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**Report on the International Scientific Conference.
The Case Law of the European Court of Human
Rights and the Court of Justice of the European
Union with regard to the East-Central European
Countries organised within the framework of the
Central European Professors' Network**

The scientific conference “The Case Law of the European Court of Human Rights and the Court of Justice of the European Union with regard to the East-Central European Countries” was held at the Constitutional Court of Hungary on 30 November 2021 as the fourth part of the closing events of the Central European Professors' Network.³ The event also hosted a book launch where the members of the “Interpretation of Fundamental Rights in Europe” research group presented their book titled “Constitutional Reasoning and Constitutional Interpretation” which summarised the results of their work.

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³ See Ferenc Mádl Institute of Comparative Law, Central European Professors' Network [Online]. Available at: <http://mfi.gov.hu/en/central-european-professors-network/> (accessed 6 January 2022).

The event was opened by the moderator of the plenary session, Professor Dr. Erzsébet Sándor-Szalay (University of Pécs), Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of national minorities, who briefly greeted the participants.

Then the moderator gave the floor to Dr. Tamás Sulyok (University of Szeged), the President of Constitutional Court of Hungary, who, in his inaugural speech emphasised that the legal systems of European countries are independent *sui generis* legal systems, which display significant differences, mainly in the field of judicial systems and jurisdiction. In his view, these differences cannot be settled by legal tools. Instead, these conflicts need a political settlement, which is based on the principle of mutual respect. In President Sulyok's view the conference was a great opportunity for participants to get acquainted with the distinctive features of Central and Eastern European (CEE) countries' legal systems and to promote mutual understanding.

The next inaugural speech was presented by Professor Dr. János Ede Szilágyi (University of Miskolc), Head of the Ferenc Mádl Institute of Comparative Law,⁴ who first expressed his gratitude for President Sulyok for providing such a beautiful venue to hold the conference. Professor Szilágyi greeted the members of the Professors' Network, who appeared personally, as well as the audience. Then he presented the achievements of the Central European Professors' Network.

The Central European Professors' Network started its international comparative law research activities on 1 January 2021, under the coordination of the Ferenc Mádl Institute of Comparative Law. The Professors' Network, with active participation of 34 research fellows from seven countries (the Czech Republic, Croatia, Poland, Hungary, Serbia, Slovakia, and Slovenia), organises comprehensive international scientific activities in four research groups. The main frame issues are: "Interpretation of fundamental rights in Europe"; "Family protection in law"; "Freedom of conscience and religion in Europe"; and "The impact of digital platforms and social media on freedom of expression and pluralism". The primary aim of the initiative is to create and organise a Central European professional network through closer partnership. As Dr. Judit Varga, Minister of Justice of Hungary pointed out, this initiative also aims at "[...] establishing a professional community and knowledge base that can present a credible

⁴ See Ferenc Mádl Institute of Comparative Law [Online]. Available at: <http://mfi.gov.hu/en/> (accessed 6 January 2022).

national, conservative, Christian-democratic alternative to the liberal and federalist direction”. The partial and final results of the cooperation, which will run until 31 December 2021, will be made available by each research team on various professional platforms, including conferences, and in the form of publications (scientific articles and books summarising research results). Professor Szilágyi presented what the Central European Professors’ Network had achieved so far, including four books in English. The first book is titled “The Impact of Digital Platforms and Social Media on the Freedom of Expression and Pluralism”⁵. It summarises the results of the research group with the same name and was edited by Marcin Wielec. The second book was edited by Paweł Sobczyk and titled “Religious Symbols in the Public Sphere”⁶. This book summarises the work of the “Freedom of conscience and religion in Europe” research group. The third book summarises the work of the “Family protection in law” working group. The book was edited by Prof. Dr. Tímea Barzó and Prof. Dr. Barnabás Lenkovics and titled “Family Protection from a Legal Perspective”⁷. The fourth book is edited by Prof. Dr. Zoltán Tóth J. and summarises the work of the “Interpretation of fundamental rights in Europe” working group. The book is titled “Constitutional Reasoning and Constitutional Interpretation”⁸.

