



SIC MUR

EDITORS
GERGELY GOSZTONYI
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IVAN KOSNICA

AD

Collection
of papers
on **Hungarian**
and **Croatian**
legal history 2022

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Eötvös Loránd University / Faculty of Law / Department of the History of Hungarian State and Law / 2022

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Croatian–Hungarian Legal History Summer School

The 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 published the best articles in the books entitled *Sic itur ad astra I* (ISBN 978-963-284-935-5, Eötvös Loránd University Faculty of Law, Budapest, 2017, 64 p.), *Sic itur ad astra II* (ISBN 978-953-270-116-6, University of Zagreb Faculty of Law, Zagreb, 2018, 105 p.), *Sic itur ad astra III* (ISSN 2631-181X, Eötvös Loránd University Faculty of Law, Budapest, 2019, 134 p.) and *Sic itur ad astra IV* (ISBN 978-953-270-133-3, University of Zagreb Faculty of Law, Zagreb, 2020, 135 p.).

Due to the world pandemic situation, the meeting in 2020 was cancelled, but the fifth summer school was organized again in Budapest in 2021. The topic was „Public administration and constitutional history in the 19th–20th century”: twelve, Master and Ph.D. level students held their presentations, the best are listed in this book.

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

Budapest–Zagreb, 2022

The Editors

Márk Milán MAGYAROVICS: The district administration of the Hungarian capital – its history and evolution from 1873 to the formation of Greater Budapest

Eötvös Loránd University, Faculty of Law

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1. Introduction: On the way to the unified Budapest and the formation of administrative districts

Paragraph (1) of Article F) of the Fundamental Law states that the capital of Hungary shall be Budapest. As the only metropolis in our country, Budapest can proudly bear its title of capital, which it has undoubtedly earned: with a population of approximately one million seven hundred thousand and an area of 525 km², it is the largest and most populous city of the country. Consequently, it is the centre of the social, cultural, economic and political life in Hungary. Therefore, it is no coincidence that according to Paragraph (2) of Article F) of the Fundamental Law *“The territory of Hungary shall consist of the capital, counties, towns and villages. The capital and towns may be divided into districts.”*

By contemplating these provisions of the Fundamental Law, it appears evident that Budapest has a peculiar legal status, provided by the Act 189 of 2011 on Local Governments in Hungary.¹ Under Paragraph (1) of Section 22 of the Local Government Act, Budapest has a dual self-government system, consisting of the Budapest municipality (the local government of Budapest) and the district governments. Among

¹ The Fundamental Law of Hungary, Article F).

the administrative units, the situation of districts is special, since at settlement level we consider Budapest one territorial unit, while at district (of the country) level the districts (of Budapest) are considered territorial units.² As we can see, our capital city has its own particular place in the Hungarian public administration system. Yet, lest we forget that it reached this particular position, its special legal status through a long historical evolution. As a basis for studying the developmental history of the division, administration and operation of Budapest's districts, let us review the events preceding the birth, namely Act 36 of 1872 on the Establishment and Organisation of the Budapest Municipality, of the united capital.

The beginning of the metropolitan development can be dated back to the first half of the 19th century, which was marked by the unfolding of the reform era. Among the great visionaries of the reform era, Count István Széchenyi was the first, who formulated the need to create a modern and unified capital – the idea of uniting Buda and Pest. He already envisioned this idea as a concrete program in his writing the *Világ (World/Light)*, published in 1831: *“The name of your capital should be changed to Budapest, [...] and thus the two cities would merge, [...] What would be the benefits of this merger, what a prosperous capital Hungary would have in a short time! [...] Because unification is power; and this power is the greatest treasure of the nations, which would lift the whole country out of the slough and dust, while introducing it to the higher ranks of culture and civilization.”* It had henceforth become clear that the prospering Pest and the obsolete Buda (which still shined in its ancient glory), were interdependent and could only form the capital of Hungary by “combining their forces”.³

From the 1840s onwards, the twin towns jointly exercised the functions of the capital. The culmination of this tendency was the Chain Bridge, which was built at the

² KSH: *Területi atlasz- Közigazgatási egységek, 2019. január 1. [Regional Atlas – Administrative units, 1 January 2019]* https://www.ksh.hu/regionalatlas_administrative_units [Access on July 10, 2021].

³ CZAGA, Viktória: *Testvérvárosokból főváros [A capital from twin towns]*. In: *Tanulmányok Budapest Múltjából 27. [Studies on the Past of Budapest]*, 1998, pp. 27., 32.

time and became the symbol of the cohesion between the two cities.⁴ At the last parliamentary session of 1848, Ferenc Házmán, the town clerk and delegate of Buda, raised the idea of the “official” unification of Buda and Pest, i.e. the need to create the legal regulatory framework on the unification. This demand seemed to be temporarily met, as Minister of Interior Bertalan Szemere issued a decree on 24 June 1849 on the unification of the “two twin capitals” and Óbuda under the name of Budapest: *“The unification of the authorities of Buda and Pest as well as Ó-Buda is, as of now, decreed, and the two twin capitals are hereby being united as Budapest. [...] At the same time, since the frontier region of Buda bordering Ó-Buda had been built up to such an extent that the latter city became Buda’s suburb, Ó-Buda is being herewith incorporated into the authority of Budapest.”*⁵ Unfortunately, due to the war of independence, there was not enough time to implement this law. In the 1850s, during the years of absolutistic governance, the unification of Buda and Pest could not be realized.⁶

Thanks to the Compromise of 1867, the “ancient chaos” of Hungarian internal affairs, which characterized the first half of the 1860s, seemed to be consolidated. The restored constitutional order created suitable conditions for civic transformation, the circumstances were thus given for a dynamic development. The government put the issue of the unification on its agenda once again, since only a united capital could be the worthy representative of the statehood of Hungary.⁷ Nevertheless, these efforts were not in the least characterized by a political consensus: the different development tendencies of Pest, Buda and Óbuda challenged the need of unification, and the leaders of the cities were not in an agreement either. Still, under the direction of Prime Minister Gyula Andrásy, the government made it clear to them that only a unified city could

⁴ NOVOTNYÉNÉ, Pletscher Hedvig: Budapest városfejlődése az egyesüléstől a napjainkig [The urban development of Budapest from the unification to date]. *Statisztikai szemle [Statistical Review]*. 1998, no. 12., p. 756.

⁵ *Pesti Hírlap [Pest News]*, No. 326., 28 June 1849, p. 1.

⁶ CZAGA, *op.cit.*, p. 32.; NOVOTNYÉNÉ, *op.cit.*, p. 756.; KÉPESSY, Imre: A monarchikus diktatúra (az önkényuralom és provizórium kora) [The monarchical dictatorship (the age of authoritarianism and the provizory)]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 302–309.

⁷ CZAGA, *op.cit.*, p. 34.

serve as the worthy capital of Hungary, because *“Pest is nominated by its fortunate position and commercial importance for the post of the capital, while Buda represents the historical glory of Hungary.”*⁸

To this end, at the parliamentary session of 1869–1872, the government had taken steps to unify the capital, of which the most significant was the bill on the establishment of municipalities. On 16 July 1870, during the debate on the bill in the House of Representatives, Member of Parliament Mór Wahrmann submitted a proposal, in which, after a longish explanation, he proposed to include the next section in the bill: *“However, a separate act provides for the administrative organisation of Buda and Pest.”* Wahrmann's motion was passed by the House of Representatives, then the Minister of the Interior was instructed to develop a separate bill on the administrative organisation of Buda and Pest.⁹ On behalf of the National Assembly, Minister of the Interior Vilmos Tóth convened a special council in March 1871, the so-called “enquête-commission”, whose duty was to elaborate the bill on the administrative organisation of Buda and Pest. The enquête-commission considered the establishment of district prefectures as one of the key elements of the administrative organisation of the united capital: *“In order to better manage the affairs of the city, the capital should be divided into multiple administrative districts determined by the General Assembly.”* Therefore, the commission specifically declared the need of organising district prefectures, which would function subordinate to the central city council, with mainly executive roles. Sections 66, 67, 68, 69, 70 and 71 of the act on the administrative organisation of Buda and Pest sought to regulate the formation and operation of district prefectures. The act was aimed at the administrative unity of the evolving capital, the district prefectures were considered as executive units dealing mainly with administrative matters. The act also emphasized their strict subordination to the central city council, which was mainly manifested in the restrictions of independent powers of decision (they only had right

⁸ *Fővárosi Lapok [Capital City Papers]*, No. 47., 26 February 1867. In: CZAGA, *op.cit.*, pp. 35–36.

⁹ FLAXMAYER, József – MEDRICZKY, Andor: A kerületi elöljáróságok szerepe Budapest székesfőváros közigazgatásában [The role of district prefectures in the administration of Budapest]. In: *Budapesti Statisztikai Közlemények [Budapest Statistical Bulletins]*. 1931, volt. 64., no. 3., p. 20.

to make proposals on “matters of interest to the district”). The councils of the three cities discussed the bill separately, none of the parts relating to the prefectures were objected to. Subsequently, on 2 April 1872, the House of Representatives passed the provisions of the bill pertaining to district prefectures and then the bill itself nearly unchanged.¹⁰ The bill was then submitted to the Upper House, which also passed it at its session of 17 December 1872. The ruler, King Francis Joseph I sanctioned the act on 22 December, which was promulgated the following day, on 23 December. By the promulgation, the Act 36 of 1872 providing the unification of the free royal cities of Pest and Buda, the market town of Óbuda and the Margaret Island came into force, and thus the unified capital city of Budapest was “born”.¹¹

2. The evolution of the administrative and territorial division of Budapest

The Act 36 of 1872 provided the unified municipality of the capital, which occupied a special place among the municipalities of Hungary. Budapest became the centre of the nation’s life, the official seat of the parliament, the government and the central authorities, and as the unified capital of the country, with its expanded territorial extent, it turned into the largest administrative unit after the state.¹² The Unification Act of 1872 provided the “establishment and organisation of the municipality of the capital”, that is to say, the formation and rules of operation of Budapest’s public administration system. It had already been declared during the development of the bill that the municipality of the united capital should be divided into additional administrative units, so-called district prefectures, which would mainly act as executives, creating the link between the population and the authorities, thereby ensuring the efficiency of

¹⁰ *Ibid.*, pp. 22–23.

¹¹ NOVOTNYNÉ, *op.cit.*, p. 757.

¹² STIPTA, István – VÖLGYESI, Levente: A területi önkormányzatok [The local authorities]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 443–444.

administrative affairs and the proper operation of public administration. This idea was expressed in Section 82 of the act, which stated that *“the capital shall be divided into multiple administrative districts, which are to be formed with regard to the constituencies, and their number, along with their expanse, are determined by the General Assembly.”* The general regulation of district prefectures had been provided by the act. Still, the task of organising constituencies and administrative districts was assigned to a commission of thirty-four members elected by the three cities on the basis of Section 134. This commission was set up in February, and by the end of the month, it had been elaborated the basic organisational regulations summarising the structure, the powers and rules of procedure of the city administration in one hundred and ten sections, thereby establishing the division of the capital into administrative districts.¹³

According to the division of 1873, Budapest was divided into nine administrative units (and constituencies) in conformity with the historical neighbourhoods of the city. Three districts were organised in Buda: the first district consisted of Krisztinaváros (*Krisztina town*), Vár (*Buda Castle*), Tabán and Kelenföld, the second district was Viziváros (*Watertown*) and the third was Óbuda (*Old Buda*). On the other side of the Danube, Pest was divided into six districts: the fourth district was Belváros (*Inner-City*), the fifth Lipótváros (*Leopold Town*), the sixth Terézváros (*Theresa Town*), the seventh Erzsébetváros (*Elizabeth Town*), the eighth Józsefváros (*Joseph Town*) and the ninth Ferencváros (*Francis Town*). Kőbánya had been attached to the latter but was later organized into an independent district at the special request of the locals. Consequently, Kőbánya (*Quarry*) became the tenth administrative district (yet, it did not form an independent constituency). The unified capital had an area of 194 km² and a population of approximately three hundred thousand people.¹⁴

¹³ NOVOTNYNÉ, *op.cit.*, p. 757.

¹⁴ Egykor.hu: *Budapest kerületei 1873-ban [Districts of Budapest in 1873]*, <https://egykor.hu/budapest/budapest-keruletei-1873-ban/2592> [Access on July 10, 2021]; NOVOTNYNÉ, *op.cit.*, pp. 757–758.; GERGELY, Gábor: *Budapest kerületeinek közigazgatási változásai [Administrative*

In the following half a century, the development of the capital accelerated: the population almost quadrupled, the economic and cultural life concentrated more and more in the city. As a result of the urban development, Budapest slowly “outgrew” the framework of the Act of 1872, which led to the revision of administrative boundaries in 1930.¹⁵ Section 3 of the Act 18 of 1930 on the Public Administration of the Capital City of Budapest provided that the administrative area of the capital “*shall be divided into fourteen districts*”. The details were left to a decree of the Minister of the Interior along with setting the date of entry into force. Later that year, the Minister of Interior decree No. 2130/1930 established the new district boundaries, thus two new administrative districts were formed on both sides of the city. In Buda, the eleventh district (back then: *Saint Emeric Town*, now: *New Buda*) and the twelfth district (*Highlands*) seceded from the former first district, and in Pest, the scaling-down of the fifth, sixth and seventh districts made it possible to create the thirteenth and fourteenth districts. However, the process of organising the newly established districts had taken years, therefore the eleventh district started its actual operation only in March 1935, the twelfth district in July 1940, the thirteenth district, Magdalene Town, in July 1938 and the fourteenth district, Zugló (back then: *Rákos Town*) in October 1935. The Act of 1930 annexed the territory of the Csepel state port and the forest of Budakeszi to Budapest, thus enlarged its area to 207 km². According to the census of 1930, it counted approximately one million residents.¹⁶

The idea of Greater Budapest had been hanging in the air for decades. However, the administrative unification of the suburbs and peripheral villages with the capital, i.e. the incorporation of the suburban ring, was still to come. The first milestone in the execution of the Greater Budapest concept was the enactment of Act 6 of 1937 on Urban Planning and Construction, which extended the competence of the Budapest

changes of the districts of Budapest]. In: *Tanulmányok Budapest Múltjából 30. [Studies on the Past of Budapest]*, 2002, pp. 337–344.

¹⁵ EGYED, István: Budapest önkormányzata [The Municipality of Budapest]. In: *Budapesti Statisztikai Közlemények [Budapest Statistical Bulletins]*, 1935, vol. 78., no. 3. p. 8.

¹⁶ STIPTA – VÖLGYESI, *op. cit.*, p. 443.

Public Works Council (*Fővárosi Közmunkák Tanácsa*; hereinafter: FKT) to the vicinity of the capital, thus creating the unity of the periphery with the capital in terms of building regulations and urban planning. Paragraph (7) of Section 2 of the Act entrusted the Minister of Interior with the exact determination of the "surroundings of the capital of Budapest" and the settlements belonging to this circle. Issued pursuant to this statutory authority, the "environs" determined by the Minister of Interior decree No. 33/1938 was broadly the same as the territory of Greater Budapest, organized in 1950, with the exception that it also included Vecsés here.¹⁷ The next milestone in the formation of Greater Budapest was the study of Mayor Károly Szendy entitled "*Tanulmány Nagy-Budapestről*" (*A study of Greater Budapest*), published in 1942. It was drafted specifically for official purposes and took a stand in favour of merging the areas covered by the FKT. Based on Szendy's proposals, the government approved a bill in February 1944, however, it was not submitted to the parliament due to the German occupation.¹⁸

After 1945, the Communist Party, which became a considerable factor in the decision-making, sought to implement the concept of Greater Budapest. Their purpose had been achieved by the Act 26 of 1949 on the New Territorial Organisation of Budapest, which was passed by the National Assembly on 20 December 1949. The act annexed seven independent towns and sixteen large villages from the territory of Pest-Pilis-Solt-Kiskun county to Budapest with effect from 1 January 1950. Pursuant to Paragraph (2) of Section 2, the number, the name and the boundaries of the districts shall be provided by a decree of the Council of Ministers. Thus, the Council of Ministers Decree No. 4349/1949 (XII. 20.) on the Establishment of the Districts of the Capital City was "born", which divided the new, significantly expanded area of the capital into

¹⁷ SIPOS, András: Nagy-Budapest létrehozásától Nagy-Budapest revíziójáig (1949–1956) [From the formation of Greater Budapest to the revision of Greater Budapest (1949–1956)]. *Múltunk*. 2009, no. 3., p. 4.; SIPOS, András: Nagy-Budapest kialakulása, 1950. január. 1. [The formation of Greater Budapest, 1 January 1950] <https://web.archive.org/web/20061218004802/http://www.historia.hu/archivum/2000/000506siposa.htm> [Access on July 10, 2021].

¹⁸ BENE, Lajos: Nagy-Budapest tervének kialakulása [The development of the Greater Budapest Plan]. *Városi Szemle [Urban Review]*. 1945, volt. 31., p. 97.; SIPOS 2000, *op.cit.*

twenty-two districts instead of fourteen. The Council of Ministers decree and its annex specified the exact boundaries and the official names of each district (e. g. the official name of the fourteenth district has been Zugló since 1950), which have not changed considerably in the last seventy years. The area of Budapest enlarged to 525 km² and its population consisted of one and a half million people at the time.¹⁹

The latest change in the administrative division of Budapest dates back after the change of the regime.²⁰ In 1994, Soroksár became an independent district because of a local referendum. According to the concept of Greater Budapest, Soroksár was part of the twentieth district, from which they seceded by the conclusive local referendum of 27 September 1992 at the initiative of Civic Association for Soroksár, constituted by enthusiastic localist. By the general elections of local government representatives and mayors of 1994, the representative body of Soroksár was formed. Thereby, Soroksár officially became the capital's newest, twenty-third district.²¹ Since then, Budapest has been organized into twenty-three districts.

3. The changing organisation and catalogue of powers of the districts

The Unification Act of 1872 created the conditions and the framework for the public administration system of Budapest. The establishment of administrative districts wanted to ensure the efficient operation of the public administration in the capital. Pursuant to Section 73 of the Act, *“the organs of the municipality of Budapest are the mayor, the deputy mayors, the council and the administrative district prefectures”*.

¹⁹ SIPOS 2000, *op.cit.*; PERÉNYI, Imre: Budapest városépítésének fejlődése 1873-1973 [The evolution of Budapest's urban planning 1873-1973]. In: *Tanulmányok Budapest Múltjából 20. [Studies on the Past of Budapest]*, 1974, p. 33.

²⁰ GOSZTONYI, Gergely: A parlamentarizmus helyreállítása [Restoring parliamentarianism]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 507–511.

²¹ GERGELY, *op.cit.*, p. 344.; Soroksar.hu: *Történelmi áttekintés [Historical overview]*, <https://www.soroksar.hu/keruletunk/tortenelmi-attekintes> [Access on July 1, 2021].

Accordingly, at district level, the management of administrative matters was delegated to the competence of district prefectures. Concerning the organisation of district prefectures, section 82 stipulates that the prefecture consisted of a prefect elected by the municipal committee and the jurors elected by the voters of the administrative district. The official duties of the jurors were assigned by the prefect, moreover, they were obliged to act in accordance with the prefect's instructions, but responsibility for their operation was the prefect's. The positions of prefect and juror were not tied to any qualifications, and their holders received an honorarium determined by the general assembly for the duration of their term of office. The number, salary and circumstances of employment of the auxiliary staff required for each district prefecture were also determined by the general assembly. The Act of 1872 intended to provide the administrative unity and centralization of the capital. Therefore, it limited the catalogue of powers of the prefectures and considered them primarily executive bodies. Section 83 listed the tasks of the district prefectures in detail. It delegated to their competence the promulgation of municipal decrees, the protection of national property in the district and the management of other essential administrative matters. Section 84 stated that district prefectures constitute industrial authority in the first instance but did not further elaborate on this.²²

The general economic and industrial boom of the 1880s resulted a rapid development that evoked the need for a radical reform of district prefectures, as the main executive authorities of the administration. Because of the increasing urgency to reorganize the district prefectures, the Minister of the Interior Károly Hieronymi submitted a separate bill on district prefectures, which was sanctioned on 25 December 1893 by the king. This is how the Act 33 of 1893 on the District Prefectures of the Capital City of Budapest came into being.²³

Pursuant to Section 2 of the Act, the bodies of public administration in each district were the district prefecture and the district committee. The prefecture consisted

²² Act 36 of 1872; EGYED, *op.cit.*, pp. 74–76.; FLAXMAYER – MEDRICZKY, *op.cit.*, pp. 21–25.

²³ FLAXMAYER – MEDRICZKY, *op.cit.*, pp. 28–30.

of the prefect and other officials. The head of prefecture remained the prefect, who was the manager of affairs falling within the competence of the prefecture. He was also the chief of the prefecture's staff, constituted by clerks, doctors, engineers, auxiliary and operating officials assigned by the Mayor. The prefects were elected by the municipal committee for life, the conditions of electability were provided by the Act 1 of 1883 on the Qualification of Public Servants (e. g. the prefects, as the officials of the capital, had to have legal qualification). The elected district prefects were assigned by the Mayor to head each district prefecture, and their salaries and rents were equal to those of the councillors (they were equal in rank to councillors). The Act of 1893 represented a significant step forward regarding the powers of district prefectures, with Section 18 and 20 detailing at length the administrative duties assigned to the prefectures. Based on the authorisation received in Section 19, the General Assembly Decree No. 472/1894 on the District Prefectures of the Capital City of Budapest laid down the detailed rules of the management of administrative matters listed in Section 18, which, compared to the 1872 regulation, testified to a more extensive catalogue of powers.²⁴

The other body of district administration, the district committee, was institutionalised by the Act 33 of 1893, the aim of which was to introduce local government on a trial basis in district administration. According to Section 29 of the Act, the chairman of the district committee shall be the head of the district (the prefect), and it had a maximum of twenty-four members elected by the voters of the district from among themselves by secret ballot. Half of the members had to leave at the end of every three years: at the end of the first three years, a draw decided who left, and from then on, those who had completed six years always left. Members, who resigned, were eligible for re-election. The grounds for exclusion of electability were enumerated in Section 29 of the Act (e. g. those who were under guardianship could not be a member of the district committee). Under Section 30, the powers of the district

²⁴ Act 36 of 1872; EGYED, *op.cit.*, p. 76.; FLAXMAYER – MEDRICZKY, *op.cit.*, p. 36.

committee were mainly preparatory and advisory: it discusses and gives an opinion on the estimates on the needs of the district prefecture and the district, supervises the municipal property in the district and the public charitable institutions of the municipality, makes proposals and recommendations to the municipal committee, the central city council and the mayor on matters concerning the district, etc. However, the district committee also exercised autonomous powers, such as deciding on the use of the road maintenance and repair budget.²⁵

The comprehensive overhaul of the administrative organisation of the capital was intended to be achieved by the Act 18 of 1930 on the Public Administration of the Capital City of Budapest. It gave the office of district prefects even greater importance than before, placing everything under the authority and responsibility of him. According to Section 53, the head of the administration in the districts of the capital was the district prefect, appointed by the mayor from among the officials of the district. The mayor also appointed the staff and the deputy prefect needed to carry out the administrative tasks of each district and could transfer the prefects and their auxiliary staff at any time. Section 53 did not change the catalogue of district powers established by the Act 33 of 1893 and other laws but instructed the Minister of the Interior to propose a bill within three years on the regulation of the competences of the district prefect.²⁶

The organisation of the district committee underwent significant changes with the Act 18 of 1930. Pursuant to Paragraph (6) of Section 55, the district committee was composed of permanent and elected members. The permanent members were the leading pastors of the legally established religious denominations residing and working in the district and the headmasters of local schools, up to a maximum of ten people, who were nominated by name by the central city council. The elected members were elected by the district's voters for a term of six years. Their number could not exceed a maximum of sixteen. The chairman of the district committee was chosen by the

²⁵ Act 33 of 1893; EGYED, *op.cit.*, p. 79.

²⁶ Act 18 of 1930; EGYED, *op.cit.*, p. 76.

committee itself. Other rules concerning the organisation of the district administration could be further laid down by the municipality using by-law. Under Paragraph (6) of Section 55, the catalogue of powers of the district committee shall be also established by the municipality within one year of the enactment of the Act: based on this authorisation, the by-law of 1933 only conferred on the district committee powers of collaboration, observation and proposition, and did not grant it any powers to be exercised independently.²⁷

The concept of Greater Budapest, according to the provisions of Act 26 of 1949, could already be executed within the framework of the new constitutional system. The public administration of the People's Republic of Hungary was characterised by the council system, a framework created by Act 1 of 1950, the first so-called Council Act. The nature of the Council Act was basically determined by the principle of democratic centralism based on strict organisational subordination and superiority, which reflected the hierarchical local-corporative structure of the socialist system and tried to integrate Greater Budapest into this.²⁸ Paragraph (1) of Section 8 stipulates that there shall be a council in each district in Budapest. These bodies were considered local councils under the Paragraph (3) of Section 3. The district council had a minimum of fifty-one and a maximum of one hundred and one members elected by the constituents of the district for a four-year term, according to the rules of general elections of Members of the National Assembly. Members could be recalled by the voters of the district as provided by law. At their first meeting, the district councillors elected a minimum of seven and a maximum of fifteen members from themselves as the executive and managing body of the district – the executive committee. The executive committee continued to function after the expiry of the mandate of the district council until the reconstituted district council elected the new executive committee. The executive committees were directly responsible to the district councils and to the executive committees of the

²⁷ EGYED, *op.cit.*, p. 79.

²⁸ WALTER, Tibor: A fővárosi önkormányzat új szervezetének kialakulása (1989-1994) [The new organisation of the municipality of the capital]. *Debreceni Jogi Műhely*. 2007, vol. 4., no. 2., p. 2.

superior councils (e. g. central city council). The specification and operation of the authorities of district councils were governed by the general rules regulating the functions of city councils.²⁹

The Act 10 of 1954, the second Council Act, was enacted to develop the council system. Based on the act, the organisational, operational and jurisdictional regulations of the councils of cities with district (of the country) rights, did not change significantly compared to the principles of state organisation of the first Council Act. The changes were to be applied to the district councils of Budapest (for example, the number of councillors in the district councils was at least eighty and at most two hundred). Yet, the district council (like a city with district rights) was subordinate to the central city council (like a county council), which was directly subordinate to the National Assembly and the Presidential Council of the People's Republic.³⁰

The Act 1 of 1971, the third Council Act, brought several changes with it, thus opening a new stage in the development of the council system. *“Emphasizing the representative, municipal and state administrative character rather than the state power character of the councils reflected the intension of decentralization which, together with economic decentralization, indicated a certain loosening of state centralization in other areas as well. The subordination of councils at different levels was also abolished, in the spirit of strengthening autonomy.”*³¹ The third Council Act expanded the boundaries of district autonomy, which tendency could be seen as a precursor to local government in the modern sense. Pursuant to Paragraph (2) of Section 17 of the Act, the responsibilities and powers of the district council were generally the same as those of the local council, i.e. the general rules applicable to councils operating in municipalities, towns, cities and county towns applied similarly to the district councils. On the other hand, Section 18 recognised the special legal status of Budapest (and its districts) by stating: *“The regulation of the powers and organisation of the central city council, district*

²⁹ Act 1 of 1950.

