment were informed that an investigation had been initiated into a 17-year-old student at the monastic high school within their area of oversight, based on allegations of forcible sexual intercourse. Agents of the political police joined the investigation early on, and as a result, based on information provided by individuals interviewed early in the process, new individuals were summoned for questioning, including the candidate "Musician". During his interrogation, a friendly atmosphere was established, and as a result, without tension, he readily responded to the questions posed to him, thereby providing valuable information to the officers, piquing their interest. Following the interrogation, the officers visited a pastry shop the candidate had previously mentioned as a favorite hangout, ensuring they were present when students left the boarding school. The officers' goal was to maintain the appearance of a chance encounter. They succeeded in this endeavor as the candidate recognized the officers and invited them

[23] *Ibid.* p. 71.
[24] TH 260/49 In: *Ibid.* p. 72.

to his table. The young man enthusiastically and with childlike openness inquired about the conditions required to become a detective. The officers evaded a direct response by claiming it was a complex question that would require another occasion for discussion. Nevertheless, according to the account, they "naturally" told the boy that as a religious student, he would not be a good detective and would not meet the necessary criteria. Later, the officers invited the candidate to a more suitable place than the pastry shop, where they discussed topics related to the "detective school" and related questions, continuing the conversation paused at the pastry shop. During the meeting, it became apparent that the candidate was extremely interested in these subjects and wanted to learn judo, at least a few moves. The officers assured the boy that there was no obstacle to teaching him a few moves and that they would provide him with novels on topics of interest to him in the future. Furthermore, they drew his attention to how uncomfortable it would be for him if his educators were to become aware of this – whether through him or one of his peers – thus beginning to instill in him the awareness that he should not speak to anyone about these conversations or meetings. Moreover, the officers asked him whether he would be capable of keeping secret the information provided to him for internal use, even during confession before his superior. The boy assured the officers that he was not accustomed to discussing his private affairs with either his peers or his superiors. He further explained, *"Even though I attend a monastic high school and receive a religious education, I'm not so stupid as to confess everything."*[25] Following these discussions, the officers summarized their experiences with the candidate, evaluated what had been said during their conversations, and decided to prepare a plan for maintaining contact with him in the future. They believed that recruiting the candidate was necessary and that the information gathered about his suitability was promising. Thus, the selection of the candidate was made, and the second phase mentioned above, involving the study and verification of the candidate, began.[26]

The description further details how the officers employed several operational tools during this phase: they checked the boy's reliability and, through environmental studies, became acquainted with his family. As promised, they also considered teaching him a few self-defense moves in a secluded place away from the city, alongside emphasizing the

[25] *Ibid*. pp. 72.
[26] *Ibid*. pp. 72.

importance of silence and discretion on every occasion. They succeeded in making the boy feel that they were doing him a favor, that it was advantageous for him to obtain valuable information through them, which would become worthless as soon as he mentioned it to anyone else. During the meetings, despite the candidate's lack of attention, they managed to obtain valuable information from an operational perspective regarding the internal order of the church high school and its boarding school. The candidate gradually allowed the infiltrating officers closer into his confidence and, after some time, sought their help with his personal, cherished, youthful problems, stating that he did not have a suitable friend or teacher with whom to discuss these topics. The Musician also emphasized to the officers that they were the first people in his life with whom he could comfortably share these concerns. It became clear to the officers that the school's catering left much to be desired, so they offered him sweets and sandwiches alongside the theater and movie tickets on occasion. Initially, he received these to take his female acquaintances along; subsequently, the officers designated companions for him to attend performances, whom they found operationally interesting. Summarizing the study and verification phase, the officers considered Musician to be charismatic, possessing above-average intelligence, and reliable, thus proceeding with the recruitment.[27]

After discussing the Musician's academic plans and family circumstances on the morning of the recruitment, the officers directed the conversation towards the actual recruitment. They outlined for Musician the relationship between the state and the church, agreements, and requirements concerning monastic high schools, and discussed a few disobedient, reactionary teachers who did not meet state requirements, highlighting the detrimental effects of their actions. They thoroughly reviewed the consequences of hostile education and how it would affect the youth's entire life. Following this introduction, they moved on to explain that their task was to prevent this from happening, for which they needed the opinions of reliable, intelligent, serious individuals to identify and halt those engaging in reactionary activities and redirect the youth onto the right path. They further explained that those involved in such activities needed to become part of a group where members were sufficiently reliable, emphasizing how important it was for the existence and activities of this group to remain secret. Subsequently, they invited Musician to assist them in achieving

[27] *Ibid*. pp. 72-73.

these goals. The candidate responded affirmatively, expressing his condemnation of certain superiors' behavior and providing information about them. This reassured the officers that the candidate understood the task, agreed with the ideological aspect, and wanted to play a part in the fight against reactionaries. Musician drafted the confidentiality statement and made a concrete agreement with the officers regarding their future relationship. Subsequently, they selected a codename for the candidate, officially becoming "Musician". The friendly relationship and minor financial rewards completely tied the student to the network, allowing Musician to unconditionally and unscrupulously provide information about his teachers, classmates, the internal life of the high school, and the boarding school to state security. In this way and similarly, the state security apparatus managed to entrap numerous individuals, including the 17 monastic students, into serving the political police from their convictions or out of fear or compulsion, thereby betraying masses of people to the state.[28]

9. Summary

As we have seen, the activities of Division III/III were extremely extensive and complex during its operational period, employing various tools and methods to achieve the objectives of internal counterintelligence. Their activities spanned numerous areas, applying general methods with variations in certain areas, and adapting specific strategies to the characteristics of the environment. In line with Hungary's state ideology, countering clerical reaction required more meticulous planning within the political police regarding church systems and church education characteristics. Following the concise description of the organizational structure and the summary of the general characteristics of subversion, as well as the specific characteristics of church subversion, I wanted to illustrate this through the summarization of the general and church-specific methods of establishing networks, following a detailed description of the recruitment process of a student attending a monastic high school. In conclusion, in service to the ruling ideology, the political police went to extremes, employing highly sophisticated, time-consuming but highly effective processes to build their most powerful weapon against internal reaction: the extensive, all-encompassing network.

[28] *Ibid*. 73-74.

Levente HALLGATÓ: The Changes in the Institution of the Regent in the Horthy Era

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1. Introduction

The Horthy-era, spanning from 1920 to 1944, marked a period in Hungarian history that brought significant changes in society, politics, and the economy. Consequently, the country's legal system underwent substantial transformations compared to previous decades. Among these changes, the most notable was the reestablishment of the institution of the regent.

Although this office has considerable history, the variant held by Miklós Horthy differed in many respects. Several factors contributed to these differences. Firstly, Hungary emerged from World War I as a defeated country and ended up without a monarch. Subsequently, the Treaty of Trianon resulted in the loss of most of the the country's territory and population, which led to a turbulent period where extreme ideologies gained ground and various forms of government succeeded one another. This environment further divided society regarding how to plan the nation's future. To manage these challenges, the regent's office was chosen for its flexibility to adapt to the era's demands, resulting in a series of remarkable developments.

2. The Previous Regents

To make the said developments sensible, it is necessary to showcase the institution's historical background.

The regent (also known as gubernator or governor) was an position serving as a substitute for the king, that was used in cases of the king's incapacity due to insanity or minority. The

appointment was done by the monarch, or in his absence, by the parliament.[1] Using this definition, the first recorded use of this institution can be seen during the reign of Ban (Viceroy) Belos,[2] who governed Hungary during the minority of King Géza II.[3]

Of all the pre-Horthy regencies in Hungary, János Hunyadi's is undoubtedly the most important. In 1446, he was unanimously elected by the Diet to serve alongside László V.[4] His powers were derived from those of the king but were limited in some respects. This was the case in his judicial powers (he could not grant pardons), appointment rights (which did not belong solely to him) and the restrictions on the donation of property. In 1458, under similar circumstances, Mihály Szilágyi became regent during the minority of Matthias Hunyadi.[5]

However, over the centuries, there have been examples of broader, unconstitutional interpretations of the institution[6] as seen regarding the Gubernium, when the king – bypassing of the estates of the realm – appointed Johann Caspar von Ampringen as regent. In practice, he acted as a quasi-regent, because he merely carried out the king's instructions whilst the monarch was abroad.[7] This did not last long, as reflected by the short life of the Transylvanian Governorate from 1673 to 1677.[8]

On April 14, 1849, the Declaration of Independence was adopted (and published five days later), in which the National Assembly elected Lajos Kossuth as "governing president" following the dethronement of the Habsburg dynasty. Some argue that Kossuth was elected as a regent, but after the dethronement there was no monarch to replace. On the other hand, according to the grammatical interpretation suggested by Barna Mezey, the title

[1] MEZEY Barna – GOSZTONYI Gergely (szerk.): *Magyar alkotmánytörténet [Hungarian Constitutional History]*. Budapest, 2020. Osiris tankönyvek. 142. p.
[2] SZALAY József – BARÓTI Lajos (szerk.): *A magyar nemzet története [The History of the Hungarian Nation]*. Budapest, 1896-97. Lampel Róbert (Wodianer Ferenc és Fiai) Császári és Királyi könyvkereskedése.
[3] CSEKEY István: A kormányzó és jogköre [The Regent and his Jurisdiction]. *Magyar jogi szemle*, 1920. 5. sz. 17. p.
[4] SZALAY – BARÓTI 1896-97.
[5] MEZEY – GOSZTONYI 2020. 142. p.
[6] MEZEY – GOSZTONYI, 2020. 409. p.
[7] MEZEY – GOSZTONYI 2020. 141. p.
[8] MEZEY – GOSZTONYI 2020. 187. p.

indicates a president who governs their country.[9] The latter argument led many to associate this "regency" with a republican presidency, making this the first Hungarian republic.[10]

Taking the previous into account, József Juhász distinguished three types of regents in the history of Hungary. The first were tutelary regents (e.g., Ban Belos and János Hunyadi), after them were lieutenant Regents, who were under a ruling monarch with active legal capacity. The final group comprises Kossuth and Horthy, since during their regencies the link between the king and the nation ceased. Thus, Miklós Horthy has only one true predecessor: Lajos Kossuth.[11]

3. Why the Regent?

On 13 November 1918, Charles IV in the Eckartsau Proclamation declared his resignation from participation in state affairs and stayed abroad until his failed attempts to return in 1921. The link between the king and the nation was *de facto* severed. It became essential to find an interim, temporary solution for the head of state's powers.[12] Shortly after, Hungary became a people's republic and then a Soviet republic. After the fall of the latter in August 1919, governments changed frequently, but they had one thing in common: the principle of legal continuity.[13] These ambitions aimed the restoration of the pre-war status quo, forcing them to find the suitable solution amongst the pages of Hungarian legal history.[14]

Some argued that, based on the still effective 1485 palatinal articles, a palatine should have been elected as the king's general deputy, including during his absence.[15] However, it was impossible to implement due to the title's characteristics. According to Act III of 1608, the palatine was elected by the joint session of the lower and upper houses of parliament from four candidates proposed by the king. But the country was left without a king, and instead

[9] MEZEY – GOSZTONYI 2020.
[10] MEZEY Barna: A köztársasági elnök a magyar joghistóriában (különös tekintettel a köztársasági elnök jogállására) In Pölöskei Ferenc: *A köztársasági eszme és mozgalom Magyarországon [The Republican Ideology and Movement in Hungary]*. Budapest, 1990. Eötvös Loránd Tudományegyetem Bölcsészettudományi Kar. 97-100. p.
[11] JUHÁSZ József: Kormányzói jogkör és a kormányzóhelyettesi intézmény (The Jurisdiction of the Regent and the Institution of Deputy Regent). *Országút*, 1936. 2. sz. 3-7. p.
[12] CSEKEY 1920. 17. p.
[13] MEZEY – GOSZTONYI 2020. 334. p.
[14] CSEKEY 2020. 17. p.
[15] KÉPES György szerk.: *Magyar alkotmány- és közigazgatás-történet a polgári korban*. Budapest, 2013, ELTE Eötvös Kiadó. 77. p.

of a bicameral Parliament a unicameral National Assembly (*Nemzetgyűlés*) was established.[16] Act XXII of 1526 stipulated that the palatine should be elected for life, which collided with the need of a temporary solution. Moreover, a palatine could not exercise full royal powers, such as sanctioning laws, so appointing a palatine would effectively leave the role of head of state unfilled.[17] However, this did not mean the complete uselessness of this title: the scholars of the Horthy era used the palatinal role to legitimize the institution of the deputy regent.[18]

The contemporary legal interpretation aligned with the idea of legal continuity. This led to the broad interpretation of the regent's constitutional role, allowing its appointment.[19] The National Assembly, temporarily elected in January 1920, re-established the regent's office in Act 1 of 1920, electing Miklós Horthy in March 1920. The law drew from historical traditions and laid down the fundations of the unique solution, which was named "Kingdom without a King".[20]

György Képes distinguishes three phases in the development of the regent's office, which accurately highlights the differences in Horthy's powers throughout his reign.[21] The following sections rely on this classification.

4. The Regent as President

The regent played a role similar to that of a president in Hungarian legal history from the re-establishment of the title (done by Act 1 of 1920) to the death of Charles IV on April 1, 1922. This view is supported by the contemporary writings of István Csekey, who noted that the state form was "essentially moving towards a kingdom but unable to completely break free from the forms of the republic".[22]

Act 1 of 1920 followed the practice developed during János Hunyadi's regency, which meant the explicit definition of the regent's powers,[23] but with stronger limitations than that of

[16] 1918. évi. I. néptörvény (Peoples' Law I. of 1918)
[17] CSEKEY 1920. 18. p.
[18] JUHÁSZ 1936. 6. p.
[19] MEZEY – GOSZTONYI 2020. 298. p.
[20] MEZEY – GOSZTONYI 2020. 143. p.
[21] KÉPES 2013. 352-359. p.
[22] CSEKEY, 1920, p. 17.
[23] MEZEY – GOSZTONYI 2020. 410. p.

Hunyadi's.[24] This happened due to the uncertain nature of the position, because the goal of the National Assemby was to prevent the rise of a military dictatorship [25] from a title that was intended to serve as a temporary solution.[26] These restrictions weakened as Horthy's position stabilized.[27]

Horthy's legal status greatly differs from that of a monarch. Unlike the king, the regent was not considered *majestas*, hence the modification of the prerogatives conveying respect was required.[28] He had to be addressed as "His Excellency the Regent", which some opposed, because the same form was used for the dukes of the country, thus it did not symbolize the appropriate hierarchy.[29] He received honorarium from the National Assembly, but he was not entitled to royal compensation.[30] Horthy had immunity only from criminal prosecution, meaning he could be held accountable in a manner similar to the ministerial responsibility of 1848.[31] This impeachment-like[32] solution was dubbed as a legal absurdity by Csekey, who thought that immunity from criminal prosecution and accountability are mutually exclusive, which reflected the republican spirit of the National Assembly. [33]

The king's right of patronage[34] over the Catholic Church was taken away from Horthy by the act. This was unusual, as in 1446, the right was restricted to bishoprics and minor ecclesiastical properties. This decision aimed to deprive the Protestant Horthy from shaping the Catholic Church's organization, although Csekey thought this could have been achieved by other, less extreme ways.[35] By the end of the year, the Protestant Churches demanded the regulation of patronage rights.[36]

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[24] KÉPES 2013. 77. p.
[25] See: Béla Turi's speech in the National Assembly (*Nemzetgyűlési Napló*, 1920. I. Kötet 56. p.)
[26] OLASZ Lajos: A kormányzói és kormányzóhelyettesi jogkör [The Jurisdiction of the Regent and Deputy Regent]. *Rubicon*, 2009. 1. 29. p.
[27] MEZEY – GOSZTONYI 2020. 410. p.
[28] KÉPES 2013. 78.p.
[29] KÉPES György: *A kormányzó: királyhelyettes vagy de facto köztársasági elnök? (The Regent: A Substitute for the King or de facto President?)* Budapest, 2020. Pázmány Press339. p.
[30] OLASZ 2009. 30.p.
[31] MEZEY – GOSZTONYI 2020. 410. p.
[32] KÉPES 2013. 78.p.
[33] CSEKEY 1920. 261-262. p.
[34] See: MEZEY – GOSZTONYI 2020. 134. p.
[35] CSEKEY 1920. 262. p.
[36] See: Kováts J. István felszólalása, *Nemzetgyűlési Napló* 1920. I. kötet 408.p.

The restriction of legislative rights led to significant debate.[37] The National Assembly declared itself as the sole legislative power and drifted from the balance set up by doctrine of the Holy Crown.[38] As a consequence the king's absolute (constitutive) veto[39] turned into a weak, suspensive veto, meaning laws could be returned for reconsideration, but the National Assembly could maintain the original text.[40] Another restriction can be found in the operation of the National Assembly. The Regent was not able to prorogate its sessions, dissolvement was only possible in the event of a prolonged parliamentary dysfunction.[41]

In the field of justice, the limitation of pardon rights appeared, which have been present since the roots of the institution. Individual pardons remained a discretionary decision of the Regent – exercised with countersignatures –, while the right to amnesty was removed by the National Assembly, who incorporated it into its own powers.[42] Csekey found this unnecessary at a time when political crimes were becoming frequent.[43]

The relationship with the executive branch was based on Act 3 of 1848,[44] requiring ministerial countersignature for the regent's actions. He could propose legislation through the ministers.[45] Traditional powers of the head of state[46] were also affected. Horthy was unable to grant nobility, which the public opposed as it left wartime acts of heroism unrewarded.[47] His prerogative in foreign affairs allowed him to form alliances and treaties[48] through the government, but parliamentary consent was necessary for those affecting legislative matters.[49] Concerning the war prerogative, the regent remained the army's supreme commander, but war declarations, peace treaties and the deployment of troops abroad required parliamentary approval.[50] Horthy opposed these disproportionate restrictions, particularly regarding military matters, since he was a respected admiral of the

[37] Compare Béla Turi's speech, *Nemzetgyűlési Napló* 1920. I. kötet 51-60. p. and CSEKEY 1920. 17. p.
[38] CSEKEY 1920. 17. P.
[39] MEZEY – GOSZTONYI 2020. 295.pp.
[40] OLASZ 2009. 29. p.
[41] KÉPES 2013. 78. p.
[42] KÉPES 2013. 79. p.
[43] CSEKEY 1920. 262. p.
[44] MEZEY – GOSZTONYI 2020. 413. p.
[45] KÉPES 2013. 78.p.
[46] See: MEZEY – GOSZTONYI 2020. 403. p.
[47] OLASZ 2009. 30.p.
[48] CSEKEY 1920. 262. p.
[49] OLASZ 2009. 29.p.
[50] KÉPES 2013. 79. p.

Great War, causing him to consider rejecting his mandate.[51] This dilemma contributed to changes in his competences.

The first extesion of competences occurred relatively soon, with the enactment of Act 17 of 1920.[52] Among the powers related to the operation of the parliament, the new Law restored the just revoked prerogative of prorogation,[53] and reverted the regulations on adjournment and dissolution to their former conditions.[54] Prorogation was limited to a maximum of thirty days but did not prohibit its occurrence on multiple occasions consecutively.[55] The dissolution regulation expanded the narrow possibility of prolonged parliamentary dysfunction.[56]

In connection with the judiciary, the regent regained the right to grant amnesty. The only limitations were those of a king's, meaning only the National Assembly could grant pardons to government officials and the president of the State Audit Office.[57] Horthy promptly began exercising this authority. In his decree issued 25 December 1920, he granted amnesty to those convicted of political crimes between 1918 and 1920, unless they were associated with Bolshevism.[58] This simultaneously exempted perpetrators of the White Terror and participants of the uprising in Western Hungary from accountability.[59]

With the war prerogatives limitations being the most grieved by Horthy, a compromise was reached. Although the right to declare war and make peace remained bound to the National Assembly's prior approval, a new course of action was introduced. In the event of a direct and imminent threat, the armed forces could be deployed abroad, the only requirement being the subsequent approval of the parliament.[60] However, this consent did not have any

[51] MEZEY – GOSZTONYI 2020. 413. p.
[52] KÉPES 2013. 80.pp.
[53] MEZEY – GOSZTONYI 2020. 413. p.
[54] KÉPES 2013. 80. p.
[55] OLASZ 2009. 31.p.
[56] KÉPES 2013. 80.p.
[57] OLASZ 2009. 31.p.
[58] KÁNTÁS Balázs: *A Horthy-korszak első éveiben működő magyar ragikális jobboldali titkos paramilitáris szervezetek töredékes története, 1919-1928. I. Milicisták [Hungarian radical-far right paramilitary organizations in the first years of the Horthy Era, 1919-1928: I. Militias]*. Budapest, 2022. Horthy-Korszak Kutatásáért Társaság. 90p.
[59] OLASZ 2009. 31. p.
[60] KÉPES 2013. 80.p.

significance after a possible misguided decision, only the accountability towards the National Assembly remained as a response.[61]

The latter also played an important role in the fact that this law did not alter the Regent's accountability, because that served as a guarantee against the compromises. This period formed a moderately strong head of state, which was weaker compared to presidential systems or monarchies.[62]

Things became complicated, when Charles IV attempted to return to the throne of Hungary twice, citing the invalid nature of his resignation.[63] Both attempts ended in failure, the second being stopped by force in the battle of Budaörs, which led the National Assembly to declare the third and final dethronement of the Habsburg dynasty. This was declared in Act 47 of 1921, which also explicitly stated that Hungary's form of government remained a kingdom.[64] This sentiment paired with the 1922 death of Charles IV dispelled the (mis)belief of the regents' provisional nature.[65]

5. The regent, as the president of a republic with royalist undertones

The main ambition of the National Assemby, which operated from 1920 to 1922, was the restoration of the bicameral parliament. The legislative body failed in this aspect.[66] The reason of said failure was the lack of laws on suffrage and the unsuccessful restoration of the House of Magnates. This caused Prime Minister Bethlen to issue a decree scheduling a new parliamentary election, which resulted in a parliamentary majority that made the correction of previous letdowns possible. Bethlen's electoral decree was elevated to the force of law and the Upper House (*Felsőház*) of Hungary was set up by Act 22 of 1926.[67]

Accordingly, the legislative power was exercised by the new, bicameral National Assembly (*Országgyűlés*).[68] The rebirth of the second chamber opened the door for Horthy to acquire another pre-war royal prerogative, that was the right to appoint members to the Upper

[61] OLASZ 2009. 31. p.
[62] OLASZ 2009. 31.p.
[63] KÉPES 2020. 343. p.
[64] MEZEY – GOSZTONYI 2020. 417.p.
[65] KÉPES 2013. 81.p.
[66] KÉPES 2020. 355. p.
[67] KÉPES 2020. 345. p.
[68] OLASZ 2009. 31. p.

House. The law from 1885 allowed the king to appoint 50 members for life. The new provisions, due to the decrease in population and membership, reduced the appointable members by the regent to 40, while the appointment's lifelong quality was not modified.[69]

The establishment of the Upper House warranted an overhaul of the accountability of the regent. The procedure used the scheme provided by Act 3 of 1848.[70] The House of Representatives initiated the prosecution, for which a two-thirds majority was required instead of the previous simple majority.[71] The judgement was made by a court composed of members of the Upper House.[72]

Its final amendment stated that in the event of a vacancy in the regent's title before the final resolution of the head of state, a new regent shall be elected.[73] This would have been done through a joint ballot of the two chambers. Because the government was not expecting a vacancy of the title, further details were not specified, the only criteria being the age of majority and Hungarian citizenship.[74]

Horthy was satisfied with these revisions and gradually withdrew from politics. He entrusted the prime minister with exercising the executive power, while he adopted a representative role. However, this changed at the early 1930s, since the Great Depression forced the regent to strengthen his political involvement. His primary goal was to ensure order.[75]

When Gyula Gömbös was appointed Prime Minister, he pledged to accomodate Horthy's demands by incorporating the unrestricted prorogation and dissolution of the National Assembly within his competences.[76] Therefore, act 33 of 1933 was enacted. It stated that the regent was only tied by the bounds set by the final accounts act and budget laws in regards to the adjournment and prorogation of the National Assembly, while he did not need to take even these to account for its dissolution.[77] As the head of state thus obtained complete royal

[69] MEZEY – GOSZTONYI 2020. 413. p.
[70] KÉPES 2020. 345. p.
[71] 1848. évi III. törvénycikk [Law III of 1848] 33. §
[72] OLASZ 2009. 31. p.
[73] KÉPES 2020. 345. p.
[74] OLASZ 2009. 31.p.
[75] OLASZ 2009. 31. p.
[76] OLASZ 2009. 31. p.
[77] MEZEY – GOSZTONYI 413. p.

prerogatives towards the legislative body, the time limit of 30 days regarding prorogation ceased to exist.

In the 1930s, prime ministers aimed to maintain a strong relationship with the regent, as it bolstered their political power, because exercising the newly institutionalized powers freed them from "the need to bargain with parliament".[78] The evaluation of this expansion does not classify it as an establisher of an anti-parliamentary system, because both conservative and liberal circles who voted for it shared the same belief, that the range of the Regent's powers will be used to fight such tendencies.[79]

6. The Regent, as the Uncrowned King of Hungary

Law 19 of 1937 was the turning point in the perception of the regent's constitutional status. The law became the subject of "legal-political debates", even conservative circles rejected the original proposal.[80] The revised – and eventually passed – version, according to Csekey, made Horthy the uncrowned king of the country.[81]

The suspensive veto from 1920 was modified, but it did not give the regent an absolute veto. This allowed laws passed by the National Assembly to be returned twice for reconsideration, both being six-month intervals.[82] This meant that Horthy could have obstructed the adoption of laws he objected to for up to a year, [83] but he never exercised this power.[84]

Hidden within the legislation is a crucial change stating that the „Regent cannot be held accountable by the National Assemby". This rendered the head of state immune, abolishing the "legal absurdity" criticized by Csekey.

In 1937, the 68-year-old Horthy mentioned in his letter to Prime Minister Kálmán Darányi, that he did not request the previous extension of his powers. Based on his 17 years of

[78] OLASZ 2009. 32. p.
[79] OLASZ 2009. 31. p.
[80] OLASZ 2009. 32. p.
[81] KÉPES 2013. 81–82. p.
[82] MEZEY – GOSZTONYI 2020. 411.p.
[83] If after the returns the parliament was dissolved by the governor or its mandate ceased, the law was removed from the agenda. However, there was no discretion regarding a law of identical content adopted by the new National Assembly. Thus, it could delay enforcement for up to a year and a half. (OLASZ 2009. 32.p.)
[84] KÉPES 2013. 82.p.

experience, his sole desire was to regulate succession in a way that would prevent an unworthy individual from assuming the title.[85] This law granted him the right to nominate successors. The regent could select three adult citizens as potential successors (neither more nor less, as either would invalidate the nomination), without ministerial countersignatures.[86] The nomination did not bound the National Assembly, as the chambers during joint sessions could put forward another candidate through a ballot.[87] From the start of the would-be vacancy until the new regent's oath, the duties of the head of state would have been carried out by the National Council consisting of the highest dignities with some restrictions.[88]

Horthy did not find this solution sufficient, because the National Assembly could easily bypass his nomination.[89] Foreign pressure and domestic extremism kept growing, and with their influence the integrity of the position could become compromised.[90] With the outbreak of the Second World War the need for the continuous exercise of presidential powers was clear, since the Regent was the commander-in-chief of the armed forces. Act 2 of 1942 established the title of deputy regent, which was the last milestone in the institution's development.[91]

The deputy regent (just like the Vice President of the United States of America[92]) could substitute the regent in case of his absence, illness, or other obstructions, and exercise his rights from the vacancy of the regent's seat until the new regent's oath. Despite Horthy's wishes, he was not given the right to directly nominate a single successor. The regent could commission his deputy (with ministerial countersignature) to temporarily undertake tasks within his competency. This commission could be revoked at any time.[93] A deputy's appointment did not influence the nomination of the three candidates, only stripped the

[85] OLASZ 2009. 32.p.
[86] MEZEY – GOSZTONYI 2020. 411. p.
[87] KÉPES 2013. 82.p.
[88] See: OLASZ 2009. 33. p.
[89] Hozzájárult a módosítás szükségességéhez Darányi Kálmán halála is, ki az általa jelölt három utód közül az egyik volt. Az ajánlás három fő alá csökkent, az érvénytelenné vált, utódajánlási joggal többet már nem élt. Kálmán Darányi's death added to the necessity of modification, since he was one of the three people nominated by Horthy. Without three names, the nomination became invalid. (MEZEY – GOSZTONYI 2020. 415. p.)
[90] OLASZ 2009. 33.p.
[91] KÉPES 2013. 82-83.p.
[92] KÉPES 2020. 351. p.
[93] OLASZ 2009. 33-34.p.

National Council of ruling in the interim period of vacancy, narrowing the Council's powers to only organizing the upcoming elections.[94]

In terms of the deputy's legal status, his official address was „His Excellency", had immunity from criminal prosecution and was able to be held accountable. If a violation were to be committed, the procedure would have been started by the head of state (in case of vacancy it would have been done by the National Assembly).[95]

The Regent could nominate three people as his deputy and if he acted upon this right, the National Assembly would have been excluded from nominating. All names needed a countersignature from a minister; the final decision was made by a joint session of the chambers. The quorum of the plenum required 3/5 attendance, while the deputy governor was elected with a 2/3 majority vote.[96] The governor's confirmation was necessary for inauguration.[97]

The title was given to István Horthy, the regent's son. This position would have served as a springboard to achieve „dynastic succession", but it did not come to pass. The deputy regent died a hero in an airplane accident in the Soviet Union on 20 August 1942.

It is also worthy of mentioning, that following the territorial gains of Hungary, the regent could appoint 87 members to the Upper House.

The ultimate obstacle to the preservation of the regency was the unsuccessful attempt to exit out of the war.[98] Only a fraction of the army executed the rushed maneuver on 15 October 1944, while the Gestapo had already begun to blackmail Horthy with his only remaining son.[99] This made the regent resign from his office, appointing Ferenc Szálasi as Prime Minister. He went on to become the Leader of the Nation (*Nemzetvezető*) after merging the presidential and prime ministerial powers, and ruled over the Arrow Cross state until the fall of Hungary in March 1945.[100]

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[94] KÉPES 2020. 351. p.
[95] OLASZ 2009. 34. p.
[96] OLASZ 2009. 35. p.
[97] KÉPES 2013. 83.p.
[98] Lásd: UNGVÁRI Krisztián: *Magyarország a második világháborúban [Hungary in the Second World War]*. Budapest, 2013. Kossuth Kiadó.
[99] KÉPES 2013. 84.p.
[100] MEZEY – GOSZTONYI 2020. 488-489. p.

