2012. FEBRUÁR

egyenlítő
MELLÉKLET

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AZ IGAZSÁGÜGYI ALKOTMÁNYOZÁS KRONOLÓGIÁJA

A CHRONOLOGY OF JUDICIAL CONSTITUTIONALIZATION

FROM PAGE 24

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A CHRONOLOGY OF JUDICIAL CONSTITUTIONALIZATION

On June 28, 2010, the National Assembly voted on the creation of the Constitutional Preparatory Committee (hereon referred to as Preparatory Committee). The Committee had its first session on July 20. This was the official start of the process of constitutionalization, an undertaking previously announced by the Prime Minister. The Preparatory Committee accepted the "Fundamental Principles of Hungary's Constitutionalization" concept on December 20, 2010, and it proceeded to introduce it in the National Assembly.[1] The National Assembly conducted the debates relating to the concept in February and March. Coincidentally, the National Assembly voted favorably on a legal package which, in part, dealt with the restructuring of the judiciary and the legal status of the Chief Prosecutor. The new constitution, which in the end – due to a reference to the statutes of the historical constitution – became only a basic law, was accepted by the Parliament on April 18 and signed by the President of the Republic on April 25. The process of judicial constitutionalization was finalized at the end of 2011 by the acceptance of 2/3 majority laws carefully regulating the judiciary.

My goal is the exclusive analysis of the chronology of this constitutionalizing process with regards to its effects on the judiciary. Naturally, this will touch on a few fundamental principles such as the separation of powers or the conceptional question of a brief constitution. If my goal was to only examine the result and not the process of constitutionalization, I could easily skip the evaluation of the concept's debate, because due to the initiative of the larger governing party's parliamentary group's leader, the constitutional concept was degraded to a "background document" for MPs. The thoughts described in this piece, let them be from politicians from either side, were visibly not able to hold their ground during the discussions of the basic law's text. Perhaps I am not wrong if I believe that drawing conclusions from the process of the constitution's creation and the process of judicial constitutionalization is a beneficial exercise. Among other things, it is a prime illustration of the haste and complete lack of fundamental concepts which are characteristics of the entire undertaking.

Let us first look at the concept itself and the parallelly conducted period of constitutional and 2/3 majority law amendments. I will be brief, though I have a very strong and not entirely positive opinion of the ten constitutional amendments accepted during the period of constitutionalization, some of which are completely contradictory to the principles voiced by the governing parties during the preparatory process. Here we can mention the proposals pertaining to the Constitutional Court, the National Electoral Committee, or the media. In this field, however, we have to highlight the parallel constitutionalization affecting judicial and prosecutorial organization.

The process of constitutionalization began when on the very first meeting the Preparatory Commission's president asked the leaders of different branches of powers, professional and civil organizations, and law schools to forward their ideas to the Committee. In addition, anyone could submit their ideas on the Parliament's web page. The heads of different branches of power and professional and advocacy groups – with the exception of one, as was expected – made recommendations in their specific fields. It is surprising to see, that the materials forwarded by universities generally do not elaborate on judicial matters. A concrete proposal is present only in the advice provided by the law school in Miskolc, where the author is urging the establishment of an independent public policy court. Based on this, it is possible to prove the point of view which I espouse as well: there was fundamentally nothing wrong with these chapters. The other recommendations are not even worthy of mentioning. Simply for the sake of illustration: one proposal encouraged to include a 3 month deadline for all matters in the constitution, would have excluded the possibility of appeal, and would have favored the establishment of 5 member juries which could only "make positive or negative decisions". There was one submission filed under "the judiciary" which urged that the judicial branch should provide "not only legal services but justice, and it should not protect criminals".