³⁰ Act 10 of 1954.

³¹ WALTER, *op.cit.*, p. 3.

councils and their organs shall take into account their specific situation."³² The Council Act of 1971 was in force until the political regime change in 1990, when the Act 65 of 1990 on Local Governments was enacted.

4. The system of relations between the central administration of the capital and the district governments

The Act 36 of 1872 established Budapest, the unified capital, as an independent municipality. Section 1 of the Act 42 of 1870 on the Organisation of Public Municipalities testified to the special status of the forming capital, because it already formulated the demand for a separate statute on the internal administrative organisation of the cities of Buda and Pest. This demand was enforced by the Act on the Establishment and Organisation of the Budapest Municipality, which created a third type of municipality in addition to the counties and the larger rural cities: the municipality of the capital city. Section 2 of the Unification Act provided the triple competence of Budapest, corresponding to that of the other municipalities: display public administration, exercising local government and political rights, i.e. they could discuss matters of national public interest, then they could submit proposals to the House of Representatives. Pursuant to Section 22, the municipal committee of the capital represented the entity of Budapest's municipality and exercised the rights of authority on its behalf. Another important body of the capital's municipality was the central city council. While the municipal committee was the representative, governing and directing body, the central city council, according to Section 77, functioned as the executive body of the capital's municipality.³³ For the purposes of this study, it was necessary to record the outlines of the municipality of Budapest and the key central

³² Act 1 of 1970.

³³ Act 36 of 1872; EGYED, *op.cit.*, pp. 15–27.

bodies in order to facilitate the comparison of the district administrative function and its development with the prevailing central administration system.

The Act 36 of 1872 explicitly emphasised the administrative unity and centralization of the capital, and the role of the district prefectures was seen primarily in execution and in facilitating the fulfilment of administrative affairs: [the main purpose of establishing the district prefectures was] *“on the one hand, to ensure efficiency, regularity and rapidity of every task falling within the scope of execution on all parts of the city, and, on the other hand, to facilitate the contact between the population of the different parts of the capital and the public authorities in all administrative matters.”*³⁴ The enforcement of the executive character was reflected in the limited catalogue of powers and the restriction of district autonomy. According to Section 83, the district prefectures were directly subordinate to the central city council, they could not deal directly with any other authority. They received instructions only from the council, addressed their reports to it and were obliged to precisely execute the decrees addressed to them. Pursuant to Section 85, the district prefectures submitted independent proposals to the general assembly through the council concerning district matters. The same section empowered the general assembly to give certain district prefectures extended powers. Section 86 besides stipulated that appeals against the decisions and measures of the district prefectures could be lodged with the council.³⁵

The Act 33 of 1893 did not bring any significant changes in the relationship between the district and the central administration. The district prefectures continued to operate under the authority of the central city council and the mayor (who was the chairman of the council), but they could now interact directly with other authorities as well, for example, under Section 17, the prefecture could also implement the orders of the municipal committee and the administrative committee. Section 18 listed numerous powers exercised by the district prefectures in place of the council: a gradual expanding of district autonomy could be noted. Section 23 further provided that a

³⁴ FLAXMAYER – MEDRICZKY, *op.cit.*, p. 21.

³⁵ *Ibid.*, pp. 21–25.; Act 36 of 1872; EGYED, *op.cit.*, p. 75.

department of the city tax office and that of the city treasury would operate alongside the district prefectures.³⁶

Pursuant to Act 18 of 1930, which sought to reform the administration of Budapest, most of the powers of the central city council were exercised by the mayor alone, for which he was individually responsible. However, in terms of district administration, this resulted only in a formal change because in practice, the mayor (as a "quasi-successor" to the council) played the role of the council in the relationship of the central and district levels. According to Paragraph (1) of Section 54 and Paragraph (1) of Section 55, the officials and the deputy prefect were assigned by the mayor. Paragraph (2) of Section 54 provided that the mayor may transfer the prefects and their auxiliary staff at any time. Under Paragraph (3) of Section 55, the mayor, to the exclusion of other district prefects, could delegate certain matters (if justified) to district prefect(s) designated by him, and, based on Paragraph (4) of Section 55, he could make proposals to the municipal committee about forming district quarters. Lastly, Paragraph (4) of Section 56 delegated the power to the mayor to appoint the judge of the district and his deputy.³⁷

The concept of Greater Budapest was already implemented within the framework of the Soviet-style constitutional system: the public administration was characterised by the council system. The Act 20 of 1949 on the Constitution of the People's Republic of Hungary, had already formally established the councils, but their actual operation began after the entry into force of the Act 1 of 1950 on the Local Councils. The council system established by the first Council Act, gave the central city council the administrative status of a county council. Accordingly, Paragraph (3) of Section 10 stated that the central city council and the county councils were directly subordinate to the Council of Ministers. The organs of district administration were the district councils, which were directly subordinate to the central city council under Paragraph (4) of Section 10. In conformity with its status as the central city council, it

³⁶ Act 33 of 1893; EGYED, *op.cit.*, p. 76.

³⁷ Act 18 of 1930; EGYED, *op.cit.*, p. 28.

exercised the powers granted to county councils, managed the development of the capital and the performance of public functions, furthermore, dealt with matters simultaneously affecting multiple districts. The catalogue of duties of the district councils generally corresponded to that of the city councils.³⁸

The second Council Act (Act 10 of 1954) did not bring any changes in the relationship between the central administration of the capital and the district administration. Consequently, until the Council Act of 1971, the system of relations between the central city council and the district councils was governed by the democratic centralism, a principle based on strict subordination and superiority. In accordance with this principle, Section 1 of the first Council Act stated that *“local councils are bodies elected from among the working people in compliance with the principle of broad democracy, and, by the principle of democratic centralism, they are subordinate and superior to each other [...]”*, and the preamble to the second Council Act ran as follows: *“The state-administrative organs of the councils fulfil their tasks on the basis of the principle of dual subordination: on the one hand, they ensure the execution of the provisions of superior organs and, on the other hand, they carry out, in accordance with them, the instructions of the local bodies of state power”*³⁹

The Act 1 of 1971, the third Council Act, intended to redefine the administrative nature of the council system: Paragraph (1) of Section 2 stated that the councils are the *“bodies of the socialist state realising the power of the people by providing representation, local government and state administration based on democratic centralism.”* The principle of democratic centralism was still present, but the emphasis on the representative, local governmental and state-administrative character of the councils reflected a clear intention of decentralizing. This intention was further emphasized by the fact that the principle of subordination of the councils at different levels, as expressed in previous council acts, had been abolished. Therefore, the autonomy of the districts expanded. The “dominance” of the central city council was limited by

³⁸ WALTER, *op.cit.*, p. 3.; Act 1 of 1950.

³⁹ WALTER, *op.cit.*, p. 2.; Act 1 of 1950; Act 10 of 1954.

Paragraph (2) of Section 17, which required the central city council to consult the district councils on its plans for development and supply, and by Paragraph (3) of Section 17, which stipulated that the central city council must consult the district councils in advance on any major resolutions concerning development and supply of the district.⁴⁰

The regime change in 1990 led to the establishment of a new administrative and local governmental system, which has been founded on the principle of democratic decentralization.⁴¹ Since the amendment of 1994 to the Local Governments Act, Budapest has a dual self-government system, consisting of a central municipality (the local government of Budapest) and the district governments. The relationship between the Budapest municipality and the district governments is characterised by the specific features of the system of administrative relations between the counties and the municipalities.⁴² The provisions concerning the local government system of Budapest (as the capital) were repealed on 1 January 2013 by the Act 189 of 2011 on Local Governments in Hungary, which has been in force since then.

5. Summary

The idea of a unified Hungarian capital was already conceived in the reform era, but the unification of Buda and Pest took almost half a century: the Act 36 of 1872 unified the free royal cities of Pest and Buda, the market town of Óbuda and the Margaret Island, thus creating the independent municipality of the capital, Budapest. The unified capital became the centre of the country in every respect, and its special status and importance required a specific administrative organisation: the growing population and the extensive territory gave rise to the need of organising the administrative units

⁴⁰ WALTER, *op.cit.*, p. 3.; Act 1 of 1971.

⁴¹ Gosztonyi, *op. cit.*, pp. 514–515.

⁴² WALTER, *op.cit.*, p. 15.

of Budapest, the districts. According to the original concept of 1873, the territory of Budapest was divided into ten, and after the reorganisation in the 1930s, it was organised into fourteen districts. The concept of Greater Budapest, which had been maturing since the early 1900s, was finally implemented in 1950, dividing the capital into twenty-two districts. The last territorial change was in 1994, when Soroksár became an independent district. Since then (and still) the territory of Budapest has been organised into twenty-three districts.

The district bodies are the engine of the operation of districts, so the scope of their catalogue of competences is of great importance. The Act of 1872 limited the functions of the district prefectures, considering them merely executive bodies. The Act of 1893, which separately regulated the district prefectures, already extended the powers of the prefectures, and even established the institution of the district committee, which was an attempt to introduce local governance into the district administration. The Act of 1930, intended as a comprehensive revision of the administration of the capital, gave the office of prefect a more prominent role than ever, and brought structural changes in the organisation of the district committee. The realisation of Greater Budapest took place in 1950 within the framework of the Soviet constitutional milieu, which had a significant impact on the administrative system of the capital: for the next forty years, the district administration was governed by the council system.

The division of the united Budapest into administrative units caused a major dilemma for the legislator: where should the boundaries of district autonomy be drawn, what principles should prevail in the relationship between central and district administration? The Act of 1872 was explicitly intended to emphasise the administrative unity of the capital, and in the centralist organisation, district prefectures were regarded as merely executive bodies. The Act of 1893 did not change this setup: the prefectures continued to function under the authority of the central city council and the mayor, but they could now also interact directly in their own competence with other authorities. The Act of 1930 brought about only a formal change in district

administration, in practice the mayor took over the role of the central city council in the relationship between the central and district levels. The council acts created the regulatory framework for the administration of Greater Budapest under the council system: the central city council had the status of county councils, and the district councils had that of city councils. As regards the regulatory system of the first two council acts, the principle of democratic centralism and strict subordination and superiority dominated in the relationship between the central city council and the district councils. This principle was "loosened" by the third Council Act, which, in a sense, reflected the intention of decentralizing the administration. The new public administration system, established as a result of the regime change in 1990, was founded on the principles of democratic decentralization and local government, the characteristics of which are still carried by the Budapest Municipality and the district governments as reflected in their organisation, functioning and cooperation system.

Dóra KARSAI: Does every successful man have a woman behind him? The progress of women's suffrage in the 19th-20th centuries

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Nowadays, it is taken for granted that everyone has universal suffrage, in other words, both women and men have the same conditions to pursue their suffrage and forms of that. Although, it has not always been like this. This study explores the position of women's suffrage during the 19th-20th centuries constitutionally and the possibility of receiving suffrage through history by men in 1848 and women only in 1918.

1. What does suffrage mean?

Suffrage is a fundamental political right by which people who have the entitlement to vote can express their opinion equally within the framework of the elections and influence the politics or perhaps the working of that state.¹ Recently, suffrage is an indispensable law as it is a restrictive and controlling legal institution of the democratic state, therefore the best form of guaranteeing the predominance of the folk in the state construction directly or indirectly.

The earliest form of the Hungarian suffrage appeared in a gradually evolving feudal diet within the frame of the jurisdictional authority of the independent election of the king after the extinction of the Árpád Dynasty in 1301. Article 35 of the Decree of 1447, which pronounced that the prelates and barons needed to make a consensual

¹ DIRNER, Gusztáv: *A nő választójogáról [On women's suffrage]*. Budapest, 1910, Budapest, Kilián Frigyes utóda, p. 10–12.

decision about the king election with a certain number of noblemen by shires, strengthened this right.² The diet, based on the feudalism, lived its heydays in the 15th-19th centuries since it was one of the fundamental pillars of state formation. For this reason, it affected an increasing social layer to take part in the function of the diet by deputies. Act I of 1608 laid down the base of sending envoys as a general authority. However, in the women's point of view, Section 1, Article 51 of the Decree 3 of 1681 by Leopold I meant a milestone as it provided the possibility of sending envoys to the diet for the widows. Since the widow took control over the estate after the death of her husband, as a successor, she was able to live with the right of sending envoys. We are only partially able to put down this ruling as the development of women's taking part in politics; rather, it is only just a privilege after their dead husbands. Throughout history, this measure disappeared with the cease of the feudal representative monarchy. Therefore, women did not even have this right of participation in the parliament or influence in the working of the state.³

Throughout Hungarian history, there were many examples of oppressed women who were not treated equally compared to their male companions. Shockingly, the example of women being sold without their consent to their future husbands by their fathers as objects of sales contracts in the Middle Ages reflects the improper treatment of women in society with almost no rights. Furthermore, women were entirely subordinated to their husbands, or sometimes they were legally in a worse position than those children living in the same household. They were dependent on their husbands and their willpower to control the affairs of their home was weak. In contrast, so many women's actions saved our country from threats and established flourishing progress of it. If they had not gone against the norms of the particular era and stood up for our country and themselves, then our state's successful progress would not have been possible. Cecília Szentgyörgyi Rozgonyi, who protected our country in the siege

² SZÜCS, Jenő: Királyválasztás a középkori Magyarországon [The election of king in the medieval Hungary]. *História [History]*, vol. 7, no. 5–6., p. 15.

³ MÁDAY, Andor: *A magyar nő jogai a múltban és a jelenben [The women's rights in the past and present]*. Budapest, 1913, Az Athenaeum írod. és nyomdai R.-T. kiadása, p. 117.

of Golubac (Galambóc) in 1428, is one these women who deserve respect, or Klára Dobó, who heroically contributed to the victory of the siege of Eger against Turkey in 1552. Ilona Zrínyi also promoted such bravery throughout the blockade of Mukachevo (Munkács) in 1685 or Erzsébet Szilágyi, who intended to protect her sons from Ladislaus V. After the death of one of her son, János Hunyadi, Erzsébet Szilágyi could also organise the kings' elections that her second-born son, Matthias Corvinus shall be the sovereign of our country. Anna Bornemissza Apafi rescued her husband, monarch Michael I Apafi, from the imprisonment of the Tartars. Moreover, Zsófia Patócsy Bebek protected the castle of Szádvár against general Lázár Schwendi or Zsuzsanna Lórántffy, who was flawless governor of Alba Iulia (Gyulafehérvár), while her husband, Francis I Rákóczi, was away.⁴

Due to the appearance and spread of Enlightenment, women's situation started to improve, more likely in social than legal or political aspects throughout the development of history. The fact that the positive changes in Hungary did not influence the formation of women's suffrage and men could prevail in rigid frames for a long time also proves this.

2. Why women should not get suffrage: reasons and rebuttals

The year 1848 meant a dramatic turn for the ballot of men. Following the revolution and war of independence,⁵ Act 5 of 1848 conveyed general suffrage, but only for men and was regulated by strict censuses.⁶ Regarding women, nothing has changed, which was strengthened by Section 2 of Act 5 of 1848, which graded being women as a

⁴ *Ibid.*, p. 134.

⁵ 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. https://doi.org/10.1163/9789004417359_004

⁶ GOSZTONYI, Gergely: A polgári szabadságjogok [Civil liberties]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 285.

drawback for the right to have suffrage.⁷ The politicians of the era came up with many scientifically claimed reasons against why women should get suffrage and have the right to affect the politics of the time. One of the sources of the problem was the conservative attitude of the politics towards women. Those who disagreed that women should get suffrage and therefore came up with many ridiculous reasons were scared from the novelty and its potential drawbacks, which could shift our country's politics in a new direction. Furthermore, women were not treated equally with men, and therefore, it was considered that women should not have a place in the duties of functioning the country.⁸

The first reason was the weakness of the woman's body, which was not appropriate from several aspects. Firstly, suffrage or participation in political life does not require any particular physical activity, in which respect for any person's physique or endurance can be interesting. Overall, women experience more physical exertions throughout their life than their men companions. For example, pregnancy and giving birth undeniably contain different difficulties for the woman's body.

The following incurring reason was the women's natural task which was the motherhood and the protection of the home-fire, and these were full-time tasks for a person. Dangerous thoughts arouse in the minds of both women and men about the purpose in the life of those woman who could not have children. Moreover, when a mother went to a tea party throughout the afternoon, which was a motherly duty, why she did not have any time to go out anywhere else. But the woman's task is not only housekeeping, nor the man's task is his job. Parenting is not a barrier for a mother to vote in an election, which recurs in many years, because it is not an all-day process. It takes less time, which the mother has spent away to her child. Lajos Kossuth formulated in the sheet '*Az érzelem világában (In the life of emotions)*' issued on September 27, 1893 that women, besides motherhood, should take an active part in the political life

⁷ MÁDAY, *op. cit.*, p. 120.

⁸ DIRNER, *op. cit.*, p. 5–7.

as guardian angels to support the Hungarian people in strengthening their patriotism.⁹ It was contradictory that a mother needed to show and teach patriotism to their children as much as men or more. Yet, the affection of a homeland condescended and suppressed them based on their gender.

It was thought that apart from physical delicacy, women were also weak mentally because they did not have the appropriate knowledge and thinking ability and did not receive the proper education regarding these matters. This assumption is questionable from many aspects, and it is only a negative generalization about women. Moreover, the state did not allow women to pursue higher education until November 18, 1895 and therefore supported the argument of their excuse. So many men also did not have the appropriate knowledge or thinking towards politics but could live with their right of suffrage, in contrast with all those women who had talent and ability but did not have that privilege. It was said that because of the weakness of the women's minds, men were influential to their decisions therefore, there was no reason why women should have the right to vote and make their will enforced. This is untrue as there were so many spinsters and young women who lived alone independently during the era. Thus, the generalization that women have a mental disability remains untrue as there were no valid reasons why they could not enact their will in peace, even against their husbands.

Many conservative men who did not support the extension of the political rights towards women conveyed in scientifically proved excuses that the size of a woman's cerebrum was smaller than a man's. Therefore, they were mentally oppressed by men. Moreover, they were moodier which could put the stability of the politics in danger within the states and strengthen the opportunity to worsen its quality and seriousness. This fact which many doctors supported, is only adequate from a biological point of view regarding that the human brain does not grow proportionately with the amount of knowledge stored within it, but it is within harmony with the natural progress. Apart

⁹ MÁRKUS, Dezső: *A választójog. A nő választójoga [The right to vote. The woman's suffrage]*. Budapest, 1912, Franklin-Társulat Magyar írod. intézet és könyvnyomda, p. 32.

from this, it is biologically proven that few men with bigger cerebra lack competence, and still have the right to vote. Naturally, it is not a disparaging statement about men, as women have less appropriate mental competence. But the difference in the case of men was their authority of rights based on cognitive abilities, at the same time, in the case of women, mental and body weaknesses were used as a universal excuse against them.¹⁰ All of the excuses mentioned above existence were supported by Section 1 of Act 33 of 1874,¹¹ according to which women had no suffrage, and Sections 6 and 7 supported its unfairness that they conveyed the eligibility for ballot according to the wealth and qualification for men.¹²

3. Feminist movements for the suffrage

The period between 1780 and 1825 could be considered the first era of feminism, which began before the French revolution with the spread of the encyclopedist literature. The women's existence and situation emerged as a literary and political question for the first time. This time interval lasted till the significant national reawakening. The first anonymous antifeminist work about the women's case was published in 1780, which title was '*Az egész világon levő legdrágább Kintsnek az az a' jó Feleségnek a rövid leírása (The short description of the dearest treasure world-wide is a good wife)*'. This publication was an advert reaction to the effects of the enlightenment on women. Moreover, the pamphlet titled '*Megmutatás, hogy az asszonyi személyek nem emberek (The exhibition that the women are not people)*' enhanced this tendency, which title was already repulsive.¹³ These pamphlets were about reinforcing the spirit of class for men with the

¹⁰ *Ibid.*, p. 29–30.

¹¹ AMBRUS ATTILA JÓZSEFNÉ KÉRI, Katalin: *Lánynevelés és női művelődés az újkori Magyarországon (nemzetközi kitekintéssel és nőtörténelmi alapozással) [Girls' education and women's education in modern Hungary (with an international perspective and a foundation in women's history)]*. 2015, Pécs, http://real-d.mtak.hu/837/7/dc_1067_15_doktori_mu.pdf [Access on January 10, 2022], p. 116.

¹² MÁDAY, *op. cit.*, pp. 121–122.

¹³ *Ibid.*, p. 138.

oppression of the spirit of class for women. The first pamphlet which advocated women was published in 1785 by Anna Carberi, which proved that women were also people and marked men as the cause of their oppression. The next significant step was the writing titled '*A tudós asszonyokról (About the scientist women)*', which was published in the '*Magyar Múza (Hungarian Muse)*' in 1787, wherein the feminist thinking was outlined sharply, and for the first time the thought of women's academic freedom occurred. In this era, the names of Péter Bárány and Ádám Horváth should be mentioned. They stood out for the importance of women's political rights, and initiated women's participation in the parliament, which they successfully reached. However, women were able to participate in the parliament as viewers. It is essential to mention the name and the work of Judit Dukai Takách who was a feminist writer and had a huge impact on the development of Hungarian feminist literature. One example of this was that the poet Dániel Berzsenyi wrote an ode titled '*Dukai Takács Judithhoz (For Judit Dukai Takács)*', which was a thought-provoking commitment and, on the other hand, a significant work of feminist literature. The Charitable Women's Association founded in March of 1717 by Hermina archduchess to help the indigents, was an essential milestone in the history of feminism. This was the first commitment to the social problems of the era by women.¹⁴

The second era of feminism was between 1825 and 1867. The beginning was the big national reawakening and the end of it was the ultimate formation of the National Training Institute for Women. This period was eventful in terms of women's movements and in history, too. Éva Takács Karacs published articles about the issue of serfs in the journal titled '*Tudományos Gyűjteménybe (Scientific Collection)*' in 1822,¹⁵ because women got massive assaults from the conservative nobility for their position in social life and for the reason of their overcoming of that. The question of women having the right to actively participate in scientific life arose in public life. Éva Takács Karacs stood out for women and argued for protecting women's right to intellectual work and

¹⁴ *Ibid.*, pp. 137–142.

¹⁵ *Ibid.*, pp. 143–146.

interests. The Enlightenment raised awareness in thousands of women that they did not have to live in their husbands' subservience, and also, the same rights behoved them as men's. The book of István Csontos '*A Szép nem ügyvédje az asszonyt becset sértegető vád-okok ellen (The attorney of the gentle sex against the charge reasons that offended women's value)*' was published in 1830 in Košice (Kassa).¹⁶ It was also mentioned in the journal titled '*Nő és Társadalom (Women and Society)*' in 1910 as a significant writing from the point of view of women's situation. Countess Teréz Brunswick, who established the predecessor of today's kindergarten in Buda, was an influential woman in the era. The era's big turning point was the Revolution of 1848, during which Hungarian women proved their bravery and their patriotism, therefore, feminist thinking spread. Blanka Teleki and Klára Leövey were among those women whose names are worth mentioning. In this period, the revolutionary situation was the cause that adumbrated women's rights efforts, but in truth, these efforts were purposely oppressed. The congress about the National Educational System was held on July 20–24, 1848 whereon only one woman, Teréz Karacs, the daughter of Éva Takáts Karacs, could take part in. The women's conscious oppression was proven by the fact that Paragraph 2 of Act 5 of 1848 separately highlighted women's existence as a disqualifying fact for suffrage. It is essential to mention the day of October 25, 1865 when Hermin Beniczky Veres published an article about women's education in the newspaper of Mór Jókai named '*Honban (Homeland)*'. For this, she was able to convene a conference on May 24, 1867 and in the framework, the National Training Institute for Women was permanently established in 1868.¹⁷

The third era was the period between 1868 and 1896. Historically the beginning of it was the permanent establishment of the National Training Institute for Women and the restoration of the constitution after the revolution and war of independence of 1848–49. The terminus was 1896, when university doors were opened for women¹⁸

¹⁶ *Ibid.*, p. 149.

¹⁷ *Ibid.*, pp. 143–155.

¹⁸ LADÁNYI, Andor: Az egyetemi nőképzés. In: LADÁNYI, Andor: *Klebelsberg felsőoktatási politikája*. Budapest, 2000, Argumentum Kiadó, pp. 90–96.

thanks to the initiation of Julius Wlassics, Minister for Education and Culture. The school of the Training Institute for Women was opened for women on October 17, 1869 and with this, the bases of modern women's education have been laid in Hungary. The '*Nők Lapja (Women's Newspaper)*' originated in 1871 by Baroness Amália Egloffstein, which advocated the implementation of the right to vote for women. These views were advertised in articles which were saturated with feminist thinking. Along with the question of women's suffrage, women's equality started to be taken care of by public opinion more seriously, therefore it appeared in politics as a problem that needed to be solved. The work of MP István Majoros was considerable. He presented his draft '*A nőket a férfiakkal minden téren egyenjogósító tervezetet (The emancipation of women and men in all fields)*' to the Parliament on January 12, 1872,¹⁹ although, it was not negotiated during the session of the Parliament. The following year István Majoros was not an MP anymore, so the issue was forgotten. During the negotiation of Act 33 of 1874,²⁰ István Majoros stood out again for women's rights on the day of July 4, 1874. Besides him, Imre Stanescu took the floor with the same goal. These attempts did not lead to a complete success, as Act 33 of 1874 still did not assure suffrage for women. However, Act 23 of 1874 pronounced the full equality of women, which was a massive milestone from the aspect of women's participation in politics and the completion of rights. Another positive development in the era was the Act 22 of 1886 which pronounced that the major, unmarried, widow and divorced women were indirectly able to participate in the municipal assemblies. This Act was made to correct the setback compared to the feudal parliament.²¹

The period between 1896 and 1918 can be considered the fourth era, which covers the period between the opening of university doors for women and the

¹⁹ MÁDAY, *op. cit.*, pp. 169.