The abovementioned books and the scientific work contained in them were introduced to the wider public at 56 dissemination events until 26 November 2021. However, the Central European Professors’ Network project came to an end on the 31 December 2021, and the cooperation continues within an institutionalised framework called the “Central European Academy”. In order to publish further work, a new publishing house, “Central European Academic Publishing” was established, which is specialised in publishing scientific books and journals in English. Last but not least, Professor Szilágyi talked about the “Central European Junior Programme” which provides the opportunity for young, entrant lawyers. The programme is built on two pillars, namely, doctoral studies at the Ferenc

⁵ Available at: <http://real.mtak.hu/134572/1/The%20Impact%20of%20Digital%20Platforms%20and%20Social%20Media%20-%20Full%20book.pdf> (accessed 6 January 2022).

⁶ Available at: <http://real.mtak.hu/134569/1/Religious%20Symbols%20in%20the%20Public%20Sphere%20-%20Full%20book.pdf> (accessed 6 January 2022).

⁷ Available at: <http://real.mtak.hu/134525/1/FamilyProtectionFromaLegalPerspective.pdf> (accessed 6 January 2022).

⁸ Available at: <http://real.mtak.hu/134538/7/Constitutional%20Reasoning%20and%20Constitutional%20Interpretation%20-%20Full%20book.pdf> (accessed 6 January 2022).

Deák Doctoral School of Law (University of Miskolc) and an internship at the Ferenc Mádl Institute of Comparative Law.

The next presenter was Professor Dr. Davor Derenčinović (University of Zagreb), a judge of the ECtHR, who started his nine-year long term at the Strasbourg Court on the 2 January 2022. Professor Derenčinović talked about the merits of the book “Constitutional Reasoning and Constitutional Interpretation”. The professor stated that the newly launched book is mainly noteworthy for the scientific results contained in it rather than for its weight, which is also noteworthy. Professor Derenčinović emphasised that people usually come together to achieve things they are not able to achieve alone: starting a family as well as carrying out scientific research are such examples. As he noted, such an excellent scientific book required the close cooperation of members of the professors’ network and a high standard of research work.

Professor Sándor-Szalay, before giving the floor to the next presenter, reflected on the remarks of Professor Derenčinović, namely, that he is not a professor any more, since he was elected as a judge to the ECtHR. Professor Sándor-Szalay replied to this comment with the following: “Once a professor, always a professor”.

The plenary section continued with the presentation of Professor Dr. Zoltán Tóth J. (Károli Gáspár University of the Reformed Church in Hungary) titled “Constitutional Reasoning in Central Europe: Lessons from an Empirical Study on Selected Central European Countries (Common Features and Differences)”, who first introduced the members of the “Interpreting fundamental rights in Europe” research group, by name: Benjamin Flander, Adél Köblös, Piotr Mostowik, Slobodan Orlović, David Sehnálek és Katarína Šmigová. Then Professor Tóth introduced the work of the research group: a 468-page long comparative law book, divided into seven chapters. The book is titled “Constitutional Reasoning and Constitutional Interpretation”. The book is based on noteworthy research: the members of the research group analysed 180 national constitutional court decisions, as well as 180 ECtHR and CJEU decisions, respectively. During the research the members of the research group examined amongst others how often the national constitutional courts refer to academic literature and the conditions of restricting the basic rights.⁹

⁹ Tóth, “Interpretation of Fundamental Rights in Central and Eastern Europe: Methodology and Summary”, . 9-98; See further: Tóth, “The Methods of Statutory Interpretation in the Practice of the High Courts of Hungary”,173-201.

The plenary session was followed by a standing reception. The first panel took place in the early afternoon and was moderated by Professor Dr. András Patyi (University of Public Service, Budapest), the Vice-President of the Curia of Hungary.

The first presenter of the panel was Associate Professor Dr. David Sehnálek (Masaryk University, Brno) whose presentation was titled “Normative Approach to the Interplay between the Czech Constitutional Court and CJEU/ECtHR – Judicial Dialogue or a Dictate?” Dr. Sehnálek examined the attitude of the Constitutional Court of the Czech Republic toward the case-law of the ECtHR and the CJEU, that is to say whether the former accepts the primacy of the latter. He concluded that while the constitutional court of his country almost fully accepts the ECtHR’s primacy, in case of the latter it is still being debated whether the Charter of Fundamental Rights of the European Union is part of the Czech constitutional order or not.¹⁰

The panel continued with the presentation of Associate Professor Dr. Katarína Šmigová (Pan-European University, Bratislava) titled “External Systemic and Comparative Arguments in the Interpretation of the Slovak Constitutional Court”. She acquainted the audience with the arguments of the Constitutional Court of the Slovak Republic, which the court regularly cites in the reasoning of its judgements. As Šmigová pointed out, a distinctive feature of the Slovakian Constitutional Court is that it regularly cites the academic literature in its judgements. No other constitutional court examined by the research group does so.¹¹