7. Conclusion

Based on József Juhász' categorization, Horthy's regency resembled his predecessors only in name. The evolution of the institution transformed a title reminiscent of a republican president into one of almost royal stature. The initial parliamentary dominance gradually shifted towards the regent's side, who did not abuse his newfound powers. This solution reached back into the roots of monarchies, reintroducing the doctrine of the Holy Crown, which reinforced the era's dominant Christian-national ideals.[101]

The last years of in office, Miklós Horthy became the uncrowned king of Hungary, which can be seen in comparison with the characteristics of a monarchical form of government.[102] Attributes of a republic diminished, whilst those of a monarchy were fulfilled. This included lifelong appointment, total immunity, hereditary succession of the head of state.

The turning point brought by the death of Charles IV transformed the originally elected title to one with a royalist undertone, dispelling the idea of temporality and relevancy of a simple substitution. The regent's legal immunity was present from the start, but full immunity was brought on by the last extension. The deputy regent did not influence the order of succession, the dynastic intention behind its institutionalization was clear.[103] Trait of ceremonialism grew as the power consolidated. Massive celebrations took place on the anniversaries of Horthy's entrance into Budapest and even on his name day.[104]

[101] VÖLGYESI Levente: A Regnum Marianum-eszme alkotmányjogi vonatkozásai. In *Regnum Marianum: Az eszme története, jelentősége és hatása [The Idea's History, Importance and Effect]*. Magyarságkutató Intézet, Budapest. 2022. 24. p.
[102] KÉPES 2020. 335. p.
[103] Some scholars think that the three nominations already made it heredetary (MEZEY – GOSZTONYI 2020. 411. p.)
[104] See: Keleti Ujság, 1943. december 10. 279. szám. 6. p.

Dorka HÉJJA: The formation of the twin cities from the end of the 18th century to the unification in 1873. The role of the Board of Public Works in the creation of Budapest as a metropolis

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Until 1784, Bratislava (Pozsony) was the centre of Hungary's political and administrative life. From 1536, the Hungarian government and the Hungarian Diet operated here,[1] and many members of the Habsburg Dynasty were crowned in the city. Therefore, Buda's function as capital was reflected only in its charter for centuries.[2] From 1784, Buda became the administrative, while Pest the economic, political and cultural centre of the Kingdom of Hungary. As Prime Minister Bertalan Szemere put it in 1849, *„(...) there can only be one capital of the Hungarian state, whose living strength is mainly provided by Pest, and whose historical memory is given by Buda."*[3] Thus, the two cities were increasingly referred to under the common name of Buda-Pest or Pest-Buda.

1. Buda and Pest before the unification

Until their unification in 1873, Buda, Pest and Óbuda were separate cities, with different stages of development.

1.1. Population

By the end of the 18th century the largest cities in the country were, in order, Debrecen, Bratislava (Pozsony), Buda, Szeged and Pest. The growth of the twin cities started exactly in this period. The population of Buda increased one and a half times during the century,[4] while Pest quadrupled its

[1] POÓR, János: Buda, Pest, and Óbuda Between 1703 and 1815. In GERŐ András, POÓR János (szerk.): *Budapest. A History from its Beginnings to 1998*. New York, 1997, Columbia University Press, pp. 54 – 58.

[2] BÁCSKAI, Vera: Budapest története 1686-1873. (The history of Budapest) In BÁCSKAI, Vera – GYÁNI, Gábor – KUBINYI, András: *Budapest története a kezdetektől 1945-ig* (*The history of Budapest from the beginnings to 1945*). Budapest, 2000, pp. 79–87.

[3] *Ibid.,* p. 281.

[4] *Ibid.,* p. 80.

population by the middle of the 19th century compared to the data from the beginning of the century.[5] This growth was momentarily halted by the repercussions that followed the 1848 Revolution, as the War of Independence and the resulting homelessness forced many people to leave the capital.[6] However, the population continued to grow at a similar pace, thanks to the attractiveness of the economic conjuncture and the ongoing constructions. The newcomers included both foreigners – mainly from the Austrian and German territories – as well as Hungarians.[7] Those from the surrounding villages mainly supplied the agricultural needs of the towns. By 1870, the capital had become the 16th largest city in Europe, surpassing the growth of Paris, London and Vienna. Pest-Buda became the only large city in the country, making the Hungarian urban network unbalanced.[8] The country's „water-headedness" after Trianon was already beginning to show.

1.2. Infrastructure

Regarding the development of infrastructure, the two cities have advanced in parallel. The development of street lighting began in Pest, with the start of production at the gasworks in 1856. The gas lighting network of Buda was built in 1863, and 10 years after Pest, the Buda Gas Factory also begun its operation. The situation of the water supply was the opposite. For centuries, water had been piped to Buda from the springs of Svábhegy, while in Pest the cholera epidemic of 1866 motivated the preparation of waterworks designs. However, the final solution awaited until 1872.

Thanks to Gábor Baross, a Budapest-centric railway network was established by the end of the 1840s and public transportation started to advance. The debut of the first horse-drawn railway in 1866 and the construction of a steam-powered funicular to the Castle Quarter in 1870 are also noteworthy. Railway stations, warehouses and factories were built. Thus, the metropolitan cityscape began to emerge in the 19th century. At the beginning of the century, the architecture of the city was still characterised by neoclassicism, an excellent example being the Vigadó designed by Frigyes Feszl.

The regulation of the Danube began, quays were built. The streetscape changed, as old streets were widened and new ones were created with numerous multi-storey houses. As a result, overcrowding appeared in the city. According to data from 1873, fifteen percent of homes were overcrowded, and

[5] CSORBA, László: Transition from Pest-Buda to Budapest, 1815 – 1873. In GERŐ, András, POÓR, János (szerk.)*: Budapest. A History from its Beginnings to 1998*. New York, 1997. Columbia University Press, pp. 69–96.
[6] BÁCSKAI, *op. cit.,* p. 114.
[7] CSORBA, *op. cit.,* p. 72.
[8] BÁCSKAI, *op. cit.,* p. 91.

seventy-seven percent of the population was considered poor at the time. Social tensions were fuelled by segregation, with rich and poor homes being separated in the city.

1.3. Economics and society

The metropolis formed at the center of the country, on the banks of the river Danube and at the junction of several land routes. Its beneficial geographical location put it in an advantageous economic position, with an extensive catchment area. Buda and Óbuda were characterised by agriculture and were most famous for their viticulture. In the first half of the 18th century, cattle trade, then craft industry was typical in Pest. The city eventually became the capital of commerce with its fairs, attracting both local and foreign customers. By the beginning of the 19th century, Pest became the second most important market town in the catchment area of the country, following Vienna. The growth was further stimulated by the emerging and developing transport system.

In the second half of the 18th century, the needs of local and surrounding areas were supplied by the guilds, while the spread of manufactories was blocked until the 19th century by the lack of capital and the customs, which favoured the interests of the Austrian provinces. Among the first factories, the Óbuda Shipyard (1835), the Pest Hengermalom Joint Stock Company (1839), the Machine Works and Iron Foundry Association of Pest and the Ganz Foundry (1845) are worth mentioning. Industrial enterprises typically operated as joint stock companies.

After 1849, an increasing amount of capital flowed into industry, with the main drivers being the milling industry, distilling and sugar production, iron foundries, machine manufacturing, besides construction and building materials industry.

These changes brought about major developments. The financial market became livelier, compared to the number of three banks operating in 1867, by 1872 there were sixteen banks and nine savings banks in the capital. The social structure also began to change. The number of officials and intellectuals with civic values was increasing. However, most of the population still worked as manual labourers, factory workers, day labourers and maids. They established their first representative body, the General Workers' Union in 1868.

Thus, the narrow and wealthy upper middle class was opposed by a multitude of people living on poor wages, with the middle class being absent from the Hungarian social structure on the eve of the unification. Similarly to the segregation of social classes, urban areas were also divided. Officials

and intellectuals lived in the city centre of Pest and in Buda's Castle Quarter. The merchants and manufacturers settled in Lipótváros, while the poorer classes were generally displaced to the suburbs. Furthermore, Buda was characterised by tranquillity compared to the metropolitan atmosphere found in Pest, a difference that long hindered the development of a common metropolitan identity of the capital.

The small number of intellectuals and officials, who represented the cultural and civic values, as well as the liberal noblemen played a significant role in urbanization and the expansion of the role as capital. They were supported by the merchants, bankers and manufacturers, who expected their economic and social rise from positive political changes. The former bourgeoisie watched all this with distaste, trying to block the activities of the new representatives of the middle class.

1.4. Ethnicities and religions

The ethnic composition of the capital in this period can be described as diverse. Most of the aristocracy, officials and intelligentsia were Hungarian, the craftsmen mainly German, and the merchants German and Jewish. Germans were also represented in agriculture, alongside Slovaks and Serbs. Industry was dominated by Germans, Hungarians and Slovaks. Slovaks made up a large proportion of the manual workers (day labourers, maids) and Germans of skilled workers. The German predominance became so strong that bilingualism became more and more typical in the capital. According to the 1851 census, fourty percent of Pest was German-speaking and thirty-eight percent Hungarian-speaking, while seventy percent of Buda was German-speaking.[9] However, by the time of unification (1873), most Germans and Slovaks had assimilated.

The capital was also diverse in terms of religions. In addition to Catholicism and Greek Orthodoxy, Protestantism and Judaism was also present.

1.5. Culture

By the early 19th century, Pest had become the centre of culture. Several educational institutions were established, including two secondary schools.[10] At the time, more and more intellectuals were sending their children to secondary school, even if they were not necessarily destined for academic career. So-called "deaconic literacy" was becoming increasingly valued. Periodicals were established,

[9] BÁCSKAI, *op. cit.,* pp. 80–122.
[10] CSORBA, *op. cit.,* p. 93.

such as the Aurora journal, Athenaeum and Pesti Hírlap (Newspaper of Pest), among the cultural and literary societies, like the Aurora Circle and the Kisfaludy Society. The readers of the journals were from the nobility, the so-called honoratiors, the intellectuals and the upper middle classes. A sparkling social life began, with the upper classes frequenting cafés, pastry shops, ice-cream parlours, dances and balls, and the lower classes visiting pubs and beer houses. István Széchenyi – on whose initiative important venues for social life and social discourse were opened, such as horse races and the National Casino (1827) –, played an important role in raising the standard of social life. Széchenyi's aim with these and other initiatives for urban development was to get politics out of the narrow parliamentary and county framework and to make reformers stay longer in the city, thus achieving a concentration of political forces in Pest. From 1837 there was a permanent Hungarian theatre in the town, with regular performances. The areas enabling outdoor entertainment were the promenades and public gardens.

Academic life was also advancing in the 18th and 19th century Pest-Buda. The University of Nagyszombat, which had moved to Buda in 1777, was transferred to Pest in 1784. This gave great motivation to book trade and printing in the city, and as a result, the 19th century Pest had become the centre of Hungarian publishing. In 1803, Ferenc Széchényi founded the National Széchényi Library, followed by the National Museum in 1808. *"It was thanks to the writers, journalists, students and noble families living in Pest, who supported the cause of the Hungarian language, that the mixed nationality capital of Pest, which at that time was still predominantly German-speaking, became the cradle of the Hungarian language, literature, and the national culture."*, writes Vera Bácskai.

1.6. Politics

Pest was also the centre of the Hungarian press and politics. The capital played a leading role in the Revolution and the War of Independence, and the Pilvax Café, the starting point of the March 1848 events, proved to be a particularly important venue. This was followed by the enactment of the April Laws.[11] In 1848, thanks to the revolution, the municipalities were put on a more democratic basis. In April 1849 Pest became the city of the first independent government, and the first National Assembly was assembled in July. Pest-Buda was finally able to fully claim the functions of a true capital. The

[11] KÉPESSY, Imre: National Modernisation through the Constitutional Revolution of 1848 in Hungary: Pretext and Context. In: KLIMASZEWSKA, Anna – GAŁĘDEK, Michał (eds.): *Modernisation, National Identity and Legal Instrumentalism* (Vol. II: Public Law). Leiden, 2020. Brill | Nijhoff, pp. 51-68.; KÉPESSY, Imre: Föderalizmus, centralizmus, dualizmus - avagy a kiegyezéshez vezető út [*Federalism, centralism, dualism – or the way to the Compromise*]. In: MEGYERI-PÁLFFI, Zoltán (ed.): Szuverenitáskutatás [*Reseach on Souveregnity*]. Budapest, Gondolat, 2023. pp. 93-112.

city supported the war of independence by providing troops and equipment. In the 1850s and early 1860s, the funeral of Mihály Vörösmarty (1855), the anniversary of Kazinczy's birth (1859), the demonstration of 15 March 1860, the funeral of László Teleki (1861) were important and powerful events.[12]

2. The position of Buda and Pest on the unification

Initially, neither the people of Buda nor Pest favoured the concept of unification. The position of Pest is best illustrated by the dissenting opinion of Móric Szentkirályi from 1871. He states that Buda has no future, that it can only be a burden for Pest and that its development would only be hindered in case of a unification. Pest feared that if it would have to help Buda financially, would only deepen its debt. Furthremore, Hungarian was not the dominant language in Buda at the time. Consequently, Szentkirályi foresees hostility between the two cities and, therefore, a loss of autonomy. Buda's point of view is reflected in the minority opinion of the Buda Committee of Five sent to discuss the bill on unification. Some members argued against the forced unification, since the citizens were against the merger, and the commercial interests of the two cities are also in conflict. The lack of interconnected transport was a further problem. In addition, the dissenting opinion points out that Buda would only lose its right to local authority if the two cities were to unite. According to the committee, the unification would only be sensible, if the inhabitants of all three cities agreed.[13]

According to András Gerő: *„Budapest had to be built against Buda, Pest and Óbuda. Everyone was fond of the idea of the capital, but all parties thought that they would have to be the ones to benefit from it, not the others. Pest said that Buda was uncapable of development (...). Buda stated that Pest was a despised civil town from which a lot of newcomers would have to be let in if the two cities were to merge. And Óbuda, with its many Jewish settlers, was a separate terrain, and the patrician stratum of Buda and Pest was, if you can say so, particularly irritated that these people might have to be allowed into the power of the city."* [14]

[12] BÁCSKAI, *op. cit.*, pp. 106–118.

[13] BÁCSKAI, Vera: *Források Budapest múltjából I. 1686-1873 [Sources from Budapest's past I. 1686-1873]*. Budapest, 1971. Budapest Főváros Levéltára [Budapest City Archives], p. 294.

[14] BENKES, Réka – BOJÁR, Iván András – GERŐ, András – HANÁK, Péter – MARINOVICH, Sándor – PREISICH, Gábor – RÁDAY, Mihály – SIPOS, András – TAMÁS, Pál: A Fővárosi Közmunkák Tanácsa és Budapest, a nemzeti és regionális főváros (beszélgetés) [The Board of Public Works and Budapest, the national and regional capital (discussion)]. *Budapesti Negyed* [*Budapest Quarter*], 1996. No. 14.

3. An important precursor to the unification, the construction of a bridge linking the two cities

The main obstacle to the unification of the two cities, apart from the contrary public opinion, was the lack of transportation. Until the middle of the 19th century, only a temporary bridge was built to carry limited traffic. However, this solution was unusable in wintertime, so people had to cross the river by boat, or by using an ice bridge reinforced with a straw.[15] The first proposal for a permanent bridge was made by Count István Széchenyi in February 1835. In this petition, he stated that a toll would have to be paid on the bridge to be built. Furthermore, he asked for the construction of the Danube bridges to be undertaken by a joint-stock company.[16] The reason for this was that Széchenyi and his colleagues intended to finance the construction of the future Chain Bridge this way. Designer William Clark, engineer Adam Clark, and financier George Sina played an important role in the creation of the bridge.[17]

The legal basis for the construction of the bridge was provided by Act 26 of 1836.[18] Based on this, the works should be provided by a joint stock company, and a toll had to be payed on the bridge, until sufficient capital had been raised to maintain it in perpetuity. A national permanent delegation was set up to review and control the decisions of the joint-stock company. The law also established the legality of the necessary expropriations. The construction itself was carried out between 1839 and 1849.

4. The unification – 1873

The merger was also important from a political perspective. The government of Prime Minister Gyula Andrássy Jr. aimed to raise the Hungarian capital to the levels of its Western European equivalents.[19] However, the country's resources were limited, and such development could only be achieved by concentrating them. The creation of a unified metropolis was also viewed as a means to balance the power of Vienna, thus elevating the Hungarian territories to an equal status.[20]

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[15] BÁCSKAI, *op. cit.,* p. 99.
[16] BÁCSKAI, *op. cit.,* p. 278.
[17] CSORBA, *op. cit.*, p. 83.
[18] Act 26 of 1836 on the construction of a permanent bridge between Buda and Pest
[19] DÉRY, Attila: Fővárosi Közmunkák Tanácsa és a főváros I. [The Board of Public Works and the capital I.], *Magyar Építőművészet [Hungarian Architecture],* 1984. No.1, p. 6.
[20] BENKES–BOJÁR–GERŐ–HANÁK– MARINOVICH –PREISICH–RÁDAY– SIPOS–TAMÁS, *op. cit.*

The Act 36 of 1872 on the Establishment and Settlement of the Buda-Pest Metropolitan Legislative Authority formed the legal grounds regarding the unification of Buda, Pest and Óbuda. The law defined the powers of the capital and the detailed rules for the assembly, the officials, the council, the administrative and electoral districts of the capital.

More details on the establishment of the electoral and administrative districts in the capital are given in the minutes of the Subcommittee I of the 34th delegation of the capital. Six districts were created in Pest, three in Buda and three in Óbuda, and both the electoral and administrative districts were detailed.[21]

Budapest was established in 1873 as the official capital of the country. By this time, the most important institutions, including the Parliament, the ministries and the Hungarian Royal Curia were all based here.

5. The Board of Public Works

The Board of Public Works was formed on Gyula Andrássy's initiative, preceeded by the proposal of Ferenc Reitter. At the request of the Prime Minister, the engineer summarised the most important aspects of the city's development and prepared a budget.[22]

5.1. Previous events

Urban development and planning were already discussed topics, even before the unification. Pest's first plan was created in 1785,[23] followed by the establishment of the so-called Beautifying Committee (Szépítő Bizottmány) by Palatine Joseph in 1808.[24] It operated until 1857, but lacked the appropriate resources to implement its plans. The flood of 1838 marked an important turning point in the development of the metropolitan exterior. The tragedy destroyed the town's buildings, which

[21] BÁCSKAI, *op. cit.,* pp. 303–306.

[22] KATONA, Csaba: Hogyan alakult meg a Fővárosi Közmunkák Tanácsa? [How was the Board of Public Works established?] *Újkor [New Age]*, https://ujkor.hu/content/hogyan-alakult-meg-fovarosi-kozmunkak-tanacsa? [Access on April 20, 2024]

[23] BENKES–BOJÁR–GERŐ–HANÁK– MARINOVICH –PREISICH–RÁDAY– SIPOS–TAMÁS, *op. cit.*

[24] FLIER, Gergely: Mit köszönhet Budapest a 150 éve létrejött Fővárosi Közmunkák Tanácsának? [What does Budapest owe to the Board of Public Works, which was established 150 years ago?] *PestBuda*, https://pestbuda.hu/cikk/20200414_flier_gergely_mit_koszonhet_budapest_a_150_eve_letrejott_fovarosi_kozmunkak_tanacsanak? [Access on April 20, 2024]

were in poor condition. At the same time, this made the creation of a metropolitan streetscape possible. The reconstruction was characterised by high-quality work, which was also emphasized by the strict building regulations.[25] Between 1861 and 1873, the Building Committee was responsible for the urban development of Óbuda, in 1868 the Buda-Pest Beautifying Joint Committee was set up on a temporary basis for similar purpose.[26] Early urban development plans include Ferenc Reitter's plan of 1862 and Mihály Táncsics's plan embodied in the pamphlet Our Capital from 1867.[27]

Before the preparation of the building plans, an important question had to be answered: What should serve as a model for the capital's skyline? Gyula Andrássy and Frigyes Podmaniczky proposed the construction of boulevards and avenues modelled on Paris, while the city's merchants envisioned the dominance of quays and warehouses. Furthermore, there were some who opposed both plans. In the end, the various groups reached a compromise, the result of which can be described with the words of Ferenc Molnár: *„American? Not American. Is it like Austrian? It is not. Like Berlin? Not like that."*[28] Finally, the fusion of different inspirations and opinions resulted in a unique, incomparable cityscape.

5.2. The establishment of the Board of Public Works

The fact that the capital was able to become a metropolis in visual terms is largely due to the efforts of the Board of Public Works. The Council was created by Act 10 of 1870,[29] which laid down its organisation and competences. In addition to these, the law also provided for the renovation of the Chain Bridge, the construction of two new fixed bridges and the opening of main transport routes. These ambitions were heavily supported by the cities of Pest and Buda, which had to add at least fifty percent of their regular income to their budgets.

5.3. Criticism regarding the establishment of the Board

Both Act 10 of 1870 and the es have been the subject of harsh criticism. Some criticised the fact that the creation of the Board of Public Works was enacted before the unification of the capital itself.

[25] BÁCSKAI, *op. cit.* pp. 96–97.
[26] FLIER, *op. cit.*
[27] BÁCSKAI, *op. cit.*, p. 124.
[28] BENKES–BOJÁR–GERŐ–HANÁK–MARINOVICH–PREISICH–RÁDAY–SIPOS–TAMÁS, *op. cit.*
[29] Act 10 of 1870 on the regulation of the Danube river near the capital and on the coverage of the costs of other public works to be established in Buda-Pest for the purpose of traffic and transport and on the means of implementing these public works

Furthermore, Act 10 of 1870 provided a credit, which seemed contradictory, since neither the board had not even been formed, nor the works had not begun.[30] The opposition feared that the operation of the board would restrict the city's authority. Ferenc Deák responded by saying: *„This bill is not the restriction of the city's municipal rights, instead it is the government sharing its right of supervision with the city. So it is the extension of municipal powers."*[31] A further long-standing problem was that the company's relationship with the capital was never definitively clarified from a legal point of view.[32]

The Board of Public Works was mainly modelled on the Metropolitan Board of Works in London.[33] Other examples were the Vienna Urban Expansion Commission (Stadterweiterungs-Commission) and the efforts of Baron Georges Eugène Haussmann of Paris.[34]

5.4. Members of the Board of Public Works

The board was led by the president and the vice president, with eighteen full members alongside. Six of the members were delegated by Pest, three by Buda and nine by the government.[35] The leaders of the organisation were elected by the government, and their influence was unquestionable, but the government did not interfere with the democratic functioning of the organisation. Nonetheless, Kálmán Tisza criticised the structure*: „there (in London) all members of the central authority are elected only by the relevant authority itself without exception."* Prime Minister Gyula Andrássy, who was the president of the board, replied, saying: *„Because the state gave nothing there."*[36] Both the representatives of the capital and the Hungarian state had common goals in developing the capital, so the cooperation was not hindered by conflicting interests. In the words of Eszter Benczéné Nagy: *„Throughout its operation, this mixed organisation has clearly demonstrated that the regulation of the capital is both a national and a state task, and that government, municipality and society must work together to solve this task as fully as possible."*[37]

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[30] DÉRY, *op. cit.*, p. 6.
[31] KATONA, *op. cit.*
[32] DÉRY, *op. cit.*, p. 7.
[33] KATONA, *op. cit.*
[34] FLIER, *op. cit.*
[35] KATONA, *op. cit.*
[36] DÉRY, *op. cit.* p. 6.
[37] BENCZÉNÉ NAGY, Eszter: A Fővárosi Közmunkák Tanácsának rövid története. [The brief history of the Board of Public Works] *Levéltári Szemle [Archives Review]*, 1991. No. 4, pp. 35–36.

The heads of the department were Ferenc Reitter and Sándor Országh, and the chief engineer was Henrik Wohlfart. The members of the committee were mainly sociologists, journalists, politicians, *„enthusiastic amateurs who had grown up to their tasks".*[38] Although the aristocracy was predominant, the institution was run according to civic values.[39]

5.5. Planned works

The planned works included afforestation, providing housing for the workers and the development of the city infrastructure.[40] The plans also included the paving of roads and streets, their alignment and leveling, the regulation of the Danube, the construction of embankments, water pipes and canals, public lighting, simple apartment buildings and representative public buildings, the naming of public areas, as well as the establishment of boulevards, avenues, bridges and palaces.[41]

At first, the council had to start the works without a building regulation or a layout plan.[42] A design competition for boulevards and avenues has been launched and the first three prizes were awarded to the designs of Lajos Lechner, Frigyes Feszl, Klein and Fraser.[43] The urban works were based on Parisian and Viennese models, in a historicist style.[44]

5.6. Funding

For the financing of the works, several forms have been developed. A huge support was a loan of 24 million HUF from Erlanger Bankhouse.[45] Another popular source was the proceeds of the so-called land policy. The expropriated houses were demolished so that new ones could be built on the cleared land with a higher value. The proceeds of the Margaret Island entrance tickets were given to the Municipal Treasury, which also funded the urban development works.[46] Finally, a heavily criticised lottery was set up for the purpose.

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[38] DÉRY, Attila: Fővárosi Közmunkák Tanácsa és a főváros II. [The Board of Public Works and the capital II.], *Magyar Építőművészet [Hungarian Architecture],* 1984. No. 2, pp. 7–8.
[39] KATONA, *op. cit.*
[40] BÁCSKAI, *op. cit.* p. 274.
[41] FLIER, *op. cit.*
[42] DÉRY, *op. cit.* p. 7.
[43] BÁCSKAI, *op. cit.*p. 275.
[44] CSORBA, *op. cit.* p. 86.
[45] FLIER, *op. cit.*
[46] BENKES–BOJÁR–GERŐ–HANÁK– MARINOVICH –PREISICH–RÁDAY– SIPOS–TAMÁS, *op. cit.*

5.7. Evaluation of the works

Frigyes Podmaniczky, vice-president of the Board of Public Works of Budapest, evaluated the results of the works in his book, „Diary fragments". He describes the state of the capital immediately after the unification, highlights the successes and encourages the improvement of shortcomings. He writes the followings about the work process and its general results: *„At last, having realised even my wildest dreams, a joyful rapture must come over the bosoms of those who have (…) labored for years to bring about this new era, and who have welcomed every bit of progress with a genuine inner joy. Few of the newer cities have been able to show such rapid progress and transformation as our capital."*[47]

Among the successes described are the Danube regulation, the construction of embankments and new bridges, public buildings for scientific and cultural purposes, numerous monuments, the boulevards, the Deák and Kálvin square, the Museum Garden, Andrássy Avenue, Városliget and Gellérthegy, the arrangement of Margaret Island, the afforestation of the city, the planting of public gardens and squares and the fire brigade. Despite the many successes, Podmaniczky also emphasized of the lack of regulation of the city centre, public health and amenities, the inappropriate cleaning of pavements and carriageways, and the inadequate pace of institutional development.

Regarding tourism, Podmaniczky also expected the city to make progress. Outdated railways and overpriced rental cars listed among the problems in his diary. He points out that the service should not be focused on the needs of a few wealthy tourists, as it is the relatively low-priced, safe civic comfort that attracts foreigners to the capital. For example, cheap but comfortable hotels, which are still lacking in the city's service providers at the time. He emphasizes the importance of keeping the city clean, since *„a city that is kept dirty and ugly, even if it is beautiful, but no longer has the authenticity corresponding to the state of neglect, is unable to attract tourists"*.

Attila Déry's 20th century, retrospective evaluation also highlights the importance of the board: *„They did not make any irreparable mistakes, in fact, in a difficult situation, they solved their planning, architectural and technical tasks in an exemplary manner, to a high standard. They have given this city shape, face and individuality. They have made up for the neglect of centuries."*

[47] PODMANICZKY, Frigyes: *Naplótöredékek [Diary fragments]*. Budapest, 1888. pp. 227–245.

The work of the board was therefore successful, and by 1895 Budapest had become a unique and characteristic European metropolis.[48] The Council continued to function until 1948, but the shaping of the city has not stopped since then. It is still important to make daily efforts to maintain the cityscape created in the 19th century and to enhance the name of Budapest. In the words of Frigyes Podmaniczky, *„we who live and die here, and always proclaim and say: 'here you must live and die'[49], we cannot escape these troubles so easily."*

[48] DÉRY, *op. cit*. p. 8.

[49] This quote refers to the Hungarian Appeal written by Mihály Vörösmarty.

Fanni HORVÁTH: The relationship between the Sabor and the Hungarian Parliament in the era of the dual monarchy

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1. Introduction

As an introduction, it is important to refer to the beginnings of Croatian-Hungarian relations, since we are talking about a relationship that spans centuries. The reign of Saint Ladislaus and King Coloman meant the beginnings of Croatian-Hungarian relations. In 1102, the Croatian nobility accepted Coloman and the Árpád dynasty, as the rightful heirs of the Croatian throne.[1] The most important institution of cooperation between the two nations was the Hungarian Diet, which was attended by the Hungarian nobility from its inception in the 13th century until 1918, but it also included the Croatian nobility as well. The aristocrats, just like in Hungary, were personally invited to the assemblies by the king. Laws enacted by the Hungarian Diet were generally applicable in Croatia, and Croatian delegates also took an active part in the debates.[2]

The peaceful coexistence of Hungarians and Croatians was disrupted by the concept of nationalism that emerged at the beginning of the 19th century, which originated from the French Revolution. The aim of the Illyrian movement became the creation of a Southern Slavic empire, where all these nations would unite. Naturally, this drove a wedge into centuries of peaceful relations. [3]

2. The revolution of 1848 and the period before the Compromise of 1867

The origins of the conflict can be traced to the death of Joseph II in 1790. At that time, there was no theory of public law to define the relationship between Hungary and Croatia. The basis of the legal relationship of the Hungarian and Croatian authorities was unclear, and it was mainly customs that governed it. Croatia was autonomous in its internal affairs. The sabor was a gathering of the nobles of the Kingdom of Croatia and Slavonia, usually convened by the Ban, but on rare occasions by the king, so that the sabor could enact laws on the most important issues. The acts passed by the sabor

[1] HEKA László: A horvát Sabor (Szábor) jogtörténeti szerepe *[The role of Croatian Sabor in legal history]*. Szeged, 2002, Szegedi Tudományegyetem Állam- és Jogtudományi Kar, p. 7.
[2] SOKCSEVITS Dénes, VARGA Szabolcs: A horvát szábor története *[The history of Croatian Sabor]*. Budapest, 2022, Országház Kiadó, pp. 11-12.
[3] BAJZA József: A horvát kérdés – válogatott tanulmányok *[The Croatian question – selected studies*]. Budapest, 1941, Királyi Magyar Egyetemi Nyomda, p. 5.

were sanctioned by the king. The sabor also elected the delegates from Croatia who participated in the Hungarian Diet. It was at the Diet of 1790 that negotiations were first proposed to be conducted in Hungarian. The problem that started over the language persisted for several decades, and therefore, the relationship started to deteriorate.[4] In 1790, the competences of the sabor became restricted: for the first time, the sabor's right to appoint the ban was revoked, and from 1790 onwards, the sabor could not be convened without royal permission.[5] After 1825, the Croatians increasingly turned to the king for help.