²⁰ BÓDINÉ BELIZNAI, Kinga – KÉPES, György: A népképviselési választójog [The right to vote in the representation of the people]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 363.

²¹ MÁDAY, *op. cit.*, pp. 156–162.

attainment of their suffrage.²² The most significant year was 1904, when Vilma Glücklich and Rózsa Bédy-Schwimmer established the Hungarian Feminist Association, which was the leading feminist movement of the era.²³ They published the monthly newspaper, '*A Nő és a Társadalom (The Women and Society)*'²⁴ one year later, which processed and compared the situation of women's suffrage world-wide to the Hungarian situation, thereby it exhorted the spread of this in the society. The question of women's suffrage was sorely important because emancipation dominated world-wide and also in Hungary, but without suffrage it was solely an empty institutional system. The vast, evolved power of feminism reached the Parliament.²⁵ During 1903 and 1905 Lajos Hentaller and Béla Barabás supported women's suffrage. In 1906, a question put on by the Society of Feminists about women's suffrage to the MPs got eleven favorable votes. However, PM Sándor Wekerle and Minister of Interior Earl Gyula Andrássy opposed and prevented the fulfillment of women's suffrage, therefore the process to achieve the goal significantly slowed down. November of 1909 is worth mentioning when the Federation of Hungarian Women's Associations voted unanimously to form a women's suffrage department. With this, every piece got in place to fight with all-out effort for women's equality and suffrage. World War I generated a promising situation for women, because men were enlisted in the army, and due to that, women had to supply tasks they never did before to maintain the wartime economy and support men in the field. They proved their same strength and necessity in society as men's. After World War I, it involved extraordinary changes.²⁶

²² SZAPOR, Judith: *Hungarian Women's Activism in the Wake of the First World War. From Rights to Revanche*. London, 2018, Bloomsbury, p. 26.

²³ KOLLONAY-LEHOCZKY, Csilla: Development Defined by Paradoxes: Hungarian History and Female Suffrage. In: RODRIGUEZ-RUIZ, Blanca – RUBIO-MARÍN, Ruth (eds.): *The Struggle for Female Suffrage in Europe. Voting to Become Citizens*. Leiden/Boston, 2012, Brill.

²⁴ KERESZTY, Orsolya: A Nő és a Társadalom című folyóirat (1907–1913) működésének történetéhez [The history of the journal *Woman and Society* (1907-1913)]. *Magyar Könyvszemle [Hungarian Book Review]*, 2012, vol. 128., no. 3., pp. 334–351.

²⁵ LEHOTAI, Orsolya: A nők választójogát és képviselését övező diskurzus az 1945-ös választások tükrében [The discourse surrounding women's suffrage and representation in the 1945 elections]. *Társadalmi Nemek Tudománya Interdiszciplináris eFolyóirat [Social Gender Studies Interdisciplinary eJournal]*, 2014, vol. 4, no. 2., p. 91.

²⁶ MÁDAY, *op. cit.*, pp 175–181.

4. The big turn and its effects and then its “fulfilment”

The last era in question was between 1918 and 1945, when all the efforts for women’s suffrage were accomplished.²⁷ On December 21, 1917 minister Vilmos Vázsonyi did the first step with submitting a bill about giving suffrage for women, although bound to severe restrictions. During the parliamentary debate, he took the floor several times and emphasized the importance of expanding suffrage for women due to their altered situation and role in society during the World War I. Despite this, the Wekerle-government disregarded the bill and passed Act 17 of 1918, which put suffrage on another basis and entirely omitted women. Nonetheless, October 31, 1918 meant a landmark when the victory of the civil revolution was achieved, and the Károlyi-government came to power. The new government passed Act I of 1918,²⁸ which finally assured suffrage for women bounded to writing and reading knowledge, reaching the age of twenty-four years, and having Hungarian citizenship for six years. Afterwards, in the era of the Hungarian Soviet Republic, the age limit was decreased to eighteen years. The first election where women took part was in April of 1919. After the fall of the Hungarian Soviet Republic, the Friedrich-government was set up and changed the criteria of voting in the Decree No. 5985 on November 17, 1919.²⁹ The criteria were the same for both women and men, except a particular stipulation for women, which was the knowledge of writing and reading. With this decree, the suffrage of women was getting on to complete equality with men, but there were still some disadvantages.³⁰

²⁷ An interesting comparison amongst new woman, modern girl and postwar girl see: SIPOS, Balázs: *Modern amerikai lány, új nő és magyar asszony a Horthy-korban. Egy nőtörténelmi szempontú médiatörténelmi vizsgálat. [Modern American girl, new woman and Hungarian woman in the Horthy era. A media history study from a women's history perspective]. Századok [Centuries], 2014, vol. 148., no. 1., pp. 3–34.*

²⁸ AMBRUS ATTILA JÓZSEFNÉ KÉRI, *op. cit.*, p. 118.

²⁹ SIMÁNDI, Irén: *Küzdelem a nők parlamenti választójogáért Magyarországon 1848–1938 [The struggle for women's suffrage in Hungary 1848–1938]*. Budapest, 2009, Gondolat Kiadó, p. 150., 157.

³⁰ BÓDINÉ BELIZNAI – KÉPES, *op. cit.*, p. 367.

Minister Kunó Klebelsberg submitted the new Electoral Statute on January 27, 1922, which showed regression in the aspect of equal suffrage: it bounded women's suffrage to stricter conditions. Despite these setbacks, Margit Slachta, a prominent woman in the era, by using her passive suffrage, became the first female MP. She pulled up the bill of Klebelsberg for the differences between women's and men's suffrage. Eventually, the bill did not become an act, mostly because of the lack of time, but also because of the opposing voices.

In the same year, PM István Bethlen released the Prime Ministerial Order No. 2200/1922 that bound to new conditions the entitlement of suffrage for both men and women. Later, this Order was forced into law on the July 7, 1925. With this Prime Ministerial Order, women got into a more promising situation, even so, fewer of them were able to vote, as the educational attainment was raised from four years to six. The secret voting based on proportional system also appeared here for the first time, a keystone of the recent voting requirements. Following all this, Anna Kéthly was elected to an MP within the confines of a by-election.

On May 5, 1938, the Parliament accepted the bill of PM Kálmán Darányi and the Minister of Interior József Széll about the method of election, which needed to be secret and compulsory. However, women's suffrage was still bounded to stricter conditions. According to Anna Kéthly, it was not the goal to determine who has suffrage, but who has not. For this reason, this rate was much higher among women, who did not fit in the principle of civil equality. After World War II, the final turn eventuated because of the Soviet takeover. The Act 8 of 1945 pronounced that suffrage is secret, universal, and equal and determined the age limit in twenty years for both women and men. Herewith the women's fight for suffrage was completed. Several fantastic women fought it with inexhaustible energies for more than two centuries and step-by-step they succeeded to reach their goal and win in this social battle for their suffrage.³¹

³¹ SIMÁNDI, *op. cit.*

5. Conclusion

In the article, I presented that women's willpower can reach many things, especially if more of them unite. In almost two centuries, from the complete repression by men, women achieved to be treated almost equally with men both constitutionally and socially. Women usually had to work for everything twice as hard as men, to whom suffrage is natural, and this proves genuinely the strength of women in the past, in the present and hopefully in the future. They recklessly stood against a male-centred world, and with unbeatable endurance, they achieved their goal, which was suffrage in this instance. Nevertheless, achieving suffrage was not only important from a constitutional aspect, thus women could take part in the political life in appropriate ways, but also women stepped out from the full serving of men and got appreciation world-wide as strong, independent women. The title of my article doubts the phrase that '*behind every great man there's a great woman*' because women are not standing behind men, but beside them. For me the conclusion of this research is that a woman can achieve everything with enough endurance, however it seems impossible, and the above-mentioned renowned women serve as good examples in many respect.

Matija MATIĆ: The Croatian-Slavonian Diet and its Legislative Activity during World War I

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1. Introduction

World War I acted as a catalyst for various political processes that received new directions throughout the war. In such a chaos of different political ideas, the Diets of the Old World Order were counting down their last days of legislative activity. Some Diets, such as the Dalmatian, Istrian or Bosnian Diet, did not experience the onset of the First World War at all. Their legislative activities were suspended.¹ On the other hand, the Croatian-Slavonian Diet and the Diet of Hungary continued their work, largely thanks to the Prime Minister of the Hungarian Central Government István Tisza, who advocated maintaining of the constitutional and political stability in the Hungarian, Transleithanian part of the Monarchy, and thanks to the Croatian Ban Ivan Skerlec for Croatia.

In the first part of the paper, we elaborate the position of the Croatian-Slavonian Diet within the Austro-Hungarian Monarchy, its functions and its structure, the legislative process, and other characteristics. In the second part, we present the legislative activity through two phases. The first phase consists of quantitative analysis, which will help to understand the dynamics of legislative activity from the beginning of the war to its end. In the second phase, we present a qualitative analysis by which we show what kind of matter the Diet was regulating at the time. The separate laws will

¹ ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context]*. Zagreb, 2021, Pravni fakultet Sveučilišta u Zagrebu, p. 207.

serve as an example of what the Diet thought was the most important to regulate during the World War I. The third part of the paper is about the end of the Croatian-Slavonian Diet and its dissolution.

2. Croatian-Slavonian Diet

2.1. Croatian-Slavonian Diet state affairs

The Hungarian-Croatian Compromise of 1868 established two categories of state affairs. On the one hand, there were autonomous powers of Croatia and on the other were joint powers with Hungary. Joint powers were enumerated in the Compromise itself, while autonomous powers were the rest. The autonomous powers consisted of four segments. The systematization of these powers portrayed three different Croatian Land Government departments. These departments were as follows: Department for Internal Administration, Department for Education and Religion, and Department of Justice.²

In addition, the Diet was autonomous in adopting the land budget, but only when approved the expenditures made by the Croatian Land Government.³ Diet also had the authority in passing its own rules of procedure. It was also able to elect a president and vice-president. MPs had the right of legislative proposal, and they had a right of parliamentary immunity. The Croatian-Slavonian Diet elected twenty-nine deputies to the House of Representatives and two members to the House of Magnates of the Hungarian-Croatian Diet. In the Hungarian-Croatian Diet, the delegates of Croatia-Slavonia were allowed to use Croatian in the proceedings, but they voted personally.⁴

² *Ibid.*, p. 179.

³ SIROTKOVIĆ, Hodimir: Organizacija Sabora Hrvatske i Slavonije u nagodbenom razdoblju (1868–1918). *Arhivski vjesnik*. 34–35 (1991–1992), 35–36, p. 28.

⁴ ČEPULO, *op. cit.*, pp. 181–183.

2.2. The legislative process

The legislative process was very complicated. Croatian-Slavonian Diet worked in plenary sessions and committees, and the legislative process itself was comprised of three readings. In the first reading, the basic principles of the proposal were discussed and voted on. In the second reading, each amendment to individual articles of the bill was discussed and voted on, while in the third reading, the entire draft law was voted on without discussion. When the statute was approved by the Diet, it was sent by the Ban to the ruler for royal assent through the Croatian-Slavonian Minister in the Central Government in Budapest. After ruler's agreement, the laws were subjected to the Croatian-Slavonian Minister and the Croatian Ban on their countersignatures, after which they were published in the Croatian Code of Laws.⁵ Such a rather extensive and complicated process enabled the Hungarian Central Government to more easily control the legislative activity of the Diet itself.

2.3. Structure of the Diet and the electoral law

The Diet was a unicameral chamber parliament with a dual structure made up of MPs and virilists.⁶ The number of MPs was fixed at 90 in 1888, previously higher due to the annexation of the Croatian Military Frontier in 1881 (112).⁷ The number of virilists was limited to half the number of MPs, which was up to 45. Two of the seats the law provided for Rijeka representatives, but due to the unresolved disputes of the status of Rijeka, those seats were never filled. Electoral law limited suffrage significantly. Only after the reforms of 1910 voting right was expanded to 8%, and such a census remained

⁵ *Ibid.*, p. 183.

⁶ *Ibid.*

⁷ SIROTKOVIĆ, *op. cit.*, p. 23.

during the World War I. Efforts had been made to give all adult men the right to vote, but it never came into effect.⁸

2.4. Croatian-Slavonian Diet other characteristics

The king summoned and dissolved the Diet through the Ban. The authorities extended duration of the convocation in 1888 from the traditional three to five years to harmonize with equal extension of the Hungarian Diet.⁹ Significance of interpellations was marginalized. The political responsibility of the Ban was not foreseen because the appropriate institutional mechanisms did not exist. The legal responsibility of the Ban, introduced in 1874, was too complicated.

An important right of the Diet that was often used was the traditional right of giving the address to the king. The Croatian-Slavonian Diet often used this power to inform the ruler about the urgent problems of Croatia and to request the resolution of certain constitutional problems of the country's affairs. The address was the only constitutional means of maintaining contacts between the ruler and the representative body of Croatia, so it is not surprising that it was used quite often in Croatia's constitutional practice.¹⁰ Based on all said, one can conclude that the Diet was a legislative body for the country's autonomous affairs and a traditional symbol of Croatian autonomy, but it was not a real parliament.¹¹

3. The World War I and the Croatian-Slavonian Diet – the context

⁸ ČEPULO, *op. cit.*, p. 183.

⁹ GOSZTONYI, Gergely: Erdély és a társországok [Transylvania and the partner countries]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 125.

¹⁰ ČEPULO, *op. cit.*, p. 183–184.

¹¹ SIROTKOVIĆ, *op. cit.*, p. 22.

As already mentioned, World War I orchestrated various number of different political processes and goals parties wanted to achieve. In Croatia, the main political processes that resonated at that time was the question of national position of the state and its peoples after the end of the war. There were three possible outcomes. The Croatia would either maintain itself and become a part of a third entity comprised of Slavic peoples inside a reorganized Austro-Hungarian Monarchy, or it would be unified with the rest of the South Slavic peoples with the leading role of Serbia, or a large portion of its territories would be incorporated into a Greater Serbian state.¹²

Thus, the political climate took place in which numerous agreements were concluded based on one of the mentioned possible outcomes. During the war, there was never a clear and one political goal that all the parties agreed on and wanted to achieve. There was never a consensus. The majority in the Diet belonged to the Croat-Serb Coalition, whose political manifesto included various political, social, and economic reforms, equality and co-operation between Croats and Serbs, recognition of the Croatian-Hungarian Settlement and co-operation with Hungarian parties against the imposition of Austrian centralist interests. In addition to the coalition itself, various fractions of the Croatian Party of Rights (Starčević, Pure) also operated in the Diet, Radić HPPS (Croatian Peasant Party) also operated, and a smaller number of MPs were Unionists.¹³

4. Quantitative and qualitative analysis of the legislative activity during the War

4.1. Quantitative analysis of the scope of legislative activity in the Diet

Regarding the quantitative analysis of the scope of work in the Diet, the figures are as follows: from 1914 to 1918, the Croatian-Slavonian Diet passed 68 laws. In 1914 it

¹² ČEPULO, *op. cit.*, p. 207.

¹³ ĐUKIĆ, Filip – PAVELIĆ, Marko – ŠAUR, Silvijo: Hrvatska u Prvom Svjetskom ratu – Bojišta, stradanja, društvo [Croatia in World War I – Battlefields, suffering, society]. *Essehist.* 2015, vol. 7., no. 7., pp. 83.

passed 20, in 1915 5, in 1916 12, in 1917 10, and in 1918 21.¹⁴ To understand the dynamics of law-making, it is necessary to know the context of the political situation of each of the mentioned years.

4.2. Qualitative analysis of the scope of legislative activity in the Diet

In 1914, most of the laws were passed before the beginning of the war, but the readiness of the Diet to pass laws on the content of war can be seen at the very beginning of the war. One of them is the Law on the Supply of Land Employees in the Kingdoms of Croatia and Slavonia, Their Widows and Orphans. The law regulates who is entitled to any allowance or pension, which conditions must be met, how much they can get at least, and how much the most, and when the given privilege eventually ends.¹⁵ As already indicated, due to the circumstances of the war, the number of passed laws from this year began to decline.

As for 1915, the Law on Property Liabilities for Treasonous Offenses Committed during the War should be singled out.¹⁶ The law regulates the relations of a soldier caught in the act of high treason and regulates the trial that should be held against him. In 1916, one of the most important laws passed was the Law on the Recognition of the Islamic Religion, which was necessary after the annexation of Bosnia and Herzegovina in 1908.¹⁷ The law passed marriage rules for Muslims, but also declared the mandatory application of marriage rules of the Austrian Civil Code, thus preventing polygamy. It was one of the first laws on the equality of Islam in Europe – similar laws in Europe were previously passed in Spain, Austria and Hungary.¹⁸

Huge war devastations and casualties marked the year 1918. In Croatia, historically speaking, it was a period of an enormous humanitarian crisis over the

¹⁴ <https://alex.onb.ac.at/cgi-content/alex-iv.pl> [Access on January 10, 2022].

¹⁵ Law on the Supply of Land Employees in the Kingdoms of Croatia and Slavonia, Their Widows and Orphans, 1914.

¹⁶ Law on Property Liabilities for Treasonous Offenses Committed during the War, 1915.

¹⁷ Law on the Recognition of the Islamic Religion, 1916.

¹⁸ ČEPULO, *op. cit.*, p. 207.

problem of providing shelter to an explicit number of Bosnian and Serbian child refugees (more than 20 000) affected by the devastations of war. In those circumstances, Croatian social activists, led by Đuro Basariček, showed exceptional readiness to provide shelter to war victims, regardless of their nationality or religion.¹⁹ That's why the Diet devoted most of its time to legislative activity dedicated to those most affected by the war. In line with this, the Diet enacted the Law on Children's Homes and the Law on the Legalization of Children if the Father died or was pronounced dead.²⁰ In addition, the Diet enacted The Law on the Proclamation of Dead. This law regulated primarily the issue of death of a soldier, and stated that a soldier will be declared dead if disappeared two years ago and if there were not any news that he is alive.²¹

Finally, on October 29 of 1918 the Diet unanimously declared the dissolution of all state relations: "*between the Kingdom of Croatia, Slavonia and Dalmatia on the one hand, and the Kingdom of Hungary and the Kingdom of Austria on the other.*"

5. Conclusion

In understanding the work and structure of today's Croatia Parliament, it is necessary to know its history. The Croatian-Slavonian Diet not only stands out for its historical and legal importance in knowing today's institutions of the Croatian legislature, but it is most importantly a symbol of Croatia's autonomy and the overall Croatia's identity.

World War I answers the question of what the Diet was able to regulate at that time. It also answered the question of what were the main priorities of the Diet in a state of war. The number of laws is not comparable in quantity to, for example, the

¹⁹ ĐUKIĆ – PAVELIĆ – ŠAUR, *op. cit.*, p. 84.

²⁰ Law on Children's Homes, 1918; Law on the Legalization of Children if the Father died or was pronounced dead, 1918.

²¹ Law on the Proclamation of the Dead, 1918.

number of laws passed by the Hungarian Diet or any other Parliament at that time, but its continued work is an excellent indicator of Croatia's readiness to react and pass laws even in the times of chaotic, catastrophic conducts of war.²²

²² ČEPULO, *op. cit.*, p. 261–262.

Zsombor Kristóf VINCZE: The jewel of the Holy Crown of Hungary, Fiume

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1. *Corpus separatum*

Act 30 of 1868 (the Croatian–Hungarian Compromise¹) §66 was one of the most sensitive points of this agreement, provoking several disputes between the negotiating delegations and the public opinion of the two countries. This paragraph separated the city and district of Fiume from the county of Fiume and subordinated it to the exclusive authority of the Hungarian Holy Crown as a '*corpus separatum*'. The Compromise did not contain any detailed provisions on this matter. It required the consensual decision of a *regnicolaris* comitee consisting of the two parties' parliamentary delegation and the delegates from the city of Fiume. The Nagodba made it their responsibility to define the rules on legislative and governmental matters that concerned the city's autonomy.

An interesting question is what Maria Theresa intended to express with the definition of '*corpus separatum*'. Furthermore, we should look whether Maria Theresa's idea from 1779 equals to the one found in the Croatian–Hungarian Compromise of 1868? We can only speculate, since there was no precise legal definition of this concept neither in 1779, but not even in 1868. I think that Viktor Jászi's thoughts are right on this issue. He clearly said that it could only mean that Fiume did not belong to Croatia.² This is a central question, in my opinion, that the name itself tried to solve. Due to the not entirely clear wording, the legal status of Fiume was disputed between the Croatian

¹ GOSZTONYI, Gergely: Horvát-Szlavónország helyzete a kiegyezések után [The situation in Croatia-Slavonia after the Compromise]. *Jogtörténeti Szemle [Legal History Review]*. 2014, no. 3., pp. 7–12.

² JÁSZI, Viktor: Fiume. *Husadik század [Twentieth century]*. 1900. no. 1, p. 181.

and Hungarian parties even after the Act 4 of 1807, which confirmed the settlement of 1779. The Hungarian side considered it to join the Holy Crown directly, while the Croats accepted its accession to the Crown – but only through Croatia.³

Regarding the disputed paragraph, a controversial legend or belief holds that §66 of the law passed by the parliaments of the two countries is not displayed in the same way, due to the subsequent change of the Hungarian side. Rauch Levin, as a Croatian–Slavonic and Dalmatian Ban-governor, solved the confusion between the Croatian and Hungarian texts quite simply by overriding the text of the law, thus bridging the difference between the two texts, which was that the Croatian law did not contain that Fiume belongs to the Hungarian crown, while the Hungarian version does. Prime Minister Gyula Andrásy allegedly granted the governor of Ban to do this after a hunt with Franz Joseph in Gödöllő.⁴ This is called the '*Fiume stain*', which appears in a Croatian article as a symbol of a high state-level counterfeiting, the collapse or retreat of the Croatian parliament and a complex, confusing situation in Fiume. The closure of the sabor resulted that Fiume fell into the hands of the Hungarians without hindrance, according to the article.⁵ Although, the story has not been verified by historians, it is really fascinating.⁶

It is worth briefly reviewing the history of Fiume, how the city's legal status developed before the Compromise. There is no need to emphasize that for every state, securing access to the sea is of great importance from an economic, commercial, but

³ ANDRÁSI, Dorottya: Fiume államjogi helyzetének rendezése és jelentősége a XIX. század második felében a jogforrások tükrében [Settlement and significance of the state law of Fiume in the 19th century in the light of legal sources]. *Jogtörténeti Szemle [Legal History Review]*. 2005, no. 1., p. 18.

⁴ RESS, Imre: Fiume jogállásának ellentmondásai [Contradictions of the legal status of Fiume]. *Életünk [Our lives]*. 2019, no. 9., pp. 43–51.

⁵ POLIĆ, Maja: "Riječka krpica" 1868. godine i uvjeti za njezino Naljepljivanje na Hrvatsko-Ugarsku Nagodbu [„Fiume stain” 1868 and the conditions for its affixing to the Croatian-Hungarian settlement]. <https://hrcak.srce.hr/> [Access on July 22, 2021].

⁶ JUHÁSZ, Imre: *Fiume. Egy közép-európai város és kikötő a hatalmi érdekek metszéspontjában [Fiume. A Central European city and port at the intersection of power interests]*. Budapest, 2020, Heraldika Kiadó, pp. 109–110.

also from a military point of view. In the Hungarian history, this aspiration became a reality during the reign of kings Ladislaus I and Coloman the Possessor of Books.

As the source material on the ancient and medieval history of the city does not appear to be very abundant, one of the first significant measures for the history of the city is that it was named Rijeka after a charter of King Béla IV dated 1260. In 1466, the town became the family property of the Habsburgs, and it was ruled by captains appointed by the emperor.⁷ In 1521, Charles and Ferdinand from the House of Habsburg divided the empire inherited from their grandfather in Worms. Consequently, Fiume, fell into Ferdinand's hands as an independent, '*self-governing territory*'.⁸ In 1530, King Ferdinand confirmed the city's statutory right, thus becoming a city-state endowed with legislative power.⁹ From here, we can certainly talk about the beginnings of the city's special status due to its privileges. In 1659, Leopold I donated a coat of arms and a flag to the city, at which time the city's motto appeared: '*Indeficienter*'.¹⁰ After the expulsion of the Turks, the city shared the fate of parts of the country which were not annexed back to the Holy Crown. The Hungarian estates demanded the reannexation of the city to the Holy Crown. These ambitions did not come to fruition for a long time.

During the years of enlightened absolutism, the rulers of Fiume, presumably under the influence of mercantilist economic policy, began to develop the city in an extraordinary way. So did Maria Theresa, her father Charles III, and her son Joseph II. Charles has the recognition that it is not enough to just develop the shipping and the port, the roads leading to it must be built and kept in order, therefore in his decree of 1719 he ensured the safety of the roads leading to the coast and the construction of

⁷ KRÁMLI, Mihály: Fiume 1848-ban [Fiume in 1848]. *Hajózástörténeti Közlemények [Shipping history publications]*. 2010, no. 1., www.kriegsmarine.hu/hk/km01001m.html [Access on October 30, 2021]

⁸ SZALAY, László: *Fiume a magyar országgyűlésen [Fiume in the Hungarian Parliament]*. Pest, 1861, Ráth Mór, p. 6.

⁹ Fiume. In: *Magyar Katolikus Lexikon [Hungarian Catholic Encyclopedia]*. <http://lexikon.katolikus.hu/F/Fiume.html> [Access on October 30, 2021]

¹⁰ KRÁMLI, *op. cit.*

new ones.¹¹ In the same year, the city and its rival, Trieste, were granted free port status from Charles, it meant that it could set the amount of trade duties itself.¹² In 1720, the town independently adopted the Pragmatica Sanctio. From 1745, the town was governed by the Oberste Commerz Intendenza, which administered all the ports, headed by the intendant, who supervised the work of the local, and thus, the vice-intendants of Fiume. The ports were classified in 1764, and among the ports with health offices, Trieste, Buccari, Zengg, Carlopag and Fiume were given the status of main ports.¹³ By that time, all the major ports were equipped with epidemiological, so the Martinschizza bribe institute was also built in the port of Fiume.¹⁴

The maritime decrees issued by Charles and Maria Theresa were edited into a summary work called the Politicum Edictum in 1774. In the same year, the Trieste shipping school was moved to Fiume. Until 1776, the city was under Habsburg rule. In 1776, Maria Theresa incorporated Fiume into Croatia and appointed its first governor, József Majláth, who took over control of the city on 21 October from Baron Ricci, a representative of the Intendenza in Trieste.¹⁵

2. The first “Hungarian-era”

The “Hungarian-era” in Fiume began in 1779, when the queen, at the request of the city and on the advice of her son, Joseph, connected Fiume to the Hungarian Holy Crown as a *'corpus separatum'*. The diploma of 1779 fixed the guarantees of municipal independence in four points. First, it guaranteed the city's the territorial-administrative

¹¹ SZÉLINGER, Balázs: „Idegen és mégis magyar” A magyar Fiume története 1776–1914 [„Foreign and yet Hungarian” The history of the Hungarian Fiume]. *Limes*. 2002, no. 5. p. 29.