I. JUDICIARY

1. The Organization of the Judiciary in the Constitutional Concept

a) The Recommendation of the President of the Supreme Court

The President of the Supreme Court forwarded the body's official opinion on constitutionalization at the request of the Preparatory Committee's president.[2] In this opinion, in effect, the president did not make any recommendations for the alteration of constitutional regulations pertaining to courts. According to him, *"the current regulations of judicial organization set forth in the Constitution's 10th chapter are completely in line with the criteria for the rule of law, and they adequately express the unique aspects of judicial power"*. Basically, the document encouraged the further development of *"laws pertaining to judicial organization and management, the legal statuses and salaries of judges and court employees, furthermore, judicial procedures"*. In addition, it also supported the preservation of an independent judiciary, the system of local governance, and a four level judicial body. It recommended the review of the Constitution's order of chapters relating to organs of public power, the reintroduction of the courts' traditional monikers, and the renaming of the National Judiciary Council (hereon referred to as OIT). It advised to expand chapter 10. According to the text, *"it would be justifiable to include certain sections of laws pertaining to the organization and management of courts and the legal statuses of judges due to their significance"*. In this regard, it urged the expansion of fundamental principles, the constitutionalization of regulations relating to immunities for MPs, conflicts of interest in public offices, the OIT's presidential position and the length of the Supreme Court's president's term of office. It also called for the establishment of a practice which prescribes that the Supreme Court's president can only be a judge.

b) Debates in the Preparatory Committee's Working Group for the Judiciary, Constitution, and Rights

The Preparatory Committee began its work in six working groups. Four were led by politicians of the governing parties, while two were led by members of the opposition. The working groups could determine their work schedule independently. The judicial and prosecutorial apparatuses, the Constitutional Court, and the ombudsmen were all under the Working Group for the Judiciary, Constitution, and Rights. As the leader of this working group and the Committee's vice president, I recommended that due to the extremely tight timeframe and the thousands of pages of material sent to the Committee, each parliamentary group should evaluate these materials and introduce the recommendations which they agree with in written form in "parliamentary group opinions" during the working group's first session. After this, we should proceed according to my proposal, and debate and vote on its various elements and on other matters introduced in word or writing by other parliamentary groups. In addition, we should invite the heads of affected organizations and provide them with counseling rights. The working group accepted this proposal with the exception of inviting the leaders. They also accepted another one of my recommendations. This stated that the working group's report should be accepted in a manner in which the document displays all introduced proposals and whether they were supported by all parliamentary groups, the parliamentary majority (2/3), at least two opposition parliamentary groups, or in "other proportions".

For the sake of precision, please allow me to quote the constitutional concept proposal and its brief justification relating to the organization of the judiciary which was put together by me and fellow experts, and according to which the working group voted word for word.[3]

1. The new Constitution provides for the careful regulation of the influences other branches of power can have on the judiciary, that is to say the independence of the judiciary, the principle of the state's monopoly on the judiciary, and the basic requirements for the judiciary's ability to punish.

   i. The independence of the judiciary is one of the cornerstones of the rule of law. Declaring this in the new Constitution is absolutely necessary. The judiciary's ability to punish which enables the state to intervene in the individual's life in this most severe form is justified in its inclusion in the Constitution. Certain fundamental criminal law principles are justified for inclusion in the Constitution.

2. The new Constitution contains the requirements and procedures for appointing judges.

   i. Real guarantees for the organization of the judiciary are provided not by judicial leaders, but rather by the constitutional regulation of the legal statuses of certain judges, since adjudication activities are handled by judges.

3. The independence of judges must be preserved and recorded in the new Constitution.

   i. The inclusion of declarations ensuring the independence of the third branch of power – which are well defined currently as well – is a perspective which must be highlighted.

4. The only way to maintain the adjudication activities of judicial employees who are not judges is through the creation of a clear and complete system of guarantees ensuring their independence.

   i. The current regulation was criticized by both the Supreme Court and the opposition. It is undebatable, that the applicable legislation contains references to the adjudicative independence of secretaries, however not at a sufficient length or in a satisfactory manner. To mention two examples: regarding their statuses, they rely more on the heads of management than appointed judges, and they do not take judicial oaths. On its own the fact that someone other than judges can adjudicate is not a problem, but in this case their situations have to be arranged carefully. However, as a solution, it is advis-

able to support the reference of smaller legal infringements and debates to administrative jurisdiction.