At that time, the Illyrian (nationalist) movement had not yet decided whether it wanted to establish the Southern Slavic Empire within the Habsburg monarchy or independently of it. In favour of the former was the fact that a large part of the Croats was loyal to the Habsburg dynasty, which was used by the royal family against the Hungarian ambitions. The result of this was that in 1848, under the leadership of Jelačić, the Croatians revolted against the Hungarians.[6]

Another factor that contributed to the deterioration of the relationship was the lack of a plan to improve the situation of minority groups within Hungary, including the Croatians. The Croats (and other non-Hungarian) leaders' *„illusions grew about Vienna, which the imperialist Habsburg policy was quick to exploit*." [7]

Just before the 1848/49 revolution, Croatian-Hungarian relations reached a low point. This was the first (and last) time the Croatians took armed action against the Hungarians, which is why I have put a lot of emphasis on analysing this in my research, as it is only by taking this into account this factor that we can understand the development and operation of the dualist relationship.

After suppression of the Hungarian War of Independence in 1849, neither the Sabor nor the Hungarian Parliament did not convene again until 1861. [8]

3. Croatian-Hungarian Compromise

The decisions of the Sabor in 1861 had a major impact on the entire history of the Monarchy, as it was necessary to decide which country it wanted to reconcile with: Austria or Hungary. The Sabor decided to reconcile with Hungary, the conditions for which were laid down in Act 42 of 1861. It

[4] HEKA László: Az 1868. évi horvát-magyar kiegyezés a sajtó tükrében *[The 1868 Croatian-Hungarian Compromise in the Press]*. Szeged, 1998, Acta Universitas Szegediensis, p. 7.
[5] HEKA, *op. cit*., pp. 14–20.
[6] BAJZA, *op. cit.,* pp. 5-6
[7] MEZEY Barna – GOSZTONYI Gergely: Magyar alkotmánytörténet *[History of the Hungarian Constitution*]. Budapest, 2020, Osiris Kiadó, pp. 284–286.
[8] SOKCSEVITS Dénes: Magyar múlt horvát szemmel *[Hungarian past trough Croatian eyes]*. Budapest, 2005, Magyarok a magyarokért Alapítvány, pp. 181–182.

stated that the Croatians were willing to enter a union with Hungary, but only if Hungary recognised the independence and territorial integrity of Croatia-Slavonia. By this they meant that there should be equality between the two countries in the negotiation of common affairs and that Hungary should not interfere in their internal affairs. After the diet issued this decision, the sabor refused to send its delegates in the Imperial Council, and just like the Hungarian Diet, the sabor was dissolved in 1861.

On 12 November 1865, the Sabor was reconvened, a month before the Hungarian Diet. The Croats turned to the emperor for help; they aimed to negotiate on the legal basis outlined by Act 42 of 1861. The Hungarian Diet was convened by the emperor on 14 December 1865, where Deák's supporters were in the majority.[9] The Croats were disappointed by the Hungarian Parliament, as they had expected to be treated as equals. At that time, the Croats could already sense the approach of the Austro-Hungarian reconciliation, and they knew that, once that had happened, Austria would consider Croatia to be an internal matter for Hungary. The ruler called on the two nations to form committees to negotiate the reconciliation. These negotiations began in April 1866. They lasted until 16 June, but ended without success as both sides remained committed to their own positions.[10]

The Croats wanted Croatia to become an ally of Hungary through a personal union. They wanted political and administrative autonomy and for the Hungarian government to refrain from interfering in their internal affairs. They also advocated a federal transformation of the Habsburg monarchy. [11] The Hungarians, on the other hand, took a very different view. They would only have accepted partial autonomy for Croatia, which was insufficient for the Croatians.[12]

In 1867, the Hungarian constitutional system was established,[13] and the emperor tasked the Hungarian Parliament to settle the relationship between the two countries while also considering the requests of Croatia.[14] The emperor also urged the Croatians, instisting to "dispel any illusions that by dissolving the state-law relationship with the Hungarian crown they could create a Croatian

[9] HEKA László: 1868. évi horvát-magyar kiegyezés a sajtó tükrében *[The 1868 Croatian-Hungarian Compromise in the Press]*. Szeged, 1998, Acta Universitas Szegediensis, pp. 11–15.
[10] *Ibid.*, p. 12–15.
[11] KATUS László: Sokszólamú történelem *[Polyphonic history]*. Pécs, 2021 Kronosz Könyvkiadó Kft., p. 344
[12] HEKA László: A horvát Sabor (Szábor) jogtörténeti szerepe *[The role of Croatian Sabor in legal history]*. Szeged, 2002, Szegedi Tudományegyetem Állam- és Jogtudományi Kar, pp. 15–16.
[13] KÉPESSY, Imre: Föderalizmus, centralizmus, dualizmus - avagy a kiegyezéshez vezető út [*Federalism, centralism, dualism – or the way to the Compromise*]. In: MEGYERI-PÁLFFI, Zoltán (ed.): Szuverenitáskutatás [*Reseach on Souveregnity*]. Budapest, Gondolat, 2023. p. 111.
[14] RIGÓ, Balázs: 1867 as the Year of Constitutional Changes Around the World. *ELTE Law Journal* No. 2. 2017. pp. 43-45.

kingdom with only loose federal ties to the overall monarchy".[15] According to Prime Minister Gyula Andrássy's proposal, Croatia should not form a third state within the Monarchy, but he also considered it important to ensure the country's historical autonomy.

Franz Joseph dissolved the Sabor after it recognised the Serbs as equal to the Croatian nation. In addition, he appointed Baron Levin Rauch, a Hungarian sympathizer, in place of Ban Josip Šokčević, who established the unionist party. This created a sabor ready for reconciliation, and the result of long negotiations was the Act 30 of 1868, promulgated by the Hungarian Parliament on 19 November, which contained the provisions of the Croatian-Hungarian Settlement.[16]

4. The relationship between the Sabor and the Hungarian Parliament during the Dualist Period

The Croatian-Hungarian Settlement was enacted by Croatia as Act 1 of 1868 and by Hungary as Act 30 of 1868. This article was undoubtedly a compromise between the two nations. Nonetheless, the law caused quite an uproar in Croatia.

It is significant that Hungary recognised Croatia as a so-called "partner country" (társország), but those who opposed the reconciliation felt that this was not enough. (The same applied to Hungary: not everyone was satisfied with the settlement.) Consequently, the unionists were satisfied and the opposition was indignant. Some Croats believed that they had achieved their most important goals, given the circumstances.[17]

According to the compromise, Croatia recognised Act 12 of 1867 binding, which incorporated the Austro-Hungarian settlement. Furthermore, Hungary had to only right to represent the countries of the Hungarian Crown, including Croatia. Therefore, Croatia had a separate legal status only in relation to Hungary, not in relation to foreign countries. According to László Heka, "Croatia had a legal status unlike any other country in the Monarchy, but it was not a separate factor from Austria, but only a part of Hungary".[18]

5. Public affairs

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[15] KATUS, *op. cit*., pp. 346–347.
[16] HEKA László: 1868. évi horvát-magyar kiegyezés a sajtó tükrében *[The 1868 Croatian-Hungarian Compromise in the Press]*. Szeged, 1998, Acta Universitas Szegediensis, pp.16-17., p. 30.
[17] HEKA László: A horvát-magyar közjogi viszony, különös tekintettel a horvátországi 1868: I. törvénycikkre és a magyarországi 1868: XXX. törvénycikkre *[Croatian-Hungarian public law relations, with special reference to Article I. of 1868 of Croatia and Article XXX. of 1868 of Hungary]*. Szeged, 2004, Szegedi Tudományegyetem Állam- és Jogtudományi Kar Jogtörténeti Tanszék, pp. 138–140.
[18] *Ibid.*, p. 141.

Section five of Act 30 of 1868 provides for common matters to be discussed in the common Parliament. Common affairs were the military affair, foreign affairs, finance, which included the establishment of the tax system. In addition, commerce, industry, customs, citizenship and the disposal of the royal revenues were also common matters.[19]

The Compromise also contained provisions on the common legislature, the common government and the head of the state. The legislative competences on common affairs were vested in the common Diet, which had to be convened in Pest annually. Croatia was represented by twenty-nine representatives in proportion to its population. The Croat representatives sent to the House of Representatives were elected from the Sabor. Furthermore, two members were sent to the House of Lords. The Croatian deputies remained members of the common parliament even if the Sabor had been dissolved in the meantime, so they remained members until the newly convened Sabor elected new deputies. However, this provision undermined their legitimacy. The Croatian representatives were free to express their opinions on common affairs. The Croatian members of the Hungarian delegation were elected at the joint Diet, four from the House of Representatives and one from the House of Lords.[20]

The executive power for common affairs was exercised by the common government in Budapest. A Croatian-Slavic-Dalmatian minister without portfolio was appointed for Croatia, who was responsible to the Hungarian Parliament, not the Sabor.

6. Autonomy for Croatia (and associated countries)

Section 47 stated that, for all matters, which were not considered to be common, Croatia-Slavonia-Dalmatia had the right of self-government in both the legislative and executive branches. Croatia's right of self-government included religious and administrative matters and the administration of justice. Laws were sanctioned by the monarch, who had absolute veto.

The language used in the legislation was Croatian, as well in the executive branch. The sabor seated in Zagreb and consisted of one house. Croatian-Slavonia was divided into ninety constituencies, each of which elected one representative. All men over the age of twenty four had the right to vote. A person could be disqualified if he or she was under guardianship, bankrupt or had been convicted of a crime that had disqualified him or her from voting. I would like to point out that the minutes of

[19] *Ibid.*, p. 148.
[20] *Ibid.*, pp. 148–149.

the sabor meetings were already kept and were open to the public. Detailed rules were contained in the house rules.[21]

Croatia's government was led by the Ban, who was responsible to the Croatian Sabor. The Ban was appointed by the ruler, who needed the Hungarian prime minister's countersignature. The settlement abolished the Ban's historic military powers. The Ban, although legally responsible to the sabor, politically was responsible to the Hungarian prime minister and to individual ministers. The sabor made the laws that governed Croatia's internal affairs, but importantly these could not conflict with Hungarian law.

The administration of justice was also regulated by the Sabor, not by the Hungarian Parliament. It was the Ban who nominated the judges, who were appointed by the monarch.[22]

Although for fifty years the Act of Settlement governed the Croatian-Hungarian state relations, the debate over its provisions never settled, and only ceased to exist at the end of the dual monarchy. A significant part of both nations was not satisfied with the treaty, and this led to many conflicts between 1868 and 1918. The demand for a revision of the Compromise remained an almost constant element of Croatian domestic politics during the era of dualism.

7. Relationship during the dualism

In Croatia, the system based on the compromise began to consolidate by 1873. However, political consolidation did not mean that Croatia's social problems were solved, and this had an impact on the political balance. The Croatian opposition started to reorganise. As a result, the Hungarian and Croatian elite came to an understanding once again, and the system became stable only after that. Still, there were several (albeit unsuccessful) attempts by the Hungarian government to increase its influence during this time period.

The emerging Serb-Croat conflict was exploited by the Hungarians, and if this was not enough, the annexation of Bosnia also created new tensions. After 1907, Croatia was in a state of permanent crisis, as internal conflicts led to the dissolution of the Sabor on several occasions, and it could not

[21] HEKA László: A horvát Sabor (Szábor) jogtörténeti szerepe *[The role of Croatian Sabor in legal history]*. Szeged, 2002, Szegedi Tudományegyetem Állam- és Jogtudományi Kar, p. 25.
[22] HEKA László: A horvát-magyar közjogi viszony, különös tekintettel a horvátországi 1868: I. törvénycikkre és a magyarországi 1868: XXX. törvénycikkre *[Croatian-Hungarian public law relations, with special reference to Article I. of 1868 of Croatia and Article XXX. of 1868 of Hungary]*. Szeged, 2004, Szegedi Tudományegyetem Állam- és Jogtudományi Kar Jogtörténeti Tanszék, pp. 149–151.

assemble for several years. By the 1910s, the southern Slavic nations began to declare their unity, and after that, a split was inevitable.[23]

Consequently, the Croatian-Hungarian Compromise did not lead to a genuine understanding and cooperation between the two nations. József Bajza argued that the different interpretations of the Act contributed to this, since many conflicts arose from the lack of agreement between the two nations on the implementation. Furthermore, the Illyrian movement also caused conflicts, since its aim was in absolute contrast with the Hungarian interest: the unification South Slavic nations. The activities of the Hungarian government and the Croatian bans loyal to it, who tried to solve all Croatian crises and conflict situations by preserving the compromise, also led to the deterioration of Hungarian-Croatian relations.[24]

8. Summary

Ferenc Deák saw the problem well during the negotiations, which led to the Compromise of 1868, since he knew that most Croats were behind the National Party and that a lasting relationship could not be based on the Unionist Party. This is why wanted to give Croatia financial autonomy.[25]

Unfortunately, as described above, the relationship between the two nations worsened after the Compromise was enacted. Both nations wanted to resolve the conflict that had started in 1790 through reconciliation. In my opinion, Ferenc Deák's ideas and efforts could have established a more lasting connection, but this was difficult because the Hungarians feared the creation of the South Slavic state and withdrew some competencies from the Sabor, wanting to reduce them further. Furthermore, both nations feared a deterioration of their own situation. I am not saying that this fear was unfounded, but I noticed that neither nation wanted to compromise on their interests. It was as if they knew in advance that this would not be a lasting coexistence, as if they knew that a relationship that had existed for centuries was coming to an end. Therefore, under these circumstances, it was impossible to establish lasting cooperation. However, the two nations had high hopes that the Compromise would solve everything

[23] KATUS László: A modern Magyarország születése. Magyarország története 1711-1914 *[The birth of modern Hungary. History of Hungary 1711-1914]*. Pécs, 2021, Kronosz Könyvkiadó Kft., pp. 671–679.
[24] HEKA László: A horvát-magyar közjogi viszony, különös tekintettel a horvátországi 1868: I. törvénycikkre és a magyarországi 1868: XXX. törvénycikkre *[Croatian-Hungarian public law relations, with special reference to Article I. of 1868 of Croatia and Article XXX. of 1868 of Hungary]*. Szeged, 2004, Szegedi Tudományegyetem Állam- és Jogtudományi Kar Jogtörténeti Tanszék, pp. 184–189.
[25] KATUS László: Sokszólamú történelem *[Polyphonic history]*. Pécs, 2021 Kronosz Könyvkiadó Kft., p. 355.

Máté Kiss: The Establishment of the State Audit Office in Hungary

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1. Introduction

The topic of my paper is the establishment of the State Audit Office. Recently, it has been renamed many times, and its competences were also often changed. In this paper, I will focus on the second half 19th century, because the concept behind this institution began to formulate during this period. The agreement between the Austria and Hungary caused difficulties, until the compromise of 1867. The main question was how to create an institution capable of examining the finances of the states of the monarchy both separately and together.

2. About audit offices in general

For these reasons, the institution initially played a more administrative role, which was increasingly necessary as the royal courts developed and expenses increased. Consequently, it became possible to allocate state assets more effectively, plan for the future more carefully, and perform calculations. Audit accounting emerged in the early years of feudalism. This was usually a separate office held by a high-ranking official who, alongside the king, was responsible for managing the finances. This position also existed in England, Germany, France and Hungary during this period. In our country, the treasurer (in Latin: thavernicatus) was responsible for managing state funds. As the years passed and audit offices developed, they presented more and more administrative problems and became the perfect place to commit corruption. An example of this is France, where senior positions were usually given to people close to the royal family or sold for money. The establishment of audit offices was also driven by corruption, because it was only possible to uncover such crimes with the existence of such institutions. The development of audit offices was closely linked to the development of budgeting and taxation. In some cases, medieval states had to levy taxes on their citizens to finance frequent warfare. To be able to track who paid and who didn't, as well as how much money was collected, an institution was needed to perform this task. This data was essential for starting a war,

as it made it possible to calculate how much money could be spent on weapons and soldiers. Following the English model, budgetary law initially emerged as the main task, but the final accounts were not yet included.Overall, it can be said that in the beginning its main task was to document the money coming into and out of the royal treasury.[1] In today's parlance, this means accounting. Nowadays, audits by the Audit Office must be carried out by an organisation that is separate from the executive power, is authorised by parliament and performs its tasks according to professional criteria. These criteria are necessary to guarantee full independence. This is an extremely important aspect because the body has enormous influence over certain financial matters. If anyone misuses this influence, it could cause huge financial disadvantage to the country.

The antecedents of the State Audit Office in Hungary

3. The financial control before 1868

In the Habsburg Empire, of which the Hungarian state was also a part until the Compromise of 1867, a financial control organisation had already existed by the 18th century. In 1761, Maria Theresa established the Court Auditing Chamber, which controlled public expenditure. However, this institution did not serve the principle of popular sovereignty, but rather the political and economic goals of the current ruler. Interestingly, paper money was also first issued in the Habsburg Empire in the same year, alongside the establishment of many institutions related to financial affairs.[2] Clearly, many developments were made during this period to modernise the monitoring of imperial finances. This was necessary because the larger and more developed an empire becomes, the more difficult it is to track its income and expenditure.

In April 1848, a change occurred in Hungary when Parliament created laws that transferred executive power from the Governor's Council, the Chancellery and the Chamber to the government. It was during this period that the need for an institution to oversee public expenditure emerged.[3] This is supported by an article of the law on establishment of the Hungarian government responsible to the National Assembly, which states that: *"The ministry is obliged to present the statement of the country's incomes and needs – and looking at the past , the calculation of the incomes it manages for parliamentary examination and approval – every year at the Lower House"*.[4] As the House of Representatives cannot fulfil this obligation independently, it was necessary to establish an

[1] PÉTERVÁRI 2002. p. 62–68.
[2] KOVÁCS, Árpád: A M. Kir. Állami Számvevőszék 1870-es megalakulása és előzményei [The establishment and antecedents of the Hungarian Royal Audit Office in 1870]. *Állam-és igazgatás – Magyar Közigazgatás*. 2000. No. 11, p. 668–672.
[3] KOVÁCS 2000. p. 668–672.
[4] Act 3 of 1848 on the formation of the independent Hungarian responsible ministry § 37

independent body to do so. To implement Article 37, Act 3 of 1848 established the National Auditing Commission. The institution's main tasks included financial control of the government and review of the final accounts. Unfortunately, this body was forgotten due to the ongoing military situation and defeat in the war of independence.[5]

In the era of neo-absolutism, the financial control organizations of Hungary and Austria were centralised. Between 1854 and 1 January 1867, the *Obersterechnungscontrollbehörde* (General Accounting Control Office) carried out financial control at the highest level in the Austrian Empire. Approaching the Austro-Hungarian Compromise, however, this scope of responsibility was split, in Austria it was carried out by the *Oberster Rechnunghof* (General Court Audit Office), while in Hungary it was carried out by the state accounting department, which belonged to the Ministry of Finance. The latter's tasks included the complete control of financial and economic control, thereby also preparing the final accounts. Accordingly, in 1868 and 1869, this institution prepared the financial statement for the previous year. Many people were sceptical about the operation of the organisation, which at that time was not yet independent from the government, as it operated under the Ministry of Finance.[6]

4. The financial control after 1868

By the second half of the 19th century, the idea that Parliament was unable to exercise financial control over the government had become widespread across Europe. Therefore, it was deemed necessary to establish a separate institution for this purpose. According to the principle of separation of powers, it was also widely held that this institution should be separate from the executive power. This was considered too broad a task for the legislative power, and neither Parliament nor one of its committees could undertake it.[7] Considering these facts, the Parliament passed Act 18 of 1870, decided in a legal article on the State Audit Office.[8] The law was approved by the king on 30 May 1870.[9] This law established the institution and regulated its competences.

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[5] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98–111.

[6] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98–111.

[7] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98–111.

[8] MEZEY Barna: *Magyar Alkotmánytörténet [Hungarian constitutional history]*. In Bódiné Beliznai Kinga *Az állam szervei: Az állami ellenőrzés szervezete: Állami Számvevőszék [Organs of the state: Organization of state control: State Audit Office].* Budapest, 2003. Osiris, p. 204.

[9] KOVÁCS 2000. p. 668–672.

In 1868, the Supreme Court of Auditors of the Monarchy was established. Its task was to control the common affairs created during the compromise (foreign affairs, military affairs, and the related financial affairs).[10]

Monarchy and state level financial control

5. Imperial and Royal General Audit Office

As previously mentioned, a separate institution was created to manage the financial aspects of the common affairs in 1867. It was called the Imperial and Royal General Audit Office.[11] The first presiding officer of the common auditor's office was Károly Hock (1868-1869), who was followed by József Preleuthner (1869-1871). They were followed by Lipót Wieser (1877-1879) and Vilmos Tóth (1879-1895). The last president of the Imperial and Royal General Audit Office was Ernő Plener, who held the title between 1895 and 1918.[12]

The detailed structure of the agency's organisation remains obscure, but it is known that a team of around thirty people supported the agency's work. Additionally, the president and five principals acting as court councillors or class councillors, five court secretaries, fifteen accountants and three accounting assistants participated in the institution's daily operations. The presidential departments had a wide range of responsibilities. They handled personnel matters and the ruler had to submit annual reports. It was also their responsibility to prepare and submit the final accounts to the common affairs committees. The Imperial and Royal General Audit Office could conduct annual audits, the reports of which also had to be prepared by the Presidency. The case departments inspected the Ministry of War's institutions and the corps and divisions. Following the dissolution of the Austro-Hungarian Monarchy after the First World War, the common audit office ceased to exist as an institution.[13]

6. Hungarian Royal General Audit Office

Alongside the regular audit office, a financial body operated within Hungary's borders. As I mentioned earlier, the Hungarian Royal General Audit Office was established in 1870. However, the election of its first president posed a significant challenge. The selection process took place at the

[10] KOVÁCS 2000. p. 668–672.
[11] DOROGI, Zsolt – LEGEZA, Dénes: Weninger Vince szerepe a Magyar Királyi Állami Számvevőszék létrejöttében [The role of Vince Weninger in thecreation of the Hungarian Royal State Audit Office]. *Glossa Iuridica*, 2017. No. 3–4.
[12] *Ibid.*
[13] *Ibid.*

same time as the law establishing the body was being negotiated. Several leading politicians of the time, including Ferenc Deák, Gyula Andrássy and Menyhért Lónyay, considered Vince Weninger to be the most suitable candidate. However, several other political figures wanted Antal Csengery to be appointed president.[14] Without a suitable body, the control of the final accounts for 1867 and 1868 also caused serious problems. According to the April laws, parliament must carry out this task by the appropriate deadline, regardless of whether a specialised body already exists for this purpose. The finance committee of parliament was asked to take on this task, but they rejected the request, citing professional reasons. The solution was to set up a seven-member commission, established in December 1869. Its president was Salamon Gajzágó. The commission worked extremely quickly and managed to complete the audit of two years' worth of accounts by 1 April 1870. Subsequently, Menyhert Lónyay nominated Vencel Weninger, a reputable financial specialist. However, he lacked the confidence to take on the role. On 25 June 1870, the House of Representatives held a vote to decide who the three candidates to be submitted to the monarch should be. Of the candidates, only Weninger had the necessary professional experience in financial control and accounting. Nevertheless, Prime Minister Gyula Andrássy submitted Salamon Gajzágó's name to the ruler. Following these events, Gajzágó became the first president of the Hungarian Royal General Audit Office.[15]

The establishment of the Hungarian Royal General Audit Office

7. Preparation and discussion of the bill in the Parliament

The bill establishing the Hungarian Royal General Audit Office was drafted in the Parliamentary Finance Committee. Two legislative proposals were received, and a report dated 12 December 1869 stated that the proposal submitted by the Minister of Finance, Lónyay Menyhért, was more organised in terms of its structure. This did not mean that the proposal was accepted, but it provided a basis for further discussion. The committee's most significant amendment concerned the status of the chairman of the audit committee. According to Lónyay's proposal, here the prime minister would present the president of the auditor's office to the monarch, while the president himself would recommend his advisers to the king for appointment. However, the committee objected to this, as they wanted to create an organisation that was independent of the government. This would not be possible if the prime minister could propose the president of the body. Regarding this matter, the committee believed that it would be appropriate for the House of Representatives to propose a

[14] *Ibid.*
[15] *Ibid.*

candidate for president. The finance minister and the committee also had different views on the authority of the body. Based on the committee's point of view, the Audit Office's authority should also cover pension control, so they wanted to supplement the bill with a related paragraph. However, Menyhért Lónyay expressly opposed this, stating in a speech that he did not intend to submit the proposal to the monarch with these amendments. The Council of Ministers remained neutral on the issue as they realised that, for political reasons, if they were not willing to compromise, it could take a very long time for the law to be presented to parliament. Consequently, the amendment concerning the examination of pensions was rejected so that the proposal could be included in the parliamentary agenda.[16]

The "detailed" debate on the bill began in parliament on 7 February 1870. The central committee considered it of the utmost importance that the State Audit Office remain neutral in the political struggles of the parties and not be influenced by them. According to the central committee, for the auditor's office to perform its tasks satisfactorily, it must be incorporated into a system of state bodies based on principles that ensure the undisturbed exercise of its powers. Kálmán Széll categorised these principles into two groups. The first group is based on the idea that the law must provide the body with the necessary degree of independence to perform its tasks properly. The second principle was that a high degree of independence must fit into the parliamentary form of government.[17] Gyula Györffy presented the minority opinion of the Central Committee, stating that he did not consider the bill to be adequate in several respects. The representatives considered the Audit Office to be a parliamentary aid in terms of financial control; therefore, they deemed it essential to separate the body from executive power. This requirement was met by §2 of the law, which stated that the body must be independent of the ministry. While the section of the law containing §§ 1–20 did not spark significant debate among the representatives, the subsequent sections became the subject of heated debate.[18] The opposition became more acute during the discussion of Section 21. According to this section, the State Audit Office prepares a report on all audits carried out each quarter and sends it to the Council of Ministers along with its recommendations. However, this part of the law was not in accordance with Sections 9 and 15, which state that if the Audit Office discovers financial abuse, it should be reported to both the Council of Ministers and Parliament. However, this amendment proposal was not accepted by Parliament. There was also a great deal of debate about

[16] RÉVÉSZ Tamás: *A központi állami ellenőrzés szervezetének kialakulása Magyarországon 1867 után [The formation of the organization of central state control in Hungary after 1867]*. Budapest, 1971. Az ELTE Magyar Jogtörténeti Tanszékének kiadványai [Publications of ELTE Department of the History of Hungarian State and Law], pp. 24–27.

[17] RÉVÉSZ 1971. p. 27–28.

[18] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98–111.

the fact that, if the State Audit Office were to present the final accounts to Parliament, the ministry would be subordinated to the financial control body. This was against the government's interests, given the Audit Office's extensive auditing powers. In the parliamentary vote on the law, 166 voted in favour, 147 against, and 118 abstained.[19] The proportion of votes shows that the sharp debates were not unfounded; the law was passed by a narrow margin. Interestingly, the newspaper Pesti Napló also reported on the parliamentary debate on the draft law, providing readers with a detailed explanation of the conflicts of interest surrounding the proposal, complete with verbatim quotes.[20]

8. The enacted law

The law consisted of a total of 30 sections. It was enacted on 30 May 1870 and announced in the House of Representatives on 6 June and in the House of Lords on 21 June.[21] Section 2 of the law ensured independence from the ministry. Section 3 defined the personnel of the Audit Office, consisting of a Chairman, a Chief Auditor, the required number of Auditors and Support Staff. The president's salary could be equivalent to that of a minister. Sections 4 and 5 of the law set out the rules on conflicts of interest, which stipulated that, for example, the chairman of the body could not be a member of the lower or upper house of parliament.[22] Section 6 provided for the appointment of the president of the body, as well as the chief accountant and accountants. Section 13 included the solution of sectoral and central coordination.[23] According to § 12, double bookkeeping must be maintained at the State Audit Office, a practice that is still common in modern accounting. The final three paragraphs of the law outlined its scope. According to §28, the audit court commenced operations immediately upon the law's enactment. According to § 29, the law applied equally in all countries of the Hungarian Crown. According to §30, responsibility for implementing the law lied with the Prime Minister.[24]

9. The operation and scope of work of the Hungarian Royal General Audit Office

The Hungarian Royal General State Audit Office began operating at the start of 1871. This body prepared the final accounts for 1870, as well as accepting the final accounts for 1868 and 1869. The temporary rules of procedure for the auditor's office were based on the former state accounting department's regulations, which were approved by the king on 14 November 1870. When

[19] RÉVÉSZ 1971. p. 28–36.
[20] *Pesti Napló*, 1869. december 3. 278. sz. Melléklet
[21] Act 18 of 1870 on the establishment and powers of the State Audit Office
[22] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98-111.
[23] RÉVÉSZ 1971. p. 30-31.
[24] Act 18 of 1870 on the establishment and powers of the State Audit Office

presenting the first public finance results prepared independently by the office, the State Audit Office also highlighted deficiencies in the portfolio management of various ministries.[25] However, a major conflict arose between the newly formed Audit Office and the Council of Ministers from this report. The latter body provided feedback on the report three months later. Subsequently, the government began efforts to downgrade the State Audit Office to a primarily numerical, administrative auditing body. The Council of Ministers argued that the Court of Auditors had exceeded the authority mentioned in § 14 of Act 18 of 1870. It took years for Parliament to express their opinion in the debate, and when they did, it did not contain any information relevant to the discussion. The House of Representatives did not take a position in the debate, which the government interpreted as tacit consent. From now on, the Audit Office is 'merely' a body authorised to carry out numerical and audit checks.[26]

The president of the State Auditor's Office is appointed by the king for life on the initiative of the House of Representatives and the recommendation of three individuals appointed by parliament, a decision which is countersigned by the prime minister. The vice president, auditors' advisors, department advisors and secretaries are appointed by the king on the president's recommendation and the prime minister's proposal, while other officials are appointed by the president of the State Auditor's Office. The president is responsible to parliament and is exempt from criminal liability under Act 3 of 1848. The legal article on ministerial responsibility applies. The president's salary is equivalent to that of ministers.[27]

According to Károly Kmety, the competence of the State Auditor's Office is as follows: "*The competence of the State Auditor's Office covers the control of all state revenues and expenditures and the management of state assets and state debts, as well as state accounting: its task is to keep records and check that all accounts are made in accordance with the accounting rules and whether all vouchers comply with the provisions of the Budget Act and other relevant laws, contracts, and effective decrees.*"[28] Other duties of the audit office include checking the current amount of changeable currency and supervising compliance with pension rules. However, the most important task of all is to prepare the final accounts of the previous year and send them to the Council of Ministers by the 1 September at the latest. Both the parliament and any of its houses may request documents from the Audit Office,

[25] RÉVÉSZ 1971. p. 38.
[26] RÉVÉSZ T. Mihály: Az Állami Számvevőszék felállítása és működésének kezdetei [The establishment of the State Audit Office and the beginnings of its operation]. *Pénzügyi Szemle*, 2012. No. 1, p. 98–111.
[27] KMETY Károly: *A magyar közigazgatási jog kézikönyve [Handbook of Hungarian administratiwe law*] Budapest, 1897. Politzer Zsigmond könyvkereskedő kiadása, p. 688.
[28] KMETY 1897. p. 688–689.

which the body performing the financial audit must send.[29] The work of the State Audit Office is assisted by the ministry audit offices, which are the ministerial audit offices operating in the ministries, as well as the audit offices of lower authorities. The former body is headed by a director who is subordinate to the minister in charge of the given ministry. The accounting of the subordinate authorities is led by a chief.[30]

Summary

The establishment of the State Audit Office was particularly significant for Hungary at that time. Firstly, given the pace of European development, the time had come for the establishment of such a body in Hungary. Prior to this, financial control could not be performed within such an organised framework. At that time, Parliament was managing exceptionally large sums of money, so it was important to create such a body to avoid possible abuses. Secondly, the process of establishing the body and appointing its leaders improved relations between the states of the newly formed Austro-Hungarian Monarchy. For example, the president of the body was appointed by the prime minister and the monarch jointly. Appointing the president for life meant that they could not collude with the government in power. Interestingly, the President of the State Audit Office is now elected for a twelve-year term.