¹² Free port status from Charles III in 1719. SZÉLINGER, *op. cit.*, p. 29.; It could impose trade duties itself: ORDASI, Ágnes: Fiume. Az impériumváltások éveit [Fiume. Years of power changes]. *Rubicon*. 2020, no. 4., p. 20.

¹³ SZÉLINGER, *op. cit.*, p. 30.

¹⁴ JUHÁSZ, *op. cit.*, p. 66.

¹⁵ SZÉLINGER, *op. cit.*, p. 30.

separation. Moreover, the city could enact its statutes and laws independently, the city council was restored with the right to independent management. At last, patrician families were guaranteed statutory participation in the city council.¹⁶ However, this settlement only became law with the enactment of Act 4 of 1807, so the “first Hungarian-era” lasted only for two years.

During the Napoleonic Wars, the city came under French rule, as part of the newly organized Illyria, and then came to Austria through the Peace of Vienna, returning to the Holy Crown only in 1822, by decree of Francis I. However, it was not enacted until 1827, in the Act 13 of 1827, the Act on the Reclaiming of the Sava and the Hungarian Coast. This achieved the goal of Fiume, restoring the pre-French state.¹⁷

The first famous governor was József Ürményi, whose first large-scale port investment took place during his reign between 1823 and 1837, at the expense of the Hungarian state, after the developing years of enlightened absolutism.¹⁸ The Royal Maritime High School was set up under Ürményi’s government, which provided commercial vocational training in the city. During the reform era in Hungary, Fiume was present in the diets through its representatives, where it supported the opposition’s reform proposals. The general development of the reform era did not escape Fiume, the city underwent significant infrastructural development. The discussion between Kossuth and Széchenyi on how to involve Fiume and the coast in the country’s circulation and trade was well known. Széchenyi’s position emerged victorious from the debate, thus connecting Fiume directly to Pest.¹⁹

The beneficial effects of the April laws did not escape Fiume either, but it is regrettable that they could not be applied. The Act 27 of 1848 recognized Fiume and

¹⁶ ANDRÁSI, Dorottya: A Fiuméra vonatkozó autonómia terjedelme és intézményei az 1868-as magyar-horvát kiegyezést követő években. (1868-1883) [The scope and institutions of the autonomy of Fiume in the years following the Hungarian-Croatian Compromise Act of 1868. (1868-1883)]. *Közép-Európai Közlemények [Central European publications]*. 2014, no. 3–4., pp. 145–146.

¹⁷ JUHÁSZ, *op. cit.*, pp. 57–58.

¹⁸ Fiume was also developed at the expense of other nearby ports, as only Fiume had a significant supply of fresh water, which is essential for both the port and the emerging industry. SZÉLINGER, *op. cit.*, p. 32.

¹⁹ JUHÁSZ, *op. cit.*, pp. 68–72.

Szádrév (Buccari) as a legislature under the governor of Fiume. Furthermore, a law was enacted on the right to vote and on the election of district judges. Recruitment was not compulsory for Fiume, thus facilitating the development of trade and shipping.²⁰ During the Revolution and War of Independence of 1848, Fiume organized national guards to support the Hungarian forces. It is important to note that their command language was Italian because of the Italian majority involved. At the behest of the illegally appointed Croatian Ban Jellacic, imperial troops, together with the Croatian insurgent forces, occupied the city. However, the intentions of the Croats and the emperor with the revolution, in the first months, were not clear. Though, the idea of one of the pioneers of Illyrianism, Ljudevit Gaj, that the Croats should side with the ruler in the revolution against the Hungarians was ominous, which was evidenced by Jellacic' later movements in August. By the time there was no doubt about the ruler's increasingly aggressive reaction and his total rejection of the revolution. It is interesting that the independent Hungarian government also tried to set up the Hungarian Navy, but this business was not successful.²¹

On 31 August 1848, these squadrons would have been meant to defend Fiume from the invading imperial troops, and the Leopold Regiment, a well-armed garrison consisting mainly of Croats, who, however, did not accept any instructions from the Hungarian government or governor. Realizing the severity of the situation, Governor Erdődy chose to give up the city without bloodshed. In the words of Imre Juhász, this period can also be called an "*ex lex*" period, because the line of constitutional provisions was interrupted not just by the April laws, but also with the provisions of the uncrowned Franz Joseph.²²

3. "*Ex lex-era*"

²⁰ *Ibid.*, pp. 76–77.

²¹ SZÉLINGER, *op. cit.*, p. 33.

²² JUHÁSZ, *op. cit.*, pp. 83–84.

According to the provisions of the March Constitution, Franz Joseph annexed the coastal region, „Tengermellék” and Fiume (Rijeka) to Croatia in addition to several territories in October 1849.²³ These changes were seen as a violation of the city’s autonomy by the Italian majority, as the city lost its autonomy very abruptly. Its territory was occupied by a Croatian military regiment and the Croatian administration was introduced immediately. The city was governed from Zagreb, and its maritime administration by the Imperial Maritime Authority of Trieste, which did not want to develop Fiume over Trieste.²⁴ In 1861, the city’s representative body requested that the city be annexed to Hungary. Quite a lot of pressure came from Fiume to the ruler, parades and demonstrations were held to provide reannexation, even poems were written, which demanded their autonomy and the Hungarian authority that ensured this. Interestingly, in the regular sabor elections held in the same year, 840 of the 870 votes cast were the word ‘nobody’.²⁵ This boycott clearly indicates the position that Fiume did not see its autonomy guaranteed under Croatian rule. By the way, the Croatian plan with the city was that it would be the seat of a newly formed county. But in the meantime, the previously also torn-off Muraköz (Medimurje), together with several areas suffering a similar fate, was reannexed to Hungary, so the hopes of Fiume could gain new strength.

The series of debates between the Hungarian, Fiumeian and Croatian parties, which took place even on the floors of the Hungarian Parliament, played an important role regarding the development of the city’s autonomy. The debates focused on the issue of judicial authority over Fiume. The Croats argued that the Zagreb Tribunal should have judicial power over the city. However, Fiume considered the Captain’s Chair of

²³ KÉPESSY, Imre: A monarchikus diktatúra (az önkényuralom és provizórium kora) [The monarchical dictatorship (the age of authoritarianism and the provizory)]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 302–309.

²⁴ SZÉLINGER, *op. cit.*, p. 34.

²⁵ JUHÁSZ, *op. cit.*, p. 91.

Fiume²⁶ to be suitable for this task. The debate eventually concluded in the favor of the wishes of Fiume since the city did not belong to the county system. Even prior 1848, the civil proceedings of Fiumeians began before the Municipal and District Courts of Judges and Directors, and then, they continued in the Captain's Chair, and from there the case could end directly on the Table of Septemvirs. The criminal lawsuits began in the Captain's Chair and continued before the Royal Table, with the possibility of legal redress in front of the Table of Septemvirs.²⁷

The Austro–Hungarian Compromise Act of 1867 stated that the maritime administration would come under the authority of the transport ministers, thus making Hungarian shipping independent. These provisions strengthened the Hungarian influence in the city.²⁸ Furthermore, the city of Fiume was also represented at the coronation of Franz Joseph as Hungarian king in 1867, and it also sent land to the coronation hill from under the city's tower.²⁹

4. The second “Hungarian-era”

Shortly afterwards, the city rejoined the Holy Crown as a *'corpus separatum'* according to the Croatian–Hungarian Compromise Act. Furthermore, the city regained its autonomy. However, the actual accession of Fiume had to wait until 1870, when a royal memorandum abolished the royal commission and ordered a provisory state to settle the dispute between the Croatian opposition and the Hungarian parliament, which was aimed at settling the regulations left open in §66. With the order of a provisory state the position of Royal Commissioner Ede Cseh was terminated and Jr. Count József Zichy took over Fiume as governor. Consequently, he became the head of the maritime administration in the entire Hungarian Coastal Region, Tengermellék. The provisory

²⁶ Its judges were elected by the Captain's Council.

²⁷ JUHÁSZ, *op. cit.*, pp. 60–64.

²⁸ SZÉLINGER, *op. cit.*, p. 35.

²⁹ JUHÁSZ, *op. cit.*, p. 101.

state also provided Croatian control over the county of Fiume, so while the city and district of Fiume were returned to Hungarian rule, the county of Fiume was under Croatian rule.³⁰

It was the subject of recurring discussions whether Fiume would send representatives to the Croatian Parliament and whether it could invite Fiume's representatives at all. This issue would appear to have been decided based on the Croatian–Hungarian Compromise Act, except that neither the Act nor the Provisional Order settled every issue.³¹ For this reason, the Hungarian side did not find it problematic either, even though the Hungarian position on the affiliation of Fiume was clear, if during the provisional period the Croatian side would invite the representatives of Fiume to its own parliament. In practice, this was not a problem anyway, as Fiume did not send representatives there, despite the invitation.³²

In 1872, the Statute of the Rights and Obligations of Fiume was completed.³³ Its significance rooted in the fact that in the absence of legal regulation, this document defined the framework for the city's autonomy. It could only be amended by an affirmative vote of a two-thirds majority of the Fiume's representatives. The city made an inscription for the abolition of the provision and a legal settlement in 1881, based on which the House of Representatives instructed the government to act. Still, the matter was postponed to the next session of the Parliament.³⁴

The diversity of legal norms in force in the city is also interesting. In the late 19th Century, the Civil Code of Austria had a prominent place among the legislation in force, but there were applicable laws even from the French times. In addition, we could find many Hungarian legal acts in use. For this reason, the statement in the Statute that its provisions cannot contradict laws takes on a different meaning, so this must be

³⁰ *Ibid.*, pp. 120–122.

³¹ GOSZTONYI, Gergely: Croatia-Slavonia's situation after the reconciliations. *Cahiers poitevins d'Histoire du droit - Septième Cahiers, Tome 7*. 2016, pp. 129–135.

³² JÁSZI, Viktor: Fiume. *Huszdik Század [Twentieth Century]*. 1900, no. 1., p. 173.

³³ ORDASI, Ágnes: Fiume. Magyarország tengeri kapuja [Fiume. Hungary's gate to the sea]. *Rubicon*, 2018, no. 3–4., p. 20.

³⁴ JUHÁSZ, *op. cit.*, pp. 120–122., 130–131.

understood in the context of the apparently diverse legal system in Fiume. It was debated, how the laws passed by the Hungarian Parliament came into force in Fiume. The subject of the debate was whether the laws enacted by the Hungarian Parliament enter into force *ipso facto* or based on a separate enacting provision, or whether the consent of Fiume is required for this, case-by-case. These disputes stemmed in part from the fact that the government was given the power delegated to it by the agreement of the Croatian and Hungarian parliaments. There were some who argued that the Parliament sits "above" the government, so it can enact laws that come into force *ipso facto* in Fiume, without the need for special provisions. In practice, for example, in the case of Act 5 of 1878, i.e. the Csemegi Code, this was done in such a way, that the law implementing the Code authorized the Minister of Justice to give effect to the Criminal Code in Fiume by a separate decree. The situation was similar in the case of the Bankruptcy Act of 1881. To better suit the legal provisions to the local conditions, the necessary changes could be made by the Minister of Justice in his enacting decree. However, when the subject of the regulation was specifically Fiume, the 'Fiume paragraph' was logically omitted, without which the provision came into force, such the Act 37 of 1916 on the Royal Hungarian State Police in Fiume. In similar cases, no separate act of enforcement was required.³⁵

Fiume's rights differed from municipalities on three essential points. First, the lack of virilism in the election of the representative body. Second, the Administrative Commission was not set up in Fiume until 1897, which was an extended hand of the government in the municipalities. A third important difference is that the governor's powers were substantially narrower than those of a lord-lieutenant.³⁶

The Hungarian state was represented in Fiume by a governor nominated by the Prime Minister and appointed by the king. The Hungarian government exercised its administrative rights essentially through the governor. Its powers were like those of the lord-lieutenant. Still, they were constrained in many respects by the city's self-

³⁵ *Ibid.*, pp. 132–137.

³⁶ *Ibid.*, p. 130.

government. He had the right to speak at the meetings of the representative body (*Rappresentanza di Fiume*, which served as a local legislative committee and consisted of 50 members from the city and 6 sub-municipals), to review its decisions, and to submit local regulations to the ministry for approval. Where appropriate, he could temporarily suspend the implementation of decisions of the representative body if they conflicted with the law, the statute, or the state interest. Communication between the government and the city ran through his person. The governor acted also as the president of the Maritime Authority of Fiume, so he was responsible for the city's maritime administration. Moreover, his right of supervision and control extended to the entire Croatian-Hungarian coast. This role can also be deduced from the name of the position, as the exact name of the title was the royal governor of Fiume and the Croatian-Hungarian coast. Members of such famous Hungarian noble families as Count József Zichy or the grandson of Lajos Batthyány (the prime minister and martyr of the first responsible Hungarian government from an ancient noble family) also joined the post.³⁷

The other important position in the city belonged to the mayor, the *podesta*, elected by the council from among its own members. This name has been in use since 1872. Before that, the city was ruled by city judges, vice-captains, borgomasters, local government presidents.³⁸ The approval of the monarch, governor, and central government was also required for the *podesta* to become operational. His powers were like those of the mayor of Budapest.³⁹ With the majority support of the representative body, the *podestá* could decrees, impose taxes and fees, and decide on major investments.⁴⁰ He was the chairman of the representative body. If he considered any decision of the representative body to be crossing the interests of the state, the constitution, laws, or local government regulations, he had the right and duty to suspend its implementation and seek the opinion of the governor. The representative

³⁷ ORDASI 2018, *op. cit.*, pp. 3–4., 162–163.

³⁸ *Ibid.*, p. 166.

³⁹ ORDASI 2020, *op. cit.*, p. 20.

⁴⁰ *Ibid.*, p. 20.

body could appeal to the government against the governor's decision. Only the government was entitled to initiate disciplinary proceedings against the mayor, on his own initiative or on the initiative of the representative body.⁴¹ There was also an example for the representative body to withdraw confidence from a *podestá* during the years of World War I, because of a decision it made without consulting with them.⁴²

The *Rappresentanza di Fiume* was the elected body of the city, and it had a strong influence on the city administration. It consisted of 56 elected representatives. However, this body could be disbanded at any time by the Hungarian government, which had to call a new election within four weeks from the dissolution. The condition for active suffrage was the ability to read and write and the right to participate in the Hungarian parliamentary elections. The condition for passive suffrage was the age of twenty-four and two years of local housing. Under §82 of the Statute, the representative body had the right to speak out against government decrees that were contrary to the autonomy of the city, but this did not mean that if the government had persisted in its determination, it should not have been implemented.⁴³

The city council served as the main body of the city administration. It operated under the supervision and direction of the mayor. It was led by the chairman of the council, and its number was determined by the representative body. Its members were appointed for life if they had the required qualifications. The Council had six departments: the Internal Council, the Police Department, the Architecture Department, the City Audit Office, the City Tax Office, and the Health Department. Their work was overseen by permanent committees.⁴⁴

Fiume could send an elected representative to the House of Representatives of the Hungarian Parliament, and she was represented in the Upper House through the governor. Interestingly, Fiume was able to send representatives to the Croatian

⁴¹ JUHÁSZ, *op. cit.*, pp. 128–129.

⁴² ORDASI 2018, *op. cit.*, p. 166.

⁴³ JUHÁSZ, *op. cit.*, pp. 127–128.

⁴⁴ *Ibid.*, p. 129.

Provincial Assembly after 1868, but this has not happened, since this would have meant recognition of Croatian territorial claims.⁴⁵

An important question is why Fiume, a city with an Italian majority and a significant Croatian population, was interested in the accession to the Holy Crown, even though its Hungarian population never reached 20 percent of the city's population (in 1910, the proportion of those who could speak Hungarian 21.5%, while 13% by nationality⁴⁶). It is a special phenomenon and probably resulted from the autonomy and multi-ethnic nature of the city, the so-called, fiumean consciousness (*'fiumanotudat'*). Perhaps this phenomenon also indicates that Fiume cannot be clearly called Croatian, Italian or Hungarian. It also indicates the need why the city of Fiume has nurtured towards autonomy. The protection of *'fiumanotudat'* and the economic interest were seen by the city in its accession to the Holy Crown. Riccardo Zanella, a politician from Fiume and Member of Parliament, gives an insight into this with his *'Fiat lux!'* pamphlet. Approaching Italy would not have paid off financially, as he said Italy could not maintain or even develop its own ports. Austria has always preferred Trieste over Fiume, so this was not a viable option either. According to Zanella, Croatia also struggled to maintain itself, so it remained close to Hungary.⁴⁷ Fiume could only expect the Hungarians to represent the interests of the city effectively and to develop its infrastructure. These ambitions have paid off, since huge developments began in Fiume in the last third of the 19th century. Until the First World War, Hungary spent 60 million gold crowns on the city, the port and the factories that served it. In 1873, the Fiume–Budapest railway line was handed over, connecting the city to the Hungarian commercial circulation. With this, the city's trade has taken on a new level, becoming a

⁴⁵ ORDASI, Ágnes: Modellváltások a fiumei kormányzás feladat-és hatásköreinek meghatározásában – Centralizációs stratégiák Fiumében [*Model changes in the definition of the task and powers of the Fiume Governorate-Centralization strategies in Fiume*]. Magyar Nemzeti Levéltár Somogy Megyei Levéltára. 2018.

http://mnl.gov.hu/mnl/sml/fiumei_es_magyar_horvat_tengerparti_kiralyi_kormanyzo_iratainak_repertoriuma [Access on October 30, 2021].

⁴⁶ SZÉLINGER, *op. cit.*, pp. 41–42.

⁴⁷ ORDASI 2018, *op. cit.*, p. 166.

place to load goods from different parts of the country. It is no wonder, that the citizens and merchants of Fiume saw, among other things, the possibility of their financial prosperity in joining the Hungarian Holy Crown.

The Royal Hungarian Maritime Authority was established in 1870, so the large-scale development of the port took place, within the framework of which the huge port and service units, breakwaters, quays, and factories were built, which still serve the city to this day.⁴⁸ The first Hungarian state-owned company, Adria–Hungarian Maritime Navigation Co., was established in 1881. In its heyday, this company handled traffic to all major ports around the world.⁴⁹ Under the ministry of Gábor Baross (1886–1889), significant developments also took place, both in terms of trade and the port, for example, the construction of the Baross port. Shipbuilding in Fiume began in 1905, courtesy of Danubius Ship and Machine Factory. In 1872 the total turnover of the port was 23 million crowns, while at the end of the period, in 1913, 478 million crowns, so more than twenty times the amount in 1872.⁵⁰ Among the Monarchy's Tegethoff-class battleships from World War I, the largest Hungarian warship, the SMS Szent István, was built here, which also praises the work of the Ganz–Danubius Ship and Machine Factory.

This period perhaps rightly called "Hungarian-era" (1868–1918), ended at the end of World War I, as did the Croatian–Hungarian state union. In the case of Fiume, this can be linked to the departure of the last governor, Zoltán Jekelfalussy, on October 28–29 1918, during the night. However, the prior was followed by several symbolic events that marked the end of Hungarian authority in the city. In Croatian–Hungarian relations, the Zagreb National Assembly declared the dissolution of the state union on 29 October 1918, and its accession to the emerging South Slavic state.

5. Conclusion

⁴⁸ SZÉLINGER, *op. cit.*, p. 36.

⁴⁹ *Ibid.*, pp. 36–38.

⁵⁰ *Ibid.*, pp. 38–40.

As can be seen from the above, Fiume has a special place in Hungarian history. Due to its special situation, the fact that it was on the border of the interests of several states, it had to maneuver carefully towards the enforcement of his interests and autonomy. In these circumstances, it can be said that, with a few exceptions, the "Hungarian eras" brought prosperity to Fiume, so we can be proud that the Hungarian authority contributed greatly to the development of this city.

Josipa SUDAR: Parliamentarism in the Interwar Period (1918–1941)

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1. Introduction

In my paper I present parliamentarism in the interwar period, the period between two World Wars. The main goal of this paper is to show difficult process of development of parliamentarism in Croatia.

The concept of parliamentarism and accompanying concept of accountability of executive authority has its roots in English impeachment as an institute for limiting the power of ministers. In Europe in general, legal accountability began to be introduced primarily in France after the French Revolution and other continental countries, while mainly political accountability was introduced in England. The reason was different position of English parliament in relation to other European parliaments.¹ On the European continent, the demands for executive accountability therefore culminated only in 1848 as a result of the culmination of liberal movements.²

2. Development of parliamentarism in Croatia before 1918

¹ ČEPULO, Dalibor: Odgovornost i položaj bana i članova Hrvatske zemaljske vlade 1868-1918. i ministarska odgovornost u Europi. [Accountability and position of the ban and members of the Croatian provincial government 1868-1918. and ministerial accountability in Europe]. *Zbornik Pravnog fakulteta u Zagrebu*. 1999, vol. 49, no. 2, p. 234.

² *Ibid.*, pp. 235–236.

Development of parliamentarism in Croatia was long and complex process. Over the years there have been several attempts to introduce government's accountability. The main reason why Croatia couldn't have introduced accountability of executive is that there wasn't proper body to be taken as government. Of course, in a short period of time from 1767 to 1779, the Croatian Royal Council acted but it was accountable to the queen in Vienna only.³ New hopes for possible changes emerged during the Croatian National Revival, but there was no demand for the introduction of ministerial accountability. The key moment for Croatia was in 1848 with the adoption of the document Demands of the People, which for the first time demanded, among other things, the responsibility of the government. This document represented the basis for the work of Croatian Diet in 1848 and it had great meaning for the further development of Croatia too. Next important moment were Mažuranić's reforms when legal accountability of the Ban was introduced. The Act of Accountability of the Ban and Department Heads was enacted in 1874 by Croatian Diet at the suggestion of ban Ivan Mažuranić.⁴ This document was made according to the Austrian Act of Ministerial Accountability from 1867.⁵

It was the first time that members of the executive may be held accountable and that illegal action by the government had been prevented. According to the law, the ban could have been charged for intentional violation of the basic state law, which meant a violation of the Croatian-Hungarian settlement committed during official duty or for knowingly inflicting or causing serious danger to the state independence of the Kingdom of Croatia and Slavonia or the Hungarian-Croatian community. The legal accountability included elements of civil, disciplinary, and criminal accountability with unclear political dimension.⁶ Unlike the ban, department heads responded only subsidiarily. They could have dissociated themselves in writing from the ban's orders.

³ *Ibid.*, p. 239.

⁴ ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context]*. Zagreb, 2021, Pravni fakultet Sveučilišta u Zagrebu, p. 193.

⁵ *Ibid.*, p. 259.

⁶ *Ibid.*, p. 264.

Unlike legal accountability, political accountability did not have conditions to arise at that time because of strong influence of Central Government and weak significance of the Croatian Diet.⁷

3. Parliaments in the Interwar period

In the period from 1918 to 1941 several state forms changed. Each one had its own state structure and organisation. In addition, parliaments changed depending on the state system as well. Therefore, there were: Provisional Assembly, National Assembly according to the Vidovdan Constitution, National Assembly according to the Constitution of Yugoslavia and Parliament of the Banovina of Croatia.

4. Provisional Assembly

Provisional Assembly was temporary legislature or pre-parliament of the Kingdom of Serbs, Croats, and Slovenes. It met for the first time on 1st March 1919 by decree of the regent. Provisional Assembly is considered as the first parliament of the union of Serbs, Croats, and Slovenes. Its main task was to prepare elections for the Constituent Assembly. Provisional Assembly divided into two sides, centralists and antcentralists, according to their nationality. The Government determined number of representatives and appointed them. Accordingly, representatives weren't elected by people.

Due to strong opposition in the Provisional Assembly the most laws in this period were enacted as executive regulations. Still the most important one, the Act on the Election of National Representatives for the Constituent Assembly was passed by the Provisional Assembly on 3rd September 1920.⁸ At that time the representatives of

⁷ *Ibid.*, p. 267.

⁸ *Ibid.*, p. 271.

the Provisional Assembly exercised their right to file interpellations and that way tried to call ministers to the political accountability, although the Government was appointed by and responsible to the regent only. The Provisional Assembly was dismissed on 28th October 1920 by king's decree after nearly ten months of activity.

5. National Assembly according to the Vidovdan Constitution

On 28th June 1921 the new constitution was passed by the Constituent Assembly. It was called the Vidovdan Constitution according to the saint Vid who was celebrated on the same day. It was based on the constitution of the Kingdom of Serbia from 1903.⁹ The constitution brought in the new state organisation of the Kingdom of Serbs, Croats, and Slovenes. It was constitutional, parliamentary, and hereditary monarchy. According to the Vidovdan Constitution the legislative body was National Assembly. It was an unicameral body with elected representatives for 4-years term. Each representative represented the whole nation, not only the one that elected him. Work of the Assembly was restricted as the king had to confirm all laws. Powers of the Assembly were enumerated in the Constitution. Some of them were right to propose and pass laws, right to confirm treaties made by the king, etc.¹⁰

The important power was power to file interpellations and questions to the ministers. Ministers were obliged to respond during the same convocation of the National Assembly, and within the time limit set by the Rules of Procedure. Ministers were politically and legally accountable to the king and the Assembly. Again, it is way of challenging the work of government.

6. National Assembly according to the Constitution of Yugoslavia

⁹ *Ibid.*, p. 273.

¹⁰ *Ustav Kraljevine Srba, Hrvata i Slovenaca [Constitution of the Kingdom of Serbs, Croats and Slovenes]*. Beograd, 1926, Državna štamparija Kraljevine Srba, Hrvata i Slovenaca, pp. 20–25.