5. The new Constitution regulates the election of the Supreme Court's president (for a term of six years) and the rules guiding the termination of his/her term. The president of the Supreme Court cannot be reelected.

i. Today only the rules of appointment and election are featured in the Constitution. The length of the mandate and the appointment's personal requirements are not, though these are equally important influences on independence as the National Assembly majority necessary is for election. The description of factors which would bar one from fulfilling the office is only a few paragraphs long even in the very detailed Austrian constitution. A similarly detailed rule in order to constitutionally ensure actual neutrality from party politics is a reasonable price. Nothing is as destructive to the independence of an institution as a leader whose concerns revolve around getting reelected. Resolving this direct conflict of interests in these cases is more important than reelecting a good leader which indubitably contributes to institutional continuity.

6. The new Constitution clearly defines the relationship between the president of the Supreme Court and its vice presidents along with its extent and limitations.

i. The text of the applicable Constitution does not define the role of vice presidents, but at the same time it discusses their appointment. The relationship between the leaders of the Supreme Court and their duties can be harmonized with a single decree.

7. The new Constitution redirects authorities over personnel matters pertaining to judges and judicial leaders to a body operating through a judicial majority. The body requires a 2/3 judicial majority, and it must contain members from both the governing parties and the opposition.

i. To ensure judicial independence, the powers over personnel matters which cannot be taken out of the field of judicial self-management must be dealt with separately (such are matters relating to the discipline, eligibility, or appointment of judges). In addition to the already applicable powers of the OIT, by increasing the number of the Council's politician members, the undesirable influence of politics would continue to grow in the decision relating to the statuses of judges. But the situation would not evolve differently with the alteration of the Council's powers, because it is precisely the questions relating to statuses which cannot be transferred from under the Council's authority. Only politicians from the governing parties participate in the OIT's work (the minister responsible for judicial matters and two MPs). It would be advisable to enable the participation of the opposition by allowing one of the MPs to always be from the opposition.

8. The new Constitution leaves the miscellaneous powers related to the management of courts to the judicial organizational law which has to be accepted by a qualified majority of National Assembly members present at the time voting.

i. Even if criticisms of the OIT and the operation of its offices are a bit over-the-top, it is true that since the reform of the judicial body, the organized judicial management developed a parallel infrastructure with government administration. It can allow for a more efficient organization if instead of including judicial management in the new Constitution, this question is handled by an organizational legislation. This same legislation could create the governmental accountability necessary for the institutional operation of the judiciary. It must be made unambiguous through a general rule referring to regulations stating an organizational majority, that on their own, references to the given organ (e.g. a proceeding conducted with the participation of one) are never the basis for the requirements of the qualified majority. Such an interpretation would disable the judiciary and legislation relating to the protection of fundamental rights.

9. The new Constitution decrees the creation of county judicial governments. (e.g. county judiciary councils, district courts of appeals[4])

i. In the event the model in the previous point is introduced, we must pay special attention to the closer institutional relationship between county administrative leaders and the executive branch. Thus, the Constitution must include the duty of creating judicial administrative bodies on the county level. If the judicial bodies receive administrative powers, the establishment of local governments on that level becomes justifiable as well.

10. The system of judicial organizational levels remains intact according to the currently applicable regulation.

i. The abandonment of the current organizational system is not necessary, since those only infer organizational principles. The disproportional distribution of cases can be remedied through regrouping by legislation.

11. The new Constitution should record that the expenses of the judiciary must be provided by a separate chapter in the central budget. Furthermore, this sum of this chapter cannot be smaller than the budgetary indicator's 1% or the net value of previous year's chapter.

i. One of the most important pillars of the judiciary's independence and favorable – even undisturbed – operation is a budget which is not exclusively ensured by the discretionary right of the National Assembly or the government,[5] but the value of which is prescribed in the Constitution. Though to achieve this goal today, the OIT can introduce its own budget, this initiative is in no way binding for the National Assembly. The practices of past years show that this power has very little actual effect.

12. The new Constitution's chapter on the judiciary will exclusively and explicitly include only the fundamental principles and rights related to the judiciary.

i. Though it is a fact, it is also a form-related problem, that the current Constitution regulates fundamental judicial principles in both its judicial chapter

and in the first passages of its fundamental rights chapter. It would be a better solution to express fundamental rights in a clearer manner.