[29] KMETY 1897. p. 689.
[30] KMETY 1897. p. 689.

Jakov KURSAR: Electoral regulations in Croatia between the two World Wars

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1. Formation of the Kingdom of Serbs, Croats and Slovenes, electoral rules and the Constitution of 1921

The Kingdom of Serbs, Croats and Slovenes [Kingdom of SHS – in Croatian, or Kingdom of SCS in English] was formed in exceptionally unfavourable circumstances for Croatia as part of the short-lived State of Slovenes, Croats and Serbs. The primary existential threat to the State of Serbs, Croats and Slovenes [SHS], aside from the lack of international recognition, was the effort of the Italian army to occupy parts of its territory. In these circumstances, it was believed that to preserve the territorial integrity of the State, the only option was to negotiate a unification with the Kingdom of Serbia. Urged by Svetozar Pribičević, the National council abandoned most of their negotiating strategy and agreed on the contents of their "Address" to Belgrade. In the Address, the National council expressed their wish for unification and highlighted that the future head of state should be king Peter of Serbia.

In the "Act of 1st of December" of 1918 Regent Alexander, according to the request of the National Council of the State of SHS, announced the unification of the State of SHS and the Kingdom of Serbia and Montenegro.[31] On 3 September 1920, the Kingdom's interim government passed the Law on the election of people's representatives for the Constitutional assembly. The assembly was envisioned as a completely independent body, however, the law which established it, contained provisions which breached its jurisdiction and hindered its work.

Active suffrage was granted to male citizens of the Kingdom over the age of twentyone years. The law explicitly withholds the right to vote from those who had the right to opt for a different citizenship according to the peace agreements. The right to vote was determined

[31] ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu, od srednjeg vijeka do suvremenog doba [Croatian legal history in the European context, from the Middle Ages to the modern era]*. Pravni Fakultet u Zagrebu, 2023, p. 262.

by the domicile census, or residing for a minimum of six months in a certain electoral county.[32] Voting was done in secret and was performed by placing a rubber ball inside a box that belonged to a list or candidate the voter decided to support. In Slovenia, the practice of voting using paper ballots was widely accepted; however, using rubber balls was legally recognised due to low literacy rates in Serbia.[33]

The conditions for passive suffrage were having all civil and political rights, a permanent residence in the Kingdom of SHS in principle, twentyfive years of age and the ability to read and write. Passive suffrage was significantly limited for certain categories of state officials, especially police officials and judges. In the elections, one representative was elected for each thirtythousand citizens. Furthermore, one additional mandate was granted to each electoral county that had seventeenthousand citizens more than the base value of thirtythousand. However, electoral counties and the number of active voters were determined according to the census of 1910 which favoured the lands belonging to the former Kingdom of Serbia as many of its citizens lost their lives in the Balkan Wars and World War I. Great efforts were made to justify the inclusion of deceased voters as Serbia's moral right while the opposition criticised this, describing it as a "liberation tax".[34]

The elections for the Constitutional assembly took place on 28 November 1920. Twenty-two political parties participated and the highest number of votes went to the Democratic party (ninetytwo mandates), Radical party (ninetyone mandates), Communist party (fiftyeight mandates) and Croatian people's peasant party (fifty mandates). The unitarian parties did not win a majority, so due to fear for the survival of the Monarchy, the government imposed temporary rules of procedure for the Assembly, which envisioned that an absolute majority is needed to approve the Constitution and that every elected representative must swear and oath to the king in order to enjoy his rights as a representative. The latter condition forced the Croatian political parties to abstain from the vote.[35] The constitution was approved by

[32] *Ibid.,* p. 264.
[33] BALKOVEC, Bojan: Izborno zakonodavstvo prve jugoslavenske države (1918 – 1941) [The electoral legislation of the first Yugoslav state (1918-1941)]. *Časopis za suvremenu povijest [Journal for Contemporary Writing]*, Vol. 48, No. 1, 2016, pp. 197–216, p. 207. https://hrcak.srce.hr/160762
[34] ČEPULO, *op. cit.,* p. 265.
[35] ŽEBEC ŠILJ, Ivana: Pregled općeg političkog stanja u Kraljevini Srba, Hrvata i Slovenaca, kasnije Kraljevini Jugoslaviji [Overview of the political situation in the Kingdom of Serbia, Croatia and Slovenia, later the Kingdom of Yugoslavia]. *Studia lexicographica*, Vol. 12, No. 22, 2018, pp. 27–45, p. 31. https://hrcak.srce.hr/213580

the decimated Assembly by a slim margin on the 28th of June 1921 on the Orthodox holiday of Vidovdan.[36]

2. Voter inequality

A noteworthy characteristic of the legal framework of the Kingdom of SHS in its early years was voter inequality.[37] The root of the inequality is reflected in the fact that the number of votes needed to secure a seat in the Constitutional assembly varied significantly as 3301 registered voters were needed to elect one representative in the Banat, Bačka and Baranja regions, while the highest number of registered voters, 8092 in fact, for one representative was required in Dalmatia.[38] The voters also faced inequality by profession. Active and retired military personnel were not allowed to vote.[39] *This restriction does not apply to reserve officers and civilian clerks in the military profession*.[40]

The right to vote was withheld from convicts serving prison sentences and those who lost their civil rights, mainly those punished for not fulfilling their civic duties, for example, Jehovah's witnesses. During the 1930s, the right to vote was also taken from those convicted of electoral offences.[41] Moreover, even members of the state administration faced restrictions on their civil liberties and political rights. *Under general legal conditions, for the election of representatives to the National assembly, all administrative officials of the civil class enjoy active suffrage. The requirements were much stricter concerning passive suffrage, as elected senators, if currently serving in the state administration, cannot keep their clerk title. There is an additional requirement for certain professions (police, financial, forestry and agrarian officials) – the clerk's employment in these professions must have ended at least one year before the elections.* [42]

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[36] *Ibid.,* p. 32.
[37] KOSNICA, Ivan – PROTEGA, Martina: Politička prava u Kraljevini Srba, Hrvata i Slovenaca: razvoj temeljnih obilježja [Political law in the Kingdom of Serbia, Croatia and Slovenia: the development of fundamental abundance]. *Pravni vjesnik [Legal Bulletin]*, Vol. 35, No. 1, 2019, pp. 139–156, p. 143. https://doi.org/10.25234/pv/7989
[38] *Ibid.,* p. 143.
[39] ČEPULO, *op. cit.,* p. 264.
[40] Article 10, *Law on the election of people's representatives to the Constitutional Assembly, biblioteka Pravnog fakulteta u Zagrebu*.
[41] BALKOVEC, *op. cit.*, p. 202.
[42] KRBEK, Ivo: *II. Knjiga, Organizacija javne uprave [Book II, Organisation of Public Administration].* Zagreb, 1932, Tisak i naklada jugoslovenske štampe d.d., p. 181.

3. Suffrage, nationality, and citizenship

National affiliation as a basis of political rights first came to the fore during the State of Slovenes, Croats and Serbs in the instruction of the National council in which it stated that the members of the local committees can only be Slovenes, Croats, Serbs and other Slavs while Germans and Hungarians cannot.[43] The defining of one's political rights by nationality was also present in the first years of the Kingdom of Serbs, Croats, and Slovenes.

The Law on the election of people's representatives for the Constitutional assembly of 1920 also followed the same "logic" of defining political rights on the basis of national and not necessarily civil affiliation. Thus, article 9 of the said law states in general that all male citizens over the age of twentyone enjoy active suffrage, while on a practical level it reduces the significance of citizenship as a basis for active suffrage by giving the right to vote to all Slavs who settled in the country regardless of their citizenship, while denying the same right to citizens who had the right to opt for a citizenship. This specific arrangement of voting rights on the elections for the Constitutional assembly in 1920 allowed, for example, the Czechs and Slovaks, who were accounted for on the voter lists, to vote despite not being citizens of the Kingdom of SHS, while at the same time the right to vote was withheld from many Jews, Hungarians and Germans.

Allowing the right to vote as one's fundamental political right according to one's ethnicity greatly affected the possibility of enjoying other political rights as well. In such circumstances, a significant number of Jews, Hungarians and Germans had their right to public gathering and political association severely restricted.[44] Concerning female suffrage, the Social Democratic party, the Communist party of Yugoslavia and the Croatian people's peasant party supported the women's right to vote without restrictions. However the political majority opposed this due to many concerns, mainly the fear of eroding family values and the risk of women being "easy prey" for revolutionary parties.[45]

4. "The Dictatorship of 6th of January" and the Constitution of 1931

[43] KOSNICA, Protega *op. cit,* p. 141.
[44] *Ibid.,* p. 142.
[45] BALKOVEC, *op. cit,* pp. 201–202.

Political life during the time of the Vidovdan constitution was marked by constant political and social instability, the causes of which stemmed from unresolved tensions in such a culturally, nationally and socially diverse country. The state attempted to defuse the tensions by an authoritarian form of governance and by imposing the interests of the Serbian political elite.

The most significant factor in instability was the conflict between national interests of Serbs and the majority of other ethnic groups. However, there were also power struggles between Serbian and unitarian parties, as well as constant political persecution of the communists and pressure toward almost all oppositional elements. In such circumstances, political life was marked by frequent changes in government and political alliances. On the 6th of January 1929 the king proclaimed in the Official paper that *the time has come when there can no longer be any middlemen between the king and his people.* The king, under the pretense of safeguarding national unity, concluded that he had no other option but to abolish the Constitution and dismiss the National Assembly.[46]

The abolition of the Constitution and the introduction of the dictatorship were carefully planned. The first law, enacted the same day as the dictatorship, was the Law on the royal government and the supreme state administration, according to which the king is the holder of all power in the state. In order to hinder any political activity against the regime, the king on the same day passed the Law on the protection of the state which outlawed and disbanded all associations and political parties that advocate the need for change in the power structure or have religious or tribal characteristics.[47] One of the most significant laws was the Law on the name and division of the Kingdom into administrative areas enacted on the 3rd of October which renamed the country to Kingdom of Yugoslavia.[48]

The previous administrative division into thirtythree regions was replaced by a division into nine "Banovina" and one separate unit – the Belgrade city administration while completely disregarding historical, national and development criteria.[49] The nine Banovinas were drawn only by geographical criteria, but the new administrative division ensured that the Serb

[46] ČEPULO, *op. cit.,* pp. 271–272.
[47] BLAGOJEVIĆ, Anita – RADONIĆ, Branka: O Ustavu Kraljevine Jugoslavije iz 1931 [On the Constitution of the Kingdom of Yugoslavia of 1931]. *Pravni vjesnik [Legal Bulletin]*, Vol. 28, No. 1, 2012, 123–144. https://hrcak.srce.hr/85434 pp. 124–125.
[48] ČEPULO, *op. cit.,* pp. 272–273.
[49] ŽEBEC ŠILJ, *op. cit.,* p. 36.

majority in each banovina is as large as possible.[50] However, the difficult economic situation, the growing political and social revolt and the foreign press reports of suspected assassinations of political opponents exposed the limits of authoritarian rule. This was also affected by external pressure on the regime from the countries that initially supported the dictatorship convinced that it would ensure the safety of their own capital in the country and stabilise the situation.

All this led the King to enact the Constitution of the Kingdom of Yugoslavia on the 3rd of September 1931 in order to preserve the legal heritage of the dictatorship in a constitutional form.[51] As for the matter of the right to vote and political rights in general, the Constitution of 1931 brought about significant changes in comparison with the electoral regulation of the 1920s. Primarily, secret ballots were no longer used. *During the 1930s, voting was public. The voter should loudly and clearly say the name of the candidate for which he wants to vote and that would be registered by the election commission.*[52] Furthermore, the new electoral system was designed to benefit the large parties favoured by the regime.

The Electoral law of 1931 introduced state lists and the parties had to have had a candidate in every electoral unit in the state and a lead candidate for the state list. The lead candidate on the list needed to secure an endorsement in sixty voters from each district. The goal was to neutralise all parties with regional and national characteristics. Only parties that were large enough to gain sufficient support in every district could participate in the elections. Large parties gained a further advantage from a provision which states that the list that wins even a relative majority in the country as a whole, also gains 2/3 of the mandates in each Banovina. However, these conditions were eased by an amendment in 1933 which reduced the mandate distribution to 3/5.

Despite these advantages and successful elections for the parties loyal to the regime, general political instability resulted in frequent elections and changes of government.[53] The unfavorable political climate both in the Kingdom and Europe as a whole convinced king Alexander to renew relations with the leaders of the "old" parties. However, this

[50] ČEPULO, *op. cit.,* p. 273.
[51] *Ibid.,* p. 274.
[52] BALKOVEC, *op. cit., p.* 207.
[53] ČEPULO, *op. cit.,* pp. 275–276.

development was cut short in September of 1934 with the king's assassination in Marseille during a state visit to France.[54]

5. Banovina of Croatia

Constant political tensions in a time when the beginning of World War II was imminent, the consequences of which would certainly be the collapse of the Kingdom of Yugoslavia, prompted the Regency council on the 5th of February 1939 to hand Dragiša Cvetković, a moderate politician, a government mandate to attempt to negotiate with Vladko Maček of the Croatian peasant party and solve the Croatian question.

This became necessary when an Axis-friendly government led by Milan Stojadinović collapsed from internal disputes that were induced by Croatian ministers.[55] After months of negotiations, the Cvetković-Maček agreement was declared on the 26th of August 1939. It was decided to form the new government with a goal of creating the Banovina of Croatia. The agreement was formally regulated by the Decree on the Banovina of Croatia which was declared on the same day.[56] The Decree implemented and elaborated on the contents of the Cvetković-Maček agreement. The territory of the Banovina of Croatia was determined using the ethnic and historic principle, which means that it encompassed former banovinas and districts with a Croat majority and territories that were historically part of Croatian lands.[57] The Banovina of Croatia was not merely an administrative unit like the other banovinas, but a separate legal and political unit with characteristics similar to those of a federal unit.[58]

Elections were regulated by the Decree on the electoral system and the organisation of the parliament. The Decree abandoned the system of state lists from the Electoral law of 1931 and introduced the system of electoral counties. The area covered by each electoral county roughly matched the area of jurisdiction of each county court. Each county elected one representative for every fourtythousand residents; however, if a county had at least an additional twentythousand residents over the base value of fourtythousand that electoral

[54] ŽEBEC ŠILJ, *op. cit.*, p. 38.
[55] ČEPULO, *op. cit.,* p. 276.
[56] ŽEBEC ŠILJ, *op. cit.,* p. 41.
[57] ČEPULO, *op. cit.,* p. 278.
[58] MILUŠIĆ, Anto: Izborni sistem Banovine Hrvatske [The Election System of Banovina Croatia]. *Zbornik Pravnog Fakulteta u Zagrebu [Proceedings of the Faculty of Law in Zagreb],* Vol. 33, No. (3-4), 1983, pp. 343–372, p. 344.

county elected one additional representative. Active suffrage was granted to all male citizens of the Kingdom older than twentyfour years who had local citizenship in one of the Banovina counties in Croatia and was registered on the list of voters. To be registered on said list, the voter had to have had permanent residence in that county for at least six months. Voting restrictions were somewhat stricter in Banovina compared to the previous electoral laws, as the right to vote was specifically withheld not just from military personnel and convicts, but also from individuals who filed for bankruptcy and those under guardianship. Another noteworthy change was the reintroduction of voting in secret. Furthermore, it was possible to vote by representative if a voter had a "significant physical disability" which prevented him from voting in person. As for the matter of passive suffrage, a candidate for a seat in the Sabor of the Banovina had to have been a male over thirty years of age with active suffrage, who was literate and spoke the national language. Passive suffrage was withheld from active state, local, and city officials, but an exception was made for ministers, university professors and the Ban, who were allowed to keep their positions if they were elected.[59]

6. Conclusion

It is apparent that the years between the two World Wars were some of the most tumultuous in modern Croatian history. Despite exceptionally complicated circumstances, it is possible to detect that the opposing interests of the monarchist political establishment, which held a favourable position due to Serbia being a winner in World War I, and various other movements which fought to preserve the political autonomy of other national groups, the largest of which were on the defeated side, were the most significant factor of instability for the new state. Each side made great efforts to use the electoral system to its advantage.

The State of Slovenes, Croats and Serbs, led by pan-slavic ideals, ensured political representation only to ethnic Slavs while marginalising non-Slavs. During the 1920s and 1930s, even larger efforts were made to secure the supremacy of Serbian and unitarian interests, mainly by electoral engineering or shaping electoral units in order to ensure a comfortable pro-regime majority and by imposing requirements that only large parties favoured by the regime could realistically meet. Furthermore, the practice of publicly voting made voter intimidation easy to carry out on a large scale.

[59] *Ibid*., pp. 353–357.

However, it is necessary to point out that the quest for political and legal autonomy of different ethnic groups within the Kingdom was not the only factor of instability. Fear of the rising popularity of the communist movement led to suffrage restrictions. For example, one of the deciding arguments against female suffrage was the concern that women would predominantly support communists in a quest for more rights. Moreover, the Banovina of Croatia introduced changes to its electoral regulation which could be described as progressive for their time, such as the reintroduction of voting in secret, while at the same time reducing voting rights by raising the minimum voting age from twentyone to twentyfour due to concerns of the youth siding with revolutionary parties.

Antal Zoltán MASASON: The Theoretical and Practical Context of Exceptional Power: Defence Authorization Acts in Hungary in the Period from the Era of Austro-Hungarian Monarchy until World War II

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1. Introduction: exceptional power as a particular situation in public law

In the day-to-day functioning of a constitutional state, citizens fundamentally expect state institutions and public officials exercising public authority to always preserve the constitutional framework of the state and respect constitutional guarantees of fundamental rights. Conversely, the 'normal' functioning of the state can never be considered exclusive; extraordinary events do occur from time to time which justify the introduction of a particular situation of public law — a period of exceptional power. Even the ancient Roman res publica society deemed it justifiable to temporarily introduce the position of dictator: in situations of imminent threat to the state and its population, typically during war or the threat of war, it is necessary to depart from the state's usual structures, which divide public power among several institutions, and entrust one person or public body with full public power.[1] The reason for this drastic decision is that the emerging problem — typically international armed conflict, but historically also including armed conflicts within a state and natural disasters — cannot be solved by maintaining the traditional framework of state structures based on the shared exercise of power. This is because the customary procedures are extremely slow and cumbersome in view of the guarantees that safeguard citizens' rights and the constitutional order. Therefore, they are not suitable for responding swiftly and effectively to emergency situations. For this reason, the public law system must move away from operating under

[1] TRÓCSÁNYI, László: A különleges jogrend elméleti kérdései [Theoretical questions on special legal order]. In: NAGY, Zoltán – HORVÁTH, Attila: *A különleges jogrend és nemzeti szabályozási modelljei [Special legal order and its national regulatory models]* Budapest, 2021, Mádl Ferenc Institute of Comparative Law, pp. 26-36. (NAGY – HORVÁTH/2)

guarantees in order to safeguard the lives of the population and its own existence, and must entrust the management of all state operations to a person or public body with the necessary expertise and decisiveness to ensure operational effectiveness.

In constitutional states, the executive – and its chief organ, the government – is usually considered the most capable of effective action among all state actors. This is because its organisational system contains relationships of hierarchical control and leadership that ensure precise implementation of instructions, as well as informal consultative formations that facilitate the swift adoption of professional political and governmental decisions. Decisions taken by a relatively small central government can quickly reach remote parts of the country through the public administration system, enabling fast, efficient and immediate intervention. However, monopolising executive power also carries risks. By maintaining or perpetuating exceptional power, the government can usurp the power it was previously vested with; by abusing power, it can dismantle constitutional structures founded on the sovereignty of the people; and by introducing restrictive measures, it can erode the fundamental rights of citizens. To avoid this, the legislative branch of power – typically parliament – which represents the sovereignty of the people, restricts the executive's power through defence authorisation acts. These statutes cover the legal instruments that the executive can create during a period of exceptional power, the extent to which fundamental rights can be restricted, how constitutional institutions will function, and the duration of exceptional power, including the procedure for promulgating the special legal order. Based on the defence authorisation act, the executive power is entitled to create rights and obligations independently during the period of exceptional power.

Before World War I, at the end of the Austro-Hungarian Monarchy, the Hungarian state of the civic era created the first statute codifying the regulatory framework concerning exceptional power. The exercise of exceptional power came into force with the introduction of Act 63 of 1912 on Wartime Emergency Measures and continued until the end of World War II, due to the special legal order being extended periodically. This study will present the regulation of the state of exception in the 20^(th)-century Hungarian state, including the main provisions of Act 63 of 1912 on Wartime Emergency Measures, Act 6 of 1920 on Extending the Period of Exceptional Powers Granted During the Period of War, and Act 2 of

1939 on National Defence. This discussion will follow a review of the constitutional theories on exceptional power in the civic era. The study's primary objective is to analyse, compare and evaluate the various historical approaches to regulating exceptional power.

2. The international and Hungarian theoretical grounding of exceptional power in after 1867

In the second half of the 19th century and the first decades of the 20th century, the first modern theoretical trends emerged that examined the justifiability and dogmatic characteristics of exceptional power in terms of constitutional law and state theory. These divergent ideological statements were closely linked to the historical traditions and constitutional arrangements of the 'homeland' of the theory. Thus, there was a difference between the Anglo-Saxon approach and the continental German and Austrian approaches, both of which had a decisive influence on Hungarian theories of exceptional power. The following section will present the theoretical background to the special legal order in international terms, with a focus on the German-Austrian approach, as well as in Hungarian terms. Understanding the roots of constitutional theory may provide a more detailed and accurate picture of the regulatory environment in modern Hungary. Since the second half of the 19th century, two types of state theory approaches have emerged, describing the constitutional-dogmatic classification of exceptional power. One school saw the state of exception as an "*extra-legal phenomenon*"[2], with Carl Schmitt, Friedrich Koja and Robert Hoerni as its main representatives. In Koja's and Hoerni's view, the "*extraordinary circumstances*"[3], such as the threat of war and the unfolding internal anarchic conditions "*cannot be effectively dealt with by law*".[4] Therefore, a derogation from the guarantees of constitutional order was justified in that case. The constitutionally based legal order can only influence events during the state of exception in so far as it defines, "*designates the wielder of the exceptional power*"[5], which, according to the main theorist Schmitt, is "*the sovereign, the political power*"[6]. In his main work, *Political Theology*, he takes the theoretical position

[2] *Ibid.* p. 28.
[3] *Ibid.* p. 29.
[4] *Ibid.* p. 28.
[5] *Ibid.* p. 28.
[6] *Ibid.* p. 28.

that the normal legal order, "*the normal state of democracy and constitutionalism*"[7], which represents the structure of public power for the population in everyday life, is turned over by external or internal events that threaten the existence of the state. To address the acute problem, the executive must be granted "*unfettered discretionary authorization*"[8] so that it can use all possible means to deal with the threat, which will result in "*suspension of the rule of law*".[9] Consequently, the executive will not be constrained by any constitutional guarantees during the period of exceptional power. The central thesis of Carl Schmitt's state theory can be observed in the context of a state of exception: the sovereign state departs from the legal order it applied earlier, and indeed law becomes hierarchically subordinated to the aims represented by the state[10]. Although the constitutional framework of democratic state functioning is capable of "drawing the sovereign's teeth" (we might call this the rule of law), in the course of exceptional power, the executive of the state ultimately remains the sole actor capable of providing an effective and swift solution to the problem encountered; once it has the full range of instruments for the exercise of public power at its disposal, an "*ex lex situation*"[11] is established. The executive, as the embodiment of sovereignty, becomes free from any moral and normative constraints that should necessarily legitimise its actions: "*authority proves that to produce law it need not be based on law*"[12]. This inevitably leads to the realisation that there are little obstacles to the proclamation of a period of exceptional power – since the Government, the chief body of the executive, has majority support in the parliament that represents the legislative power in a parliamentary system of government, but the termination of the state of exception becomes uncertain, depending solely on the personal considerations and attitudes of the representatives of the executive acting as the holder of sovereignty, which is not an interpretable condition or guarantee in terms of constitutional law.

The findings of the above-mentioned school of constitutional theory are closely related to the centralised nature and traditional embeddedness of modern French and German forms of government. However, we shall not forget the Anglo-Saxon and French schools of

[7] ANTAL, Attila: *Kivételes állapotban. A modern politikai rendszerek biopolitikája [In the state of exception. Biopolitics of modern political systems.]* Budapest, 2019, p. 63.
[8] *Ibid.* p. 63.
[9] *Ibid.* p. 63.
[10] *Ibid.*
[11] *Ibid.* p. 63.
[12] *Ibid.* p. 63.

thought, which present opposing approaches to state theory, and the German positivist school, which was rooted in general state theory. According to these representatives of this branch of state and law philosophy, the constitution must also be enforced during the period of exceptional power to prevent abuse of power by the executive. Albert V. Dicey, drawing on the English historical tradition and the explicit defence of individual liberties in common law as an ideological background, argues that governmental action during a state of exception may also be "*subject to judicial review*"[13], so that the executive shall not take arbitrary, constitutionally illegitimate measures even during a state of exception, for it has to fear judicial review. According to Georg Jellinek, one of the most prominent representatives of German "*Allgemeine Staatslehre*", this control should be provided not by the judicial but by the legislative branch of power, and parliament can subsequently legitimise the provisions of the Government issued under its exceptional power, by means of a confirmatory decision.[14]. From the same German general state theory, the Austrian legal philosopher, Hans Kelsen arrives at a partly different, novel approach. In Kelsen's theory – in contrast to Schmitt's conception – sovereignty is not linked to the state, to the governmental power capable of influencing public conditions, but to the legal system; moreover, the sovereign state is in fact the everyday manifestation of the legal system.[15] From this it follows not only that "*institutional reaction circumventing the law is invalid*"[16], but also the fundamental thesis that the existence of exceptional power without law, without the limits of law, is conceptually impossible, and that there can never be a gap, a "black hole" in the constitutional binding of the executive power. French authors, Léon Duguit and Carré de Melberg, in comparison to the above-mentioned authors, interpret the legal binding of the executive power even more strictly: in their interpretation, the exercise of exceptional power is to be assessed[17] as a unilateral alteration of the constitution, and therefore, only in a narrow range – for example, in case of parliamentary obstruction – or cannot be justified at all.[18]

[13] NAGY – HORVÁTH/2, *op. cit.*, p. 29.
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.* p. 29.
[17] *Ibid.*
[18] *Ibid.*

The above presented international theoretical trends, especially the German and Austrian constitutional theories, had a decisive influence on the Hungarian theory of public law, including the dogmatic approach to the exceptional power, which was taking shape in after 1867. Győző Concha, one of the most important scholars on the theory of public law of the Austro-Hungarian Monarchy, also linked the exercise of exceptional power to the executive, and in line with German regulatory practice,[19] he considered the provision of administrative and especially police functions as the decisive element of the "*exceptional power by the police*".[20] In his view, the special legal order is "*the most powerful manifestation of police activity*",[21] aimed at restoring normality of life, at "*suppressing attacks on public order more surely*"[22]. Concha distinguished between five types of state of exception, according to the government's response to an acutely emerging security problem, involving increasingly more extensive, more stringent, and more militarised administrative techniques in proportion to the scale of the threat. In a milder form of the exercise of exceptional power, a possible solution to the problem is (1) to expand the authority of the police, which would allow for more intensive restrictions on classical political freedoms (the right of assembly, freedom of the press), or (2) to loosen the guarantees of judicial enforcement, to tighten the process of judicial control (for example, by introducing martial law proceedings), and to optimise the length of proceedings as opposed to the right to a fair trial. In the case of a more serious threat, a combination of the two methods may be used for declaring the "*civic state of siege*" (3)[23]. If the threat becomes even more serious, the executive may delegate the tasks of civic administration to the military organisation, trusting that the highly hierarchical command and control structures of the military administration will better serve the effectiveness of the measures. The first phase of this is the "*military state of siege*" (4)[24], where the army will be responsible only for law enforcement tasks, and the final state is a "*state of*

[19] KELEMEN, Roland: A kivételes hatalom kontinentális modelljének eredeti rendszerei: A német és osztrák kivételes hatalmi struktúra kialakulása és fejlődése az első világháborúig [Original systems of the continental model of exceptional power: Formation and development of the German and Austrian structure of exceptional power] *Honvédségi Szemle [Military Review]*, No. 3, 2021, pp. 126-134. (KELEMEN/2)
[20] CONCHA, Győző: *Politika II. Közigazgatástan [Politics II. Theory of Public Administration]* Budapest, 1905, p. 386.
[21] *Ibid.* p. 386.
[22] *Ibid.* p. 386.
[23] *Ibid.* p. 387.
[24] *Ibid.* p. 387.

war" (5)[25], when the military administration takes over all the powers of the civic administration and exercises the full range of public authority[26]. Although Győző Concha considered the executive the most appropriate state actor for the exercise of exceptional power, and even for determining the time to introduce special legal order[27], he recognized the danger that the executive might abuse its power, that exceptional power might be capable of "*overthrowing the internal freedom of the nation as a whole*"[28]. The protection against this scenario can be the acceptance and stability of the legislative, which is ultimately based on the constitutional attitude of the political community.[29]

The dogmatic characteristics and classification of exceptional power in terms of constitutional theory did not change in the interwar period. The reasons for this lay in the persistence of the special legal order after World War I and the traditionalism and legal continuity of the right-wing conservative policital system that came to power after the fall of the Hungarian Soviet Republic. Zoltán Magyary, famous professor of administrative law, also argued that the decision-making system of parliamentary democracy is not suitable for dealing with unexpected emergencies, so to increase efficiency, it is necessary to depart from the structures of the everyday, "normal" state system.[30] This theoretical approach persisted until the end of World War II, when the state organization was radically changed under the strong influence of the Soviet Union.