On the 6 January of 1929 the king dissolved the National Assembly and proclaimed dictatorship. The difficult economic situation and external pressures influenced the king to abandon dictatorship and to enact the Constitution of the Kingdom of Yugoslavia in 1931.¹¹ According to the new constitution, the state was constitutional and hereditary monarchy, but it wasn't parliamentary anymore. The powers of the king and the National Assembly differed from those they had under the previous, Vidovdan Constitution. Role of the king was much more emphasized. National Representation was bicameral body consisting of the Senate and the National Assembly. Representatives for National Assembly were elected in general and direct election, by public and oral voting for a 4-years term.¹² Therefore, voting could had been easily controlled. Parties which had support of the regime had advantage in elections. As country wasn't parliamentary, the Government was politically accountable only to the king. Ministers were only legally accountable to the National Assembly.

7. Parliament of the Banovina of Croatia

Banovina of Croatia became autonomous by the Decree on the Banovina of Croatia in 1939 which was based on the article 116 of the Constitution of 1931 which enabled the king to enact emergency decrees. Political basis of the Decree was Cvetković – Maček agreement.¹³

The Decree was important legal document as it represented a *de facto* revision of the Constitution of 1931. Banovina of Croatia was supposed to have its own parliament as legislative body. The Parliament had to be representative body with 100

¹¹ ČEPULO, *op. cit.*, p. 280.

¹² *Ustav Kraljevine Jugoslavije [Constitution of the Kingdom of Yugoslavia]*. Zagreb, 1931, Knjižara St. Kugli, pp. 13–18.

¹³ ČEPULO, *op. cit.*, p. 289.

representatives elected in general, secret, equal and direct elections for a 3-years term. The electoral system limited the right to vote to men only and to the age limit of 24 years for active voting rights, and 30 years for passive voting rights. However, the parliament never met since elections for the parliament were never held. At the end it had to be pointed out that the king was the only one who could dismiss the Parliament and that the Ban as head of the Banovina's government was politically accountable only to the king.¹⁴

8. Conclusion

The process of introduction of ministerial accountability had been a long process for Croatia, which was not yet an independent state. Parliamentarism in Croatia is an ongoing process for which there is still space for development. As we could see through my paper, not all legislatures had an equal role and influence in the political life of the state. In the period between the two World Wars, many things changed and so parliamentarism developed, as well as the accountability of the executive power.

¹⁴ *Ibid.*, p. 292.

Jakov KURSAR: Citizenship in Croatia from 1918 to 1941

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1. Croatia in the 1918-1941 period- historic context

1.1. The end of The Great War

The historic period of 1918 to 1941 in Croatia is remembered by large-scale political and ethnic turmoil. During the Great War the Croatian territories were part of the Austro-Hungarian Monarchy which was in rapid decline. The decline and the eventual breakup of the Monarchy was influenced by various factors. *"A significant influence was posed by the Yugoslav committee founded in Paris on the 30th of April 1915 which was comprised of 15 Croatian, Slovenian and Serbian political immigrants from the Austro-Hungarian Monarchy. The committee was led by Ante Trumbić, a Croatian politician of Dalmatian origin."*¹ The other factor of great importance was the Kingdom of Serbia whose post-Great War goal was defined as *"liberation of all non-free brothers Serbs, Croats and Slovenes."*

1.2. The State of Slovenes, Croats and Serbs

The military failures of the Austro-Hungarian army towards the end of the Great War led to a declining political stability in the Monarchy and consequently led to the formation of the People's councils of Slovenes, Croats and Serbs living in the Monarchy. *"As the situation progressed, the self-proclaimed "Croatian state parliament" on the 29th*

¹ ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context]*. Zagreb, 2021, Pravni fakultet Sveučilišta u Zagrebu, p. 203.

of October, 1918 issued a one-sided declaration on severing all ties between the Kingdom of Croatia, Slavonia and Dalmatia on one side, and the Kingdom of Hungary and the Austrian Empire on the other."² In reality, the political situation for the State of Slovenes, Croats and Serbs was untenable. The Kingdom of Serbia was the only member of the Entente, which recognised the "People's council of SHS" as the States' legitimate government. Moreover, the Italian army was preparing an invasion on the Dalmatian coast based on the secret "London agreement" signed in 1915, a scenario that would mean the end of the State of Slovenes, Croats and Serbs. The unification with the kingdoms of Serbia and Montenegro was the only realistic option for preserving the State's territorial integrity.

1.3. The Kingdom of Serbs, Croats and Slovenes

The National Council of the State of SHS issued the "Address" in which it expressed its interest in forming the joint state with the Kingdom of Serbia and the Kingdom of Montenegro under the rule of the king Peter, the ruler of Serbia. Later on, the unification happened by the "1st of December act" on the same date in 1918. "Part of the Croatian politicians did not accept the 1st of December act, most notably Stjepan Radić who, among others, claimed that the act is not legally binding."³

1.4. The Banovina of Croatia

The constant political instability and the looming danger of another world war meant that the collapse of the Kingdom of Yugoslavia is imminent. The only realistic solution of this crisis was to begin a process of decentralisation. Therefore, "...the regency appointed moderate politician Dragiša Cvetković as a prime minister to try to come to

² *Ibid.*, p. 258.

³ *Ibid.*, pp. 262–263.

an agreement with the Croats and solve the Croatian question.” After negotiations, the Cvetković- Maček agreement was approved by the regency on the 24th of August 1939.”⁴

The Banovina of Croatia’s borders were drawn along the lines of the lands historically inhabited by the Croatian ethnic group. The state enjoyed legislative and judicial autonomy while being governed by a Croatian “ban”, Ivan Šubašić.

2. Citizenship in the State of Slovenes, Croats and Serbs and earlier

*“With the kingdoms of Croatia, Slavonia and Dalmatia breaking their ties with the rule of the Hungarian crown comes the end of uniform citizenship for all inhabitants of the lands of the Hungarian realm.” “Until the unification of the State of SHS with the Kingdom of Serbia and the Kingdom of Montenegro into the Kingdom of SHS on the 1 of December 1918, the citizenship was determined solely by belonging to the State of Slovenes, Croats and Serbs.”⁵ Before this, the citizenship was determined by the “local citizenship” principle that determined the citizenship of a certain individual based on belonging to a certain homeland or a region. The reason for this was in the fact that a reliable system for determining citizenship simply did not exist. As an additional principle for determining citizenship, the Law on Hungarian citizenship of 1880 prescribed a *praesumptio iuris* of everyone born, found or raised within the lands of the Hungarian crown as a citizen.⁶*

3. Effects of peace treaties with Austria and Hungary

⁴ *Ibid.*, pp. 276–277.

⁵ KOSNICA, Ivan: Definiranje državljanjskog korpusa na hrvatsko-slavonskom području u Kraljevini SHS/Jugoslaviji [Defining the civic corps in the Croatian-Slavonian area in the Kingdom of SHS/Yugoslavia]. *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*. 2018, vol. 39., no. 2., p. 812. <https://doi.org/10.30925/zpfsr.39.2.4>

⁶ *Ibid.*, p. 811.

The post-first world war peace treaties⁷ between the Kingdom of SHS and Austria and Hungary was a turning point in defining Croatian citizenship in the now established Kingdom of SHS. The new system defined that everyone who had local citizenship until the 1st of January 1910 and kept it until the Treaty of Trianon was put into effect, had to be considered as a citizen of the Kingdom of SHS.⁸ Consequently, the new system reduced relevance of local citizenship as a reliable means of determining of citizenship if acquired after 1st January 1910.

4. The law of citizenship of 1928

In the Kingdom of SCS there was one uniform citizenship for all inhabitants of the Kingdom from the very beginning of the state.⁹ However, the authorities unified the rules about this citizenship only by the Law on citizenship of the Kingdom of SCS of 1928. This Law *"contained important rules for defining citizenship in article 53 which differentiated two initial groups of citizens from the Croatian and Slavonian area of the Kingdom. The first group consisted of all those who received citizenship before the Law on citizenship of the Kingdom of SCS of 1928 came into effect. In this group were included all persons who had citizenship of the Kingdom of Croatia and Slavonia until the 1st of December 1918 and did not lose it based on the peace treaties."...*"*Second group of citizens were those who filed a request for naturalisation. The Law granted citizenship to all Croats, Serbs and Slovenes who filed a request for citizenship under the assumption that they are of age, "of good behaviour" and "able to provide for themselves and their families".*¹⁰ Furthermore, the authorities granted citizenship to all Slavs who submitted a request for naturalisation and lived on the territory of the Kingdom for at least 20

⁷ GOSZTONYI, Gergely: Az első világháború után [After the First World War]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 333.

⁸ KOSNICA, 2018, *op. cit.*, p. 815.

⁹ *Ibid.*, p. 812.

¹⁰ *Ibid.*, p. 823.

years.¹¹ It is also important to mention that authorities treated Russian immigrants favourably in terms of receiving citizenship in the Kingdom. They considered that, due to their Slavic heritage, their cultural assimilation would be easier.¹²

5. Citizenship in the Banovina of Croatia

The formation of the Banovina of Croatia as a "state within a state" in 1939 was the first and last step in the process of decentralisation of the Kingdom of Yugoslavia. *"It's territory was determined by using both ethnic and historical principles,"*¹³ meaning it encompassed lands historically inhabited by the Croatian ethnic group. Although the Banovina had a wide legislative and judicial autonomy, no significant changes related to the concept of national citizenship occurred since its citizens were still citizens of the Kingdom of Yugoslavia.

6. Conclusion

The paper followed and defined changes of the citizenship status in Croatia in the period from 1918 to 1941. Upon analysis of available information on the topic of citizenship status in Croatia it is evident that the most significant change occurred at the beginning of the given time period marked by the collapse of the Austro-Hungarian Monarchy. From then on evident is abandoning of the concept of "uniform citizenship" for all inhabitants of the Hungarian realm and replacing it with belonging to the new State of SHS. Further changes followed as the Treaty of Trianon came into effect while

¹¹ *Ibid.*

¹² KOSNICA, Ivan: Odnos državljanstva i nacionalne pripadnosti u Kraljevini SHS/Jugoslaviji [Relationship between citizenship and nationality in the Kingdom of SCS / Yugoslavia]. *Zbornik Pravnog fakulteta u Zagrebu*. 2018, vol. 68., no. 1., p. 77. <https://doi.org/10.3935/zpfz.68.1.03>

¹³ ČEPULO, *op. cit.*, p. 278.

the process of defining citizenship in the Kingdom of SHS was largely finalised with the introduction of the Law of citizenship in 1928. The period covered by this paper historically ends in 1941 with the Axis powers invading Yugoslavia and dividing it into spheres of interests and various puppet states in 1941, an event that completely redefined the citizenship status in Croatia.

Kíra VARGA: The restriction and deprivation of personal liberty in the 20th century

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1. Introduction

Individual's autonomy already appeared in the ancient Greek philosophy, however, liberty appeared differently in people's lives at that time. The Age of Enlightenment had an important role in the formation of today's rights for liberty: the Declaration of Independence in the year of 1776, as well as the Declaration of the Rights of Man and of the Citizen in 1789 contained fundamental freedoms for everyone. The elaboration of fundamental freedoms can be attributed to the spreading of liberalism. Before the 19th century it is problematic to talk about liberalism, however, the roots of this political and intellectual tendency can be found in the 17th century, as it was connected to natural law.¹ In Hungary, World War I ended the continuous development of freedoms, and after that we can see the restriction of essential human rights for a long time.

2. Liberty

2.1. What is liberty?

Liberal freedom makes the individual into the center of society. The Declaration of Independence of the United States of America stated: „ We hold these truths to be self-

¹ ANTOS, Zsolt: Szabadság és individuális autonómia [Freedom and individual autonomy]. *Elpis*. 2008, vol. 2., no. 1., pp. 13–14.

evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”² According to this, the state has to ensure the liberty of the individual. This idea is the result of the Enlightenment, which stated that not people are for the state, but the state is for people.³

According to philosophy, complete freedom does not exist, liberty always has its boundaries. There are physical boundaries such as impossibility to be free from gravitation or the biological boundaries as well, for example people cannot avoid death, so the interpretation of freedom is only possible with the consideration of those external factors. Liberty also can be positive or negative. Negative liberty’s substance is freedom from something, for example the protection from ill-treatment, and positive liberty is the freedom to do something, such as freedom of religion. Constitutional law contains several liberties, for example freedom of assembly, freedom of speech or individual liberty – the latter is the subject of this article.

2.2. Individual liberty

We can classify freedoms by generations. As a result of the civil revolutions at the end of the 18th century, first generation rights have been drafted. First generation rights consist of fundamental freedoms which are usually negative rights because the state is required not to interfere in people’s lives, so they can only restrict these rights exceptionally. Individual liberty is a great example of first-generation rights.⁴

² America’s Founding Documents: Declaration of Independence: A Transcription. National Archives, <https://www.archives.gov/founding-docs/declaration-transcript> [Access on January 20, 2022].

³ CSINK, Lóránt: Mi a szabadság? [What is liberty?] *Acta Humana – Emberi Jogi Közlemények [Human Rights Statements]*. 2020, vol. 8., no. 3, pp. 45–54. <https://doi.org/10.32566/ah.2020.3.3>

⁴ KISS, Barnabás – LICHTENSTEIN, József – TÓTH, Judit: *Alkotmányjog II. [Constitutional law II.]. Alapjogok és emberi jogok [Fundamental rights and human rights]*. Szeged, 2018, Iurisperitus Kiadó, p. 61.

Even though individual liberty is one of the oldest and the most valuable human right, it still can be restricted. International treaties and internal law can determine what reason can result in the restriction of individual liberty, or even in the deprivation of this right, and the law can also determine the rules of the proceedings.⁵ Being in penal imprisonment facilities is the most common restriction of personal liberty, which is the result of crimes determined in statutes.

3. Individual liberty in the Horthy-era

3.1. Measures to restrict individual liberty

Between the two World Wars, there was a tendency of restricting rights in Hungary. After the World War I's chaotic years and the fall of the Austro-Hungarian Monarchy,⁶ everybody was seeking change, for instance communist movements spread all around the world. As a result, the Hungarian Soviet Republic was established but it only lasted until July 31, 1919. Half a «ear later, on 1st March, 1920, there was a national assembly where Miklós Horthy was elected as a regent.

In the Horthy-era the government referred to public interest to justify the restriction of individual liberty. Act LXIII of 1912⁷ and Act L of 1914⁸ were about exceptional power. These acts enabled the Minister of Interior to take people under police supervision or banish people from areas if the minister found them dangerous or undesirable to public security or to the state.⁹

⁵ SÁRI, János – SOMODY, Bernadette: *Alapjogok [Fundamental rights]. Alkotmánytan II. [Constitutional law II.]*. Budapest, 2008, Osiris Kiadó, p. 109.

⁶ GOSZTONYI, Gergely: A dualizmus kora [The era of dualism]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 322–328.

⁷ 1912. évi LXIII. törvénycikk a háboru esetére szóló kivételes intézkedésekről [LXIII Act of 1912 about the exceptional measures in case of a war].

⁸ 1914. évi L. törvénycikk a háború esetére szóló kivételes intézkedésekről alkotott 1912:LXIII. törvénycikknek és a hadiszolgáltatásokról szóló 1912:LXVIII. törvénycikknek kiegészítéséről [L Act of 1914 about the completion of the LXIII Act of 1912 about the exceptional measures in case of a war and the LXVIII Act of 1912 about the military provision].

⁹ KELEMEN, Roland: A legitimációs kivételes hatalom fogalmi rendszere [The conceptual framework of legitimating exceptional power]. In: PONGRÁCZ, Alex (ed.): *Ünnepi tanulmányok a 65 éves Cs. Kiss Lajos*

The other form of the restriction of individual liberty was internment. Internment is the imprisonment of people in internment camps. Being taken to these facilities is not only the restriction of personal freedom, but also infringement of the right for protection and the presumption of innocence. Although internment is not considered as a prison, it is a facility which restricts freedom, it does not require previous criminal record. The official aim of internment was preserving power and protecting public security. Regulation No. 10962/1915 of the Minister of Interior determined the reasons for internment and the rights and the obligations these people had.¹⁰ Act II of 1939 did not contain new rules about the conditions of internment. According to the legislations, Hungarian inhabitants belonged to the Deputy Director of Budapest Police's jurisdiction, and foreign people belonged to the jurisdiction of Central National Authority for Controlling Foreigners.

People under police supervision could not leave the place, which was designated to them, which also meant the restriction of individual freedom. Other than that, there were other boundaries: they could not go to public places and could not communicate through telegram. In Act XXVIII of 1930 the Central National Authority for Controlling Foreigners got the control over tourism.¹¹

The Defence Act ensured the right to the Minister of Interior and the Minister of Defence to remove the inhabitants from settlements which were important due to warfare reasons. Those who had been removed did not get damages for the damage caused by the removal. If the people who were removed could not take care of themselves and did not have a family member who could look after them, the state helped them. In exchange for this support these people were obliged to work.

tiszteletére. Ut vocatio scientia [Festive studies for the 65-year-old Cs. Lajos Kiss. Ut vocatio scientia]. Budapest, 2021, Ludovika Egyetemi Kiadó, pp. 177–186.

¹⁰ LEHOTAY, Veronika: *A jogszűkítés útján. A Horthy-korszak szabadságjog-megvonó intézkedéseinek jogtörténeti aspektusai [By reducing rights. The legal history of the Horthy-era measures of deprivation of liberty].* Miskolc, 2020, Magyar Nemzeti Levéltár Borsod-Abaúj-Zemplén Megyei Levéltára [Hungarian National Archives Borsod-Abaúj-Zemplén County Archives], pp. 161–163.

¹¹ This authority had an important role in the prosecution of the Jewish laws.

On 29 July, 1942, Act XIV of 1942 were proclaimed, which completed the Defence Act and regulated the military post of Jewish people who had compulsory military service which was equal to labour service.¹² Labour service got a discriminative content with this act, until that it was in force to everyone who had compulsory military service. Originally, labour service was conducted to Hungarian nationals who were incapable of armed service, and originally did not involve discrimination. Prior to this new regulation, Jews could not take part in armed service. Instead, they could perform complementary service and they were deprived of their military ranks. The dispositions of the Species Protection Act gave the base to set out an individual's liberty. Until 1942 the legal base, the aims and the methods of labour service were created, and after that no major changes have been done.¹³

3.2. Measures restricting individual liberty in the administrative law

Internment as one of the most basic measures at the time was first regulated in a decree in 1920. Internment was only meant for foreign people whose activities were declared dangerous to the public safety and endangered peace.¹⁴ The decree also regulated police supervision and internment of non-foreigners. The decree declared those people dangerous, who committed a crime during the Hungarian Soviet Republic, despite the fact that they paid the imposed fine or they were in prison. The decree declared a person alarming who was dangerous to the society because of their behavior during or after the Hungarian Soviet Republic. Everybody was suspicious who acted as if they wanted the restoration of the Hungarian Soviet Republic or instigated others. The decree initiated the remedies against internment: before the sixth month

¹² LEHOTAY, *op. cit.*, p. 92.

¹³ GAZSI, József: Politikai megkülönböztetés a Horthy-hadseregben 1919-1945 [Political discrimination in the Horthy-army 1919-1945]. *Hadtörténelmi Közlemények [Military Communications]*. 1972, vol. 19., no. 3., p. 519.

¹⁴ These foreigners were expelled from the country.

of the internment they could request a review, and after the sixth month there was an automatic review. The deadline was later reduced to 3 months by the Ministerial Decree No. 13920/1921.¹⁵

Later, an act gave the authority to the Minister of Interior to choose where they would place the people who were interned. Primarily, people who supported the Hungarian Soviet Republic or political opponents, were interned. An interior ministerial decree also unified the regulation of internment camps. Interned people were placed in groups considering their social status and education. People were not awarded damages for loss during internment or police operation.

A ministerial decree forbade the issuing and extension of passports for Hungarian citizens between the ages of 18 and 60. However, there were some exceptions, for example serious illness, death, going back to a foreign permanent address or the immigration of Jewish people. The Minister of Interior only gave permission if the Minister of Defence confirmed that there was no obstacle such as compulsory military service. The permission only lasted for fifteen days but if people did not use it in time, it expired.

The Prime Ministerial Decree No. 5070/1939 contained the rules of public interest labour service.¹⁶ The decree also regulated conditions of suitability, the definition of internment camp, the conditions of fulfilling labour service and the aim of labour service. It contained the offences that can be committed during the service and their sanctions, for example: self-harm and quitting service deliberately. This decree regulated only the situation of men, there was another decree that regulated the situation of women.

Because of the second Anti-Jewish Act, Jewish soldiers could not get military ranks and they took it away from those who had one, but they still stayed in service.

¹⁵ GOSZTONYI, Gergely: Szabadságjogok a két világháború között [Civil liberties between the two world wars]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 337.

¹⁶ LEHOTAY, *op. cit.*, p. 164.

Those who could not complete armed services were divided into working groups with the condition that they could not work in offices.

3.3. Deprivation of individual liberty

The Interior Ministerial Decree No. 6163/1944 contained the rules of ghettoization and deportation. This decree was about the deprivation of rights: the legislation regulated the physical distinction between Jews and non-Jews and measures that restricted individual liberty. From settlements where fewer than 10,000 people lived, Jewish people had to move into other municipalities to the designated houses. With these measures, ghettoization started.¹⁷

On 16 April, 1944 people from the countries were transported into ghettos. In Borsod County there were ghettos in the seven district centres and in Szendrő. The ghettoization lasted from the 26 April to the 20th May, 1944: Jewish people were moved to determined streets. They could only leave the ghetto in exceptional cases, and only with permission. On 6 June, 1944 the sub-prefect of the county made secret principles about the transportation. He forbade the transportation of families where one person was Jewish and the other was Christian, they were transported back to their original place. According to the legislation: *„If one spouse is Christian and the other must wear the star, and their children are Christians... it is forbidden to transport them into a camp, they can go home from the ghetto... If the children from a mixed marriage are Jewish, the family cannot be transported into a camp until further disposition, they must be left in the ghetto. If there are no children from a mixed marriage, and one spouse must wear the star, they have to stay in the ghetto”*¹⁸

The Mezőcsát County's main judge ordered the transportation of the Jews into ghettos in the decision No. 2684/1944. The decision contained the process of the

¹⁷ *Ibid.*, p. 233.

¹⁸ Borsod vármegye főispánjának iratai [Documents of Borsod County's prefect] (1939–1944). *Borsod-Abaúj-Zemplén Megyei Levéltár [Borsod-Abaúj-Zemplén County's Archives]* IV. 802/b. 550/1944.

transportation and other tasks. Jewish people had to pay a given sum when they entered the ghetto, and they had to take care of themselves. It was strictly checked that people only got their given ration of food and not more. For the children and the elderly, they gave permission of having eight cows for milk, but they had to feed them. It was determined that 1,5 square meter space one person could have. Sending packages was strictly regulated, letter-writing was censored, and it was forbidden to send telegrams.¹⁹ According to the decree, Christians who were moved out of the ghetto and people who had damages from the air attacks, could move into the abandoned houses.

In the Edelény County, there were more humane measures than in the Mezőcsát County. The main judge of Mezőkeresztes County made a decision on the 17 of May in 1944 entitled „*The compress of Jews in the Mezőkeresztes county*”. This contained the rules of ghettoization: I. place of the compress, II. occupation of the place of compress, shortly: ghetto, III. leading of the ghetto, IV. food, V. placement, VI. medical measures, VII. the cost of establishing and maintaining a ghetto, VIII. movable property, immovable property, lands, lease, IX. the ghetto's living and dead equipment, X. post office, XI. application, XII. the inventory of movable property, XIII. transportation, XIV. cash, XV. temporary exemption, XVI. delivery of cycles, motorcycles, XVII. leaving the ghetto, XVIII. prosecution of testamentary.²⁰ Jews had to pay for the costs in connection with the transportation, and the maintenance and development of the ghetto was at their expense. There was a detailed prescription about the movable property they could bring with themselves: „...3 undergarments, 4 pair of tights, 1-2 pairs of strong shoes, or boots, 6 handkerchiefs, 4 towels, 1 winter coat, 2 blankets, or 1 duvet, 2 kitchen cloths, 2

¹⁹ GOSZTONYI, Gergely: „Agyamban kopasz cenzor ül”, avagy a politikai cenzúra története Magyarországon napjainkig [„A bald censor sits in my brain”, or the history of political censorship in Hungary up to the present day]. In: MENYHÁRD, Attila – VARGA, István (szerk.): *350 éves az Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Kara 2. kötet, A jubileumi év konferenciasorozatának tanulmányai [350 years of the Faculty of Law and Political Sciences of Eötvös Loránd University Volume 2, Studies of the conference series of the jubilee year]*. ELTE Eötvös Kiadó, Budapest, 2019, pp. 989–997.

²⁰ Borsod vármegye alispánjának iratai, közigazgatási iratok [Administrative documents of Borsod County's Prefect] (1939-1944). *Borsod-Abaúj-Zemplén Megyei Levéltár [Borsod-Abaúj-Zemplén County's Archives]* IV/810/b. 2281/1944.

bedsheets, 1 cutlery, in addition, laundry detergent /soap, toothbrush, toothpaste, shaving preparations."²¹

Transporting the Jews to the ghettos was followed by deportation. The first deportation was on 14 May in Nyíregyháza, and the last was on 9 July in Monor. In Budapest, the transportation of the Jews to the yellow star houses began only in June.²² After that, on 7 July, 1944, Miklós Horthy stopped the deportation, then appointed PM Géza Lakatos. He agreed with the Germans on removing all Jews from Budapest, but the deportation still was stopped. However, the discriminative provisions, such as wearing the yellow star, were still in force. After the takeover of the Arrow Cross Szálasi-government, the deprivation of Jews rights in Budapest re-started. In November they established a ghetto in Budapest to facilitate the deportation. They could not prosecute the deportation because the Soviet army liberated the ghetto on 18 January, 1945. These measures not only restricted or deprived the individual liberty, but they also infringed the right to human dignity and life.²³

4. Individual liberty during the Soviet dictatorship

4.1. Introduction

The Soviet army slowly liberated the country at the end of 1944. On 22 December, 1944 the Temporary National Government was established and the Hungarian Communist Party took part in it. On 31 August, 1947 parliamentary elections called the 'blue-ballot

²¹ *Ibid.*

²² A nyilas rémuralom embertelen körülményei között várták a felszabadulást a pesti gettó lakói [In the inhuman conditions of the Arrow Cross reign of terror, the inhabitants of the Pest ghetto waited for liberation]. *Múlt-kor*, 18 Jan 2022, <https://mult-kor.hu/a-nyilas-remuralom-embertelen-korulmenyei-kozott-vartak-a-felszabadulast-a-pesti-getto-lakoi-20220118> [Access on January 20, 2022].