13. Measures limiting personal freedom can only be applied as determined by judicial decisions.

i. Limiting personal freedoms is currently only discussed by the Constitution in cases of criminal procedures, though this could be more significant in the considerably less regulated fields of infringement-related or administrative procedures.

14. The new Constitution explicitly records the public nature of judicial verdicts as a legally defined fundamental principle without exceptions to it.

i. Though the public nature of verdicts is a fundamental principle even today, it has no constitutional basis. Its actual execution is of essential importance for the execution's predictability, while accessibility was halted by the legislation pertaining to the freedom of electronic information or at the higher courts.

15. The new Constitution creates public administration courts, which can practice norm control relating to local governments previously handled by the Constitutional Court.

i. Public administration courts operate in a system similar to the courts for labor matters. The change is mandated by the law pertaining to public administration procedures and special case types conducted in accordance with the extraordinary measures of civil procedures. By reorganizing the Constitutional Court's powers, the authority over local governments would be given to the courts.

Eight of the proposals were supported unanimously, while two were favored by a 2/3 majority. The working groups accepted points 1, 4, 10, 11 (its first sentence) 12, 14, 15, and 7 (except its last half sentence) unanimously, while 2/3 supported the last sentence of the 7th article and point 8. Finally it is worth mentioning recommendations which were supported by a single parliamentary group and were not included in my proposition:

- The new Constitution should decree the separation of the offices of OIT's president and the Supreme Court's president. (LMP's recommendation)
- After the acceptance of the new Constitution, the courts should declare verdicts in "the name of the Holy Crown". (Jobbik's recommendation)
- The new Constitution should order that the politicians of the single party system be removed from leading court positions. (Jobbik's recommendation)
- The regulations relating to the reelection of the Supreme Court should be extended to the presidents of county courts, judicial councils, and the Constitutional Court. (LMP's recommendation)
- The new Constitution should record that the OIT cannot have a member who is a politician. (LMP's recommendation)
- Reinstating the historical names of courts mentioned in the debate. (Jobbik's recommendation)

c) Debates in the Preparatory Committee

The Preparatory Committee discussed the working group's report on November 10, 2010. By this point all three opposition parties left the constitutionalizing process. However, according to the minutes of the meeting, the debate was held in three major areas, and four MPs commented on the agenda's points touching on the judiciary.[6] The topic was brought up one more time, and the governing parties' politicians seemed to agree, that the courts' historical names should be reinstated. The possibility of abolishing the district courts of appeals was also raised again, but the Committee's president calmed the MP speaking by saying this issue could be circumvented by a short constitution and that this question can be addressed later. And now, we have arrived at the most serious question, the question of a shorter, briefer constitution.

The entire time, the governing majority argued for a constitution which would only record the most significant measures and would exclude extraneous regulations. One can agree with this principle, and I believe this legislative direction to be correct. However, it became evident, unfortunately, that behind this are concerns which are not primarily professional or ideological. It is indubitably true, that a "brief constitution" can help circumvent undecided or inconvenient issues on the basis that these can be regulated in electoral, professional, or organizational legislations later on. One of the most absurd ideas related to this area introduced came from the majority leader of the working group, according to whom whether the establishment of a second house would happen according to popular representation or the corporative principle would be a secondary question unfit for inclusion in the Constitution. I would also include here that after the acceptance of the Constitution, the question of existence for district courts of appeals remained open. But we could just as well mention that based on the concept, the Constitution would not have included passages relating to fundamental judicial principles, the length of office of the main judiciary leader, the publicity of verdicts, or whether public administration courts would be a part of the judicial system or not.