3. Defence Authorization Acts and their regulatory environment in Hungary

In addition to the continental German public law doctrine, the regulation of the Hungarian special legal order at the beginning of the 20th century was decisively influenced by the exceptional power system of the Austro-Hungarian Monarchy's "over the river Leitha" territories. Moreover, the first draft legislation of the special legal order was developed by

[25] *Ibid.* p. 387.
[26] *Ibid.*
[27] *Ibid.*
[28] *Ibid.* p. 391.
[29] *Ibid.*
[30] NAGY – HORVÁTH/2, *op. cit.*, MAGYARY, Zoltán: *Magyar közigazgatás. [Hungarian Public Administration]* Budapest, 1942.

the common ministry of defence.[31] A brief description of the exceptional power in German and Austrian law in this period will help us to understand the Hungarian legal environment. In this respect, we shall not forget the comparative analysis and historical contextualisation of the Hungarian laws describing the state of exception, namely Act 63 of 1912 on Wartime Emergency Measures, the Act 6 of 1920 on Extending the Period of Exceptional Powers Granted During the Period of War, and Act 2 of 1939 on National Defence.

From the second half of the 1800s, the Kingdom of Prussia and the Austrian Empire adopted the first modern laws governing exceptional power, which were adapted to the requirements of the dynamically evolving technological and strategic requirements of the military and were no longer explicitly based on the French concept of a state of siege.[32] Both the Prussian Exceptional Power Acts of 1851 and the Austrian Exceptional Power Acts of 1869 allowed for the introduction of a special legal order by the Government in the event of international armed conflicts, imminent war emergencies and internal armed conflicts. The Prussian legislation distinguished between the categories of "*state of external threat*" and "*state of internal threat*"[33], and in both cases, the executive branch of power was given well-defined purviews and titles to act. (In the case of a state of external threat, the "*military commander of the occupied fortress*", in the case of a state of internal threat, the "*Minister of State or the highest ranking military commander in the area*".)[34] The possibility of restricting fundamental rights, depending on the degree of danger, was very broadly defined by the Prussian law, in effect leaving the decision to be taken in this area to the discretion of the military leader.[35] The Austrian law limited the government's freedom to restrict fundamental rights more severely, as the standard for restriction under the state of exception could not be milder than the standard for restriction of fundamental rights[36] at the general statutory level; however, it allowed a broader scope for the exercise of the Government's powers. In

[31] DOMANICZKY, Endre: A különleges jogrend magyar szabályozásának történeti fejlődése (a kezdetektől 2011-ig) [Historical development of the Hungarian regulation on special legal order (from the beginning until 2011)]. In: NAGY, Zoltán – HORVÁTH, Attila (eds.): *A különleges jogrend és nemzeti szabályozási modelljei [Special legal order and its national regulatory models]* Budapest, 2021, Mádl Ferenc Institute of Comparative Law, pp. 78–121. (NAGY – HORVÁTH/1)
[32] KELEMEN/2, *op. cit.*
[33] *Ibid.*, p. 128.
[34] *Ibid.,* p. 128.
[35] *Ibid.*
[36] *Ibid.*

addition to the "*decrees of exception*",[37] which could only be issued during the state of exception and were to be submitted to the legislative branch of power, and which also appeared in the Prussian law, the Government could also issue "*emergency decrees*"[38], which allowed it to expand its own range of measures[39] by removing the purviews of the legislative branch. The instrument for communicating government measures to the public was the "*prospectus of exceptional power*"[40], which, as it did not contain new normative measures, but merely collected them in a list, was a kind of *pseudo-norm*.

The regulatory techniques described above have manifested themselves in the codification of exceptional power in Hungary in several areas and legal institutions. From the establishment of the Austro-Hungarian Monarchy, statutes were passed covering certain[41] aspects of the exceptional power, but no detailed code was ever drawn up. It has become crucial for the leading Hungarian politicians to describe the special legal order in a way that precisely defines the purviews of the executive and does not fully subordinate the civil administration to the armed, military administration, nor does it give it a "*general authorization*" during the period of exceptional power.[42] In October 1912, the Hungarian Ministry of Defence drafted a government proposal containing the definitive version of the bill, which was enacted after a short parliamentary debate.[43]

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[37] *Ibid.* pp. 129., 130.

[38] *Ibid.* p. 130. This type of decree was a *normative governmental legal act* that could be issued during "normal", everyday governing, if the parliament was hindered in its task by some circumstance. The normative legal act had "*provisional legal force*" and could be subsequently approved by the legislature. See *Ibid.* p. 131.

[39] *Ibid.*

[40] *Ibid.* p. 131.

[41] These included, for example, the Act 40 of 1868 on the Defence Forces and the Act 21 of 1886 on the Municipalities. See: KELEMEN, Roland: A háború esetére szóló kivételes intézkedéseket tartalmazó 1912. évi LXIII. törvény országgyűlési vitája és sajtóvisszhangja. [The parliamentary debate of the Act LXIII of 1912 on Wartime Emergency Measures and the reaction of the press] *Parlamenti Szemle [Parliamentary Review]*, No. 1, 2016, pp. 72., 73. (KELEMEN/1). The peculiarity of the latter legislation was also reflected in the fact that in the county/city with county righs, the lord-lieutenant (*supremus comes*) who mediated the will of the government "*could dispose of the office apparatus of the deputy-lieutenant (vice-comes), mayor who did not obey the central will*", which undermined the autonomy of local governments in a potential state of exception. See: *Ibid.* p. 73.

[42] *Ibid.*, p. 76., NAGY – HORVÁTH/1, *op. cit.* The experience of the constitutional crisis of the years 1905-1906 also spurred Hungarian public life to the importance of clarifying the government's purviews. See KELEMEN/1, *op. cit.* At the time, the Hungarian government did not even support the reintroduction of the originally German institution of the government commissioner. See: *Ibid.*

[43] *Ibid.* Because of the obstruction, the House Leader, count István Tisza, "*had the opposition removed*" from the house of commons, therefore, no explicitly sharp, substantive debate had been held on the

The consolidated text of Act 63 of 1912 on Wartime Emergency Measures, under the influence of the Emperor Franz Joseph I, introduced several legal provisions known from the Austrian Exceptional Power Act, such as the possibility of military jurisdiction[44] over the civil population, and laid down the Government's right to issue decrees under the special legal order[45] in a exhaustive list. The introduction (reintroduction[46]) of the position of government commissioner is worth analysing in more detail. A "*Hungarian citizen*"[47] with the mandate of a government commissioner mediated the will of the government in the entire territory of municipal administration established as his area of competence during the state of exception, and had extensive titles of command to issue instructions to the territorial-local organs of the civic and armed governmental administration and their functionaries to enforce this will, and non-compliance with the measures issued by him in his capacity as a public authority was considered a misdemeanour.[48] However, his activities were not left without supervision; his decisions could be appealed to the "*competent minister*"[49]. The Hungarian Exceptional Power Act of 1912 also provided intensive possibilities for restricting[50] fundamental rights and the rights of municipal autonomy: in order to "*protect the legal order and public safety by increasingly effective means*",[51] the freedom of assembly and of association, the freedom of the press and privacy-related rights (such as the right to

bill in the body composed of the people's representatives. However, criticism had been voiced in the upper house about the proclamation of the state of exception in the event of a threat of war and the definition of the Government's purviews, but this did not prevent its adoption, which, by means of a comprehensive regulation, excluded - at least in principle - the possibility of governmental arbitrariness. See *Ibid.*, pp. 77., 82.

[44] *Ibid.*, Act 63 of 1912 on Wartime Emergency Measures § 12. Point 4.

[45] MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian Constitutional History]* Budapest, 2020, pp. 337-342. If war had not broken out four months after the introduction of exceptional power due to the threat of war, the measures in decrees introduced by the Government up to that time had to be repealed under § 1. of the Act, in the absence of the approval by the Parliament.

[46] According to Endre Domaniczky, the position had been instituted already between 1848 and 1849. See NAGY – HORVÁTH/1, *op. cit.,* p. 85.

[47] Act 63 of 1912 § 4.

[48] Act 63 of 1912 § 15.

[49] NAGY – HORVÁTH/1, *op. cit.*, p. 86.

[50] Act 63 of 1912 §§ 7-17., NAGY – HORVÁTH/1, *op. cit.*

[51] General explanation of Act 63 of 1912

personal freedom)[52] could only be exercised within narrow limits, and new forms of behaviour were criminalised by the legislator during the state of exception[53]. In addition to the measures restricting fundamental rights, the legislation also contained provisions with economic and private law effects: it imposed a "*suspension*" on civil law claims for the duration of the exceptional power and ensured the introduction of regulatory prices for essential foods.[54]

After the introduction of Act 63 of 1912 on Wartime Emergency Measures, the Government, specified the restrictions by decree on certain fundamental rights which persisted even throughout World War I. With regard to the right to personal freedom, the Act 50 of 1914 supplementing the Act 68 of 1912 on Wartime Emergency Measures and the Act 67of 1912 on the War Requirements, and the Decree of the Minister of Interior Affairs No. 4352/1920 contained provisions on police measures against people titled dangerous to economic and public safety, while restrictions on freedom of the press were regulated by the Decree of the Prime Minister No. 6357/1920[55] following the introduction of total censorship in 1919.

The techniques of exceptional power regulation persisted in the Hungarian public law even after the Great War. Although restrictions on certain fundamental rights were eased during the period of the Hungarian People's Republic associated with Count Mihály Károlyi, the soviet system that overthrew the republic radically changed the nature of the state structure, to which the ruling "*law and order"-party governments* that came to power in the summer of 1919 responded with the restrictions on fundamental rights and by legislating and administering with exceptional power. The application of the special legal order in this way could, in Endre Domaniczky's view, ensure "*a smooth transition to peace and an easier reorganization of the country*"[56]. These reasons could have justified the adoption of Act 6 of

[52] MEZEY-GOSZTONYI, *op. cit.*, NAGY – HORVÁTH/1, *op. cit.* Interestingly, a procedural rule change allowed the government to designate a court without competence to hear the dispute. See: Act 63 of 1912 § 12.
[53] Act 63 of 1912 §§ 18-30.
[54] Act 63 of 1912 §§ 7., 16., MEZEY, Barna (ed.): *A magyar jogtörténet forrásai. Szemelvénygyűjtemény [Sources of Hungarian History of Law. Collection of Extracts]* Budapest, 2006, p. 606.
[55] MEZEY-GOSZTONYI, *op. cit.*
[56] NAGY – HORVÁTH/1, *op. cit.*, p. 91. This can be evidenced by the extension of the hitherto limited scope of the freedom of association in the process of consolidation in favour of workers' associations by the Decree of the Minister of Interior Affairs No. 7700/1922. See MEZEY-GOSZTONYI, *op. cit.*, p. 341.

1920 on Extending the Period of Exceptional Powers Granted During the Period of War, § 1 of which provided for the extension of the exceptional power for one year; after the expiry of the one-year period, the period of the state of exception was extended again and again.

Act 2 of 1939 on National Defence brought about significant changes to the special legal order. The Act also allowed the proclamation of a state of exception[57] in the event of "*war and imminent threat of war*", with the peculiarity that in the event of "*international tension directly threatening the country*"[58] the period of exceptional power could be four months, which could be extended for a further four months[59] with the consent of Parliament. In preparation for the war, the Act reintroduced *general conscription*[60] and specified in detail the scope of *obligation of national defence*, as well as the scope of *labour draft* and *obligation of civil air defence*[61]. Moreover, the Act limited the purview of the Government to issue decrees: in the matters covered by § 141 Subsection (3) (central organisation of the state system, modification - abolition of the system of territorial-local government, *ultra vires* modification of the rules of substantive criminal law) the Government's decree could not be contrary to an Act of the Parliament.[62]. The creation of a "*special state commission*" of delegates of the legislative branch of power, which had to supervise the activities of the executive during the state of exception and could even initiate the establishment of the responsibility of the Government's members before the Parliament in connection with the regulation in decrees deemed unlawful[63], should be considered a special feature contrary to Act of 1912. The National Defence Act also provided the Government with a wide range of possibilities to restrict fundamental rights.[64] § 221 authorised the executive to impose martial law in general, and § 106 restricted the right to personal freedom, including the right

[57] Act 2 of 1939 on National Defence § 141. Subsection (1)
[58] Detailed explanation of Act II of 1939 § 141.
[59] Act 2 of 1939 § 141. Subsection (8), NAGY – HORVÁTH/1, *op. cit*. We can draw paralel between this norm and § 1 of Act 63 of 1912, which, in this case, provided for the repeal of decrees of the executive.
[60] Act 2 of 1939 § 26.
[61] Act 2 of 1939 §§ 2., 6-13., 83-95., 131-140.
[62] Act 2 of 1939 § 141. Subsection (3), MEZEY, *op. cit*.
[63] Act 2 of 1939 § 141. Subsection (4). Nevertheless, the commission's work in giving its opinion had no effect on the entry into force by the Government's decrees under subsection (6) of the same §.
[64] In this context, we shall not forget the increasingly severe discrimination against people of Israelite origin in a manner contrary to humanity, the anti-Jewish statutes (Act 15 of 1938, Act 4 of 1939, Act 15 of 1941, Act 15 of 1942).

to property and freedom of movement and of residence, by stating that only "*trustworthy people*" could own real estate property in "*areas close to the enemy*". Repeated criminalisation has occurred within the framework of the Government's authorization, for example to protect the operation of key economic establishments representing "*the paramount interest of national defence*".[65]

Under the National Defence Act, the Government extensively issued decrees during World War II, and exceptional power was temporarily maintained after the war until it gave way to republican legislation based on a short-lived constitutional democracy, although it was formed under strong Soviet influence.

4. Conclusion: Differences in periods of exceptional power in Hungary

As it has been shown above, the roots of exceptional power were already present at the beginning of the time of Austro-Hungarian Monarchy, but it was only by 1912, that the tasks and purviews of the executive were comprehensively extended. Constitutional theory approaches to the doctrinal types of exceptional power in the context of codification have been partly superseded (think of Concha's concept of the *state of siege*), but in some respects, they have continued to exert a decisive influence: the executive remained the only branch considered capable of dealing effectively with an acute problem, but its purviews could not remain without strict, taxative regulation, in accordance with Kelsen's (later) teachings and the doctrines of *Allgemeine Staatslehre*, in order to prevent the spread of governmental arbitrariness. The legal institutions introduced (e.g. the position of the government commissioner, military adjudication) were closely linked to the German-Austrian public law tradition, which provided the legal-cultural context. In the wake of World War II, although exceptional power legislation was extended with new key guarantees in public law (think of the taxative limits on the Government's decree-regulation or the special state commission overseeing exceptional power legislation), the increasing extent of the restriction of fundamental rights – especially the introduction of the anti-Jewish statutes –

[65] Detailed explanation of Act 2 of 1939 § 203. A noteworthy feature with regard to the legislation on misdemeanours is the "*conferring power to the government commissioner considering misdemeanours*". See: NAGY – HORVÁTH/1, *op. cit.*, p. 92.

represented a huge step backwards from the liberal-conservative state system existing before World War I. In the light of these provisions, the theoretical background of public administration for the effective management of the state of exception increasingly points to the prevalence of Carl Schmitt's approach.

We should not forget that the legal institution of exceptional power has not lost its relevance even today; it is (can be) still used in the event of serious armed or public health crises (such as the coronavirus epidemic). But the "executive breaking loose" is not necessary: the constitutional attitude, the "*theory of the invisible constitution*"[66], can stand in the way of governmental arbitrariness, which oversteps its constitutional purviews by claiming to solve an acute problem.

[66] Parallel opinion of dr. László SÓLYOM to the Decision of the Hungarian Constitutional Court No. 23/1990. (X. 31.) Section 1.

Hrvoje MATIĆ: Peace treaties and citizenship in the 1920's

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1. Introduction

In the work, I will focus on the process of acquisition of citizenship in the Croatian part of the Kingdom of Serbs, Croats, and Slovenes [Kingdom of SCS]. The paper relates to the period from signing of several peace treaties, including the *Treaty of Trianon* and *Saint-Germain*, up until the final stabilization of the citizenship acquisition process in 1928, with the enactment of the Law of citizenship for the Kingdom of SCS. Special focus will be given to the former lands of the Kingdom of Croatia-Slavonia.

In general, citizenship can be defined as membership and allegiance to a sovereign state. The concept of full citizenship encompasses civil, political, and social rights, so it is an important legal institution for every individual.

2. Situation before the peace treaties

What consists of today's Croatia, was before the end of World War I part of the Austro-Hungarian Monarchy. Croatia was divided into areas under Austrian administration (Istria and Dalmatia) and Hungarian administration. There was also the Kingdom of Croatia-Slavonia, which even though was in the Hungarian part of the Monarchy, enjoyed significant autonomy. Since the Austrian and Hungarian parts of the Monarchy were in many ways independent from each other, they enjoyed the right to regulate the acquisition of citizenship. This means that in Austria-Hungary there were two citizenships: Austrian and Hungarian.

3. Peace treaties and regulation of citizenship

After the defeat of the Central Powers in World War I, the Austro-Hungarian Monarchy collapsed. In this collapse, new states emerged in the lands of the former Monarchy. One of

these states was the Kingdom of Serbs, Croats, and Slovenes, which encompassed the vast majority of what is now Croatia.[1] This resulted with the end of the Austrian and Hungarian citizenships in Croatian lands. This meant that the new citizenship of the Kingdom of SCS had to be established.

After the end of World War I, the newly founded Kingdom of SCS signed treaties with several countries: Germany, Austria, Hungary and Bulgaria. The most important treaties were the one signed with Hungary, known as the *Treaty of Trianon*, and with the newly founded Republic of Austria, known as the *Treaty of Saint-Germain*. Treaties are important because several of their provisions regulated the acquisition of citizenship. These provisions became the main legal source for the acquisition of citizenship in parts of the Kingdom of SCS which were once under the Austro-Hungarian rule.[2]

In addition, the Kingdom of SCS enacted several complementary decrees which regulated certain treaty provisions. These were the *"Uredba o stjecanju i gubitku državljanstva Kraljevine SHS"*, which can be translated as the *Decree on the acquisition and loss of Citizenship of the Kingdom of Serbs, Croats, and Slovenes*. This *Decree* implemented the provisions of the *Treaty of Saint-Germain*. There was also the similar *"Naredba"*, a *Decree* which implemented the *Treaty of Trianon*.[3] By 1921 both treaties came into force and the acquisition of citizenship was legally regulated by the treaties and aforementioned decrees. The main principle of acquisition of citizenship by both treaties was the principle of *"zavičajnost" (Heimatrecht)*.

4. Zavičajnost (*Heimatrecht*)

Zavičajnost as a system does not exist in the English-speaking world, so there is no official English name for this term. The rough translation can be *"Local citizenship"*, which will be used in this work. Local citizenship can be defined as an individual's affiliation to a particular municipality which also establishes broader rights and obligations between the individual

[1] Istria, several Dalmatian islands and Zadar became part of the Kingdom of Italy.
[2] KOSNICA, Ivan: Primjena mirovnih ugovora sklopljenih s Austrijom i Mađarskom u pravnom poretku Kraljevine SHS: odredbe o državljanstvu [Application of peace treaties concluded with Austria and Hungary in the legal order of the Kingdom of SHS: provisions on citizenship]. *Zbornik radova Pravnog fakulteta u Splitu [Proceedings of the Faculty of Law in Split]*, No. 2, 2019, pp. 469–470. https://doi.org/10.31141/zrpfs.2019.56.132.469
[3] *Ibid.*, pp. 470–471.

and the municipality. The document that proves an individual's affiliation with the municipality is called *"Domovnica"*.[4]

This legal term is in no way like *domicile*, as the local citizenship is harder to be obtained. For example, in Croatia-Slavonia, an individual who wanted to obtain local citizenship had to prove moral conduct and adequate income or wealth. Local citizenship could be obtained by birth, based on local citizenship of parents who are local citizens of a certain municipality. Furthermore, an individual can obtain local citizenship by having a special connection to the municipality. These situations include getting married to a person from a municipality and being accepted by a municipality in a special procedure.

Local citizenship granted a lot more rights than regular residence. It granted people the right to municipal vote and created a proto-social state in the municipality. For example, in Croatia-Slavonia, the municipality supported poor members of the municipality who had local citizenship. Furthermore, people with the right of local citizenship in one of Croatian-Slavonian municipalities also had the right to subsidized hospital stays in Croatia-Slavonia.[5] Crucially, a *"Domovnica"* was an indirect proof of Hungarian citizenship.[6]

The fact is that many people who lived in Croatia-Slavonia did not have a *"Domovnica"* in any Croatian municipality. This was mainly a problem for national minorities, especially Hungarians and Jews, and this greatly affected their right to citizenship in the 1920s.

Another problem is that local citizenship was differently regulated in former Austro-Hungarian lands which became part of a Kingdom of SCS. There were three legal regimes of local citizenship on the territory of today's Croatia: former Austrian regime (Slovenian-Dalmatian area), former Hungarian legal area, and legal area of Croatia-Slavonia. Each of these areas had its laws that regulated local citizenship differently, which confused people living in different legal areas.

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[4] ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context]*. Zagreb, 2023, Pravni fakultet Sveučilišta u Zagrebu, p. 188.
[5] ČEPULO, *op. cit*., pp. 188–189.
[6] KOSNICA, Ivan: Definiranje državljanskog korpusa na hrvatsko-slavonskom području u Kraljevini SHS/ Jugoslaviji [Defining the citizen corps in the Croatian-Slavonian zone of the Kingdom of SHS/Yugoslavia]. *Zbornik Pravnog fakulteta Sveučilišta u Rijeci Proceedings of the Faculty of Law in Rijeka],* No. 2, 2018, p. 812. https://doi.org/10.30925/zpfsr.39.2.4

5. The four ways to obtain citizenship

The treaties of Trianon and Saint-Germain both regulated four main ways to acquire citizenship in newly formed states of the former Monarchy. As the Kingdom of SCS was one of these states and was also a signatory of the treaties, these provisions obliged the Kingdom.

5.1. Acquisition of citizenship based on local citizenship

The first way to acquire citizenship was by being a local citizen of the municipality that was once part of the Austro-Hungarian Monarchy and became part of the Kingdom of SCS. Only individuals who possessed local citizenship before 1st January 1910, under the condition that they retained it until the peace treaties entered into force, had the right to obtain citizenship with this procedure. This was by far the simplest way to acquire citizenship. In this case, an individual had to prove that he possessed *"Domovnica"* before 1st January 1910 in a municipality of the Kingdom of SCS, which was once part of the Austro-Hungarian Monarchy. That *"Domovnica"* had to be valid in 1921 when the peace treaties entered into force.

Although this was the simplest way to obtain citizenship, problems still arose. One of the problems was the fact that the records of people having local citizenship were poorly kept in some municipalities.[7] This meant that some people who had all the rights of a local citizen during the existence of the Monarchy, didn't become citizens of the new Kingdom because they were never officially written as a local citizens in the municipal records.

There was also a case of poor, uneducated Hungarian immigrants whose acquisition of local citizenship was hindered because they often did not explicitly declare their intention to settle in a municipality to the municipal authorities and therefore many of them did not acquire local citizenship in a Croatian-Slavonian municipality. This occurred due to differences between the Croatian and Hungarian systems of rules of local citizenship. Hungarian law provided a relatively liberal way to acquire local citizenship where an individual could settle without notifying the municipality. To obtain local citizenship, it was

[7] KOSNICA, Ivan: *Primjena mirovnih ugovora sklopljenih s Austrijom i Mađarskom u pravnom poretku Kraljevine SHS: odredbe o državljanstvu*, p. 472.

enough for an individual to live continuously in that municipality for four years. The Croatian-Slavonian law did not include such a possibility.[8] This meant that there were thousands of Hungarians living in Croatia, who lived there for decades, but never obtained local citizenship because of their ignorance of different legal regulation of local citizenship in Croatia-Slavonia. This is just one of many different examples where the already mentioned legal areas caused mass confusion for many people.

These people were forced to prove in other ways that they possessed local citizenship before 1st January 1910. These procedures sometimes took years and some people never managed to prove their local citizenship.

5.2. A request

The people who acquired local citizenship after 1st January 1910 had possibility to acquire citizenship of the Kingdom of SCS based on a request. Institution of request was a special procedure created for people who obtained local citizenship relatively late. Firstly, these individuals, as the ones who had obtained it before 1910, had to prove the validity of their rights, usually by proving that they had obtained *"Domovnica"*.

But unlike the first method, there was an extra step. An individual was obliged to prove to the local administration, which approved the requests, that they acculturated, and that their moral and political conduct was satisfactory. This meant that it was much more difficult to obtain citizenship in this way as it took more time and money. There were many ways to prove the aforementioned conditions. There is an example of Mr. Birnbaum, who acquired local citizenship in the city of Karlovac, Croatia, in 1911. He highlighted his high degree of acculturation by mentioning the fact that he lived in Croatia for 30 years, that he speaks Croatian fluently and that he considers himself a Croat.[9] It should be mentioned that this method was especially difficult for national minorities as many of them, unlike Mr. Birnbaum didn't speak Croatian or felt Croatian. This meant that there was a solid chance that their requests would be denied. The request is similar to the *institution of naturalization*.

[8] KOSNICA, Ivan: *Definiranje državljanskog korpusa na hrvatsko-slavonskom području u Kraljevini SHS/ Jugoslaviji,* p. 821.
[9] KOSNICA, Ivan: *Primjena mirovnih ugovora sklopljenih s Austrijom i Mađarskom u pravnom poretku Kraljevine SHS: odredbe o državljanstvu*, p. 473.

Naturalization is the act of making someone a legal citizen of a country in which they were not born.[10] The similarity with the institution of request is the fact that the applicant of naturalization in the process usually needs to prove his knowledge of the country's language, his moral conduct and his level of integration.

5.3. Option based on former local citizenship

Most of the people who were born in what is now Croatia had local citizenship. However, there were also people who were born in Croatia and who had local citizenship but eventually lost it. People usually lost their local citizenship due to moving to another part of the Monarchy. This movement of the people was not a particularly big problem during the existence of the Monarchy, as there was a customs union, and the citizens who left their homeland could relatively easily return. After World War I the Monarchy collapsed and so did the customs union. This meant that many people who were born in Croatia were now resident in a different country.

To these people, the Kingdom of SCS gave the option to acquire citizenship based on former local citizenship. This possibility was granted to an individual who *previously* had local citizenship in one of the municipalities of the former Austro-Hungarian Monarchy that *eventually became* part of the Kingdom of SCS. In this case, an individual had to submit an application that would be approved or denied by the administration. The admissibility would be based on the individual's ability to prove that he had local citizenship in one of the municipalities.

This option was particularly useful for two groups. The first group consisted of the officials and clerks. These people, due to the nature of their work, moved a lot, so they often lost their local citizenship of birth. The second group consisted of women who, due to marriage and moving, lost their local citizenship.

A good example of how this option was useful for women is the example of Mrs. Altschul-Berger. Before getting married, she had local citizenship in the city of Karlovac, Croatia. However, due to her marriage to an Austrian citizen, she lost her local citizenship in Karlovac

[10] For the meaning of naturalization in English see: Cambridge Dictionary, https://dictionary.cambridge.org/dictionary/english/naturalization [Access on November 26, 2024]

and gained local citizenship in Austria. After the collapse of the Monarchy, Mrs. Altschul-Berger became a foreign citizen and was not a citizen of the Kingdom of SCS as she lost her local citizenship in a Croatian municipality. To gain citizenship, Mrs. Altschul-Berger used an option based on former local citizenship and successfully gained citizenship of the Kingdom of SCS in 1921.[11] This institution is very similar to what is known today as *repatriation*, an act or process of returning an individual to their country of origin, allegiance or citizenship.

5.4. Option based on nationality

The last option available for those who wanted to obtain citizenship was the option based on nationality. This option gives a right to an individual of a certain nationality to gain citizenship of his country of origin. For example, this provision entitles a Czech who lives in Hungary to gain Czechoslovak citizenship, since that is his country of origin. The common practice of newly formed countries of the former Monarchy was to declare to which nationalities they were the country of origin.

The Kingdom of SCS did the same and gave the rights to all Serbs, Croats, and Slovenes who had local citizenship in other parts of the former Austro-Hungarian Monarchy to gain citizenship of the Kingdom. This *de facto* meant that the Kingdom declared itself a country of origin to only Serbs, Croats and Slovenes. This was a problem for many people, as these ethnic groups made up approximately 83% of the country's population.[12] This meant that national minorities were unable to gain citizenship using this option. Minorities could only opt for their country of origin. For example, a Hungarian living in the Kingdom of SCS who was unable to gain citizenship using the previous three methods, which are mentioned and explained above, would only be able to gain Hungarian citizenship. This caused a population decline for several national minorities. For example, the number of Germans in parts of the Kingdom that make up modern-day Croatia fell from 119,587 in 1910 to 99,808 in 1921. The Hungarian population experienced the sharpest decline, with its number nearly halving in

[11] KOSNICA, Ivan: *Primjena mirovnih ugovora sklopljenih s Austrijom i Mađarskom u pravnom poretku Kraljevine SHS: odredbe o državljanstvu*, pp. 477-478.