The audience could greet Professor Dr. Piotr Mostowik (Jagiellonian University, Kraków) as the last presenter of the second panel. He summarised the results of his research under the title of “Economic Freedoms Versus Protection of Child Rights and Parental Duties: The Issue of Access to Internet Pornography”. In his lecture, Professor Mostowik explained that there is a unique interaction between the Polish constitutional court and the CJEU as well as the ECtHR, and the former applies the interpretative methods of the CJEU and the ECtHR when a case is about establishing the content of controlling standards. Additionally, Professor Mostowik highlighted that applicants before the Polish Constitutional Court often refer to the case-law of the CJEU as well as the ECtHR.¹²

¹⁰ Sehnálek, “Interpretation of Fundamental Rights in the Czech Republic”, 245-299.

¹¹ Šmigová, “Interpretation of Fundamental Rights in Slovakia”, 301-343.

¹² Mostowik, “Interpretation of Fundamental Rights in Poland”, 401-467.

After vivid professional discussions during the coffee break, the third panel of the conference was opened by Associate Professor Dr. András Téglási (University of Public Service, Budapest), Chairman of the National Election Office of Hungary.

In this section, senior research fellow Dr. Adél Köblös (University of Public Service, Budapest), public notary (Budapest) gave a lecture under the title of “ECtHR Judgments in the Decisions of the Hungarian Constitutional Court”. In her presentation Dr. Köblös pointed out the finding of the Hungarian Constitutional Court which established: when the essence of a fundamental right is defined by the Constitution (Fundamental Law) in the same way as by a treaty (International Covenant on Civil and Political Rights, European Convention of Human Rights), the level of protection provided by the Hungarian Constitutional Court shall not be lower than the international standard (see Decision no. 61/2011 (13 July) of the Constitutional Court of Hungary).¹³

The next speaker in the third panel was Professor Dr. Slobodan Orlović (University of Novi Sad) who have his presentation on “The Influence of Attitudes of the ECtHR on the Practice of the Constitutional Court of Serbia”. Professor Orlović not only highlighted the similarities of the ECtHR and the Serbian Constitutional Court (mainly that both courts are prone to analyse former case-law of the ECtHR), but also the differences such as the interpretative methods of the ECtHR being more diverse and permanent than the methods applied by the Serbian Constitutional Court.¹⁴

The very last presenter of the conference, Associate Professor Dr. Benjamin Flander (University of Maribor) gave a lecture titled “‘Constitutional Unconstitutionality’: Constitutional Review of Covid-19 Restrictions in Slovenia”. At the beginning of his presentation, Dr. Flander shared the astonishing fact with his audience that since the outbreak of the COVID-19 pandemic, more than a thousand applications have been filed to the Slovenian Constitutional Court in connection with the unconstitutionality of decree-level decision-making. Therefore, the Slovenian Constitutional Court delivered several decisions in this context, amongst others related to limitations of the freedom of movement and Communicable Diseases Act. Dr. Flander described the latter as a landmark

¹³ Köblös, “Interpretation of Fundamental Rights in Hungary”, 181-243. See also: Sonnevend, Jakab, Csink, “The Constitution as an Instrument of Everyday Party Politics: The Basic Law of Hungary”, 44-123.

¹⁴ Orlović, “Interpretation of Fundamental Rights in Serbia”, 354-399.

decision since it established the unconstitutionality of the challenged provisions (that is, blank authorisation granted by the legislator to the executive branch to regulate matters originally falling within its jurisdiction is unconstitutional).¹⁵

At the end of the conference Professor Szilágyi added his final remarks and a thank you for cooperation and fruitful research. At this point, certificates were also given to participating presenters. Additionally, presenters were invited to join the Central-European Association of Comparative Law, which was set up in 2021 in order to conduct research into comparative law, write papers related to private and public law, as well as European and international law, focusing on the CEE region, and to formulate proposals and opinions for the academic community of CEE, international organisations and public bodies, in particular legislators and law enforcement bodies, with special regard to the promotion and development of the application of certain legal instruments home and abroad.

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¹⁵ Flander, “Interpretation of Fundamental Rights in Slovenia”, 99-179.

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