Based on the Committee's decision, the Committee's expert composed a concept document which was intended to be final. The concept introduced to Parliament states the following in relation to courts:

- By exercising judicial power, through their activities applying the law, the Constitution, and the rules of constitutional law, the courts protect and sustain constitutional order, they protect the rights of natural persons and other subjects of law, punish the perpetrators of crimes, decide legal disputes. The courts – during the courses of procedures regulated by law – decide in questions of debated or violated rights through a final and legally binding power. In addition to their adjudicative activities and without the hinderance of those, they attend to their other duties as described by law.
- In order to sustain the subjection of public administration to law, public administration courts supervise the legality and effectiveness of its operation and activities. Public administration courts ensure the protection of the rights of local governments,

decide legal debates relating to public administration, and during this process they provide legal security as prescribed by law. They supervise local government decrees and other normative decisions in a manner prescribed by 2/3 majority laws.

- The judges are independent and are only subjugated to the law. Judges cannot be members of a political party and they cannot conduct further political activities. Professional judges are appointed and relieved by the President of the Republic. Judges should only be dismissed from their offices or relocated due to factors regulated by 2/3 majority laws, identical laws shall regulate the guarantees of their legal statuses and independence. It is still necessary for the Constitution to allow for the participation of other persons (non-professional judges, assessors, draftsmen, secretaries) in the judicial process.
- At the top of the judicial organization is the Kuria, which also guarantees legal uniformity. Its president is recommended by the President of the Republic and elected by the National Assembly's 2/3 majority. The constitution must regulate how the public affairs courts fits into the judicial system, and the creation of its leader's appointment.
- The management of the courts is handled by National Judiciary Council [OIT – *trans.*] with the participation of judicial local government bodies. The organization of the courts – including the forum system's breakdown – is determined by a 2/3 majority law.

Above all of this, the concept dedicates a few sentences to the judicial role of public notaries and lawyers.

- Without the hinderance of the right to judicial procedure, a legislation can empower public notaries with judicial tasks. Legislation regulates the legal statuses and roles of lawyers participating in the judicial process.

Reading this, the question of who inspired this text remained unanswered for me. How did the author know that governing party members of the Preparatory Committee will vote favorably on this document despite the fact that, according to committee memos and minutes, it does not reflect their ideas which they expressed during the debates? Several decrees are missing from this text which were unanimously supported during the sessions of the Working Group for the Judiciary, Constitution, and Rights and remained undisputed during later sessions as well. Of course, we could say the text's editor knew something, since the preparatory Committee – at this point, made up of politicians from the governing parties – voted unanimously in favor of his proposition. What is incomprehensible for me – though the supposed reasons for this would not fit the style of a professional discourse – is why the members of the governing party changed their minds in the course a few weeks. The governing majority was represented by serious professionals. Fidesz sent an ex-justice minister who was then-president of the National Assembly's Committee on Constitution, the Judiciary, and Orders of Business (hereon referred to as Constitutional Committee) and who represents a school of thought supported by me for over a decade. KDNP was represented by the vice president of its parliamentary group as the working group's co-leader. For every working group session, I invited heads of departments from the Ministry of Justice and Public Administration and the Office of the President of the Republic. They also did not have dissenting opinions.

d) Debate at the Plenary Sessions

Four persons commented during the constitutional concept's plenary session debate. Three representatives from the governing parties and – due to the fact that the radical right wing party returned to the constitution's debate – one opposition MP. In his expose, the Preparatory Committee's president described the proposal's parts which touch on the judiciary. He argued for the establishment of public administration courts, but – as he stated – he does not make recommendations on how these should fit into the judicial system. He made it known that the proposition leaves the guarantees of judicial independence to 2/3 majority laws, but their solidification must be included in the Constitution. The document wished to regulate judicial levels in 2/3 majority laws, but it recommends their naming to be done according to historical practices. He raised that the new Constitution should not regulate the instrument of mandatory legal unity. Perhaps the most important sentence which is worth quoting is that "[t]*he constitutional ad-hoc preparatory committee does not make a recommendation for the management of the courts"*.[7]

In discord with his fellow parliamentary group member, Gyorgy Rubovszky, the co-leader of the Working Group for the Judiciary, Constitution, and Rights, thought it necessary that the Constitution should list judicial levels. He agreed with the reinstatement of historical monikers. With regards to the management of courts he stated that *"[n]aturally the constitutional preparatory committee was also unanimous in the matter of keeping judicial self-management under the authority of the National Judiciary Council"*.[8]