[12] CALIC, Marie-Janine: *History of Yugoslavia*. Project MUSE, https://muse.jhu.edu/pub/60/oa_monograph/chapter/2505028, p. 71. [Access on November 26, 2024]

20 years. Their numbers fell from 121,408 in 1910 to 69,671 in 1931.[13] It must be said that not all people left because they had no other choice. Many people gained citizenship in the new Kingdom, but for political, cultural or any other reasons. Since they did not want to live there as a minority, they moved to their country of origin. It must be mentioned that the Jews were by far the worst affected by this regulation. The Jews legally did not have a country of origin. This meant that if a Jewish person had no local citizenship in a Croatian municipality, he/she would be able to gain citizenship neither in the Kingdom of SCS, nor elsewhere. Because of this, many Jews in the Kingdom of SCS never gained citizenship or gained it years later, despite living in these territories for decades.

For those people who were Serbs, Croats and Slovenes or considered themselves as such, they had to prove that they were indeed one of these three nationalities. This was usually done by proving four facts. First, they had to prove that they were of Serb, Croat or Slovene origin. Second, that their parents are of Serb, Croat or Slovene nationality. Third, they speak Serbian, Croatian or Slovenian. Lastly, that they feel like a Serb, Croat or a Slovene. An individual who was unable to prove all four of these facts would usually be unable to gain citizenship.

However, there were exceptions, as there were people who acquired citizenship even though they had not proven all four facts. A good example is the situation concerning Emil Beck. Emil Beck was a citizen of Czechoslovakia, had local citizenship in the municipality of Sered (in Slovakia), and was born in Osijek, Croatia. He applied to become a citizen and based his application on the fact that he was of Croatian nationality. He justified his nationality on the fact that he was born in Croatia, attended Croatian school (learning Croatian in school), and was raised as a Croat and he considered himself a Croat. He never mentioned or proved that his parents were Croats, but was still granted citizenship.[14]

There were also other exceptions, such as serving in the Kingdom's army. Many proved their national heritage based on the fact that they served in the army. This approach sometimes

[13] KOCSIS, Karoly – KOCSIS-HODOSI, Eszter: *Ethnic geography of the Hungarian minorities in the Carpathian basin*. Geographical research institute research Centre for earth sciences and Minority studies programme, Hungarian academy of sciences, http://www.mtafki.hu/konyvtar/kiadv/Ethnic_geography.pdf, p. 171. [Access on November 26, 2024]

[14] KOSNICA, Ivan: *Primjena mirovnih ugovora sklopljenih s Austrijom i Mađarskom u pravnom poretku Kraljevine SHS: odredbe o državljanstvu*, pp. 478–479.

worked, but it was usually arbitrary. For example, there was a situation where a Czech, a Pole and a Jew served in the Kingdom's army. Despite all of them serving in the army, only a Jew, named Emil Weinstein, was not granted citizenship.[15] This can be attributed to the possible prejudice of the Slavic population of the Kingdom and the existence of antisemitism in the administration and state organs, as there was no factual reason for denying Mr. Weinstein, except for the fact that he was Jewish.

6. Conclusion

Citizenship in the Kingdom of Serbs, Croats and Slovenes was established very quickly, right after World War I, and its acquisition was not very clearly defined. There were many legal loopholes, administrative biases toward certain ethnic groups, and a lot of confusion when determining certain institutions, such as local citizenship. The way the acquisition was legally regulated and enforced generally favored the Slavic population of the Kingdom, especially Serbs, Croats and Slovenes. Therefore, lots of non-Slavic people were unable to gain citizenship, making many of them leave. This left this part of the former Austro-Hungarian Monarchy more ethnically homogenous and a lot more Slavic-dominated.

[15] *Ibid*., p. 479.

Felix NACHTLBERGER: The Judiciary of the Austrian Constitutional Court 1918–1920 (Especially the Decision on Theatre Censorship) in the Mirror of the Press

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1. Introduction

The formation of the Austrian First Republic was undoubtedly a turbulent time. After the defeat in World War I and the dissolution of Austria-Hungary, a new constitution had to be written. But more than a year before the promulgation of the *Federal Constitution*, a constitutional court was already established. It dealt with some special questions of the transitional period and, compared to the Imperial Court, had additional competencies, making its decisions worth examining. At the same time, due to the abolition of censorship and the foundation of the First Republic, the media landscape changed dramatically. The aim of this paper is to give insight into the state of affairs through analysing an important case of the Constitutional Court, the question of "Theatre Censorship", as well as the reactions of two large political newspapers, the "Arbeiterzeitung" and the "Reichspost" to the decision. To understand the context of the decision, the development of constitutional jurisdiction in Austria as well as the general political landscape after World War I will be examined first.

2. The Development of Constitutional Jurisdiction

In Cisleithania (1867 to 1918): After Emperor Franz Josef and his government finished negotiations with the Hungarian Diet, they required the approval of the newly formed Imperial Council to establish the so-called Dual Monarchy in 1867. In return, the Imperial Council demanded the constitutionalisation of Cisleithania, which was realized through the so-called *December Constitution of 1867*. One of its components was the *Fundamental Law on the Establishment of an Imperial Court*.[1]

[1] ARBEITSGEMEINSCHAFT österreichische Rechtsgeschichte [KOHL, Gerald – NESCHWARA, Christian – OLECHOWSKI, Thomas – REITER-ZATLOUKAL, Ilse – SCHENNACH, Martin] (ed.): *Rechts- und*

The Imperial Court ruled on competence conflicts between autonomous local-state organs, local-state representations, supreme government authorities, courts, administrative authorities, and from its establishment in 1876, also between the Administrative High Court and ordinary courts in the form of a senate composed of the two highest courts. It also had the so-called *competence-competence* [2], meaning it decided on its own competence conflicts. In competence conflicts between the Imperial Council and local-state parliaments in legislation, it lacked decision-making authority. Another responsibility were mutual claims of individual kingdoms and countries as well as claims of municipalities, corporations, and individuals against kingdoms, countries, or the entire Empire if the ordinary legal process was insufficient. The Imperial Court also determined violations of the political rights constitutionally guaranteed to citizens, but it could not annul the corresponding administrative act. Finally, like all other courts, it could examine the validity of regulations.[3]

Despite the lack of competence for examining laws, the Imperial Court was considered a constitutional court in legal doctrine, and the name chosen by the legislator was regretted. Constitutional law experts also demanded an expansion of competencies in the field of competence jurisdiction and partly also in law and election reviews, which would have upgraded the Imperial Court to a "*comprehensive constitutional court*. "[4] These demands were only implemented after the end of the monarchy.

In addition to the Imperial Court, the *Law on Ministerial Responsibility* [5], which was not a fundamental law [6], created a State Court for Ministerial Indictments. This court was to rule on indictments by the houses of the Imperial Council against ministers. Such an indictment could be made if there were suspicions of intentional or grossly negligent violation of the constitution, local-state constitutions, or other laws within the framework of official duties.[7]

Verfassungsgeschichte manual [Legal and Constitutional History Manual]. Vienna, 2022, facultas, nn. 3096–3098.

[2] *Ibid.*, n. 3144.

[3] HELLER, Kurt: *Der Verfassungsgerichtshof. Die Entwicklung der Verfassungsgerichtsbarkeit in Österreich von den Anfängen bis zur Gegenwart [The Constitutional Court. The Development of Constitutional Jurisdiction in Austria from its Beginnings to the Present]*. Vienna, 2010, Verlag Österreich, pp. 105–108.

[4] *Ibid.*, p. 127.

[5] *RGBl 101/1867*.

[6] HELLER, *op. cit.*, p. 96.

[7] SZABÓ, István: Zwischen Politik und Öffentlichem Recht. Ministerverantwortlichkeit und Staatsgerichtsbarkeit in Ungarn 1848/1867–1949 [Between Politics and Public Law: Ministerial Responsibility and State Jurisdiction in Hungary, 1848/1867–1949]. In: KOHL, Gerald – SZABÓ, István

However, no ministerial indictment was ever made during the monarchy. Formally, the State Court for Ministerial Indictments, due to its area of responsibility, was also a predecessor of the Constitutional Court.[8]

Thus, the examination of laws for their constitutionality and the review of elections remained outside the courts' competencies.

In the Republic of (German) Austria (1918 to 1920): After World War I Austria-Hungary collapsed, and new states were proclaimed. On the territory of the former empire, the new state of German-Austria was established with the *Founding Resolution* on 30th October 1918. It adopted most of the laws and institutions of Cisleithania.[9] With the *Decision on the State Form* on 12th November 1918, continuity with the Austro-Hungarian monarchy was explicitly rejected. Thus, there was formal discontinuity but material continuity between the states.[10] The Imperial Court was also adopted and announced on 23rd November 1918, that it would hold sessions from 9th December to 17th December, possibly also on a case from Galicia[11], which would have only been part of now defunct Austria-Hungary. On 3rd December, the announced sessions were "*postponed indefinitely* "[12], effectively ending the work of the Imperial Court. Thus, the last decisions of the Imperial Court were those made on 15th October 1918.[13] The senate composed of the Imperial Court and Administrative High Court for competence conflicts between these courts made its last decision on 11th November 1918.

After the halt of the Imperial Courts work, Hans Kelsen created a first draft for a new Constitutional Court. On 25th January 1919, this Constitutional Court was established, and the tasks of the Imperial Court were transferred to it. The corresponding legal bases were "*put into effect* ", a formulation that must be understood under the pretence of discontinuity,

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(Hrsg.): *Staatsgerichtsbarkeit in Mitteleuropa, No. 38 [State Jurisdiction in Central Europe], No. 38*, Budapest, 2017, Pázmány Press, pp. 117–119.

[8] HELLER, *op. cit.*, pp. 113–114.

[9] *§ 16 StGBl 1/1918.*

[10] BRAUNEDER, Wilhelm: *Österreichische Verfassungsgeschichte [Austrian Constitutional History]*. Vienna, 2009[11], Manz, pp. 187–191.

[11] Nichtamtlicher Teil [Unofficial Section]. *Wiener Zeitung*, 23.11.1918, No. 271, p. 1.

[12] Nichtamtlicher Teil [Unofficial Section]. *Wiener Zeitung*, 03.12.1918, No. 279, p. 6.

[13] WALTER Robert: *Hans Kelsen als Verfassungsrichter [Hans Kelsen as a Judge of the Constitutional Court]*. Vienna, 2005, Manz, p. 6.

which postulated a strict formal separation from the organs and laws of Austria-Hungary. Therefore, the German-Austrian Constitutional Court is not to be understood as the formal successor to the Imperial Court, which is why it did not deal with legal matters addressed to the Imperial Court and not to the Constitutional Court itself.[14] Procedurally and organizationally, the regulations for the former Imperial Court were adopted, only the number of members was reduced, and the term emperor in judgments was replaced by the republic, partly through handwritten corrections on already printed paper.[15] Thus, the hearings were generally to be held orally and publicly[16], making reporting on them easily possible. Deliberation and voting, however, were secret. The work of the Constitutional Court began immediately, with the first decision made on 10th March 1919.[17]

Before the elections to the constituent national assembly the Electoral Court was created on 6th February 1919, enabling the contestation of elections.[18] It was responsible for general electoral fraud, while in case of violations of the active voting rights of an individual voter, the Constitutional Court was responsible.[19]

After the first elections took place, among other things, the *Law on the Representation of the People* was passed[20], in which the Constitutional Court was given the competence to review local-state laws. After a law was passed, the federal government could contest it before the Constitutional Court and suspend its promulgation until a court ruling was made.[21] There was no full review of ordinary laws for their constitutionality. Federal laws were not contestable, and challenges to local-state laws could only be initiated by the federal government. The demands of legal scholars for a full competence to review laws were therefore not yet fully met.

In April 1919, the Constitutional Court was assigned the tasks of the State Court for Ministerial Indictments.[22] The transition theoretically presented the same problems with the

[14] BRAUNEDER, *op. cit.*, p. 5.
[15] HELLER, *op. cit.*, pp. 149–150.
[16] *§ 23 RGBl 1869/44.*
[17] HELLER, *op. cit.*, pp. 149–150, 160.
[18] *StGBl 1919/90.*
[19] HELLER, *op. cit.*, p. 155.
[20] *Ibid.*, p. 151.
[21] *Art 15. StGBl 1919/179.*
[22] *StGBl 1919/212.*

adoption of ongoing proceedings as with the Imperial Court due to formal discontinuity, but these are irrelevant in practice due to the lack of ministerial indictments.

Thus, the Constitutional Court had additional tasks compared to the Imperial Court: the review of local-state laws and ministerial indictments.

The new Constitution (1920): With the entry into force of the *Federal Constitution* on 10th November 1920, the competencies of the Constitutional Court were significantly expanded. It could now review all laws and regulations for their constitutionality and took over the tasks of the Electoral Court,[23] while it retained its previous powers. Finally, the long-standing demands by legal scholars for a "*comprehensive constitutional court*" were realised.

3. The Political Landscape and their Newspapers in German-Austria

Political Camps and Parties: Under the monarchy, after the decline of the grand bourgeois-liberal camp, three ideological camps formed, represented by political parties starting in the 1880s. Over time, the parties displaced the previously dominant estates in their political relevance.[24] In autumn of 1918, these parties created the new state of German-Austria, and constitutional development fell into the sole hands of them.[25]

In the first elections to the constituent national assembly in February 1919, the Social Democratic Workers Party, which united most of the leftists, emerged as the strongest force with 72 mandates, and the Christian Social Party, which was a conservative party that originally supported the monarchy, as the second strongest with 69 mandates. The German-national camp, which was split into several parties, but united by the demand for annexation to Germany, obtained only 27 mandates. The Social-Democrats and Christian-Socials formed a coalition-government. However, ideological differences lead to the coalition breaking up in June 1920.[26]

Development of the Media Landscape: Parallel to the political parties and with party newspapers in cooperation with them, the political press developed in the late 19th century,

[23] BRAUNEDER, *op. cit.*, p. 223.
[24] ARBEITSGEMEINSCHAFT österreichische Rechtsgeschichte, *op. cit.*, n. 3159.
[25] BRAUNEDER, *op. cit.*, p. 194.
[26] HELLER, *op. cit.*, p. 151.

overtaking the previously dominant general local newspaper in importance. These new mass media newspapers saw themselves as mediators between the state and citizens to involve people in political discussions[27], which was possible due to the introduction of press freedom and the gradual expansion of voting rights.

This task gained importance after the abolishment of censorship after the end of World War I, which had dominated the media landscape for four years with war reporting and light entertainment as a distraction.[28] With the introduction of women's suffrage, the potential target audience expanded, and the new state urgently needed legitimacy from the public, as the ban on unification with Germany and the end of the monarchy made the question of identity central to the new Austria.[29] The lifting of wartime censorship[30] also opened the door to critical and polarizing journalism and overall higher circulation numbers.[31] As the parties were now the dominant force in politics, their party-newspapers increased in influence. Therefore, the newspapers of the Social Democratic Workers Party of Austria and of the Christian Social Party are best looked at to understand the political situation at that time and the ideological differences which lead to the end of the coalition.

Arbeiter-Zeitung: First published in 1889, the "Arbeiter-Zeitung" was an essential tool of the Social Democratic Workers Party. It was characterized by a comprehensive, critical social-politics section, quickly forming its own column for courtroom reporting. As expected, the reporting was socially critical, with a biting tone against the Christian Socials, Liberals, and later the Fascists, a reporting style which was particularly prominent in the First Republic.[32]

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[27] KARMASIN Matthias – OGGOLDER Christian (Hrsg.): *Österreichische Mediengeschichte Band 1: Von den frühen Drucken zur Ausdifferenzierung des Mediensystems (1500 bis 1918), [Austrian Media History, Volume 1: From Early Prints to the Differentiation of the Media System (1500 to 1918)]*, Vienna – Klagenfurt, 2016, Springer VS, p. 180. https://doi.org/10.1007/978-3-658-11008-6_1

[28] *Ibid.*, pp. 225–226.

[29] KARMASIN Matthias – OGGOLDER Christian (Hrsg.): *Österreichische Mediengeschichte Band 2: Von Massenmedien zu sozialen Medien (1918 bis heute), [Austrian Media History, Volume 2: From Mass Media to Social Media (1918 to the Present)]*, Vienna – Klagenfurt, 2019, Springer VS, p. 8. https://doi.org/10.1007/978-3-658-23421-8

[30] *StGBl. 1918/3.*

[31] PAUPIÉ Kurt: *Handbuch der österreichischen Pressegeschichte 1848-1959, Band I: Wien, [Handbook of Austrian Press History 1848–1959, Volume I: Vienna]*, Vienna – Stuttgart, 1960, Braumüller, p. 90.

[32] *Ibid.*, pp. 88–91.

Reichspost: On 1st January 1894, the first issue of the openly Christian Social "Reichspost" appeared. Initially, it advocated for the preservation of the multi-ethnic state and the monarchy. After their collapse, it supported Christian Social policies and continued to observe events in the Danube region. It strongly polemicized against Liberals, Social Democrats, and German Nationals. It was also known for extensive courtroom reports with socially critical comments.[33]

4. *Freedom from Press Censorship – Theatre Censorship*

After general theatre censorship was abolished in 1848, it was reintroduced under the name "*performance approval"* in the *Theatre Ordinance of 1850*. In 1867, nothing changed; theatres were still required to submit a play to the authorities before performance.[34] During the state founding, a resolution by the provisional national assembly on 30th October 1918 stated that 1. "*every censorship* " was considered abolished and 2. "*full freedom of the press"* was established.[35] The Lower Austrian (Vienna and Lower Austria were not yet separated) local-state government asked the State Office of the Interior on 25th November 1918, whether this resolution also applied to theatre censorship. It also argued for the necessity of theatre censorship to uphold morality. The question remained unanswered, and the local-state government continued to exercise theatre censorship, now with the police directorate as the first instance of censorship.[36]

Soon, the theatre scene resisted, with the "Neue Wiener Bühne" refusing to submit a play for approval. Quickly, the police and theatre made an informal compromise: a representative of the authorities could attend the dress rehearsal and give out approvals, but performance approvals would not be recognized. After fifty successful performances, this solution ultimately failed. On 5th September 1919, the play "Dimpfl" was performed at the "Neue Wiener Bühne" without being submitted for censorship before or after being requested and without notifying the dress rehearsal to the police.[37] For this, the theatre director received a

[33] *Ibid.*, pp. 97–100.
[34] DIRNBERGER Franz: Theaterzensur im Zwielicht der Gesetze (1918-1926), [Theater Censorship in the Twilight of the Law]. *Mitteilungen des Österreichischen Staatsarchivs, [Messages of the Austrian State Archive]*, No. 36, Vienna, 1983, pp. 237–238.
[35] *StGBl. 1918/3.*
[36] DIRNBERGER, *op. cit*., pp. 241–242.
[37] *Ibid*, p. 243.

fine from the police, confirmed by the Lower Austrian state government after a first appeal. He then appealed in his complaint to the Constitutional Court, citing the resolution of the provisional national assembly that "*every censorship* " was considered abolished.[38] On 16th December 1919, the Constitutional Court decided that the freedom from censorship only protected the press, not the theatre, which thus remained subject to state censorship. The resolution of the provisional state assembly had merely established that press censorship was already invalid due to its contradiction with fundamental rights.[39] The decision was published on 18th December 1919, with some reports on the trial appearing before that. Interesting about the judgment was the legal interpretation method used. The majority of judges followed a subjective-historical interpretation in this case, according to which the legislator intended to establish the invalidity only of press censorship. Kelsen, on the other hand, advocated for an objective interpretation based on the wording, which would have forbidden theatre censorship and corresponded more to today's prevailing opinion. A few years later, the Constitutional Court followed Kelsen's opinion and abolished theatre censorship.[40]

5. Reactions of the Media

The "Arbeiter-Zeitung" reported on 17th and 19th December 1919 on the case of theatre censorship, both times the article was not in their "*courtroom* " section, instead these articles were placed alongside reports about current political affairs. In the first report[41] there was only a brief summary of the case, without going into details of the arguments. The arguments of the state secretary representing the state office responsible for censorship were not mentioned at all. What also stands out is that the fine, which the theatre director received, was highlighted. The second report[42] began with an attention-grabbing title: "*The Theatre Censorship Exists Rightfully!* " in bold letters. In the first paragraph the case was summarized again, for those who did not read the first report. An unusual formulation stands out: the theatre director was "*violated in his right to freedom from censorship* ", not just

[38] *StGBl. 1918/3.*
[39] *VfSlg. 32/1919, pp. 61–63.*
[40] WALTER, *op. cit.*, pp. 15, 19; *VfSlg 552/1926.*
[41] Ist die Theaterzensur aufgehoben? [Has theatre censorship been abolished?] *Arbeiter-Zeitung*, 17.12.1919, No. 343, p. 5.
[42] Die Theaterzensur besteht zu Recht! [The Theatre Censorship Exists Rightfully!] *Arbeiter-Zeitung*, 19.12.1919, No. 345, pp. 4–5.

claiming it, even though it was just decided, that the censorship was legal. Then, the arguments of the state secretary were presented, only to emphasize that the wording of the law was different. The position of the newspaper was that the wording should be valued higher than the legislator's thoughts, an argument also made by Kelsen as a judge. The article ended with an appeal to the legislator ("[…] *making it the duty of the national assembly* ") to re-regulate theatre censorship. *In conclusion, the arguments of both sides were presented, but there was a bias towards the side of the theatre director.* The newspaper's position was clear: even if the arguments of the court and state secretary were understandable, it would have been better if the court's ruling had been different. Since it wasn't, the legislator must act now. This view becomes more understandable when comparing the article with that of the "Reichspost."

The "Reichspost" on the other hand made only one report on the theatre censorship decision on 17th December 1919. In the section "*From the Courtroom* ", the "Reichspost" begins with stating that there is "*no freedom of censorship for theatre* ", using a different rhetoric with the negation than the "Arbeiter-Zeitung", which directly states the existence of censorship. After then presenting the case, it extensively discusses the state secretary's arguments, while those in favour of the theatre director are not further addressed – again a clear bias, but this time in the opposite direction. Then, the "Reichspost" emphasizes the necessity of theatre censorship to counter works which were "[…] *standing on the lowest moral level under the guise of enlightenment*." It sees the authorities' duty to uphold good morals as paramount in the republic just as it was in the monarchy.[43] Although the "Reichspost" did not directly report about the court's decision on 19th December 1919, they did write an article about an incident in Salzburg and Wiener-Neustadt, where members of the Social Democrats threatened journalists and destroyed machinery of conservative newspapers.[44] The "Reichspost" accused the Social Democrats of missing respect for the freedom of the press, which in context can be seen as a reaction to the indignation of the "Arbeiter-Zeitung" to the theatre censorship ruling. Compared to the "Arbeiter-Zeitung", the "Reichspost" took the opposite position. Theatre censorship was not only legally permissible

[43] Keine Zensurfreiheit für Theater und Kino, [No Freedom from Censorship for Theater and Cinema], *Reichspost*, 17.12.1919, No. 427, p. 8.
[44] Die Sozialdemokraten und die Pressefreiheit, [The Social Democrats and Freedom of the Press], *Reichspost*, 19.12.1919, No. 429, p. 5.

but also politically necessary for cultural preservation. Here, the conservative and Christian values of the newspaper are noticeable, where preservation of tradition is a central state task, unlike with the Social Democrats. The differences between the reporting of the "Reichspost" and the "Arbeiter-Zeitung" foreshadowed the struggle between the Christian-Socials and the Social Democrats in the following years.

Pavla Ribić: The Rights of Citizens in the Conception of Socialist Constitutionality

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1. Introduction

From the end of World War II until 1990, Croatia was part of a socialist system characterised by a collectivist understanding of society. At the same time, Croatia was a federal unit within the Yugoslav state.[1] This work analyses the rights of citizens in socialist Croatia through different constitutional texts starting from the "Declaration of fundamental rights of the people and citizens of democratic Croatia" of 1944 until the last federal and republic constitutions enacted in 1974.

2. The concept of a citizen in the "Declaration of fundamental rights of the people and citizens of democratic Croatia"

At the third session of ZAVNOH in Topusko in 1944, ZAVNOH accepted Declaration on fundamentals rights of the people and citizens of democratic Croatia (in the following: Declaration).[2] The Declaration mentions two basic subjects of fundamental rights: the people and citizens of Croatia. The declaration guarantees individual civil and social rights.

In the first article, the political equality of the Croatian and Serbian peoples is especially emphasised. It is also mentioned that: "*all citizens of the federal state of Croatia are equal, regardless of nationality, race, and religion and the nation national minorities are guaranteed all rights to national life".* [3] Point 3 states the full equality of men and women. In addition,

[1] Kosnica, Ivan: Koncept građanina u hrvatskom i jugoslavenskom ustavnom poretku od 1944. do 1990. godine [The concept of a citizen in the Croatian and Yugoslav constitutional order from 1944 to 1990]. *Pravni vjesnik [Legal Bulletin]*, 2022, No. 3–4, pp. 45–46.

[2] „Deklaraciju o osnovnim pravima naroda i građana demokratske Hrvatske" [„Declaration of fundamentals rights of the people and citizens of democratic Croatia"]. In: Bačić, Arsen: *Ustavno pravo Republike Hrvatske: praktikum [Constitutional law of the Republic of Croatia: practicum]*. Split, 1997, Pravni fakultet, p. 71.

[3] Sirotković, Hodimir: Državnopravno značenje odluka ZAVNOH-a za izgradnju državnosti Hrvatske u drugom svjetskom ratu [State legal significance of ZAVNOH decisions for building Croatian statehood in the Second World War]. *Državnopravnost odluka ZAVNOH-a [State legality of ZAVNOH decisions]*, 1995, No. 3, p. 512.

personal safety and security of property, property rights, and "private initiative in economic life" are also guaranteed.

The Declaration states the right to free education as the only social right in point 11. The Declaration enables the realisation of political rights. It is determined that freedom of speech, press, public assembly and freedom of association can only be exercised within the National liberation movement (NOP). All fighters of the People's Liberation Army of Yugoslavia and partisan units, regardless of age, had active and passive voting rights.[4] The judiciary was part of the unified power of the revolutionary movement and acted toward the achievement of a common goal.

3. The concept of a citizen in the Constitution of the FNRJ of 1946

In the Constitution of the Federal People's Republic of Yugoslavia (FNRJ) of 1946 and the Constitution of the People's Republic of Croatia of 1947, a different concept of a citizen is visible than in the previous period.[5] The Constitution of the Federal Republic of Yugoslavia was drawn up under the great influence of the Constitution of the USSR from 1936.[6]

The Constitution of the FNRJ outlines the rights and duties of citizens in a separate chapter. In Art. 21. paragraph 1 of the FNRJ Constitution states the equality of citizens before the law and their equality regardless of nationality, race, and religion. The equality of men and women is also guaranteed by Art. 24 of the FNRJ Constitution, as well as freedom of conscience and religion. The persecution of one's own citizens is prohibited; the inviolability of the home is guaranteed (Article 29 of the FNRJ Constitution) and the freedom of correspondence and communication. All citizens over the age of 18 years had the right to vote, unless it was revoked. A number of social rights have also been prescribed, of which the state's special care for war invalids and children of fallen soldiers stands out. Art. 36 of the Constitution of the FNRJ prescribes the competences of the state in the health care system and the obligations of the state to care for the health of the people.

Education was state-run, and schools and other institutions were established to be accessible to the people. The FNRJ Constitution also contains provisions on the duties of citizens. It is mentioned that

[4] KOSNICA, *op. cit.,* pp. 46–47.
[5] Ustav FNRJ, *Službeni list FNRJ [Constitution of the FNRJ, Official Gazette of the FNRJ]*, 10/1946; Ustav NRH, *Narodne novine – službeni list Narodne Republike Hrvatske [Constitution of the Republic of Croatia, Narodne novine – official newspaper of the People's Republic of Croatia],* 7/1947.
[6] SRUK, J., *Ustavno uređenje Socijalističke Federativne Republike Jugoslavije [Constitutional arrangement of the Socialist Federal Republic of Yugoslavi].* Zagreb, 1982, Informator, pp. 52–53.

"*every citizen is obliged to work according to his abilities* and that *he who does not give to the community cannot receive from it "* (Article 32 of the FNRJ Constitution).[7]

The basic characteristic of the socialist system is the degradation of law and the legal system into an instrument for realising the interests of the ruling class. Thus, the legal system was only a framework within which the ruling class implemented its political ideas. The principle of equality had a class content, and civil rights and general rights were often neglected.[8]

4. The concept of a citizen in the Constitution of the NRH of 1947

The Constitution of the People's Republic of Croatia (NRH) was adopted in 1947, and the People's Republic of Croatia was designated as a federal unit within the FNRJ.[9] The Constitution of the People's Republic of Croatia followed the concept of the Constitution of the Federal People's Republic of Yugoslavia of 1946 with some exceptions. The Constitution of the People's Republic of Croatia contained identical provisions on the socio-economic organisation and on the rights and duties of citizens, and what distinguishes it is the provision on the republic citizenship. Cooperation between Croats and Serbs is mentioned in the Constitution ("fraternal unity with Serbs", Article 2 of the Constitution of the People's Republic of Croatia) and the equality of Serbs with Croats (Article 11 of the Constitution of the People's Republic of Croatia) as specific provisions of the Constitution. "Every act that is directed against Croatian sovereignty, equality, and national freedom of people, against the equality of Croats and Serbs in the Republic, against NRH as well as other people, and of the People's Republic of the FNRJ" is unconstitutional according to Art. 12 of the Constitution of the People's Republic of Croatia.[10]

We call this constitution as well as the constitution of the USSR from 1936 semantic constitutions because in reality they were inapplicable. The Communist Party achieved considerable influence in the Constituent Assembly and also control over the social life of the people. The constitution was a political declaration, and the rights that were guaranteed in the constitutional text were not implemented in the real life of the addressees to whom the text refers.[11]

[7] KOSNICA, *op. cit.,* p. 49
[8] MIHALJEVIĆ, *op. cit.,* pp. 32-34
[9] Ustav Narodne Republike Hrvatske, *Narodne novine – službeni list Narodne Republike Hrvatske [Official newspaper of the People's Republic of Croatia]*, 7/1947.
[10] KOSNICA, *op. cit.,* p. 49.
[11] MIHALJEVIĆ, *op. cit.,* p. 34

5. The concept of a citizen in the Constitutional Law of the FNRJ of 1953 and the Constitutional Law of the NRH of 1953

In 1948, a crisis followed, and the conflict between Yugoslavia and the countries of the Informbiro intensified. All relations between Yugoslavia and the Union of Soviet Socialist Republics were severed. As a result, significant changes were implemented in the Constitutional Law of Yugoslavia and the constitutional laws of the republics in 1953.[12]

The Constitutional law on the foundations of social and political organisation of the Federative People's Republic of Yugoslavia and federal authorities (further in the article the Constitutional Law of the FNRJ) art. 2 states: "*all power in the FNRJ belongs to the working people*". [13] The central concept of the Constitutional Law is self-governance.[14] The provisions of the FNRJ Constitution from 1946 on the rights and duties of citizens were still in force, and an individual was defined as a member of a working collective and a citizen of a socialist society.