²³ HORVÁTH, Attila – VÖLGYESI, Levente: A nemzetszocialista jellegű totális diktatúra [The total dictatorship of the national socialist type]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 488–489.

elections'²⁴ were held where the communist party won, and the takeover began. During the Soviet dictatorship several human rights were infringed which was supported by ideological arguments. Freedom of assembly, religion or press were only a few examples of the rights which were restricted.²⁵

The takeover evoked a general aversion because its reason was the strong military presence. After signing the peace-agreement, the Soviet army stayed in Hungary with the excuse that they needed a direct border with Austria. However, a lot more soldiers stayed in Hungary than was necessary, and they did not leave even after the Austrian State Treaty of 1955. This was necessary for them to maintain the system, the oppression and the restriction of human rights.

4.2. The legal system

The government not only used the crime emergency measures for sanctioning crimes in criminal law but also for the removal of political opponents. Mostly these measures were not institutionalized, which resulted in the lack of legal certainty. The Constitution of 1949²⁶ played only a declaratory role in the legal system: the human rights were written under the name 'citizen rights' at the end of the constitution. There was no legal assistance for the breach of human rights, acknowledging that these rights were not truly important in the dictatorship.

²⁴ KÉPES, György – HORVÁTH, Attila: Választójog a második világháború utáni években [Suffrage in the years after the Second World War]. In: KÉPES, György (ed.): *A hatalommegosztás államszervezete, 1848–1949. Magyar alkotmány- és közigazgatástörténet a polgári korban [The state structure of separation of powers, 1848–1949. History of Hungarian constitution and public administration]*. Budapest, 2013, ELTE Eötvös Kiadó, pp. 137–138.; MEZEY, Barna: A kékcédulások eldöntik, ki lesz a képviselő [Blue-ballot decide who will be the MEP]. *Napi Délkelet*. 1994, p. 98.; Cf.: „An ominous sign for today's eyes: after the 'blue-ballot elections' of August 1947, Mihály Farkas said: „Only what the Communist Party wants will happen here”. SONNEVEND, Péter: Egy szerző – egy téma: változatok történelmi oldal-fényben, némi kommentárral [One author - one theme: versions in historical perspective, with some commentary]. *Könyvtári Figyelő [Library Monitor]*. vol. 58., no. 1., p. 15.

²⁵ GOSZTONYI, Gergely: Censorship and law in Hungary in the past. *Romanian Journal of Legal History*. 2021, no. 1., pp. 45–46.

²⁶ Act 20 of 1949 The Constitution of the Republic of Hungary.

The general part of Act V of 1878 was replaced by Act II of 1950 about the Criminal Code's General Part. The Act eliminated the grades of institutions in criminal law prosecution (high-security prison, medium-security prison, prison, state prison, confinement), from then there was only one institution, the medium-security prison. Act V of 1961 on the Hungarian People's Republic Criminal Code did not regulate the case of life-time long imprisonment, because it was not necessary due to the re-education of the convicted. Legislative Decree No. 28 of 1971 reintroduced the institution of life-time long imprisonment and distinguished four types of institutions. Death penalty was still instituted.

4.3. Forced-labour camps

In the final phase of World War II 600-640,000 people were deported to forced-labour camps which were called 'gulag'.²⁷ Most of them were prisoners of war, but there were also civilians including women and children. They transported more than a hundred thousand people to these camps for 'malenkij robot [little work]'. Due to the principle of collective guilt, originally, they had to collect German people. However, commanders had to fulfill quotas, and as there were not enough Germans, they also collected Hungarians stating that their nationality was German.

Those who were deported to the Soviet Union were employed in mines and industrial buildings. The conditions were inhumans, so most people who were deported did not get back home later, and there were people who only arrived back home after a decade. However, going home was not smooth, there was no rehabilitation, and later they only got a small amount of compensation.

²⁷ BOGNÁR, Zalán – MUSKOVICS, Andrea Anna (eds.): *GUPVI, GULAG: Magyarok a szovjet lágerbirodalomban 1944/45–2019/20* [GUPVI, GULAG: Hungarians in the Soviet camp empire 1944/45–2019/20]. Miskolc-Egyetemváros, 2021, Gulág- és Gupvikutatók Nemzetközi Társasága.

4.4. Evictions

Another characteristic of the era was eviction which affected Germans and also was part of a Slovak-Hungarian population trade. This meant that people were evicted violently on the basis of their mother tongue. The reason was mainly the principle of collective guilt rather than ethnic reasons. Between 1946 and 1948, approximately 200,000 people were deported to Czechoslovakia whose mother tongue was German. Hungarians who were expelled took their places. They moved into the houses of those who had been deported and got their properties. This infringed a lot of people's rights to free residence choosing and private property. Remedy did not exist at all.

In 1949 families from the villages at the border of Yugoslavia and in 1951 families from Budapest were moved to villages in Hortobágy. Usually, they had to establish the circumstances of living, as the infrastructure was missing. Mostly the higher, bourgeois stratum was evicted because they were treated as the political system's enemies. After their eviction people who were in the communist party moved into their homes.

Evictions were under complete police supervision. People could not leave the designated area, and could only have visitors once a month. There were also a lot of people who had to pay rent to the Communist Party member who had occupied their houses. However, there were families who could not go back at all, and they did not get any damages.

4.5. Internment

Internment could be found in the Soviet era, as well. During the Soviet-era, people could have been interned without a court judgement if the communist leaders found them dangerous. There was no remedy, and there was no rightful investigation before the measure.²⁸ Subsequently, the People's Court took acquitted people under police

²⁸ HORVÁTH Attila: A szovjet típusú totális diktatúra Magyarországon [The Soviet-style total dictatorship in Hungary]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, p. 493.

supervision despite their innocence. The government of PM Imre Nagy terminated this system in 1953. After the defeat of the revolution in 1956, the system was re-installed again, but in 1960 it was terminated definitively with an Amnesty Decree. Those who did not cooperate with the system were threatened with the danger of internment. The main principle of the dictatorship was the searching of enemies so that people could be kept at bay.

The leadership of the Communist Party knew that they could have cheap workforce with interned people whilst it was also part of the punishment. People were transported into working camps country-wide, where they had to do physical work. The most famous camp was in Recsk. Those who did not perform properly had to go through beating or torturing. Living conditions were so inhumane that a large amount of people got sick and never returned home.

4.6. Political Police

They maintained these measures with secret police forces, which was called Hungarian State Police State Defense Department and later State Security Authority. These organizations were under the control of the Communist Party itself. It was used for getting rid of the suspected or actual enemies. Communist Party's leaders often did cleansing inside their own parties, so nobody could feel safe. The organizations functioned as secret polices and terror organizations, there were numerous people who worked for them in secret. Those who were asked to join could not say no as in that case their family or themselves could go into prison. As a result, people did not trust each other, not even their family members because they could not know who would give information about them.

Without any warning or court judgement people were taken to questioning. At dawn a black car with a curtain on the window arrived at the houses to take people

away. After ringing the bell,²⁹ the subject had a few minutes to take on some clothes but nothing more. At first, the questioning was rightful but if the person did not confess, they tortured them for the confession. Investigators used physical punishment (beating, torturing) and psychological extortion (threatening his/her family) as well. Those who confessed were convicted and interned but if somebody was innocent because the wrong person was brought in was interned as well because "in this condition they could not have been let out"³⁰.

4.7. Show trials

Show trials are trials where authorities already determine the guilt of the defendant before the trial and the 'criminal' is definitely convicted. They could be internal cleansing, for example the case of László Rajk.³¹ In that case, the former Minister of Interior was taken for questioning and after a lot of torture he confessed to a crime and was convicted. It was usual to get death penalty in these trials. Judges were usually bribed, and there were cases, where the lawyer asked for a stricter punishment than what the judge had already determined.

4.8. Travel and emigration

There were strict rules for travelling and emigration which was one of the biggest restrictions of individual liberty. The Communist Party restricted people's moving because they were afraid that the circumstances of Western-Europe would prevent people from coming back. They watched who would leave the country rather than who would enter. A minefield and an iron-wired fence prevented people from escaping.

²⁹ VARJASI, Imre: Csengőfrász és pufajka [Bell-fear and quilted coat]. *Szabadhajdú*. 2014, p. 4.

³⁰ FALUDY, György: *Pokolbéli víg napjaim [Happy days in hell]*. Budapest, 1989, Magyar Világ Kiadó, p. 373.

³¹ ÖTVÖS, István: A Rajk-per és a Rajk-perek [The Rajk-trial and the Rajk-trials] In: TAKÁCS, Tibor (ed.): *A Rajk-per éve: közelítések 1949-hez [The year of the Rajk-trial: approaches to 1949]*. Pécs, 2020, Kronosz Kiadó, pp. 51–66.

From 1955, when the de-Stalinization started, people could travel abroad, primarily to the Soviet Union. The opportunity of travelling to Western-Europe only opened in 1960. Passport could be refused from those, whose travelling was against the interests of the country. The request for a transport was a long and degrading process because the Communist Party wanted to decrease the number of citizens with passports. People could travel to Western-Europe once in every three years (or if they had family once a year). People could bring a determined amount of foreign currency because of a fear of defection. Emigration from the country was possible only in a few cases, for example reuniting family.³²

4.9. Other restrictions

The government determined the obligatory participation in national holidays. They consolidated individual landowning farmers into agricultural co-operatives and people who did not obey were called kulák [wealthy peasant] and were punished. When people did not complete distillation, they violently took away their crop. Sometimes they did house investigation, and they took everything: it was called '*padlássöprés (sweeping of the attic)*'. For the elimination of unemployment, general compulsory work was introduced so everybody had to work. Writers and poets who criticized the system were put into prison or in extreme cases were put into psychiatry because people who dared to go against the communist system had to be insane.

5. Summary

In the Horthy-era, there were some restrictions of rights which distinguished people on religious or racial background. The government made restrictive measures when the war was imminent which restricted not only groups. These measures restricted

³² As a result, it meant the loss of Hungarian citizenship.

individual liberty. The system against Jewish citizens was one of the most repressive and unfair systems in history, which was achieved with the restriction and deprivation of personal liberty.

We can see that the Soviet dictatorship was also a repressive system ignoring fundamental human rights. There were a lot of violent actions that leaders did, and most of them did not have to take responsibility. This system will never be forgotten, with our parents and grandparents it lives in our memories. As my article showed, the two systems were not so much different although the political directions were very far from each other. Restriction and deprivation of personal liberty was strong in the systems which made people's lives a misery. After the liberation people sought a better life with more freedom and they had to wait for that until the regime change.

After the change of the regime in 1989, the newly formed democracy recognized fundamental human rights and ensured their guarantees. They guaranteed individual liberty, the presumption of innocence and the right for public and fair trial, which were not guaranteed for many years. The constitution declared that some fundamental rights could not be suspended during a state of emergency either.³³

³³ GOSZTONYI, Gergely: A parlamentarizmus helyreállítása [Restoring parliamentarianism]. In: MEZEY, Barna – GOSZTONYI, Gergely (eds.): *Magyar alkotmánytörténet [Hungarian constitutional history]*. Budapest, 2020, Osiris Kiadó, pp. 507–511.

Daniella SCHLAFFER: The reorganization of the press control at the initial consolidation of the Kádár-period (1956–1963)

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1. Introduction

With the declaration of the freedom of the press in the 18th century, the question arises, why does the phrase “press control” even exist? Why should the press be controlled, despite it being one of the fundamental freedoms of the people, by which they are free to express their opinions (within certain limits, of course, without significantly infringing the rights of others)? As political leaders were and still are aware, the press and the media are one of the most suitable means of shaping public opinion in their own interests, that is why they tried to gain even greater influence in this field.

The year 1956 was a turning point in political leadership in Hungary, but unfortunately, the methods did not change so much. In my article, I chose this year as the starting point because during this period, the Kádár-leadership laid the institutional foundations of the press control and its methods, which were decisive for the function of the press until the change of regime in 1989.

2. The organizational system of press management

In many cases, the organizational system of press management shows similarities to those developed in the Rákosi-era even after the 1956 revolution. This was reflected on one hand in the fact that certain institutions were “revived”, and on the other hand,

that the Kádár leadership did not allow the press to operate freely. In the following, I would like to present this complicated, changing, and sometimes casuistic organizational system along the separation.¹

Within the decision-making bodies in the party leadership, the Congress and the Central Committee (CC) did not have any special role in making provisions about the press. In the latter institution's reports, orders were mostly general requirements. However, it assigned the people, who were more participated in controlling the press (e. g. the heads of department of the CC). The orders of the Congress provided the material for the editorial staffs, and they had to inform the readers about these topics.²

The Temporary Management Committee (TMC) and the Secretariat were negotiating regularly about press' issues. After the decision of TMC in January 25, 1957,³ their meetings were attended by the head of the editorial board of *Népszabadság*, the leading newspaper as well. Sometimes the TMC discussed about the problems with the press and evaluated the work of radio and television too.⁴ In some orders it was paying attention to the role of publicity and how individual cases should be published. At the most important questions the TMC accepted a detailed press plan.⁵

The Agitation and Propaganda Committee could also make decisions in less important cases, for instance, it had to do the implementation of some sub-tasks.⁶ This Committee was already established by the former Magyar Dolgozók Pártja (Party of Hungarian Workers, MDP) in October 1948 for the political and ideological control of specified areas in cultural and scientific life. Its main mission was to provide information, working out the mainstream of agitation and propaganda, and using it.

¹ TAKÁCS, Róbert: *Politikai újságírás a Kádár-korban [Political journalism in the Kádár-era]*. Budapest, 2012, Napvilág Kiadó, p. 88.

² *Ibid.*, pp. 88–89.

³ MNL OL 288. f. 5/12. ő. e. Javaslat a Népszabadság munkájának megjavítására [Proposal to improve the work of *Népszabadság*].

⁴ MNL OL 288. f. 5/151. ő. e. Jelentés a Magyar Rádió és Televízió műsorpolitikájáról és káderhelyzetéről [Report on the broadcasting policy and work situation of the Hungarian Radio and Television].

⁵ TAKÁCS, 2012, *op. cit.*, pp. 89–90.

⁶ *Ibid.*

Furthermore, reviewing the work of certain areas and defining resolutions on proposals from departments and committees. It could also decide independently on issues that did not exceed the competence of each department.⁷

According to the decision of the Political Committee on 21 January, 1958: “... next to the Central Committee’s Agitation and Propaganda department the party’s press committee should be formed from the senior staff of the press. The committee should regularly work out the tasks of the press and radio, from the party and government policies.”⁸ In March, the Secretariat set up this body, which István Szirmai as its leader and István Darvasi as its secretary. Depending on the issues on the agenda, the most experienced leaders from economic or other areas could also be invited.⁹ However, its operation was short-lived. Its duties and powers were never regulated, and no decision was made to end it. From the end of 1962, the Agitation and Propaganda Committee took over its tasks.¹⁰

Within the CC’s departments in relation to press affairs, one of the most important and largest was the Department of Agitation and Propaganda (DAP),¹¹ which was operating in several versions before the revolution. However, some changes in the internal structure and responsibilities could be still observed: in February 1957, after the separation from the DAP, the Department of Science and Culture (DSC) was organized.¹² The press group¹³ – formed within the DAP in April 1957 – had already become a press subdivision in September, so after this, there were three subdivisions

⁷ MNL OL 276. f. 54/15. ó. e. Javaslat Agitációs és Propaganda Bizottság felállítására [Proposal to set up an Agitation and Propaganda Committee].

⁸ VASS, Henrik – SÁGVÁRI, Ágnes (eds.): *A Magyar Szocialista Munkáspárt határozatai és dokumentumai. 1956–1962. [Resolutions and documents of the Hungarian Socialist Workers' Party. 1956–1962.]* Budapest, 1964, Kossuth Könyvkiadó, p. 166.

⁹ MNL OL 288. f. 7/24. ó. e. Javaslat a párt sajtóbizottságának felállítására [Proposal to set up a party press committee].

¹⁰ TAKÁCS, 2012, *op. cit.*, pp. 91–92.

¹¹ GOSZTONYI, Gergely: Censorship and law in Hungary in the past. *Romanian Journal of Legal History*. 2021, no. 1., p. 45.

¹² MNL OL 288. f. 6/10. ó. E. Javaslat a Tudományos és Kulturális Osztály felállítására [Proposal for the establishment of the Department of Science and Culture].

¹³ MNL OL 288. f. 7/3. ó. E. Előterjesztés az Agit. Prop. Osztályon belül sajtócsoporthozására [Submission by Agit. Prop. To create a press group within a department].

within the DAP: agitation, propaganda, and the press.¹⁴ The latter's tasks included for example managing and supervising the work of the press and the radio, helping the editorial offices' party organizations, and regularly coordinating the Information Office.¹⁵ Press control was gradually be transferred to the party apparatus, reducing the role of the Information Office.¹⁶ At the end of December 1957, a fourth, so-called theoretical, subdivision was set up with the task was to advance the ideological work of the party.¹⁷

The other departments carried out their activities mainly based on the received instructions from the DAP, during which, they took care of the implementation and operative preparation of press and other party decisions. Their tasks included organizing the public and confidential briefings, forwarding requests and suggestions regarding the administration of the press to the DAP, and mailing decisions to the "page owners". They were required to conduct regular evaluations of the work of certain specific papers, and compile and transmit mood reports as information for their political superiors. In addition, the material conditions for the operation of the electronic and written press were ensured.¹⁸

In the operation of the state organizational system, the Council of Ministers could make decisions regarding the press and the media. Issues related to press administration and newspaper formation were regulated by government decree until 1986.¹⁹ However, the day-to-day activities related to the press were carried out by the

¹⁴ KLEIN, Tamás: *Sajtószabadság és demokrácia [Freedom of press and democracy]*. Budapest, 2020, Gondolat Kiadó – Dialóg Campus, p. 60.

¹⁵ MNL OL 288. f. 7/13. ó. E. Javaslat a KB Agit. Prop. Osztálya feladatkörének és státusz helyzetének meghatározására [Proposal from KB Agit. Prop. To determine the responsibilities and status of your department].

¹⁶ CSEH, Gergő Bendegúz – KALMÁR, Melinda – PÓR, Edit (eds.): *Zárt, bizalmas, számozott. Tájékoztatáspolitikai és cenzúra 1956–1963 [Closed, confidential, numbered. Information policy and censorship 1956–1963]*. Budapest, 1999, Osiris Kiadó, p. 221.

¹⁷ MNL OL 288. f. 8/82. ó. E. Röpszavazás a párttörténeti elméleti munkaközösség és az Agit. Prop. Osztályon létrehozandó elméleti csoport tagjairól [Referendum on the party history theoretical working community and the Agit. Prop. About the members of the theoretical group to be created in the department].

¹⁸ CSEH – KALMÁR – PÓR, *op. cit.*, p. 222.

¹⁹ KLEIN, *op. cit.*, pp. 67–68.

Information Office, which was directly subordinated to its institution, under the supervision of Gyula Kállai, one of the Vice-Presidents of the Council of Ministers. As a result, the most important information bodies (e. g. the Hungarian Radio), although indirectly, belonged to the Government.²⁰

The Information Office was established²¹ by the Imre Nagy government in 1954, but it was dissolved by András Hegedűs in May 1955. In December 1956, based on the decision of the Management Commission of 23 November,²² it was re-established, and initially, the reorganization and management of the press was initially primarily the responsibility of this entity. The question could arise why the Kádár-leadership decided to restore an institution that was established by former PM Imre Nagy. Initially, they thought that this move could act as a “political gesture” and – learning from the mistakes of the Rákosi-era – wanted to push the party into the background, at least at first, this was the idea.²³ The Head of the Information Office held the rank of minister and the office of government spokesman.²⁴ Kádár commissioned István Szirmai to fill this position, who tried to put the press at the service of the political leadership, in cooperation with the authorities and following its instructions.²⁵

Based on the 25/1956. (XII. 19.) Government decree, the task of the Office was on one hand to organize the state’s information work; therefore, it was necessary to ensure “*the regular briefings, smooth work, and participation in significant events of the press*”.²⁶ In addition, the Office made available to the press the statutes, the statutory decrees and the resolutions of the Presidential Council, and also the government’s decrees and resolutions. It was also responsible for carrying out press policing tasks,

²⁰ TAKÁCS, 2012, *op. cit.*, pp. 99–100.

²¹ MNL OL XIX-A-24-b 54. d. Tájékoztatási Hivatal Iratanyaga [Information Office’s File].

²² MNL OL 288. f. 5/4. ő. E. Javaslat a Minisztertanács Tájékoztatási és Sajtó Irodájának megszervezésére [Proposal for the organization of the Information and Press Office of the Council of Ministers].

²³ CSEH – KALMÁR – PÓR, *op. cit.*, p. 221.

²⁴ This did not happen until 1958, when the government and foreign affairs spokespersons merged, as a result of which the government spokesperson became the head of the Information Office. See: MNL OL 288. f. 5/62. ő. E. Személyi javaslatok [Personal suggestions].)

²⁵ CSEH – KALMÁR – PÓR, *op. cit.*, p. 217., 221.

²⁶ 25/1956. (XII. 19.) Korm. Határozat a Kormány Tájékoztatási Hivatalának megszervezéséről [Government decree on the organization of the Government Information Office].

such as the withdrawal and involvement of newspaper licenses, licensing the import and distribution of foreign press products, providing paper supply. In addition to all this, it gave professional guidance to *“the press policing and publishing activities of the administrative department of the executive committee of the capital city and all county, county status councils”*.²⁷ Initially, the following bodies were also under its supervision: Hungarian Radio, Hungarian Telegraph Office, National Association of Hungarian Journalists, Sanatorium Association of Hungarian Journalists, newspaper publishing companies.²⁸

The press group set up within the DAP in 1957 had already predicted an increase of the party's influence and power aspirations in press control. Subsequently, the role and power of the Information Office also decreased, and management was transferred to the DAP. This was also evident in the fact that János Kádár initiated the dismissal²⁹ of István Szirmai and his transfer to the head of the DAP. However, the adoption of the motion – due to the unpopularity of Szirmai – did not go smoothly.³⁰ Under the 1012/1960 (VI. 7.) Government decision, the supervision³¹ of the Hungarian Radio and Television and the Hungarian Telegraph Office was removed from the competence of the Office, by which the reduction of its relevance was officially recognized.³² Its leader was no longer given the rank of a minister, but only a deputy minister and was also released of his duties as government spokesman.³³ The role of the Office gradually decreased towards the end of the 1960's. In fact, its task was limited to serve the DAP, perform administrative and operational tasks related to press management. Meanwhile, its only department, the press police's – headed by Mrs. Kádár – task was

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ MNL OL 288. f. 5/62. ő. E. Személyi javaslatok [Personal suggestions].

³⁰ TAKÁCS, 2012, *op. cit.*, p. 101.; CSEH – KALMÁR – PÓR, *op. cit.*, p. 221.

³¹ A Magyar Forradalmi Munkás-Paraszt Kormány 1.012/1960. (VI. 7.) számú határozata a Kormány Tájékoztatási Hivataláról. 4. pont [The Hungarian Revolutionary Workers and Peasants Government 1.012 / 1960. (VI. 7.) on the Government Information Office. Point 4]

³² TAKÁCS, 2012, *op. cit.*, p. 101.

³³ MNL OL 288. f. 5/162. ő. e. Javaslat a Tájékoztatási Hivatal jellegének és feladatkörének módosítására [Proposal to change the nature and tasks of the Information Office]

to check and authorize foreign newspapers, increased its responsibilities and authority, as it was promoted to the departmental rank.³⁴

During this period, some ministries and national competence bodies felt that in addition to the operation of the Information Office, they also needed to maintain their own press department, which could facilitate contact with the press and perform related tasks. Their tasks were mainly limited to organizing press conferences and checking articles concerning their bodies.³⁵

3. Censorship

One of the most characteristic features of the era is the “invisible” censorship, the form of operation, which is more difficult to grasp and present, as on the one hand no specific legal provisions can be found about it, and on the other hand the party’s office was able to filter out unwanted documents. Although there was no official censorship office, based on the statements of journalists and editors, and the records of editors-in-chief meetings, it can be seen that in some way the authorities prevented them from communicating negative but real facts regarding the party. However, there were also braver journalists who tried to report on “more delicate” topics, but due to multiple screening mechanisms, they were not always successful. I would like to present the operation of censorship primarily from the narratives and statements of the journalists of the period, which came to light mainly during the period of easing or after the change of regime. However, these opinions should be treated with caution, as they are dependent on the political views of the person concerned whether he or she acknowledged that the party, although covertly, interfered with the life of the press. Consequently, there were also those who stated that there were no restrictions.

³⁴ CSEH – KALMÁR – PÓR, *op. cit.*, p. 222.

³⁵ TAKÁCS, 2012, *op. cit.*, p. 107.

The operation of censorship in the Kádár-system cannot be considered a novel phenomenon in Hungarian history. It was also experienced in the years following the fall of the War of Independence in 1848,³⁶ in the period of the Hungarian Soviet Republic, in the first months of the Friedrich government, during the far-right government after the German occupation, and also during the Arrow Cross regime. From the year of the turnaround in 1949, Rákosi's leadership gradually introduced it as well.³⁷

It is also necessary to mention that during these periods freedom of the press was restricted to varying degrees. In the official sense, we can only talk about censorship during the years of the counter-revolutionary system, exactly until 1921. It was typical for the time, that in addition to a few sentences, even several lines were removed from the newspaper, which was then published in this form.³⁸ Throughout, those in power provided themselves with the means to control the operation of the press. As a result, freedom of the press could be exercised only to a very limited extent,³⁹ according to a socialist interpretation, of which self-censorship and post-censorship were also seen as a natural corollary.⁴⁰

The principle of the undivided management and control of the party could prevail in relation to the press and the media in several ways and, of course, through the joint work of several bodies. The responsibilities of the given body were fixed by the decisions of the party. The regulations prescribed technical and administrative tasks. For a long time, however, customary law prevailed, according to which it was considered natural that the right to decide and overrule ultimately belonged to the

³⁶ 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. https://doi.org/10.1163/9789004417359_004

³⁷ VÁSÁRHELYI, Miklós: A Kádár-rendszer tájékoztatási politikája – A cenzúra visszaállítása 1956 után. [Information policy of the Kádár regime – Restoration of censorship after 1956.] In: VALUCH, Tibor (ed.): *Hatalom és társadalom a XX. Századi magyar történelemben [Power and society in the XX. Century Hungarian history]*. Budapest, 1995, 1956-os Intézet, Osiris Kiadó, p. 467.