In his statement, Imre Vas – without providing any sort of commentary or justification – described the concept's proposals for the judiciary. In regards to the restructuring of management, he too stated that *"[a]ccording to the concept, the management of courts should still be handled by the local governmental organs of the National Judiciary Council"*.[9]

The sole opposition orator argued for the historical constitution. According to him, this could similarly ensure judicial independence. At the same time, he thought the constitutional recording of judicial levels important, and he supported the renaming of courts according to historical tradition. Furthermore, he recommended that the courts' budgetary support should be defined in line with the working group's concept, and that the OIT should have an opposition member as well. He expressed support for excluding former single-party politicians from the courts and for the idea that the presidents of county courts should not be appointed by the OIT. He supported the establishment of public administration courts.[10]

It is thus obvious, that the new judicial management model completely restructured according to the Basic Law and through an structural legislation is not the result of the work of the Preparatory Committee, its working groups, and the governing party's delegated expert politicians. They unanimously recommended the retainment of the judicial self-management model. When looking at the chronology of events, it is noticeable that either a model prepared by unknown actors acting behind the backs of these expert politicians was accepted, or that no one knew how judicial management was to be regulated at the time. It is certain, however, that the leadership of the governing party was considering the abolishment of judicial self-supervision at this time, because in our proposals handed in a week after the acceptance of the concept they did not mention the OIT.

2. The Organizational Reform of the Judiciary

Coincidentally with the constitutionalization, the government introduced the legislate proposal relating to the "amendment of certain laws pertaining to the efficient operation of courts and the expediency of legal procedures",[11] part of which dealt with the restructuring of the management of the judiciary and the modification of powers. The proposal saw the greatest amount of alterations in the judicial system since the judicial reform of 1997. At the same time, the government voted for the 1997 model of judicial self-management. It kept the OIT, it only modified regulations relating to its powers and composition. The proposal regulated the OIT's operations in a more detailed manner, it decreed on the maintenance of judicial buildings, the OIT's voting procedures, on the evenly distributed judicial workload, on the appointment of leadership, on the creation of a central service (disciplinary) court, on the amendment of the rules pertaining to the inspection of judges, on the mandatory training of judges, it introduced a competency examination, etc.[12] It must be noted, that the proposal still featured the complete re-regulation of procedures relating to legal uniformity. In the end, a 40 page amendment proposal by the governing party removed this from the text all together.[13] On the judicial reform's 10th anniversary, the OIT decided in favor of the reevaluation of this issue. With the consideration of professional opinions by the Ministry for Justice and Police and three institutions of higher education, the government prepared and introduced the proposal with minor modifications. It contained several provisions which were both awaited and criticized by many. This proposal – though it is out of effect today – is important in the context of constitutionalization because it goes contrary to the stances of the governing parties during the process of constitutionalization in many respects. The other interesting aspect of it relates to "brief constitution". During the preparation of the new Constitution, the Preparatory Committee's president expressly stressed in all formal and informal forums that the Constitution only needs to include the most basic principles, other matters need to be regulated through 2/3 majority laws. At the session of the National Assembly's Constitutional Committee, where the expert body discussed the judicial legislative package, he stated (as an answer to my inquiry) that he considered the legislations before us to be examples of such 2/3 majority laws.[14] Mentioning this is important because based on this, it would have been proper for the government and the proposal's introducer – who shared the Preparatory Committee's president's point of view on the short constitution – to include certain guarantees which were not enclosed in the new Constitution. With regards to the fact that the affected Working Group for the Judiciary, Constitution, and Rights of the Preparatory Committee has already accepted the report, the parliamentary majority's position was known at this point. Despite this, the legislative proposal only featured the OIT's relatively supportable proposal supplemented by the idea that the top management of the judiciary would be expanded through the addition of the minister responsible for the national economy. In addition, the initiative included a suggestion by the Supreme Court's president which stated that certain smaller competencies (tasks related to the economic matters of courts) would be redistributed from under the OIT's authority to that of the president's. I cannot agree with this latter alteration, and not because from my perspective the OIT has to deal with these areas. I can still remember, when as a member of the body, I tried to deepen my understanding of the multi-thousand page initiatives and their addendums (which were provided to ensure informed decision-making and, with some luck, were not distributed on the day of the vote) relating to the mechanical details of the second phase of the City Court of Kiskunhalas' heating system's remodeling. Matters such as these should be expediently removed from under the OIT's jurisdiction. But it's just not a solution to redistribute these tasks to the president. In the Preparatory Committee's working group, we agreed that the overlaps in management must be phased out, and with the exception of decision pertaining to the statuses of judges, the directorial powers must be given to the government. It is completely unnecessary to have hundreds of people in the OIT's offices working on these very same matters, but I have already discussed the details of this issue above. The legal proposition happens to represent a philosophy completely opposite of this. Management remains among the OIT's competencies. Thus, the expansion of the president's powers further deteriorates the situation because – though with regards to the separation of powers, at first sight it is completely irrelevant whether the body or its president decides in these matters – the managerial decisions given to the president now formally exclude the minister responsible for the judiciary. This resulted in the abolishment of governmental accountability which was already minimal. And with the inclusion of the minister responsible for the budget in the body, the 2/3 judicial majority in the OIT came to an end. With respect to the fact that the body's most important function in my opinion – though in a certainly more limited scope after the acceptance of this law – is its capability to make decision with regards to judicial statuses, since these have very real consequences for adjudicative activities (or in other