The Constitutional Law of the Republic of Croatia on the Basics of Social and Political Organization to republican authorities (further below: Constitutional Law of the Republic of Croatia) was adopted in 1953.[15] The constitutional laws of 1953 strengthened the class dimension, and the civil and ethnic dimension was retained in the Constitution of the Republic of Croatia from 1947.[16]

The order in Yugoslavia was not actually constitutional because all those constitutional solutions and changes were inapplicable in reality. In the constitutions and constitutional laws of Yugoslavia, there were numerous norms on the rights and freedoms of citizens that were not protected or respected. In contrast to the norms on workers' self-management and the construction of a socialist society, which were always emphasised and strictly applicable.[17]

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[12] SRUK, *op. cit.*, pp. 60–64.

[13] Ustavni zakon o osnovama društvenog i političkog uređenja Federativne Narodne Republike Jugoslavije i saveznim organima vlasti [Constitutional law on the foundations of social and political organization of the Federative People's Republic of Yugoslavia and federal authorities], Službeni list *Federativne Narodne Republike Jugoslavije [Official Gazette of the Federative People's Republic of Yugoslavia],* 3/1953.

[14] KOSNICA, *op. cit.,* p. 50.

[15] Ustavni zakon Narodne Republike Hrvatske o osnovama društvenog i političkog uređenja i republičkim organima vlasti [Constitutional Law of the Republic of Croatia on the Basics of Social and Political Organization to republican authorities], *Narodne novine [Official Gazette],* 9/1953.

[16] KOSNICA, *op. cit.*, pp. 50–51.

[17] BARIČEVIĆ, V., *Ustavi socijalističke Jugoslavije i država sljednica: kontinuitet ili diskontinuitet u koncepciji ustavnog identiteta [The constitutions of socialist Yugoslavia and the successor state: continuity or discontinuity in the conception of constitutional identity]*. Zagreb, 2007, Hrvatska u regionalnom kontekstu, pp. 52–53.

6. The concept of a citizen in the Constitution of the SFRJ of 1963

The Constitution of the SFRY of 1963 brought numerous changes in the organisation of Yugoslavia at that time. The name of the state was changed; the socialist character was emphasised with the primacy of self-governance. The Constitution of the SFRY of 1963 is often called the "charter of self-governance".[18]

In article 23, citizens are guaranteed the right of ownership of items for personal use, consumption, and satisfaction of their own needs, as well as residential buildings and apartments for personal needs and performance of activities through work.[19] Chapter Three of the Constitution of the SFRY states that: "*the freedoms and rights of man and citizen are an inalienable part and expression of socialist and democratic relations protected by the Constitution" (...)* and that these same rights and freedoms are realised in the mutual solidarity of people. Citizens are equal in rights and duties, and everyone is equal before the law. The active and passive right to vote is guaranteed by Art. 35 of the Constitution of the SFRJ. Every worker has the right to limited working hours, daily and weekly rest, insured health care, and a minimum personal income is determined by federal law. Article 41 refers to freedom of language use, expression of nationality and culture, freedom of the press, association, speech, and information. Great attention is paid to the health protection of mothers and children, military invalids, and the family enjoys social protection.

The Constitutional Court of Yugoslavia was established as an autonomous and independent body entrusted with the task of protecting constitutionality and legality. The shortcoming of the Constitutional Court was the initiation of proceedings by competent state bodies, whereas citizens could initiate proceedings before the court to a lesser extent. Thus, the competence of the Constitutional Court in deciding on violations of freedoms and rights was reduced, and thus individuals remained unprotected.[20]

7. The concept of a citizen in the Constitution of the SRH of 1963

The Constitution of the Socialist Republic of Croatia was adopted shortly after the federal constitution in 1963. The Constitution of SRH had a structure similar to the federal one, and the Constitutional Court of SRH was also introduced, and the Parliament then became a five-chamber.[21]

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[18] MIHALJEVIĆ, *op. cit.*, pp. 36–37.

[19] Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia], *Službeni list Socijalističke Federativne Republike Jugoslavije [Official Gazette of the Socialist Federal Republic of Yugoslavia],* 14/1963.

[20] ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu; od srednjeg vijeka do suvremenog doba*. Zagreb, 2023, Pravni fakultet Sveučilišta u Zagrebu.

[21] MIHALJEVIĆ, *op. cit.*, p. 35.

The first article of the Constitution of SRH defines SRH as a state socialist democratic community of the people of Croatia, which is based on the government of the working people and self-governance.[22] The similarity between the constitutional law from 1953 and the constitution from 1963 is the determination of Croatia as a state, but the provisions of the newer constitution do not clearly emphasize the sovereignty of the Croatian people or the position of Croatia within the federation.[23]

An important difference between the Constitutions of SRH and SFRY is that the Constitution of SRH does not contain a separate chapter on the rights of man and citizen. Accordingly, the position of the citizen is determined under the heading "social organisation" and the "political organization".[24]

In comparison, the Constitution of 1963 does not limit active and passive voting rights and brings numerous innovations in the rights of workers. The work was very appreciated and is based on the principles of reciprocity and solidarity. Also, the Constitution of 1963 defines criminal procedure and custody more precisely than the Constitution of 1946. Nevertheless, the legal system served as a means to achieve the goal, so many rights were given a secondary role.[25]

8. The concept of a citizen in the Constitution of SFRJ of 1974

In the period from 1963-1974, the Constitution of SFRY of 1963 was supplemented by constitutional amendments. The constitutional amendments of 1967, 1968 and 1971 were colloquially called "workers' amendments" because they defined the position of workers in collective work.[26]

The new Constitution of the Socialist Federal Republic of Yugoslavia (hereinafter referred to as the 1974 Constitution of the SFRY)[27] and the Constitution of the Socialist Republic of Croatia (the 1974 Constitution of SRH) were adopted in 1974. A novelty was the introduction of a delegate system, while the concept of self-governance also appears in the 1974 Constitution. The Constitution of SFRY of 1974 elaborates provisions on freedoms in a separate chapter called the rights and duties of a man

[22] Ustav Socijalističke Republike Hrvatske [The Constitution of the Socialist Republic of Croatia]. *Narodne novine [Official Gazette]*, 15/1963.
[23] RADELIĆ, Zdenko: *Hrvatska u Jugoslaviji 1945–1991. od zajedništva do razlaza*. Zagreb, 2006, Školska knjiga.
[24] KOSNICA, *op. cit.*, p. 53.
[25] MIHALJEVIĆ, *op. cit.*, p. 35.
[26] MIHALJEVIĆ, *op. cit.*, pp. 37–38.
[27] Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia]. *Službeni list Socijalističke Federativne Republike Jugoslavije [Official Gazette of the Socialist Federal Republic of Yugoslavia]*, 9/1974.; Ustav Socijalističke Republike Hrvatske [Constitution of the Socialist Republic of Croatia], *Narodne novine [Official Gazette]*, 8/1974.

and a citizen. It also states that these rights are realized: "*in the mutual solidarity of people and by fulfilling the duties and responsibilities of each to everyone and everyone to each"* and are limited by *"constitutionally established socialist interests communities"* (Art. 153 of the Constitution of the SFRY 1974). Self-management is an inviolable and inalienable right of working people and citizens. Everyone is guaranteed to decide on their personal and common interests. Anti-regime behaviour is prohibited by Article 203 of the Constitution of the SFRY from 1974.[28]

The concept of rights and duties of citizens continues tradition of the Constitution of 1963, but some rights and duties have been expanded. For example, the Constitution of 1974 emphasises the importance of the protection of tenancy rights, the right to a healthy environment, the freedom to decide on the birth of children, information, etc., and thus a great step forward was made compared to previous periods.

9. The concept of a citizen in the Constitution of SRH of 1974

The class element and ethnic determination of the state of SRH is evident from the first article of the Constitution of SRH of 1974, according to which "*the state is based on the sovereignty of the people and on the power and self-management of the working class and all working people and the socialist self-governing democratic community of working people and citizens and equal nations and nationalities* and that SRH *is the national state of the Croatian people, the state of the Serbian people and the state of the nationalities that live in it."*

The Constitution of SRH of 1974 regulates republican citizenship, as did previous constitutions (Article 5 of the Constitution of SRH from 1974), but without much practical meaning because "*citizens of other republics of Yugoslavia have on the territory of the Republic of SRH the same rights and duties as its citizens"*. Despite the strengthening of republics in federal bodies and the expansion of their autonomy, the concept of republican citizenship did not grant special rights in SRH to a person who would invoke them.[29]

10. Conclusion

The research work presents the development of the concept of a citizen and their rights in the constitutional order in a certain period of time. The collectivist elements of citizens' duties towards the community were emphasised in the Constitutions from 1946 and 1947. The federal and

[28] KOSNICA, *op. cit.*, pp. 53–55.
[29] *Ibid,* p. 55.

republican Constitutional laws of 1953 use the term working people. Class determination is also present in the later Constitutions of 1963.

Yugoslavia declared itself as a federal state in which there is no discrimination, but in everyday life, citizens were unequal, especially if they were opponents of the regime or politically unfit. In reality, the constitutions did not guarantee the rights of citizens that would protect them from the arbitrariness of the government. The constitutions apparently stated numerous rights and freedoms, but the citizens could not refer to them, and thus correct the injustice.[30]

[30] MIHALJEVIĆ, *op. cit.*, pp. 48–49.

Leona ROSANDIĆ: Emergency Decrees and Citizens' Rights in the Early 1990s

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1. Introduction

In times of emergencies, certain executive bodies are authorized to issue special decrees known as constitutional decrees. This authority arises due to the need for swift action in crises, since executive bodies are typically in constant session, relatively homogeneous, and capable of responding more quickly than legislative bodies.[1] The disruption of jurisdiction between the executive and legislative branches is justified in such situations to ensure an efficient response. Constitutional provisions differ between countries regarding which specific executive body is entrusted with the power to issue these emergency decrees.[2]

In the most favourable instance and in line with the rule of law, the states of emergency should be defined in such a way that all possible situations in which these powers may be exercised are regulated in advance. [3] However, it is hardly ever possible to foresee and regulate all instances in which the mentioned states of emergency occur, especially since the main consequence of the decrees is that the rule of law is temporarily suspended in order to preserve the public order or safety. However, considering historical experience and the application of sound reason, the existence of states of emergency is undeniably clear, in whatever way one defines them. Each country through its own legislation separately faces the issue of choosing the said definition, the scope of rights they can intervene in, and the mechanisms of control on the mentioned exercising of power.

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[1] BAČIĆ, Arsen: Odredbe o 'stanju nužnosti' u Ustavu Republike Hrvatske iz 1990. godine (rekapitulacija). [Provisions on the 'State of Necessity' in the 1990 Constitution of the Republic of Croatia (Recapitulation)]. *Zbornik radova Pravnog fakulteta u Splitu [Proceedings of the Faculty of Law in Split],* No. 1–2, 1997, p. 39–57, p. 42.

[2] SOKOL, Branko – SMERDEL, Smiljko: Ustavno pravo [Constitutional Law]. Zagreb, *Narodne novine,* 2009, p. 318

[3] OMEJEC, Jasna: Izvanredna stanja u pravnoj teoriji i ustavima pojedinih zemalja. [Restriction on Personal Liberties and Human and Civil Rights in States of Emergency]. *Pravni vjesnik [Journal of Law]*, No. 1–4, 1996, p. 172–196, p. 348.

2. States of emergency and emergency decrees

In addressing the concept of emergency decrees, it is necessary to engage the issue of the disruption of the balance of powers between the legislative and executive branches, which tend to emerge in situations where swift and effective action is required from the authorities.[4] The legislative body, due to its structure and typically slower procedures, is not always able to respond as quickly as necessary.

Ideally, the main purpose of giving the executive body such a power is to ensure a quick and efficient reaction in times of crisis or in other states of emergency. Many authors use the term *modification of constitutionality and legality* [5], thus creating a vacuum, a sort of a bubble in which a special legally regulated order is established, only to dissolve once the conditions for its creation disappear.[6] Supporting this argument is the fact that many Croatian authors, as well as other international legal scholars, address emergency decrees in their research and theoretical work within chapters concerning the principles of constitutionality and legality, rather than those dealing with sources of law themselves.[7]

While these decrees are indeed sources of law in their own essence, this characteristic is secondary in our analysis, as the primary issue involves the disruption of the balance between legislative and executive powers and temporary suspension of rule of law for the purpose of preserving public order, safety or other values which are threatened in states of emergency. *It seems to be a natural phenomenon of the law of a constitutional state that the centre of political balance constantly shifts. It oscillates between the dominance of the legislative and the dominance of the executive power. In normal times, the power of the legislative authority increases on the political scale, while in times of crisis, the power of the executive authority grows.*[8]

[4] SOKOL–SMERDEL, *op. cit., p.* 320.
[5] IVANČEVIĆ, Velimir: *Institucije upravnog prava. [Institutions of Administrative Law].* Zagreb, Pravni fakultet u Zagrebu, 1983, p. 109.
[6] OMEJEC, *op. cit.,* p. 349.
[7] KRBEK, Ivo: *Upravno pravo. [Administrative Law].* Zagreb, Jugoslovenska štampa, 1929, p. 17.
[8] GIRAUD, Emile: *Le pouvoir exécutif dans les démocraties d'Europe et d'Amerique. [The Executive Power in the Democracies of Europe and America].* Bibliothèque de l'Institut International de Droit Public [Library of the International Institute of Public Law, IX.], Paris, 1938, p. 19.

3. Emergency decrees in Croatia

The adoption of the new Croatian Constitution in 1990 sought to create a revised framework for institutional functions and to enumerate a comprehensive set of human rights characteristic of a democratic society. Furthermore, the Constitution was designed to define the operations of institutions and the scope of human rights during states of emergency. As a result, the initial draught proposal of the Constitution included provisions for emergency decrees, specifically those with the status of legislative acts.[9]

The regulation of states of emergency, as prescribed by the Constitution of the Republic of Croatia, was articulated in two specific articles, Article 101 and Article 17. Article 101 stated: *"The President of the Republic has the authority of passing decrees* ***with the force of law*** *and taking emergency measures in the event of a state of war or an immediate danger to the independence and unity of the Republic, or when government bodies are prevented from regularly performing constitutional duties. During the time that the President of the Republic is making use of such powers, the House of Representatives may not be dissolved. The President of the Republic should submit the decrees with the force of law for approval to the Chamber of Representatives as soon as the Parliament is in a position to meet."* [10]

Article 17 outlined the following: *"(1) During a state of war or an immediate danger to the independence and unity of the Republic, or in the event of some natural disaster,* ***individual freedoms and rights guaranteed by the Constitution may be restricted****. This shall be decided by the Croatian Parliament by a two-thirds majority of all representatives or, if the Croatian Parliament is unable to convene, by the President of the Republic.*

(2) The extent of such restrictions must be adequate to the nature of the danger and may not result in the inequality of citizens with respect of race, the colour of the skin, sex, language, religion, national, or social origin.

(3) Not even in the case of immediate danger to the existence of the state may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life,

[9] KOSNICA, Ivan: Uredbe iz nužde predsjednika Republike Hrvatske iz 1991–1992 [Emergency decrees of the Croatian President between 1991 and 1992]. *Zbornik Pravnog fakulteta u Zagrebu [Proceedings of the Faculty of Law in Zagreb]*, Vol. 61, No. 1, 2011, p. 153.
[10] Constitution of the Republic of Croatia, *Narodne novine,* No. 56/90.

prohibition of torture, cruel or unusual treatment or punishment, and on the legal definitions of penal offences and punishments, and on freedom of thought, conscience, and religion." [11]

Although these two articles may appear similar, they differ significantly in substance. One key distinction is that the measures introduced under Article 17 derogate constitutionally protected rights, whereas those within the scope of Article 101 are enacted with the force of law. The two articles are also applicable to distinct circumstances – constitutional rights can be modified in times of war, imminent threat to the independence and unity of the Republic and during major natural disasters, whereas decrees with the force of law can be introduced in the event of a state of war or an immediate danger to the independence and unity of the Republic, or when government bodies are prevented from regularly performing constitutional duties. These differences are critical to consider in the subsequent analysis of the Constitutional Court's decision regarding the decrees in question.

From the end of 1991, President Franjo Tuđman issued thirty-eight emergency decrees on the account of exercising his constitutional authority addressing various issues in the areas of internal affairs, justice, finance and other aspects of public and social life. Some of these decrees, by their very content, provoked a negative public reaction, primarily because they encroached upon rights that, according to Article 17, Section 3, were exempt from restriction even in times of war or imminent threat to the independence and unity of the Republic. Two of more controversial ones in this matter were the Decree on Internal Affairs[12], (which allowed detaining a person as long as there were grounds for it or conducting search of persons or home; all without a judicial order and in cases of security or threats of public order and peace, as well as restricting or prohibiting movement in public places due to extraordinary circumstances), and the Decree on Information Activities[13], which introduced a form of censorship. These decrees, as well as many other ones that were introduced during this period, were breaching some of the fundamental rights granted by the Constitution such as inviolability of the home, the right of public assembly, etc.

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[11] *Ibid*.

[12] Uredba o unutarnjim poslovima za vrijeme ratnog stanja ili neposredne ugroženosti neovisnosti i jedinstvenosti Republike Hrvatske [Decree on Internal Affairs During a State of War or Immediate Threat to the Independence and Unity of the Republic of Croatia]. *Narodne novine*, No. 55/1991.

[13] Uredba o informativnoj djelatnosti za vrijeme ratnog stanja ili u slučaju neposredne ugroženosti neovisnosti i jedinstvenosti Republike Hrvatske [Decree on Information Activities during a State of War or in Case of Immediate Threat to the Independence and Unity of the Republic of Croatia]. *Narodne novine,* No. 57/1991.

In addition to the controversies regarding the substance of the decrees, the legitimacy of the President's authority to promulgate such decrees at the given time was also subject to criticism. According to some scholars[14], the prerequisites themselves for their issuance were initially not met. To validate these arguments, this necessitates an examination of the three conditions stipulated in Article 101. They are not to be interpreted cumulatively. Thus, the presence of any one of the three conditions on its own (state of war, immediate danger to the independence and unity of the Republic, or the government bodies being prevented from regularly performing constitutional duties) is sufficient for the President to lawfully issue emergency decrees.

According to Article 100, Paragraph 3 of the Constitution of the Republic of Croatia of 1990, the President of the Republic, based on a decision of the Croatian Parliament, declares war and concludes peace. This declaration is exclusively of a declaratory nature and occurs only if a decision by the Parliament is made. Therefore, the factual state of war that was undeniably present in the country at the time couldn't be classified under this condition, as the formal prerequisites for establishing such a state had not been met.

Government bodies being prevented from regularly performing their constitutional duties is a condition that is slightly more open to interpretation than the previous one. The main reason is the need to define which are the governmental bodies established in the constitution and to ascertain the scope of specific potential situations that may inhibit them from exercising their constitutional powers. In mid-September, the Presidency of the Parliament considered convening a plenary session and decided that due to the domestic situation and international circumstances, the session would not take place before October 8. This decision supports the argument that the Parliament was genuinely unable to meet during that time. However, following this and throughout the remainder of the year and into 1992, the Parliament met regularly, either monthly or more frequently and ratified the President's decrees issued in the interim. Given that the Parliament met relatively frequently and on a regular basis during this period, it would be illogical to justify the decrees passed during that time under the argument of the Parliament being unable to perform its constitutional duties when it did just that.

[14] OMEJEC, *op. cit.*, p. 257.

The condition of immediate danger to the independence and unity of the Republic is probably the most interesting one, since it is also the one that was touched on by the Constitutional Court itself in its ruling of a proposal for the assessment of the constitutionality of the emergency decrees, which will be thoroughly analysed in the following part.

4. The decision of the Constitutional court of the Republic of Croatia

On August 4, 1992, the Constitutional Court ruled on a proposal for the assessment of the constitutionality of decrees issued by the President of the Republic Franjo Tuđman. This proposal was submitted by the Croatian Party of Rights, then-Member of the Parliament G. Grbić, attorney D. Večerina, and Sando Todorovski.

The proposals are essentially based on the claim that the cited decrees of the President of the Republic are inconsistent with the Constitution of the Republic of Croatia because their issuance by the President should have been preceded by a prior declaration of a state of war or a state of immediate threat to the independence and unity of the Republic of Croatia. The proposals also warned about irregularities regarding their entry into force, as most of them took effect on the days of their adoption rather than on the day of their publication in the Official Bulletin. The procedure for assessing the constitutionality of some of those decrees was suspended because they had already ceased to exist at that time. The other proposals were declined for various reasons, the first one being that *"the right granted by the Constitution of the Republic of Croatia to the President of the Republic to issue decrees with the force of law in extraordinary circumstances is unlimited, and in this regard the President has the constitutional authority to issue decrees in all areas of legislative competence of the Croatian Parliament."* [15]

Article 101 of the Constitution of the Republic of Croatia indicates that the President of the Republic independently decides whether circumstances indicating an immediate threat to the independence and unity of the Republic of Croatia have arisen. The Constitution does not require that the occurrence of such extraordinary circumstances be previously established by a special decision.

[15] Decision of the Constitutional Court of the Republic of Croatia, U-I-179/1991, No. 49/1992.

The last reason was related to the retroactivity, touching on the argument that was mentioned in the proposals regarding the entry of force of the aforementioned decrees. The prohibition on retroactive changes applies exclusively to decrees issued by the Government of the Republic of Croatia, while the corresponding provisions regarding the prohibition of retroactive application of decrees issued by the President of the Republic are not included in the Constitution of the Republic of Croatia. Given the exceptional circumstances under which these decrees are issued, it was possible to stipulate that they take effect on the day of their adoption by the President of the Republic.

The decision of the Constitutional Court of the Republic of Croatia was faced with severe criticism by legal scholars on multiple grounds[16], mainly regarding the insufficiently reasoned explanation provided by the Court. Some claimed that the *"politically unacceptable and poorly reasoned decisions of the Constitutional Court, such as the one from June 24, 1992, likely harm the reputation of both the President of the Republic and the Republic itself more than decisions in which the Court demonstrates that it "has teeth.""* [17] The erroneous decision of the Constitutional Court is attributed to the possibility of judges' protecting of the President of the Republic, either due to patriotism or obedience. The critic warned that although the authors of the Croatian Constitution referred to the French Constitution as a model upon which the Croatian Constitution is based, it appears to follow actually the Weimar Constitution. He considered this dangerous, as it opened the possibility of a path toward dictatorship, as was seen previously in Italy and Germany.[18] Rigorous comparisons of the exercise of power of the Croatian president with previously established dictatorships reflect some of the public's response to the issuance and implementation of emergency decrees in Croatia.

5. Conclusion

[16] MATULOVIĆ, Miomir: Ljudska prava: uvod u teoriju ljudskih prava [Summary: Human Rights]. Zagreb, *Hrvatsko filozofsko društvo [The Croatian Philosophical Society], 1996, p. 336.*

[17] PAĐEN, Ivan: Uredbe iz nužde hrvatskog predsjednika: mjerodavnost francuskog javnog prava [Emergency Decrees of Croatian President: The Authority of French Public Law]. *Politička misao [Croatian Political Science Review]*, No. 1, 1996, p. 149–165, p. 152.

[18] PAĐEN, *op. cit.*, p. 164.

The creators of the Constitution in 1990 anticipated that the semi-presidential system would strike a balance between democratic principles and the effective organisation of state authority, grounded in the separation of powers. However, this expectation was not fulfilled.

The presidentialization of the constitutionally established semi-presidential system, or its transformation into a *de facto* imperial presidency, was primarily influenced by the wartime conditions that initially endangered the survival and later the territorial integrity of the Republic of Croatia.[19] The process of presidentialization in the Croatian political system was also shaped and strengthened – facilitated institutionally and otherwise – by the fact that the President of the Republic simultaneously held the presidency position and, from its inception, remained the undisputed leader of the Croatian Democratic Union (HDZ). This political party independently secured majority in the parliamentary elections of 1990, 1992 and 1995, particularly in the decisive Chamber of Representatives. Thus, throughout the period from 1990 to 1999, the President of the Republic, based on the outcomes of both parliamentary and presidential elections, served both as the political leader of the parliamentary majority in the Chamber of Representatives and as the holder of executive authority, to whom the Government was politically accountable and subordinate.[20]

As a result of these factors, transitioning from a semi-presidential to a parliamentary system became one of the core elements of the political programmes of the opposition coalition. The constitutional changes that followed in the subsequent years also impacted the President's authority to issue emergency decrees, which cannot be issued longer independently but now require a proposal from the Government and the countersignature of the Prime Minister.

[19] SOKOL–SMERDEL, *op. cit.*, p. 376.
[20] SOKOL–SMERDEL, *op. cit.*, p. 377.

Adelisa SABIC: The development of Austrian women´s suffrage

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Introduction

For us women, it was not always a matter of course to take part in elections in our country. In Austria a general women's suffrage was introduced in 1918, which was not only a major step towards equal rights but a milestone in women´s politics as well.

1. Historical facts

More than hundred years ago, it was almost unimaginable to allow a woman to participate in political life, let alone to assign her a political role. Before universal suffrage for women was enshrined in law, there were only sporadic precursors.

At some provincial and municipal levels a part of women, favoured by census voting law, were included in elections. In 1873, paragraph nine of the *Reichsrat electoral regulations*, stipulated that only women, who were twenty-four years old, who were Austrian citizens and who paid the minimum annual tax, were considered and entitled to vote. Nevertheless, this was rare for women, as a male representative was usually sent to vote for them in elections.[466]

The curia suffrage, which was extended in 1896 to include a general class of voters, was replaced in 1907 by a general male suffrage, where obviously women again were not considered.[467]

2. First protests

2.1. Women´s demonstration in 1848

[466] GAMPER, Anna: Ohne Unterschied des Geschlechts – 100 Jahre Frauenwahlrecht in Österreich [Without distinction of gender – 100 years of women´s suffrage in Austria]. *Juristische Blätter [Law Journal],* No. 142, 2020, p. 3.
[467] *Ibid*., p. 3.

The first women´s demonstration recorded in Austrian history was in August 1848. The cause for the protests at this time was the dissatisfaction of the citizens.[468] The *Pillersdorf Constitution of 1848* contained the organisation of the Reichstag and the electoral regulations, but it was not possible to satisfy the people, as many ethnic groups were still not entitled to vote. At this time class voting rights were ruling.[469]

As a result of the above-mentioned circumstances, there was also an initial protest action on the part of women, which was primarily based on several aspects. The poor economic situation and rising unemployment were only one out of many reasons for women to start a demonstration. Furthermore, precarious working conditions and the non-existing welfare system were points that women mentioned in their demonstration demands. But particularly decisive for this demonstration were the extreme cuts in the salaries of women and young people.[470] This led to a violent collision between the female workers and the middle-class National Guard, also known as the "*Prater Battle*". This demonstration involved 3000 women and some men who were affected as well by the salary cuts. Their demand was: "*Equal pay for equal work"*. Nonetheless, the demonstration was brutally suppressed and is therefore also known as the "*August Massacre*". According to the social understanding of the time, it was taken for granted that women were not considered necessary to participate in elections.[471]

2.2. Vienna Democratic Women´s Association

Despite the bloody outcome of the women´s demonstration in 1848, women all around Austria did not give up and started the first political women´s association: the "*Vienna Democratic Women´s Association*", which was founded by Karoline Perin, whose members were mainly aristocratic and bourgeois women.[472]

The tasks and aims of the organisation were:

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[468] UNGER, Petra: *Frauenwahlrecht. Eine kurze Geschichte der österreichischen Frauenbewegung [Women´s suffrage. A brief history of the Austrian women's movement]*. Berlin – Vienna, 2019, Mandelbaum, p. 28.
[469] PASSECKER, Meike: *Die Entwicklung des Frauenwahlrechts in Österreich 1848–1920 [The development of women's suffrage in Austria 1848–1920].* https://epub.jku.at/obvulihs/download/pdf/5833120 [Access on October 21, 2024]
[470] *Ibid*.
[471] UNGER, *op. cit.*, pp. 29–31.
[472] *Ibid*., pp. 31-32.

- To strengthen freedom and democracy
- To give women and girls an appropriate access to education
- To preserve the memories and achievements of the "*August Massacre*"[473]

For the first time, political demands were included in the statutes of an association, as women´s associations had previously only been dedicated to charitable purposes. However, the association was met with enormous reprisals and rejection, where men particularly tried to prevent the active involvement of women in political events. In addition, the press ridiculed the association. The end of the association came with the suppression of the Revolution by the imperial troops in October 1848.[474]

After the women had lost the association, their rights were restricted even further in the *draft constitution of Kremsier*. Men were to take over their representation, which is why no political participation on the part of women was necessary.[475]

In the following imposed *March constitution*, only self-employed women taxpayers were allowed to exercise their right to vote at municipal level, which means that women had to own a house or land and earn money from a business or trade. However, the vote was cast by male representatives. Yet this was not the case throughout the whole empire, as in many cities there was no voter turnout; for example in Linz there was one, but in Vienna and Trieste not.[476]

3. Significant Austrian women´s movements

The women´s movement in Austria after the mid-19th century consisted of three important movements. On the one hand there was the Civil liberal women´s movement and, on the other hand, the Social democratic women´s movement. These two pursued similar goals but nevertheless differed in many aspects. The third movement was the Catholic women´s movement, which was a countermovement to the other two.[477]

3.1. The Civil liberal women´s movement

[473] *Ibid*., p. 32.
[474] MEIKE, *op. cit*.
[475] *Ibid*.
[476] *Ibid*.
[477] *Ibid*.