³⁸ TAKÁCS, 2012, *op. cit.*, p. 150.

³⁹ PAÁL, Vince (ed.): *Magyar sajtószabadság és -szabályozás 1914–1989 [Hungarian press freedom and regulation 1914–1989]*. Budapest, 2013, Médiatudományi Intézet, p. 6.

⁴⁰ CSEH – KALMÁR – PÓR, *op. cit.*, p. 223.

party.⁴¹ The tasks related to party papers fell under the direct responsibility of the press departments of the leading bodies and apparatus of the Magyar Szocialista Munkáspárt (Hungarian Socialist Workers' Party, MSZMP), while in the case of individual organizations (e. g. trade unions) the tasks were carried out with the involvement of the Information Office and newspaper owners. In addition, local party organizations and district party committees also played an important role in overseeing the work of the editorial offices.⁴² Resource managers also assisted in the control of major dailies and weeklies, but their work did not always prove effective based on the records.⁴³

There was no official censorship office during the leadership of either the MDP or the MSZMP. However, nothing could appear in the press or media without the party's trusted functionaries checking it before it appeared.⁴⁴

4. Relationship of „trust”, subsequent criticism, and responsibility

The preconditions for one of János Kádár's "great" ideas – that the responsibility should be shifted to the editors⁴⁵ – was the existence of a "confidential relationship". They tried to build this mainly through editorial meetings, where "confidential" information and decisions were shared with those present, and the editors were provided with

⁴¹ *Ibid.*, p. 222-223.; TAKÁCS 2012., *op. cit.*, p. 128.

⁴² CSEH – KALMÁR – PÓR, *op. cit.*, p. 223.

⁴³ HU BFL XXXV.1.a.4. 32. ő. E. (1958. aug. 18.); HU BFL XXXV.1.a.4. 38. ő. E. (1958. nov. 10.); HU BFL XXXV.1.a.4. 80. ő. E. (1960. júl. 4.); HU BFL XXXV.1.a.4. 117. ő. E. (1961. dec. 22.)

⁴⁴ HORVÁTH, Attila: A cenzúra működési mechanizmusa Magyarországon a szovjet típusú diktatúra időszakában. [The mechanism of operation of censorship in Hungary during the Soviet-type dictatorship]. In: PAÁL, Vince (ed.): *Magyar sajtószabadság és -szabályozás 1914–1989 [Hungarian press freedom and regulation 1914–1989]*. Budapest, 2013b, Médiatudományi Intézet, p. 80.

⁴⁵ MNL OL 288. f. 7/13. ő. E. Jegyzőkönyv az MSZMP KB Titkárságának 1957. szeptember 7-i üléséről [Minutes of the meeting of the Secretariat of the Central Committee of the Hungarian Socialist People's Party on September 7, 1957].

instructions for their work (e. g. on which topics it is early or forbidden to write). Beyond these, they were sure to emphasize the mistakes made.⁴⁶

This type of system was first described by the decision of the Political Committee of 21st January 1958 on the situation and tasks of the press. According to it, *"The most important method of party management of the press is to regularly inform the heads and staff of editorial offices. The press can only politicize well if editorial leaders and staff are thoroughly familiar with the party's policies and decisions."*⁴⁷ As a result, it required the DAP to *"regularly inform editorial heads of party decisions"* and to *"regularly evaluate the work of the papers"*,⁴⁸ due to the latter requirement, the tasks of those working here included "scanning" (post-censorship). Their comments also had to be communicated to the leaders of the papers and to the leaders of the mass organizations or higher state bodies. The first secretary of the CC had to convene the heads of the editorial offices every six months, the competent secretary every three months, and the heads of the DAP every month, and draw their attention to possible problems. In addition, the first secretary of the CC had to meet with the leaders of the press and radio at least once a quarter of a year to provide them with comprehensive information about the party's policies.⁴⁹

In reality, the provisions were not fully enforced, as the editors-in-chief meetings were not held regularly. Therefore, other means were sometimes used to grab the attention of the press. Sometimes Kádár issued warnings and made requests to journalists at the session of the Parliament. For example, on 28th January 1958, he addressed them with these words: *"We ask journalists to act more responsibly. There is always a little bit of error with their data, they are inaccurate, sometimes they wade into*

⁴⁶ TAKÁCS, 2012, *op. cit.*, p. 129.

⁴⁷ CSEH – KALMÁR – PÓR, *op. cit.*, p. 225.

⁴⁸ *Ibid.*

⁴⁹ VASS – SÁGVÁRI, *op. cit.*, p. 166.

people's honour without some real reason or basis for it. We ask them to respect their own vocation at least as much as we do."⁵⁰

In addition to the DAP and the CC secretaries, the decision also imposed obligations on the Information Office. It had to inform the press and radio leaders about the meetings of the Council of Ministers, the Presidential Council, and the parliamentary committees. It also had to ensure that the leaders of ministries and mass organizations provided information to the press about their work. It had to organize press conferences for foreign delegations.⁵¹

However, these meetings' happenings were not always known to the public. The journalists could only report on the topics that the Hungarian Telegraph Office sent to their editorial offices after the approval of the Information Office. To increase trust, information that fell into the category of "unauthorized" news was also shared with those present.⁵²

However, in addition to prior briefings, there were often "telephone instructions" that could serve multiple purposes. Occasionally, a particular journalist was warned in advance that his article could not appear in any way or mention certain things, but they could even make a telephone call in retrospect in which the editor-in-chief was held accountable for the content of the licensed newspaper.⁵³ However, there were efforts to reduce the number of these warnings. Géza Naményi, President of the Information Office, said this at a meeting of editors-in-chief in 1959: *"We often think about whether our comrades don't call our phone calls completely redundant, it's such obvious and natural things. However, in this endeavour, we are reminded of the serious mistake that*

⁵⁰ Kádár János felszólalása az Országgyűlés 44. ülésnapján (1958. jan. 28.). [Speech by János Kádár on the 44th day of the National Assembly (January 28, 1958).] *Országgyűlési Napló [Parliamentary Journal]*, 1953. II. kötet, p. 2317.

⁵¹ VASS – SÁGVÁRI, *op. cit.*, p. 166.

⁵² PÓR, Edit: A kádári tájékoztatáspolitikai (1956–1962) [Kádár's information policy (1956–1962)] *Kritika [Critique]*, No. 2, 1997, p. 41.

⁵³ HEGEDŰS, István: Sajtó és irányítás a Kádár-korszak végén [Press and control at the end of the Kádár era]. *Médiakutató [Media researcher]*, 2001, no. 2, pp. 51-54.

the editors of the paper 'Hétfői Hírek (Monday News)' made last time."⁵⁴ In this case, the paper did not commemorate the death of an important comrade, György Bölöni.

These inquiries were primarily the responsibility of the editor, the essence of which is summarized most by the statement made by János Kádár in September 1957.⁵⁵ Learning from the mistakes made in the press management of the Rákosi-era, pre-censorship was abolished, and a system of self-censorship and post-censorship mixture was built instead.⁵⁶ Summarizing these, Kádár stated: *"Exclusive party leadership in the daily affairs of the press has so far been negative and has led to... a person with less judgment, less literacy instructing a person with greater literacy and a person with a better understanding of the issue. This may have changed a bit already, but it was from these instructions that overachievements came out, even in the personal cult. It must be organized somehow: it has to be a working system, which includes general management, raising awareness, but it is definitely he who tells you how. If the instruction you receive is not carried out, then in 1 month we can say: you see what you did, you were left to yourself, what you write and how you solve your task. This way we can ensure that he is responsible for the page. (...) Of course, I don't want to swear by the freedom of the press here, but party leadership must prevail elsewhere."*⁵⁷

One of the roughest tools of post-censorship was the banning and crushing of the completed publication. This could have happened if politically significant interests had been jeopardized. In reality, this was not a common phenomenon, and only occurred in a small number of journals.⁵⁸ The magazines intended for publication were strictly and continuously checked by the party. One of the most interesting examples

⁵⁴ MNL OL XIX-A-24-b 10. d. Az 1959. szeptember 18-i főszerkesztői értekezlet anyaga [Proceedings of the Editor-in-Chief Meeting of 18 September 1959].

⁵⁵ MNL OL 288. f. 7/13. ó. e. Jegyzőkönyv az MSZMP KB Titkárságának 1957. szeptember 7-i üléséről [Minutes of the meeting of the Secretariat of the Central Committee of the Hungarian Socialist People's Party on September 7, 1957].

⁵⁶ CSEH – KALMÁR – PÓR, *op. cit.*, pp. 223–224.

⁵⁷ MNL OL 288. f. 7/13. ó. e. Jegyzőkönyv az MSZMP KB Titkárságának 1957. szeptember 7-i üléséről [Minutes of the meeting of the Secretariat of the Central Committee of the Hungarian Socialist People's Party on September 7, 1957].

⁵⁸ TAKÁCS, *op. cit.*, p. 148.; HEGEDŰS, *op. cit.*, p. 53.

of this was the June 1958 conviction of Imre Nagy and others,⁵⁹ which was delivered by the members of the Political Committee, and after this, they closed the editorials and printing houses, and every step of printing was observed.⁶⁰ However, this system could not be considered fully adequate either, as journalists sometimes managed to “circumvent” using appropriate tactical tools, and as the number of newspapers progressed, the inspection apparatus was unable to pay attention to every detail.

5. The prior censorship – the types of self-censorship and its circumvention

Although the prior censorship has been abolished, it still appears in a specific way. This could be observed in the activities of the Hungarian Telegraph Office – which, as one of the largest news providers in the Hungarian press – provided only a part of the received information to the editorial offices. Confidential publications were also sent to them, but they could not be quoted from. This mechanism ensured that sensitive topics were avoided or possibly communicated in the appropriate format.⁶¹

On another note, holding the editors individually and retrospectively responsible laid the groundwork for the development of self-censorship. Management has sought to offset this significant burden on editors by interfering with confidential information.⁶² The self-censorship⁶³ developed mainly because A.) an article that had been rejected many times by the editor-in-chief, or B.) because of the process in the journalist to stay within the limits set by the political leadership.⁶⁴ Restricted journalists

⁵⁹ *Népszabadság [People's freedom]*, No. 142, 1958, p. 3.

⁶⁰ HORVÁTH, *op. cit.*, p. 93.

⁶¹ PÓR, *op. cit.*, p. 41.; HEGEDŰS, *op. cit.*, p. 50.; TAKÁCS, 2012, *op. cit.*, p. 155.; *Barcs Sándor-interjú. Készítette Kubinyi Ferenc 1987-ben [Interview with Sándor Barcs. Created by Ferenc Kubinyi in 1987]*. 1956-os Intézet Oral History Archívuma [Oral History Archive of the 1956 Institute]. 1987, no. 81., p. 185.

⁶² TAKÁCS, 2012, *op. cit.*, p. 158.

⁶³ GOSZTONYI, Gergely: A cenzúra tipizálása a politikai cenzúra rövid történetének tükrében [Typification of censorship in the light of a brief history of political censorship]. *Médiakutató [Media researcher]*. 2022, no. 1. (forthcoming)

⁶⁴ TAKÁCS, Róbert: Sajtóirányítás és újságírói öncenzúra az 1980-as években [Press governance and journalistic self-censorship in the 1980s]. *Médiakutató [Media researcher]*. 2005, no. 1, p. 61., 64.

had to choose how they imagine their future. Many decided to leave their profession or emigrate to Western-Europe. Those who ultimately stayed, acknowledging their options, sought to remain true to themselves and, under the circumstances, to do journalism as their integrity still allowed.⁶⁵ The limits of self-censorship could change constantly due to political interests and the aspirations of journalists. However, due to this unpredictability and the specificity of the system, a “gray zone” remained throughout, in which the boundaries of the communication were not clarified.⁶⁶

Most journalists have tried to provide adequate information throughout, but due to political expectations, they have had limited opportunities to do so. Self-censorship could manifest itself in several forms, but it most often occurred in avoiding certain topics and silencing opinions. One of the main reasons for this was that, apart from general things (e.g. the revolution of 1956), it was never possible to know exactly what was taboo. It was considered more appropriate to listen than to form an untrue opinion on a political topic.⁶⁷

Another form of appearance was “packaging,” in which journalists sought to fine-tune their statements, so in addition to possible negative criticism, to include positive criticism. This type of technique may have manifested itself in several ways, in which circumvention of censorship can be found at the same time. In the case of “between the lines” writing, they were worded ambiguously, symbolically, and mainly in a literary style. However, in order to understand the messages in this way, the reader had to have an extremely high degree of political awareness and background information, so what the author had to say could not always reach a wider audience. Another typical method of placing the “red tail”, which usually took place at the end of the text. Its function was to protect an article that might be “more delicate” through

⁶⁵ Pethő Tibor-interjú. Készítette Murányi Gábor 1989-ben [Interview with Tibor Pethő. Created by Gábor Murányi in 1989]. 1956-os Intézet Oral History Archívuma [Oral History Archive of the 1956 Institute]. 1989, 189. sz., p. 372.

⁶⁶ HELLER, Mária – NÉMEDI, Dénes – RÉNYI, Ágnes: A magyar nyilvánosság szerkezetváltozásai a Kádár-rendszerben [Structural changes of the Hungarian public in the Kádár system]. In: SOMLAI, Péter (ed.): *Értékrendek és társadalmi-kulturális változások [Values and socio-cultural changes]*. Budapest, 1992, ELTE Szociológiai Intézet, pp. 112–113.

⁶⁷ TAKÁCS, 2012, *op. cit.*, p. 163.; TAKÁCS, 2005, *op. cit.*, p. 64.

the connection between the content of the text and the socialist ideology.⁶⁸ A special way of self-censorship was when the news appeared in other foreign newspapers and journalists referred to it. Employees of the Finnish press called this method a “ping pong technique” that was favoured during the Cold War.⁶⁹

Last but not least, self-censorship can be found in the editing. One case is when, instead of a statement, the journalist merely communicates facts, and then drawing the conclusion is left to the reader. On the other hand, the editors also tried to get a sufficient amount of “bolder” writings within a single issue, as press supervisors also looked at the overall impact of articles published within a single paper. On the part of the more experienced editors, it was typical to wait for inter-party leave, which made it easier for the staff of the inspection body to avoid their attention about their work. Thus, “bolder” and “more delicate” writings were published mainly in the August and September issues.⁷⁰

If the editors-in-chief also sympathised with the party’s ideological views, the journalists working there were forced to employ tactics if they wanted to publish a more critical piece of writing. In such cases, the article was only submitted immediately before sheet closure, which made it easier to “slip through”. Another trick was to wait out the rotating deputy editors-in-chief who were more likely to allow the article to be published because of their political views.⁷¹

Political leadership was aware that while self-censorship worked to some extent, journalists could not be completely silenced. Despite all this, there were ideas and efforts to discipline them more or to filter the manuscripts that were printed more carefully. The previously cited Géza Naményi also stated in a note in 1963 the need for certain administrative actions: “... *it is extremely important, because, at least, there would*

⁶⁸ TAKÁCS, 2012, *op. cit.*, pp. 163–164.; RÁCZKEVI, Ágnes: Mesekomunizmus. Egy ünnep a Magyar Rádió 1947-1953 közötti gyermekműsoraiban [Fairy communism. A holiday in the children's programs of the Hungarian Radio between 1947-1953]. *Médiakutató [Media researcher]*. 2002, no. 6, pp. 46–47.

⁶⁹ TAKÁCS, 2005, *op. cit.*, p. 67.

⁷⁰ VÖRÖS, László: *Szigorúan ellenőrzött mondatok [Strictly controlled sentences]*. Szeged, 2004, Tiszatáj Alapítvány, p. 60.

⁷¹ HEGEDŰS, *op. cit.*, pp. 56–57.

not be a plethora of copies of writings that misinform readers and a large number of radio subscribers, and even wrongly influence the public! Yet: this does not change the thoughts and views in the minds of those who have written the listed erroneous articles and will obviously continue to write (or will write) in the future, but 'self-censorship' will not allow it to appear. 'Self-censorship' can be very dangerous anyway, and we could get 'on the other side of the horse' again."⁷²

There is no legal censorship in this era, but it is clear from the above that the Communist power tried to exercise the widest possible control over the operation of the press, with the help of its organization and the editors-in-chief, who can be described as trustworthy. The existence of censorship was a natural corollary of the work of journalists and editors, which was already embedded in their thinking. The Hungarian-Yugoslav writer, Danilo Kiš described this kind of phenomenon and self-control as follows: *"For the self-censor – is the writer's twin, a certain counterpart who leans over his head, reads his text in 'statu nascendi', and warns him not to get lost ideologically. And this alter ego of censorship cannot be permeated, like God, sees everything and knows everything, because it sprouted there, germinated there in our own brainworms, fears, and phantasmagories."⁷³*

6. Summary

The press control of the Kádár-era is extremely difficult to present in a realistic way, as one of the peculiarities of this period was that the will of the party must prevail, regardless of the individual legal provisions. The initial ideas also changed constantly, as well as the structure of the organizational system and the responsibilities of the bodies. The Communist power tried to maintain the appearance of a "freer" operation

⁷² MNL OL XIX-A-24-b III/468/TÜK/63. Naményi Géza feljegyzése Darvasi Istvánnak a sajtóban tapasztalható nem kívánatos jelenségekről [Géza Naményi's note to István Darvasi on undesirable phenomena in the press].

⁷³ Kiš, Danilo: Cenzúra / öncenzúra [Censorship / self-censorship]. In.: Kiš, Danilo: *Kételyek kora [Age of doubt]*. Pozsony-Újvidék, 1994, Kalligram-Fórum Kiadó, p. 133.

of the press with editorial responsibility, but most of the journalist were aware of being controlled in the same way as during the former leadership of Rákosi, however by other means.

In my opinion, the political leadership was aware that if they could keep the press under control, it could be a major “weapon” that could easily manipulate people and shape the public opinion to their advantage. Through a propaganda campaign launched in the press, the opinions of the “ordinary” people could have been easily manipulated in a news-isolated country. Of course, in a dictatorship, one cannot talk about real freedom of press. This right of this freedom could only prevail in the socialist approach, which implemented censorship⁷⁴ as a natural corollary.

⁷⁴ GOSZTONYI, Gergely: „Agyamban kopasz cenzor ül”, avagy a politikai cenzúra története Magyarországon napjainkig [„A bald censor sits in my brain”, or the history of political censorship in Hungary up to the present day]. In: MENYHÁRD, Attila – VARGA, István (szerk.): *350 éves az Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Kara 2. kötet, A jubileumi év konferenciasorozatának tanulmányai [350 years of the Faculty of Law and Political Sciences of Eötvös Loránd University Volume 2, Studies of the conference series of the jubilee year]*. ELTE Eötvös Kiadó, Budapest, 2019, pp. 989–997.

Josipa JERABEK: Croatian Constitution of 1990, Constitutional Acts of 1991 and International Recognition of the Republic of Croatia

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1. Introduction

After the cold war division on eastern and western block, the world was facing the process of gradual disintegration of communistic regimes in 1980s and 1990s. At the same time, European Community (EC) was on the path of becoming a stronger integration and Croatia was on the way of using its rights and becoming an independent state. In fact, Croatia was facing a brutal aggression launched from Serbia in cooperation with the Yugoslav National Army (YNA) that, despite the lack of any legally or reasonable ground, wanted to establish borders of Great Serbia and in the same time prevent Croatia from becoming an independent state. During 1990s, Croatia suffered severe damages but political and constitutional acts ensured establishment of sovereign, independent and internationally recognized state.

2. Socialist Federal Republic of Yugoslavia

Socialist Federal Republic of Yugoslavia (Yugoslavia, SFRY) was a multinational state with federal structure led by the authoritarian communist leader Josip Broz Tito who was also the leader of the only allowed political party called the Communist Party of Yugoslavia. Federation constituted six states: Slovenia, Croatia, Serbia, Bosnia and

Herzegovina, Montenegro, Macedonia, and two autonomous provinces Vojvodina and Kosovo. Disadvantages in political and ethnical structure were visible for a long time, especially when the national movements in 1970s became stronger showing the failure of utopian idea of Yugoslavian brotherhood and unity. Because of appeared crises, at 1974 the authorities adopted the Constitution of SFRY that have weakened influence of the federal authorities, led to de-etatization, decentralization and gave the republics the right to self-determination that in 1990s enabled republics to exit the Federation and gain independence.¹

3. Changes in Croatia

3.1. The elections and amendments in 1990

The first multiparty elections in Croatia were held in April and May of 1990. Croatian Democratic Union (Hrvatska demokratska zajednica), led by the future Croatian president Franjo Tuđman, was the party that won the elections. On 30th May 1990, the Parliament of Socialist Republic of Croatia (SRC) was constituted and Franjo Tuđman was elected in Parliament as the president of the Presidency of SRC. On 25th July Parliament adopted the constitutional amendments and from that moment the name of the state was Republic of Croatia. The amendments abolished ideological symbols and names, abolished the Presidency and introduced the function of the President of

¹ 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 modern times]. Zagreb, 2012, Pravni fakultet Sveučilišta u Zagrebu, p. 323., 333., 341.; IBLER, Vladimir: Pravo naroda na samoodređenje i zloupotreba tog prava [The right of the people to self-determination and the abuse of that right]. *Politička misao*. 1992, vol. 29., no. 2, pp. 67–73.; TOMAC, Zdravko: Jugoslavenski federalizam [Yugoslav federalism]. *Politička misao*. 1986, vol. 23., no. 3, pp. 4–14.; Silber, Laura – Little, Alan: *Smrt Jugoslavije* [Death of Yugoslavia]. Opatija, 1996, Otokar Krešovani, p. 8.; CUPEK-HAMILL, Mirjana: *Konferencija o miru u Jugoslaviji i raspad jugoslavenske federacije (1991–1992)* [Conference on Peace in Yugoslavia and the Disintegration of the Yugoslav Federation (1991–1992)]. Zagreb, 2008, Leykam international, p. 33.; RUDOLF, Davorin: *Stvaranje hrvatske države 1991.: ministarska sjećanja* [The Creation of the Croatian State in 1991: Ministerial Memories]. Split, 2016, Književni krug, p. 59.; BANAC, Ivo: *Historiography of Countries of Eastern Europe: Yugoslavia*. Oxford, 1992, Oxford University Press, pp. 1087–1088.

Republic instead, introduced a term minister and a government, and declared that all forms of ownership are equal and equally protected.

3.2. The Christmas Constitution

At the end of 1990 Slovenia and Croatia adopted their own republican constitutions, whereby Slovenia set a six-month deadline within which republics have to agree on future regulation of the state. Instead, the Croatian Constitution of 22nd December 1990 did not explicitly set transitional period, but determined that „Croatia remains the part of SRFY until a new agreement or until the Croatian Parliament decides otherwise“² Later on, because of lack of political will from the Serbian side and unclear Bosnian and Macedonian political stand, it was impossible to reach confederal agreement. Therefore, Croatia and Slovenia adopted a Resolution on the Acceptance of the Procedure for the Disintegration of the SFRY and on the Possible Association to the Alliance of Sovereign Republics. That Resolution set 30th June 1991 as a final date for ending a process of dissociation and association.³

3.3. The referendum and Acts of June 1991

On 19th May 1991, Croatia held a referendum deciding whether Croatia will use its constitutional right and become sovereign state. On the referendum 83,54% citizens participated, and 93,24% of them gave positive answer about leaving the Yugoslavia and establishing a sovereign state.⁴

² Art. 140. Ustava RH, Narodne novine br. 56/1990.; Rezolucija o postupku za razdruženje SFRJ i o mogućem udruživanju u savez suverenih republika, Narodne novine br. 8/1991; Izmjena Ustava XCIX Ustava Republike Slovenije, Uradni list Republike Slovenije (dalje: Uradni list RS), št. 7/1991; Rezolucija o predlogu za sporazumno razdruženje Socialistične federativne republike Jugoslavije, Uradni list RS, št. 7/1991.

³ ČEPULO, *op. cit.*, p. 376.

⁴ „Frankfurter Randschau“ monitored the intensification of conflicts in June and characterized the situation in Croatia as a “Wild west”. HR-HDA-1579., 30 Days in Croatia, The political Scene in Croatia, June 1991.; compare with: MARUŠIĆ, Bartul: Pravo na samoodređenje naroda u svjetlu

On 25th June 1991, the Croatian Parliament adopted the Constitutional decision on sovereignty and independence of Republic Croatia and Declaration on the proclamation of the sovereign and independent Republic of Croatia. On the same day, the Parliament enacted the Charter of rights of Serbs and other nationalities in Croatia, by which Croatia guaranteed the right to respect, self-preservation and cultural autonomy to all minorities.

3.3.1. Constitutional Decision on the sovereignty and independence of Republic of Croatia

Constitutional Decision on the sovereignty and independence of the Republic of Croatia was a historical document passed by the Croatian parliament on 25th June 1991. The decision based on the right to self-determination including the right to dissociation and association with other peoples and states. Other grounds for enacting the Decision were the will expressed on the referendum of 19th May 1991 and the lack of an agreement on future of SFRY. In addition, the Croatian authorities emphasized the fact that the SFRY violated human rights and that it did not act like constitutional and legally regulated state. The Decision of 25th June 1991 declared that Croatia respects equal rights, makes an effort to settle all issues on an equal, democratic and peaceful basis, respects sovereignty and territorial integrity of other states, and is ready to agree with other states on economic, political, defense and other ties. The Decision declared Croatia as a sovereign and independent state that launched a process of dissolution from SFRY as well as the procedure of international recognition.⁵

međunarodnopravnih pitanja i disolucije SFRJ [The right to self-determination of the people in the light of international legal issues and the dissolution of the SFRY]. *Studia Polensia*. 2007, vol. 6., no. 1, p. 72.

⁵ Ustavna odluka suverenosti i samostalnosti Republike Hrvatske, Narodne Novine no. 31/1991; Deklaracija o proglašenju suverene i samostalne Republike Hrvatske, Narodne Novine br. 31/1991; Povelja o pravima Srba i drugih nacionalnosti u Republici Hrvatskoj, Narodne Novine br. 31/1991; more in: VUKAS, Budislav: The Process of the Establishment of the Independence of the Republic Croatia from the Perspective of International Law. *Review of the Croatian History*. 2011, vol. 7., no. 1., p. 17; SMERDEL, Branko: *Ustavno uređenje europske Hrvatske [Constitutional organization of European Croatia]*. Zagreb, 2013, Narodne novine, pp. 260–262.; Temeljna ustavna listina o samostojnosti i neodvisnosti Republike Slovenije, Uradni list RS, št. 1/1991; Odlok o razglasitvi temeljne ustavne listine o samostojnosti i

3.3.2. Declaration on the Proclamation of the Sovereign and Independent Republic of Croatia

On 25th June of 1991, the Croatian Parliament passed the Declaration on the Proclamation of the Sovereign and Independent Republic of Croatia as a document of a political nature that explains proclamation of independence and gives the legal-historical arguments for independence. Declaration determinates the future Croatian attitude towards other republics and includes the possibility of creating a confederation.