words, for judicial independence), it is expressly harmful to increase the influence of the executive branch in this field. I am an advocate for communication between the representatives of different branches of power, because they are fundamentally interdependent. But despite what many erroneously think, independence is never the same as the ban of dialogue. However, other branches of power should never have any say in the determination of judicial statuses. Thus, the correct direction of judicial management in my opinion would have been to empower the government with directorial competencies and through this creating the notion of formal governmental accountability and the removal of the minister responsible for the judiciary and the two MPs from the OIT, which would only have been responsible for decision relating to the statuses of judges. The dialogue between the government and the courts does not need to be restricted by a formal framework, because nothing forbids constant communication and coordination between separate branches of power. In addition, several miscellaneous legislations, such the law pertaining to the statuses of MPs, and laws regulating the legislative process contain provisions for this. Here I must note, that our initiative to include an opposition MP, a "gesture of compromise", was handed in because it was obvious from the onset of the constitutionalization process that a proposal favoring the radical restructuring of the management of the judiciary and the OIT would remain without support. We also cannot ignore the notion that with the expansion of the OIT president's authority, another problem arises. Leadership appointments and the repositioning of disciplinary procedures and internal monitoring from an organizational jurisdiction to a presidential jurisdiction could be interpreted positively according to the logic above, since the influence of OIT's politician members is terminated. However, we must not forget that the majority of the OIT's members are elected by the judges themselves. The OIT's president, on the other hand, is elected by the National Assembly.

Thus, even if in an indirect manner, the influence of the other two branches increases significantly in these decisions. Plus, the parliamentary majority becomes more motivated to elect a loyal expert as OIT president. Finally, all of this also results in a situation in which both the Chief Prosecutor's and the Bar Association's president's minimal role ceases to exist in these decisions. And this – if the law would have remained in effect for a longer period of time – would definitely not have been a positive influence on mobility between different legal professions. What is a significant difference between the currently applicable – much criticized – system and the OIT's president's strengthened authority over status-related decisions, is that the later established National Judiciary Authority's (hereon referred to as OBH) president is free to decide in personnel matters, while the OIT's president could only exercise this power if he agreed with the agenda established by the judicial bodies. If he wished to follow a different route, the power to appoint was given back to the Council and became an institutional power once again.[15]

During the course of the five hour parliamentary debate (general and detailed), besides the above described criticism touching upon structure and the different points of view represented by certain parties in the preparatory commission, no other argument was brought up. The opposition agreed on most recommendations, and as such, further detailing is not necessary.[16] The proposal's debate was otherwise heated, but the matters of dispute were related to criminal and public law provisions and did not touch upon regulations of the judiciary.[17] Perhaps it is worth to highlight a criticism voiced during the Constitutional Committee's debate, in which it was stated that the not a single day has passed between the introduction of this lengthy and rather significant legislative proposal and its discussion in the professional committee.