For centuries, the role model of women did not provide for economic or political independence. Women could only get a basic education, that served as a temporary measure until they got married and lived the life of a housewife and mother. After the mid-19th century, followed by an economic crisis, women started to consider what would happen if their husbands were no longer expected to provide for the family alone.[478]

As a result, the Civil liberal women´s movement emerged and for them, the path to women´s suffrage led via education and greater independence. To realise their goals, women needed a political voice, which is why the fight for women´s suffrage was taken up, and an increasing participation in associations. However, organising in associations required courage, as the previously adopted paragraph 30 of the *Associations law* prohibited women from becoming members of political associations.[479]

To discuss the issues women were facing constantly, the Civil liberal women´s movement founded in 1899 the association magazine *"The documents of women"* ("*Die Dokumente der Frauen")*. The founders were Auguste Fickert, a dedicated teacher and a fighter for women´s suffrage from the very beginning, Rosa Mayreder and Marie Lang. The magazine was published every two weeks in Vienna between 1899 and 1902. The main priority of the magazine was the demand for women´s suffrage. In addition, the editors documented current activities of women´s movements at domestic territory and those abroad.[480]

Especially Rosa Mayreder, one of the most influential intellectuals of her time, wrote in one of her publications, to counteract the degrading attribution to women, the following: *"We will only know what women are when they are no longer told what they should be" ("Man wird erst wissen, was die Frauen sind wenn ihnen nicht mehr vorgeschrieben wird, was sie sein sollen").* Mayreder expresses for the first time with this statement the idea, that gender roles are learnt, and not innate.[481]

The Civil liberal women´s movement was the only women´s movement that was not subject to a political party line. It was *"The only genuine emancipation movement"* because they were

[478] *Ibid.*
[479] *Ibid.*
[480] UNGER, *op. cit.*, p. 46.
[481] UNGER, *op. cit.*, p. 47.

more likely to discuss women´s issues with party representatives. As a result, their reporting was also very liberal, as there was no party affiliation.[482]

3.2. The Social democratic women´s movement

This women´s movement was tied to the social democratic party line. As a result, the demands of the women workers were based on the social democratic party programme. The requirements were women´s suffrage, a fair salary distribution, human working and living conditions and an improved basic education. Social democratic women demonstrated, went on strike, published and became involved in associations.[483]

Their newspaper, *"The women workers magazine" ("Die Arbeiterinnenzeitung")*, published between 1892-1934, was created as a medium for communicating political interests. Information about the organisation´s activities could be spread far beyond Vienna. The magazine focused on achieving universal suffrage, equal opportunities in education and the fight against exploitation. The co-founder and responsible editor was the factory worker and later member of the National Council, Adelheid Popp.[484]

After a debate at the party congress in 1892, women were granted the right to manage the newspaper independently of men, which was not the case before.[485] The following quote shows a statement of Viktor Adler, an Austrian politician, who confronted the women with their lack of education and questions whether they are qualified enough to take over the management of the magazine: *"…show us a female comrade who has the ability to produce the paper…" (…"zeigen Sie uns eine Genossin, die die Fähigkeit hat, das Blatt herzustellen…").* Victoria Kofler (worker and newspaper editor), however, countered Adler by stating that many men also had no qualifications for certain positions.[486]

Later, Adler, as a member of parliament, addressed women´s suffrage during the electoral reform debate in 1896, but he believed that universal suffrage for men had to be implemented first; that happened in 1907. Therefore, activists in the women´s movement

[482] MEIKE, *op. cit.*
[483] UNGER, *op. cit.*, pp. 47–50.
[484] MEIKE, *op. cit.*
[485] https://litkult1920er.aau.at/litkult-lexikon/arbeiterinnen-zeitung-die-frau/ [Access on October 22, 2024]
[486] MEIKE, *op. cit.*

put pressure on the delegates, but they did not achieve much as women were never allowed to be official members of political associations due to paragraph 30 of the *Association law*. Consequently, the associations were unpolitical.[487]

3.3. The Catholic movement

This movement consisted of women from all social classes, but leading persons were increasingly of aristocratic origin. Their principles and founding motive were the defence of the faith (catholic principles are the basic idea behind all social changes) and spreading the catholic way of life and not improving the position of women. This movement was a countermovement to the other two movements. They wanted women to return to their duties in society, which were having a family, raising the children and living the housewife life. Originally, this movement was organised in churches and mainly fulfilled charitable and social tasks. They supported the Christian Social Party as well.[488]

In 1897, catholic women enabled the party to win an impressive election victory. The association was always strongly controlled by male politics but by founding the first catholic women´s organisation in 1907 women gained more independence. The catholic women´s association published works. A particularly typical example of the catholic women´s press was the *"Austrian Women´s World: Monthly magazine for educated women" ("Österreichische Frauenwelt: Monatsschrift für die gebildete Frau"),* which was published by the Catholic Women´s Organisation of Austria between 1911 and 1919. Prior to this magazine, there was already an Austrian women´s newspaper: "*Magazine for the Christian Women´s World" ("Zeitschrift für die christliche Fraeuenwelt"),* which was published in Vienna from 1898 to 1906. In the named newspapers the Christian social association published their principles they stood for.[489]

4. 12th November 1918

Until 1918, the civil liberal and social democrat women´s movements were unable to achieve universal suffrage for women. Their biggest obstacle was paragraph 30 of the *Association law*. But as a result of the World War I, until the collapse of the monarchy, women had to take on more and more tasks that had been performed by men before the war. During

[487] UNGER, *op. cit.*, pp. 51–52.
[488] MEIKE, *op. cit.*
[489] *Ibid.*

this time, they did great achievements, which is, why it was no longer conceivable to exclude them from the right to vote.[490]

Finally, the *law of the 12th of November 1918 on the form of state and government of German-Austria* introduced a right to vote, that was to be based on the *"general, equal, direct and secret voting rights of all citizens without distinction of sex"*. Universal suffrage has been realised and there was no more curia and census suffrage, and citizens were now entitled to vote regardless of wealth and social class. Nevertheless, the law still contained some women-specific grounds for exclusion regarding paragraph 13, where e.g. women, who were under moral police surveillance still didn´t have the right to vote (for example prostitutes). Even though there were concerns women would not use their right to vote, the opposite happened. A voter turnout of 82.10% was achieved on the part of women (male voter turnout: 86.97%). On the 4th of March 1919 the arrival of the first female member of the national council represents the most significant highlight of women's achievements.[491]

Despite several barriers and the fact that this issue was heavily discussed before the introduction of women´s suffrage and even after its implementation, it still led to heated discussions. Nevertheless, a first major step was taken.

[490] UNGER, *op. cit.*, pp. 53–58.
[491] *Ibid.*, pp. 57–62.

Réka Sleisz: The development of civil liberties in the era of dualism

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The civil liberties first appeared in official form in Europe in 1789 in the legal norm Declaration of the Rights of Man and of the Citizen, created as the result of the French Revolution. This declaration opened a new chapter in the history of human rights, as it was the first powerful document that recognized human rights as universal, i.e. according to which they belong to all[492]: "*Men are born and remain free and equal in rights*."[493]

Freedoms could be defined in several ways. On the one hand, they are fundamental rights that ensure the undisturbed life of the individual and the free exercise of his activities.[494] In addition, they are also claims that enable individuals to assert themselves and freely express their abilities.[495] Nor should we forget its definition that these are rights and freedoms that ensure the protection of the individual against unwanted interference by the state and guarantee that people can participate in the public affairs of the country free from any negative discrimination or oppression.[496]

1. History: Civil liberties in the April Laws of 1848

In Hungary, the issue of individual and political freedoms became a pivotal part of the liberal creed from the last third of the 18th century.[497] During the reform debates of the diets of the 1830s and 40s, politicians already addressed the issue of civil liberties, and while there were significant differences in radicalism and legal formulas, the fundamental values such as equality before law, the right to human dignity or the inviolability of the home, freedom of the press, religion, assembly, association and expression were united.[498] The turning point in achieving these was brought about by the

[492] https://helsinki.hu/emberi-es-polgari-jogok-nyilatkozata/ [Access on November 20, 2024]
[493] Declaration of the Rights of Man and Citizen, 26th August 1789
[494] https://lexikon.uni-nke.hu/szocikk/szabadsagjog/ [Access on November 20, 2024]
[495] *Uj Idők Lexikona [Lexicon of New Times]*. Budapest, 1941, No. 21–22, Singer és Wolfner Irodalmi Intézet Rt., p. 5557.
[496] https://www.coe.int/hu/web/compass/glossary [Access on November 20, 2024]
[497] CIEGER, András: Liberalizmus és hatalmi érdek. A szabadságjogokra vonatkozó politikusi dilemmák a dualizmus kori Magyarországon [Liberalism and interest of power. Politicians' dilemmas regarding civil liberties in dualist Hungary]. *Magyar Kisebbség [Hungarian Minority]*, 2009, No. 1–2, p. 81.
[498] *Ibid.*

European revolutionary wave of 1848,[499] more specifically by the Hungarian Revolution and War of Independence of 1848–1849, as well as by the April Laws enacted in the meantime. The last feudal diet created the necessary legal framework for the bourgeois transformation, which was the purpose of the aforementioned laws.[500]

The laws sanctioned by Ferdinand V on 11th April 1848, which are also considered "the first constitution of the nation"[501], included the most important civil liberties. These did not provide a catalogue of human rights, but the fundamental rights considered crucial at the time were regulated by law.[502]

2. Legal equality

The April laws introduced significant reforms in the field of equal rights. Due to Act VIII of 1848, the noble tax exemption was abolished, as it implemented universal taxation into the legal system.[503] However, the most prominent from the point of view of equalization was Act IX of 1848. It freed serfs from the burden of compulsory services such as the robot or the ninth, and gave the serf plot to the serfs, thanks to which a very significant part of society — about ninety percent — acquired private property.[504] In addition, the same law provided for the apportionment of land in common use (such as forests, arable lands and ponds), and it stated that the state was responsible for compensating landlords financially for the loss of property caused by the law.[505] In addition to the above, for example Act XI of 1848 was enacted in the interest of equality of rights, which abolished the manorial court, whose task was taken over by the adjudicating bodies of the counties, as well as legislation providing for the abolition of the tithe and law of entailment (Act XIII of 1848 and Act XV of 1848).[506]

It is important to point out that the equality of rights set out in the April Laws of 1848 was not achieved in estate society,[507] since despite the official declaration of the redemption of serfs and the abolition of feudal relations, it could not be implemented due to the ongoing war. The above-

[499] *Ibid.,* p. 82.
[500] MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 285.
[501] HOMOKI-NAGY, Mária: A szabadságjogok megjelenése a magyar történeti alkotmányban [The appearance of civil liberties in the Hungarian historical constitution]. In: BALOGH, Elemér (ed.): *Számadás az Alaptörvényről [Accounting for the Fundamental Law]*, Budapest, 2016, Magyar Közlöny Lap- és Könyvkiadó, p. 574.
[502] HOMOKI-NAGY, *op. cit*., p. 578.
[503] MEZEY – GOSZTONYI, *op. cit*., p. 285.
[504] *Ibid.*
[505] *Ibid.*
[506] *Ibid.*
[507] HOMOKI-NAGY, *op. cit*., p. 574.

mentioned changes were able to take effect after the final completion of serf redemption in 1853[508], when a political and social situation emerged in which equality before law in both public and private law could be achieved.[509]

3. Rights of ethnic minorities

Hungary was a multiethnic country, which means that in addition to ethnic Hungarians, different peoples and ethnic groups lived on the territory of the country, which had different levels of development and education.[510] Hungarian leaders wanted to create a more unified state with the political nation program. The essence of this idea was that a nation is not defined by a common language or traditions, but is built on the attachment to the state.[511] However, this attempt did not impress the politicians of the nationalities, hence they all first stood up for their right to use their own languages, as they considered this to be the most important element of their identity.[512] This created tension between the two sides, which was increased by the fact that no plans were made to eliminate the disadvantaged situation of the ethnic groups.[513] The first steps were only taken in the summer of 1849, but it was too late, it was only of theoretical importance.[514]

4. Religious freedom

Religion was regulated by Act XX of 1848, which rather applied to established religions, whose followers were granted freedom of religion.[515] This group included the Catholic, the Greek Orthodox, the Calvinist, the Lutheran, and the Unitarian Churches.[516] The Israelite religion has still not been included among the established religions, but the Catholic religion undoubtedly lost its centuries long status as the most dominant religion.[517] Another significant change was that religion was no longer influenced by the state.[518]

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[508] *Ibid.*
[509] HOMOKI-NAGY, *op. cit.*, p. 574.
[510] GOSZTONYI, Gergely: Freedoms in the Hungarian April Laws of 1848. *Journal on European History of Law*, 2024, No. 1, pp. 138–142.
[511] SZENTGÁLI-TÓTH, Boldizsár – GERA, Anna: Az 1868-as nemzetiségi törvény és a politikai nemzet koncepciójának utólagos értékelése [Retrospective evaluation of the Nationality Act of 1868 and the concept of political nation]. *Erdélyi Jogélet [Transylvanian legal life]*, 2020, No. 2, p. 87.
[512] MEZEY – GOSZTONYI, *op. cit.*, p. 285.
[513] *Ibid.*, p. 286.
[514] *Ibid.*
[515] *Ibid.*
[516] *Ibid.*
[517] *Ibid.*
[518] *Ibid.*

5. Freedom of the press

The most decisive change in the field of freedom of the press was brought about by the abolition of censorship, which was decreed by Act XVIII of 1848.[519] In addition to the freedom of the press, this also ensured freedom of speech and expression.[520] Censorship was replaced by subsequent prosecution for libel, which was accompanied by the principle of gradual liability, which meant that first the author, then the editor, then the publisher, and at last the printing house were held accountable if, for some reason, the person ahead of them was not known.[521]

6. Academic freedom

Academic freedom was regulated in a very laconic manner in 1848, rather referring only to higher and university education.[522] The *Ratio Educationis* was finally replaced by Act XIX of 1848, which gave students the freedom to choose between subjects and teachers, and besides teachers other "eminent individuals" could teach.[523]

7. Summary

In conclusion, it can be stated that the April Laws and the revolutionary legislation completely transformed society, broke up with the feudal and estate relations that had been present for centuries, and for the first time in Hungary freedoms actually prevailed. However, it should also be mentioned that many issues remained unclear or poorly regulated, one striking example of which is the right of assembly.[524] This is due to the fact that in the era it was impossible to conduct calm legislative work, as well as legislators kept in mind the temporality of their work.[525] The political elite wanted to leave the drafting of many important laws to the National Assembly — which was already organized on the basis of popular representation — such as the preparation of a penal code guaranteeing freedoms comprehensively.[526]

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[519] *Ibid.*
[520] HOMOKI-NAGY, *op. cit.*, p. 579.
[521] *Ibid.*
[522] *Ibid.*, p. 580.
[523] BIANCHI, Leonard: A polgári szabadságjogok Magyarországon a dualizmus időszakában [Civil liberties in Hungary in the era of dualism]. In: CSIZMADIA, Andor – PECZE, Ferenc (eds.): *Jogtörténeti tanulmányok II. [Studies in Legal History II]*, Budapest, 1968, Közgazdasági és Jogi Könyvkiadó, p. 158.
[524] MEZEY – GOSZTONYI, *op. cit.*, p. 288.
[525] CIEGER *op. cit.*, p. 82.
[526] *Ibid.*, p. 83.

Barnabás SZALAI: The use of Croatian language and the Croatian-Hungarian legal relationship in the light of the railway regulation dispute

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1. Introduction

In this study I will examine how the representatives of the Hungarian and Croatian nation related to the system, that was based on the Croatian-Hungarian Compromise. My research is based on the parliamentary debate regarding the railway regulation of 1906.[527] Besides the representatives' relation to the system, I intend to demonstrate how the law interpretation was defined by the duality of statutory law and de facto structure of power in the period between 1868 and 1918.

2.The Croatian-Hungarian Compromise

For the Hungarian Kingdom it was necessary to improve the relationship with the other kingdoms of the Saint Crown to be truly equal to the Habsburg hereditary lands.[528] To negotiate the Croatian-Hungarian Compromise both the Hungarian and Croatian Parliaments sent their own commissions, then the legislatures of the two nations approved the bill of Compromise. It was the Article XXX of 1868 that integrated the Compromise into the *Corpus Iuris Hungarici*.
The Compromise of 1868 defines Hungarian-Croatian relationship as a state complexity, both nations belonging under the Crown of St. Stephen.[529] The two states had joint Affairs. To make decisions involving such Joints Affairs, a common legislature and executive power were created. The

[527] 1906. évi 486. Iromány. [Documents of the House of representatives] (1907.05.13.) XIII. kötet p. 294
https://library.hungaricana.hu/hu/view/OGYK_KI-1906_13/?pg=303&layout=s
[528] RIGÓ, Balázs: 1867 as the Year of Constitutional Changes Around the World. *ELTE Law Journal* No. 2. 2017. pp. 43-45.
[529] 1868. évi XXX. törvénycikk a Magyarország, s Horvát-, Szlavon és Dalmátországok közt fenforgott közjogi kérdések kiegyenlítése iránt létrejött egyezmény beczikkelyezéséről (2024. 04. 21.) p. 1 Elérhető:
https://net.jogtar.hu/getpdf?docid=86800030.TV&targetdate=&printTitle=1868.+%C3%A9vi+XXX.+t%C3%B6rv%C3%A9nycikk&referer=1000ev

Joint Parliament was formed by Croatian deputies joining the Hungarian Parliament and having a vote in the matters of joint Affairs.[530]

The Compromise describes Croatia-Slavonia as a political nation with their own territory and sovereign in it's internal affairs. During the work of the Commissions the Croatian-Slavonian deputies have argued stubbornly for the declaration of Croatian language as official on their territory.

According to the Compromise, the language of Legislature, Administration, Judicature and the domain of the joint Government is Croatian. The rights of the Croatian language were also declared for the Joint Parliament and Delegations.

3. Croatian speeches in the Hungarian Parliament

The Croatian deputies of the Joint Parliament rarely exercised their right for speech in Croatian, nor did they show much activity in the joint legislature: according to András Cieger's study of the Croatian deputies there were only 18 speeches in Croatian language between 1865 and 1906.[531]

Cieger also noted that Croatian deputies of the Joint Parliament mostly voted with Hungary's governing party. This tendency ended in 1907, when the Croatian-Serbian coalition was elected. This coalition protected Croatian-Slavonian interest with great passion due to their strong national identity. Particularly heated arguments occurred between the Hungarian and the Croatian-Slavonian deputies in 1907, when the railway regulation bill was presented.

This debate was not without preludes: Géza Josipovich spoke up for the specific purpose of reminding the Parliament of their right to Croatian speeches. This reminder was not unnecessary, to say the least. While Gábor Ugron spoke up in favour of the reminder, other Hungarian deputies, like Zsigmond Makkai (who was mentioned by name in the Parliament Diary) demanded the use of the Hungarian language.[532]

[530] Ingrid RÁK–RADI: Voices of the Croatian nation in the Hungarian parliament. Sic itur ad astra, 2017, No. 2, p. 95

[531] Cieger, András: Horvát képviselők a magyar országgyűlésben (1868–1918). [Croatian represetnatives in the Hungarian Parliament] In: A magyar–horvát együttélés fordulópontjai: intézmények, társadalom, gazdaság, kultúra. [The turning points of the Hungarian-Croatian cohabitation: institutions, society, economy, culture] Budapest, 2015, MTA BTK, p 435.

[532] Képviselőházi Napló [Diary of the House of the Representatives] 1905. 21. ülés (1905.05.09.) I.kötet 215. https://library.hungaricana.hu/hu/view/OGYK_KN-1905_01/?pg=224&layout=s&query=josipovich%20g%C3%A9za

Paradoxically the rights of the Croatian language regarding the legislature were restricted by a standing orders – amendment, right after the details of the bilingual parliamentary work had been created.

The intention behind the amendment was to break the obstruction of the Croatians and finally decide on the railway regulation bill. The restriction narrowed down the provisions of the 59.§ of the Compromise of 1868 relating to Parliament: it guaranteed the right to speak in Croatian, however denied Croatian language access to all other legislative rights, such as the right to comment on the standing orders, and made the work of the deputies virtually impossible. Members who did not comply with the new rules were sanctioned with the suspension and expulsion of their speech by the Speaker.[533]

A full causal relationship cannot be established between the amendment and the breaking of the obstruction: the legitimacy of the Croatian-language speeches was often challenged by Hungarian deputies' interruptions recorded in the Parliamentary Diary, who demanded the use of Hungarian language.

The Hungarians' problem with the Croatian-language speeches were not without pragmatic reasoning: due to the lack of experience the deputies received each other's written and translated speeches after the speeches had taken place. It resulted in the Hungarian- and Croatian-speaking deputies not understanding each other. This difficulty made it impossible for a spontaneous and useful debate to take place within the Joint Parliament. The problem was voiced in the era by Vilmos Mezőfi, as well: "The rules must be changed, we don't know what [the Croatian-Slavonian deputies] say!"[534]

4. The railway regulation bill

Mezőfi Vilmos's speech took place during the discussion of the previously mentioned bill on the regulation of railway services. The main subject of the bill was not the right to use the Croatian language, but the declaration of the railway-operation as a national interest.[535]

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[533] Cieger, op cit., p. 431-432

[534] Képviselőházi Napló [Diary of the House of the Representatives] 1906. 168. ülés (1907.06.05.) X.kötet 19. https://library.hungaricana.hu/hu/view/OGYK_KN-1906_10/?pg=25&layout=s&query=mez%C5%91fi%20vilmos

[535] Képviselőházi Irományok [Documents of the House of representatives] 1906-486. Törvényjavaslat a vasuti szolgálati rendtartásról [The railway regulation bill] https://library.hungaricana.hu/hu/view/OGYK_KI-1906_13/?pg=303&layout=s

The two pillars of reliability were professionalism and moral reliability. In order to establish these, the bill imposed several conditions for railway employability: Besides the requirement of appropriate education, it was also prescribed for the applicants to have a clean criminal record and Hungarian citizenship.

Besides Hungarian citizenship the bill made it obligatory to possess Hungarian language knowledge, but there were also exceptions: in addition to Hungarian language, the ability to speak Croatian was also required on the territory of Croatia-Slavonia and Croatian was the dominant, only language of the urban railways of Croatia-Slavonia.

In practice, therefore, Hungarian became a compulsory language on the Croatian-Slavonian railways, supplemented in some cases by the requirement to speak Croatian. The language-related points of the bill had already provoked the disapproval of Croatian representatives during the committee's work, and Ferencz Kossuth, the Minister of Trade, also felt it important to point out that there is no anti-Croatian tendency in the matter of the railway regulation, as 5396 of the 7088 employee were able to speak Croatian at the time.[536]

5. The collision of the railway regulation bill and the language question

The Croatian-Slavonian deputies considered the railway regulation bill incompatible with the Compromise of 1868 and they saw it as a Hungarian over-expansion.

It was not the first conflict the two nations had since 1868: during the premiership of Kálmán Tisza, in 1882-1883, the coat of arms on official buildings were replaced with bilingual inscriptions on the territory of Croatia-Slavonia. According to the Croatian-Slavonian point of view it violated the 57.§ of the Compromise, which stated that in the domain of the Joint Government Croatian language was to be used. Hungarians stated that the Compromise did not ban the use of other languages besides Croatian.

The two different interpretations show the disadvantages caused by the general clauses of the Compromise: the act did not mention exclusivity, neither did it define what belongs to the domain of the Joint Government. The reason behind the vast number of general clauses is the mutual hope that two nations had for the Compromise: the Hungarians envisioned a more unified state with Hungarian hegemony, while the Croatian-Slavonian vision was a more polarized state with greater autonomy for their people.

[536] Képviselőházi Napló [Diary of the House of the Representatives] 1906. 168. ülés (1907.06.05.) X.kötet 17. https://library.hungaricana.hu/hu/view/OGYK_KN-1906_10/?pg=23&layout=s&query=7088

The crisis of 1882 was followed years later by committee discussions, but they did not result in remarkable success. These discussions gave an opportunity to Croatian-Slavonian deputies to list their grievances, like the negligible role of the Croatian language in the joint Government and the disregard of Croatian political and economical interests in joint decisions.[537]

Without a real solution to these problems the Croatian grievances and demands lived on under the surface. During the debate of the railway regulation bill the Croatian-Slavonian used obstruction, the only tool they had with the minor political role. The economical grievances came up in relation to the identity of the railway builder, while the language question remained at the centre of the debate until the end.

Similarly to the crisis of 1882 the Croatian-Slavonian deputies referred to the 57.§ of the Compromise during the plenary debate on the railway regulation bill: the official language of the domain of the joint Government in Croatia-Slavonia is Croatian.

A parallel can also be drawn with the earlier conflict: the Hungarian deputies argued that the article does not mention exclusivity in the official language, so applying Hungarian as an additional official language is not a violation of the Compromise. Furthermore, Hungarian deputies stated that the employees of the railways are not public employees, as they are employed by the private company of the Hungarian state. This company was the one that had the railways built on it's own expenses. The Hungarian point of view was based on the need of a unified language of service in order to ensure the uninterrupted flow of transport.

The views of the Hungarian representatives were not fully shared by the Hungarian intelligentsia of the time. Viktor Jászi argued in favour of the Croatian-Slavonian deputies after the crisis of 1882. According to him the Hungarian language can only be considered official if it is mentioned explicitly, otherwise not.[538]

Once again, the Croatian-Slavonians did not accept the Hungarian explanation: they did not consider the railway a private enterprise and believed that the expenses of the railway construction fell on Croatians, as well.

6. The collision of the railway regulation bill and the public law

[537] László, Katus: A Tisza-kormány horvát politikája és az 1883 évi horvátországi népmozgalmak. [The Croatian-policy of the Tisza-government and the Croatian movements of 1883] In: Nagy Mariann – Vértesi Lázár: Sokszólamú történelem – válogatott tanulmányok és cikkek. 2008, Pécsi Tudományegyetem. p. 317-318.

[538] Viktor, Jászi: Tanulmányok a magyar-horvát közjogi viszony köréből. [Studies of the Hungarian-Croatian legal relationship] Budapest, 1897, Eggenberger. p. 266

The different interpretations of the Compromise raised questions of public law that were not settled in details: the exact scope of joint Affairs, the right of different languages and the fundamental relationship of the two nations.

The most important issue to deal with was the relationship of the two nations: was the Compromise a bilateral treaty of two states or a treaty between the central state and an autonomous region of this state?

The existence of the joint Affairs, Joint Parliament and Joint Government were proving the point of Hungarian deputies: the two nations not only belonged under the same crown but had joint organizations of the most important branches of a state.

Belonging under the Crown of St. Stephan did not necessarily mean a single state though: the first article of the Compromise refers to the relationship of these nations as a state complexity instead of a single unity. Mirko Grahovac, a Croatian-Slavonian deputy was eager to point it out in his parliamentary speech: "Hungary and Croatia, Slavonia and Dalmatia form one and the same state complexity." [539]

Mirko Grahovac concluded that the term "state complexity" directly shows Croatia-Slavonia's own statehood. Speaking about public law in a debate of a railway regulation bill was not unjustified from Mirko, to say the least: the speech was a defence of the independent Croatian-Slavonian statehood against the former Hungarian speeches that questioned it.

During the negotiations of the treaty of the Compromise the two parties often referred to it as a law written on a blank paper. By 1907 the relationship of the two nations became more complex: the number of norms grew that regulated the link of these nations. Ödön Barta, a Hungarian deputy highlighted the Act 50 of 1879 from these norms that regulated the acquisition and loss of Hungarian citizenship.[540] The act established one and the same citizenship for all citizens living on the territory Hungary and Croatia-Slavonia. According to Ödön Barta, the citizenship is closely linked to the concept of the state so if there is one citizenship, then there is only one state, as well. The deputy believed that as there is one state, there can be applied a single official language: Hungarian.

[539] Képviselőházi Napló [Diary of the House of the Representatives] 1906. 170. ülés (1907.06.07.) X.kötet 97. https://library.hungaricana.hu/hu/view/OGYK_KN-1906_10/?pg=96&layout=s&query=mirko

[540] Képviselőházi Napló [Diary of the House of the Representatives] 1906. 168. ülés (1907.06.05.) X.kötet 31. https://library.hungaricana.hu/hu/view/OGYK_KN-1906_10/?pg=37&layout=s&query=barta%20%C3%B6d%C3%B6n

The Croatian-Slavonian deputies referred to the Compromise as a Fundamental Law several times (e. g. Ferencz Vrbanic) as it is written in the seventieth Article of the Compromise. This article also states that the Compromise can only be revised the same way it was created: with committees of the two nation's parliament. This provison gave a special status to the Compromise in the Hungarian legal system, as it can not be contradicted by other law. This special status was also mentioned by Brlics Vatroszláv, who warned the Hungarians not to use illegal tools to change the prevailing legal system. He also indicated that in the case of illegal Hungarian actions the Croatian-Slavonian Government might break the Compromise, as well.[541]

The unique position of Croatia-Slavonia is one of the main reasons behind the different point of views regarding Croatia's status. The joint Parliament's structure indicated an autonomous position, but the wide range of rights and bilateral methods used for the creation of the Compromise were a sign of a state complexity.

Even if we look at the kingdoms of the Hungarian Crown as a single state, it is still questionable whether the declaration of Hungarian language as official is appropriate. Ödön Barta's explanation is based on the written law, however it did not always prevail. The act Barta cited specifically defined one citizenship: Hungarian. Despite this act, the Croatian-Slavonian legislature often included the term "Croatian-Hungarian" in their provisions.

7. The aftermath of the railway regulation law

The divergent legislative practices showed fundamental flaws in Hungarian-Croatian relations: the actual jurisprudence and the written law often contradicted the spirit of the Compromise.

The different jurisprudence of the two countries led to serious disagreements and made foreshadowed a future conflict. Contrary to the previous conflicts, this problem was not negotiated by committies: The negotiations took place during the plenary sessions.

The plenary sessions were not the best way to solve this issue: the Hungarian deputies, who had majority in the Joint Parliament were able to have the bill pass without any support for Croatians. The Croatian-Slavonian deputies used obstruction as a last resort.

The obstruction was a misuse of the parliamentary rights. This misuse gave the Hungarians a cause to limit the parliamentary rights of the Croatian-Slavonian deputies. The debate and it's

[541] Képviselőházi Napló [Diary of the House of the Representatives] 1906. 190. ülés (1907.07.03.) XI.kötet 392. https://library.hungaricana.hu/hu/view/OGYK_KN-1906_10/?pg=96&layout=s&query=mirko

consequences made the relationship of Hungarians and Croatian-Slavonians even more severe until it finally broke following the events of World War I.

8. Summary

One of the most significant reasons behind the Hungarian-Croatian dispute regarding their relationship was the very foundation of their relationship: the Compromise of 1868. Both nations pinned their hopes on the use of the general clauses, trying to get a more beneficial position. It was the use of general clauses that let the spirit of the written law differ from the actual jurisprudence and increased the role of de facto power in the relationship of these nations.

This issue prevailed in the dispute of the railway regulation law, as well. Hungarian deputies tried to expand the role of their language in the Kingdoms of the Saint Crown, while Croatians fought for the recognition of their state as independent.

Hungarians had the power to pass the railway regulation bill and mute the opposing voices and the increasingly one-sided alliance took one more step towards disintegration.