4. Summer of 1991

4.1. War in Slovenia

After the proclamation of independence on 25th June 1991, YNA launched an attack on Slovenia. According to the Agreement on friendship, cooperation and mutual recognition that Croatia and Slovenia informally established on 20th January 1990 and formally confirmed on 25th June 1991, Croatia had an obligation to help Slovenia. However, that obligation was not respected because Tuđman realized that attack was nothing but the realization of Serbian-Slovenian alliance. Namely, Slovenia and Serbia had an informal agreement since 24th January 1991 when they arranged the unobstructed Slovenian exit from Yugoslavia.⁶ In fact, the main and only goal of

neodvisnosti Republike Slovenije, Uradni list RS, št. 1/1991; Ustavni amandma k Ustavi Reublike Slovenije, Uradni list RS, št: 1/1991; Odlok o razglasitvi ustavneg zakona za izvedbo temeljne ustavne listine o samostojnosti i neodvisnosti Republike Slovenije, Uradni list RS, št: 1/1991; Ustavni zakon za izvedbo Temeljne ustavne listine o samostojnosti i neodvisnosti Republike Slovenije, Uradni list RS, št. 1/1991; Deklaracija ob neodvisnosti, Uradni list RS, št. 1/1991.

⁶ GUŠTIN, Damjan: Slovenija, saveznica Hrvatske tijekom razlaza s jugoslavenskom državom (od „nenačelne koalicije“ do raspada vojnog saveza 1989–1991) [Slovenia, an ally of Croatia during the break-

aggression were Croatian territories and that 10-days war in Slovenia was just a game for the public during which Slovenia supposed to be released from Yugoslavia and Croatia supposed to be dragged into a conflict with discrediting it in the eyes of international community.⁷

4.2. Internationalization of crisis

Internationalization of a crisis was seen as only possible solution in accordance with the international and European public law.⁸ Except the embargo on imports of weapon in Croatia, EC send the Observer mission and a delegation called Ministerial troika formed of previous, current, and future representative of the EC Presidency. One of its tasks was to ensure the acceptance of three-month moratorium on implementation of decisions on independence of 25th June 1991.⁹ Accordingly draft of the agreement that Troika already had as a proposed solution, any kind of intervention of YNA would automatically cause international recognition of Croatia and Slovenia. In that way, EC

up with the Yugoslav state (from an "unprincipled coalition" to the break-up of the 1989-1991 military alliance]. *Časopis za suvremenu povijest*. 2008, vol. 4., no. 1., 2008., pp. 95–98.

⁷ ŠEKŠ, Vladimir: *1991 – moja sjećanja na stvaranje Hrvatske i Domovinski rat [1991 – my memories of the creation of Croatia and the Homeland War]*. Zagreb, 2015, Večernji list, p. 106.; COHEN, Leonard J.: *Broken Bonds: the Disintegration of Yugoslavia*. San Francisco, 1993, Westview Press, p. 226; Tomac, Z., *The struggle for the Croatian State*, Profikon - Zagreb, 1993, p. 87; ZIMMERMAN, Warren: *Izvori jedne katastrofe [Sources of a catastrophe]*. Zagreb, 1997, Globus, pp. 174–176; compare with: NAZOR, Ante: *Velikosrpska agresija na Hrvatsku 1990 – ih (Republika Hrvatska i Domovinski rat: pregled političkih i vojnih događaja 1990., 1991. – 1995./1998.) [Greater Serbia aggression against Croatia in the 1990s (The Republic Croatia and the Homeland War: Overview of political and military developments 1990, 1991 – 1995/1998)]*. Zagreb, 2011, Hrvatski memorijalno-dokumentacijski centar Domovinskog rata, p. 111; MANOLIĆ, Josip: *Politika i domovina: moja borba za suverenu i socijalnu Hrvatsku [Politics and Homeland: My Struggle for a Sovereign and Social Croatia]*. Zagreb, 2005, Golden Marketing – Tehnička knjiga, p. 162.

⁸ BEKIĆ, Andrea: London i Bonn - dva pola politike Europske zajednice prema priznanju Republike Hrvatske 1991. godine [London and Bonn - two poles of European Community policy according to the recognition of the Republic of Croatia in 1991]. *Časopis za suvremenu povijest*. 2010, vol. 42., no. 2., p. 340.; Despite the awareness of the crisis, violation of human rights and military interventions, European Parliament unequivocally supported the unity of Yugoslavia considering that delimitation of the population was impossible. HR-HDA-1741., f. 95, Europski parlament o situaciji u Jugoslaviji, 22. 3. 1991.

⁹ Austrian Foreign Minister had a similar proposal, see in: MOCK, Alois: *Dossier Balkan i Hrvatska: Ratna agresija u bivšoj Jugoslaviji - perspektive za budućnost [Dossier Balkans and Croatia: War Aggression in the Former Yugoslavia - Perspectives for the Future]*. Zagreb, 1998, Hrvatska Sveučilišna Naklada: Hrvatski institut za povijest, p. 68.; LIBAL, Michael: *Njemačka politika i jugoslavenska kriza 1991-1992 [German Politics and the Yugoslav Crisis 1991-1992]*. Zagreb, 2004, Golden Marketing – Tehnička knjiga, 2004., pp. 32–33.

would really have an impact on solving a crisis and could exercise its powers, but Troika offered a proposal that was postponing independence and set continuation of negotiations about the new organization of the state.¹⁰

4.3. Brioni declaration of 7 July 1991

At 7th July of 1991 Ministerial Troika held a meeting on Croatian islands Brioni with representatives of republics, Presidency of SFRY, YNA, and Federal executive council. They adopted Directions for the monitoring mission in Yugoslavia and Join declaration of EC Troika and the Parties directly concerned with the Yugoslav Crisis (Brioni Agreement).

The Brioni Agreement supposed to be a mechanism for stopping the war in Slovenia showing the power of EC. At the end, it really announced Slovenian independence. On the other hand, it did not ensured certain future for Croatia, which accepted the Brioni agreement with hope that during the moratorium the world will realize impossibility of survival of Yugoslavia.¹¹

4.4. War in Croatia

Only day after signing the Brioni agreement, Yugoslav general Kadijević requested a general voluntary mobilization. YNA and Serbia acted completely opposite of the expected way. In fact, they did not respect regulations and commitments, have blocked

¹⁰ POFUK, Lujica – MIŠKULIN, Ivica: Europsko vijeće mudraca i okvir optimalne ravnoteže: korijeni, donošenje i posljedice Brijunske deklaracije [European Council of Sages and the framework for optimal balance: roots, adoption and consequences of the Brijuni Declaration]. *Pilar*. 2014, vol. 9., no. 17–18., p. 53.

¹¹ NOBILO, Mario: *Hrvatski feniks, Dipomatski procesi iza zatvorenih vrata 1990–1997* [Croatian Phoenix, Diplomatic Processes Behind Closed Doors 1990–1997]. Zagreb, 2000, Nakladni zavod Globus, p. 115; GRANIĆ, Mate: *Diplomatska oluja* [Diplomatic storm]. Zagreb, 2019, Večernji list, p. 18; On the problem of stereotypes about Croatia and the spread of Serbian propaganda during independence see more in: SKOKO, Božo: *Medijska slika Hrvatske 1991. u europskoj javnosti - uloge propagande, stereotipa i odnosa s javnošću* [Media image of Croatia in 1991 in the European public - the role of propaganda, stereotypes and public relations]. In: CVIKIĆ, Sandra – ŽEBEC ŠILJ, Ivana – BENDRA, Ivan (eds.): *Domovinska (i europska) sigurnost: kriza sigurnosti i politike manipuliranja suverenitetom* [Homeland (and European) security: security crisis and sovereignty manipulation policies]. Zagreb, 2017, Institut društvenih znanosti Ivo Pilar, Zagreb, pp. 25–38.

the work of the Presidency, attacks on Croatia were even more often and paramilitary and parapolice units of local Serbian inhabitants were openly supported.¹²

From the end of August and during the September, Croatia was involved in undeclared war in which YNA was mostly the main attacker. Until the end of August, Croatia lost control on the huge amount of territories from which the Croatian population was expelled.¹³

Pictures of casualties and damages caused by aggression on Croatia started breaking an irrational myth about equalization of Croatian and Serbian guilt for the war as well as Serbian defence of fascism. EC finally realized the truth about Milošević and his intentions and there was anymore no doubt that Serbia did not want to establish peace but had intention to establish boundaries of a Great Serbia.¹⁴

4.5. Carrington conference

Conference was a conciliation procedure and one of the mechanisms in accordance with the international law with a goal to find a peaceful solution for the crisis. The Conference established arbitration commission also known as Badinter commission. It declared that it will not accept violent and one-sided changes of borders, that the

¹² <https://daniponosa.hrt.hr/dani-ponosa/51/8-srpnja-1991-potpisana-brijunska-deklaracija> [Access on January 10, 2022].

¹³ HR-HDA-1741, f. 96, Press statement by ambassador Henry Wijnaendts after his visit to eastern Slavonia after the Declaration on Yugoslavia, 17. 8. 1991.; HR-HDA-1741., f. 95, CSCE news release: Helsinki commission leaders seek CSCE Peacekeeping Force greater Support for Individual Republics, 29. 8. 1991.; Due to a lack of political consensus and public confirmation, WEU has not planned to take action until the EC explicitly requested.; *Srebrenica, a Safe Area: Reconstruction, Background, Consequences and Analyses of the Fall of a Safe Area*. Amsterdam, 2002, Netherlands Institut voor Oorlogsdocumentatie, p. 251.; Yougoslavie La bataille de l'autoroute Belgrade-Zagreb La Croatie bientôt coupée en deux [Yugoslavia The Battle of the Belgrade-Zagreb Motorway Croatia soon cut in two]. *Le Monde*, 10 Sep 1991, https://www.lemonde.fr/archives/article/1991/09/10/yougoslavie-la-bataille-de-l-autoroute-belgrade-zagreb-la-croatie-bientot-coupee-en-deux_4040142_1819218.html [Access on January 10, 2022].

¹⁴ HR-HDA-1579., k. 13, 30 Days in Croatia, Croatia and the World, August 1991.; WINLAND, Daphne: *We Are Now a Nation: Croats between 'Home and Homeland*. Toronto – Buffalo – London, 2014, University of Toronto Press, pp. 55–56; Apel za spas Dubrovnika profesora njemačkih sveučilišta [An appeal for the salvation of Dubrovnik by a professor at a German university]. *Politička misao*. 1991, vol. 28., no. 4., pp. 72–73.

principles of the Paris Charter for a new Europe had to be respected and that stopping the war was an aim of the Conference.¹⁵

Intelligence service of EC concluded that Carrington conference was farce and failure that was useful only to Serbian forces that have been using the Conference for ensuring the time for expansionism on Croatia. Great Britain and France were opposing to help or to recognize Croatia and were refusing to impose economic sanctions on Serbia so they were hold accountable for the silent support for the Serbian attacks.¹⁶

5. Declaration of the independence and international recognition

On the last day of moratorium, on 7th October 1991, YNA aircrafts rocketed Banski dvori, the part of the Upper city of Zagreb that presents Croatian political center, with an intention to carry out an assassination attack on Tuđman, Mesić and Marković. The main aim was to prevent Croatia from declaring independence and to disable remains of Yugoslavian institutions in the same time, but politicians avoided the attack by leaving the building just few minutes before.¹⁷ The moratorium have expired at 8th October 1991, the day when the Croatian Parliament adopted the Decision on the termination of all state legal relations of the Republic of Croatia and other republics and provinces. In that way, Croatia gave up the legitimacy and legacy to all organs of the SFRY and terminated all state and legal ties based on which it formed the former SFRY with other republics and provinces. Croatia did not recognize any legal act of federation organ as valid, but did recognize independence and sovereignty of other republics of former SFRY. Croatia declared a will, based on the principle of the reciprocity, about establishing, maintaining and developing friendly, political, economic, cultural and other relations with the states it is not in the armed conflict.

¹⁵ Statement on the occasion of the ceremonial opening of the Conference on Yugoslavia. *EPC Bulletin*, 1991, vol. 256., p. 392.

¹⁶ HR-HDA-1741., f. 65, Executive Intelligence Review: Recognize Croatia and Slovenia, 19. 9. 1991.

¹⁷ GRANIĆ, *op. cit.* pp. 21–22.; NOBILO, *op. cit.* p. 116.

Apart of that, as a sovereign and independent state, Croatia declared recognition of all fundamental rights and rights of national minorities mentioned in the General declaration of UN, Final Helsinki act, documents of KESS, and Paris Charter for a new Europe as part of European integrational processes. In addition, Croatia declared the continuation of a procedure for determination of mutual rights and obligations in relation to former federation and other republics of the former SFRY. On the same day, the Croatian Parliament adopted the Conclusions of armed aggression on the Republic of Croatia that clearly shows that Croatia *de facto* and *de iure* was in a state of war because of the aggression of the Republic of Serbia and YNA.¹⁸

Some of the states have recognized Croatia at the end of 1991, but republics of EC have recognized it at 15th January 1992, the day that the authorities consider as a Day of international recognition of the Republic Croatia. After that, most of other states of the world followed the example and the process of international recognition ended at 22nd May 1992 when Croatia had become an UN member.¹⁹

¹⁸ Narodne novine, br. 53/1991.

¹⁹ Statement on the recognition of Yugoslav republics. *EPC Bulletin*. 1992, vol. 8., p. 71.

Andrija BRAJKO – Jurica SKULIBER: Relationship between legislative and regulatory jurisdiction in the Republic of Croatia (1991–1995)

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1. Introduction

In this paper it will be presented an overview of the relationship between the Government of the Republic of Croatia, the Croatian Parliament and the President of the Republic of Croatia, specifically with regard to enactment of decrees based on the legislative delegation, laws and decrees with legal force in the period from 1991 to 1995. The main goal is to put it in context of the circumstances that marked the said period. Additionally, it is important to point out that a comprehensive quantitative and qualitative analysis and comparison of regulatory and legislative activities from that period does not exist in the current scientific literature so that in a certain way represents the greatest value of this research.

2. The Croatian Constitution of 1990 and Creation of an Institutional Framework

The Croatian Constitution of 1990 "set the table" for the the Government, the President and the Parliament to act parallel in the enactment of laws (the Parliament) and the decrees with the force of law (the President and the Government). In two articles (Article 88 and Article 101) Constitution provided the possibility for the Government to enact decrees based on legislative delegation, and for President to enact decrees with legal

force.¹ For the better understanding of the role of the President, it is important to say that in that time semi-presidential system of government was in force, which gave him a lot more powers compared to Croatian President today, in the parliamentary system.²

Article 88

"The House of Representatives may, for a maximum period of one year, authorize the Government of the Republic of Croatia to regulate certain issues within its scope, except those relating to the elaboration of constitutionally established freedoms and rights of man and citizen, national rights, electoral system, organization, scope and the way state bodies and local self-government work.

Regulations based on legal authority cannot act retroactively.

Decrees passed on the basis of legal authority shall cease to be valid upon the expiration of a period of one year from the date of the obtained authority, unless the House of Representatives decides otherwise."

As one might see in the translated text of Article 88, it says that The House of Representatives may authorize the Government of the Republic of Croatia to regulate certain issues within its scope, but it's limited to a maximum period of one year and also there are certain issues that cannot be regulated by them. Those issues are relating to regulation of constitutionally established freedoms and rights of man and citizen, national rights, electoral system, organization, scope and the way state bodies and local self-government work. It is also stated that Regulations based on legal authority cannot act retroactively and that Decrees passed on the basis of legal authority shall cease to be valid upon the expiration of a period of one year from the date of the obtained authority, unless the House of Representatives decides otherwise. Which means that certain confirmation of the Croatian Parliament is needed. As you can see decrees based on legislative delegation do not depend on a state of emergency, but it is logical

¹ The Croatian Constitution 1990 NN 56/90, Article 88 and Article 101.

² BAČIĆ, Arsen: Odredbe o stanju nužnosti u Ustavu Republike Hrvatske [Provisions on the state of necessity in the Constitution of the Republic of Croatia]. *Zbornik radova Pravnog fakulteta u Splitu*. 1997, vol. 34., p. 54.

to assume they are surely being enacted more in those situations and you will later see that our research proved that hypothesis.

Article 101

"The President of the Republic issues decrees with legal force and takes extraordinary measures in the event of a state of war or an imminent threat to the independence and unity of the Republic, or when state authorities are prevented from regularly performing constitutional duties. As long as the President of the Republic exercises these powers, the House of Representatives cannot be dissolved.

The President of the Republic will submit decrees with legal force for confirmation to the House of Representatives of the Parliament of the Republic of Croatia as soon as the Parliament can meet."

Article 101 is about decrees with legal force of the President of Croatia. The Constitution says that the President of the Republic issues decrees with the force of law and takes extraordinary measures in the event of war or an imminent threat to the independence and unity of the Republic, or when state authorities are prevented from regularly performing constitutional duties. As long as the President of the Republic exercises these powers, the House of Representatives cannot be dissolved. And the second paragraph contains obligation for the confirmation by the House of Representatives of the Parliament of the Republic of Croatia as soon as the Parliament can meet. Unlike the decrees based on legislative delegation, that we talked about before, decrees with legal force are limited only to a state of emergency which means they can only be enacted in the 3 mentioned situations: the event of war, imminent threat to the independence and unity of the Republic or when state authorities are prevented from regularly performing constitutional duties. And that is why during the early 90s (The Homeland War period) besides laws and decrees based on legislative

delegation we also have decrees with a legal force and therefore we have 3 subjects during that time enacting regulations with the force of law.

3. Quantitative and qualitative analysis of normative legal acts in the period from 1991 to 1995

In this part we will represent a comprehensive representation of the legislative activities of all three actors of government during the first five years of the Croatian state, but also the analysis of the content of these acts, their consequences and intercourse of these three actors. Furthermore, we will present the Laws of the Croatian Parliament, Decrees Based on Legislative Delegation of the Croatian Government, as well as Decrees with Legal Force of the President of Croatia. For the purpose of qualitative analysis, we divided the regulations into five categories - internal affairs, economy and finance, justice, health, science, culture and education and international affairs. The division itself that does not find its roots in the literature or legislation, but is the result of our deliberation as the simplest and yet comprehensively display the content of the acts. Also, division is necessary for a better understanding of the theme itself, and later studying the interconnections.

3.1. Laws of the Croatian parliament

It is logical to start with the Croatian Parliament as the first, since it is the main and natural legislator. This stems that its legislative activity was the greatest, which can be seen from the table.

	Internal affairs	Economy and finance	Health, science, culture, education and sport	Justice	International affairs
1991.	51	60	27	9	42
1992.	49	39	20	21	1
1993.	43	64	20	14	3
1994.	27	50	18	6	0
1995.	30	43	14	8	0

Table 1. Laws of Croatian parliament (1991-1995)

The conducted analysis shows that the Parliament of the Republic of Croatia enacted the largest number of laws, in accordance with the expectations, in 1991.³ Thereafter, the number of laws declined every year, with the exception of 1993. The parliament's activity was most dominant in the field of economy and finance and internal affairs, which is understandable due to the nature and volume of these categories. The quantity of the law enacted in observed period, clearly shows a balanced dynamic. What, in terms of the Parliament, however, is surprising is the fact that the Croatian War of Independence did not have a significant negative impact on the number of laws made, i.e. did not decrease and prevented the law of the law.⁴ In conclusion, since the legislative activity of the Parliament is expected the key problems arise from the actions other two actors originally do not have legislative authority.

³ We expected that The Parliament would enact largest number of laws exactly in the first year of our independence because there were many issues that needed to be regulated, especially in the Internal Affairs and Justice.

⁴ It would be logical to assume that the Croatian War of Independence would affect the enactment of laws in a much more larger way.

3.2. Decrees based on legislative delegation of the Croatian Government

Croatia was in a situation where the action of the Government, as a homogeneous and yet numerous smaller body, was important for quick-making decisions. This surely significantly affected the volume of the regulations passed based on the legislative delegation.

	Internal affairs	Economy and finance	Health, science, culture, education and sport	Justice	International affairs
1991.	8	21	3	0	4
1992.	17	71	12	4	5
1993.	15	65	4	0	3
1994.	1	66	2	0	2
1995.	5	48	2	0	3

Table 2. Decrees based on legislative delegation of the Croatian Government (1991-1995)

Unlike the Parliament where the first two categories have been emphasized, here is the domination contained exclusively in the category of economy and finance. This data is not surprising because this category falls into the description of government powers. Yet this number is truly stunning and even goes beyond the activities of the Parliament in the area. In addition, from the data to conclude that the government was most active in the period from 1992 to 1994.⁵ As we have said, this kind of dynamics

⁵ That is because in the 1991, during the formation of the Republic, issues that were regulated first were naturally under the jurisdiction of the Croatian Parliament.

can be justified by the fact of the war but should not be forgotten that the institute of the legislative delegation was newly introduced, which resulted with the fact that the mechanism of controlling such government action was also lacking.

3.3. Decrees with legal force of the President of Croatia

The last, but no less important actor is the president of the Republic of Croatia. He based his actions on the constitution and on the semi-presidential system as well. His legislative activity was relevant just in 1991 and 1992.

	Internal affairs	Economy and finance	Health, science, culture, education and sport	Justice	International affairs
1991.	13	5	5	5	0
1992.	3	0	3	4	0

Table 3. Decrees with legal force of the President of Croatia (1991-1995)

Despite the fact that the number of its regulations is significantly lower than the Government and the Parliament, their qualitative diversity is almost equal to other two actors. The only category without president’s interference was the category of international relations. After all, the key problem of President’s presence in the legislative activity is the justification of adoption of the decrees with legal force and his position in the system of government.

4. Conclusion

By studying the interrelationship of three actors, it is clear that all three actors acted in parallel, which represents a disbalance.⁶ Although the Government and the President, as had been shown, had legislative powers, it is important to emphasize that the acts of the Government and the President are still so-called "other regulations".

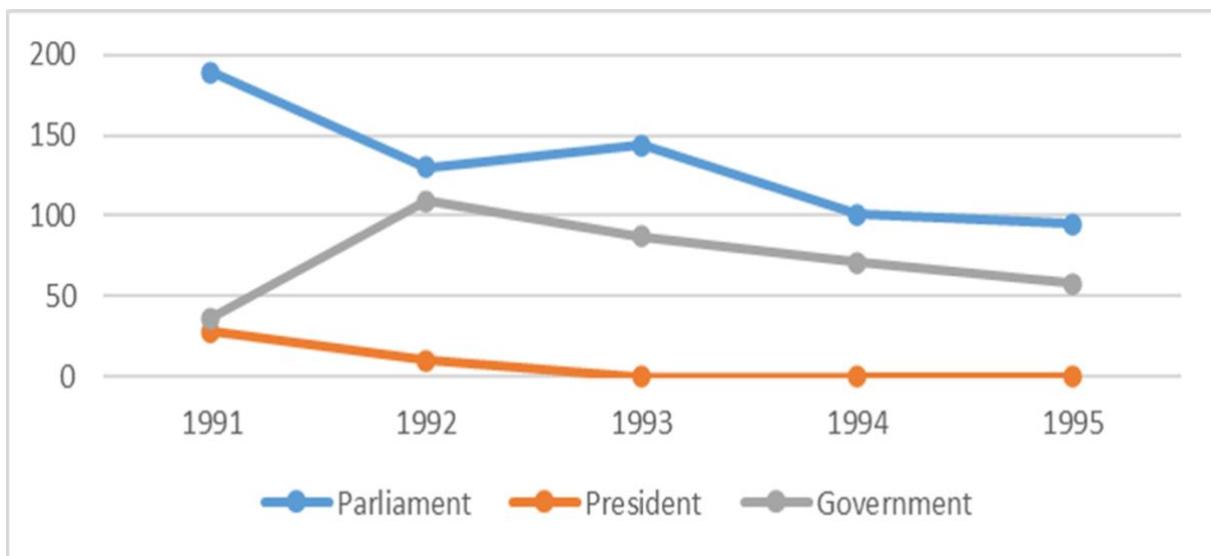


Figure 1. Dynamic of enacting Decrees with Legal Force

Namely, as a legislative body initially did not pass government's acts, and since they had to be subjected to the confirmation of the Parliament, these acts were time limited. In addition, the constitutional provisions of the extraordinary state of emergency limited the decrees with legal force of the President as well.⁷ The formulation "other regulations" confirms our thesis that the two primary executive

⁶ This results in an impression that the Government and the President are equally present in the legislative activity as the Parliament.

⁷ KOSNICA, Ivan: Uredbe iz nužde predsjednika RH iz 1991–1992 [Emergency decrees of the President of the Republic of Croatia from 1991–1992]. *Zbornik Pravnog fakulteta u Zagrebu*. 2011, vol. 61., no. 1., p. 177.

bodies had taken their legislative powers too extensively.⁸ In addition, the presence and domination of a governing political party throughout the observed period, also could form insecurity and mistrust.⁹ However, it is important to note that the process of creating a state is a very systematic and complex process that is almost impossible to grow without mistakes, and the fact of war, certainly did not make it easier. Nevertheless, all the mistakes that inevitably occurred in this process, although affected the later development of the state, in our opinion can serve as a valuable experience for improvement in the organization of the Republic of Croatia.

⁸ ARLOVIĆ, Mato: Ocjena ustavnosti i zakonitosti drugih propisa [Assessment of the constitutionality and legality of other regulations]. *Pravni vjesnik: časopis za pravne i društvene znanosti Pravnog fakulteta Sveučilišta J.J. Strossmayera u Osijeku*. 2014, vol. 30., no. 3–4., p. 19.

⁹ SOBERG, Marius: Hrvatska nakon 1989. godine: HDZ i politika tranzicije [Croatia after 1989: HDZ and the policy of transition]. In: RAMET, Sabrina P. – MATIĆ, Davorka (eds.): *Demokratska tranzicija u Hrvatskoj – transformacija vrijednosti, obrazovanje, mediji* [Democratic transition in Croatia – transformation of values, education, media]. Zagreb, 2006, Alinea, p. 39.