3. Debating the Basic Law

A few days before the National Assembly voted on the constitutional concept (which has been debated for months) an MP from the larger governing party handed in an amendment proposal affecting the rules of the constitutionalization process. The proposal was accepted by the National Assembly. According to this, it is not the government which will introduce the normative text's draft, but even a member of a parliamentary group is able to do this, and the concept could now become just another piece of background material which aides the work of the parliamentary groups.[18] Thus, the competing Fidesz drafts would be introduced to the National Assembly, and from the amalgamation would be born the new Constitution. The political goal was clear: in order to attain legitimacy, the opposition needed to be brought back into the constitutional debate, or at least the governing parties had to win the "moral competition" domestically and abroad. We must note that in their statements, almost all MPs from the governing parties declared that representatives from the opposition abandoned their constituencies by refraining from the Constitution's debate. This was the same reason why the Speaker denied some of the absent MPs' salaries. But I believe that an important outcome would have been achieved if the opposition's assemblymen walk into this trap. In that case, the governing parties could have presented a constitution which was, at least in part, based on a consensus. The real lack of desire for consensus was well illustrated for all opposition MPs in the Preparatory Committee. Number-wise and quantitatively, agreement was visible in the majority of constitutional provisions. No representatives argued for the need to declare basic rights, for courts, for prosecutors, for the National Assembly, for the State Audit Office, for the protection of private property, for the recognition of nationalities, or for a national anthem. To simplify: it would have been possible to copy and paste the 80% of provisions on which there was a consensus from the opposition's recommendations, and the debated 20% would in turn come from the governing parties. In this case, the constitution would still be a single-party constitution regarding its contents, but formally it would be consensual. The two-faced nature of the proposal was also well exemplified by the fact that a single week was available for codification and social consultation for the parliamentary group, as the provisional initiative was accepted

on March 7, 2011 and the deadline for submission was March 15. Because of this, no opposition party handed in a draft for the normative text, and two out of the three parties continued to refrain from the preparatory process. However, it must be highlighted that the opposition did not only refuse to partake due to this factor, but primarily because the complete lack of desire for consensus demonstrated during the preparation process and the parliamentary phase. As it is visible from this study, they submitted their opinions and propositions to the Preparatory Committee. As such, their perspectives and system of values were known. If there would have been a desire to consider them, it would have been possible to do so. Their absence was meant to a symbolic gesture, because the Constitution is not only the most important legislation, but a symbol of normative power.

But let us return to the provisions affecting the judiciary: the constitutional rules for the courts were defined in four phases.

I believe that the problem with the accepted provisions cannot be found in what they include, but what was left out of them. As in the case of the constitutional concept, it is true here as well that those legal principles which were unanimously supported in the particular working groups of the preparatory committee are absent from the text. With the acceptance of the Basic Law – to use a minor hyperbole – there are no further open questions regarding the judiciary. The regulation is extremely shallow, the extent of its depth is not worthy of debate.[19]

The president of the Supreme Court also made a statement during the plenary session of the National Assembly. He tried to stick with the evaluation of the legislative proposal's provisions. In his opinion, *"the proposal does not highlight the role and function of the judicial branch to a sufficient degree".* He objected to the fact that the a significant part of the provisions will only gain meaning through 2/3 majority laws. He criticized the Kuria's activities directed towards legal uniformity and the Basic Law's failure to outline the levels of the judiciary. He recommended that the management of the judiciary should not be defined by the Basic Law, but by 2/3 majority legislation. He expressly supported the model of judicial self-management. He also encouraged the exclusion of Article 28 due to

The Courts

Article 25

1. The courts fulfill judicial roles. The main judicial organ is the Kuria.
2. The courts decide
   a) on criminal law, on legal debates of civil law, in other matters defined by law;
   b) on the legality of public administration provisions;
   c) on the legal incompatibility and destruction of local governmental provisions;
   d) on the territorial local government's failure to adhere to its duty to legislate .
3. esides ensuring the items defined in paragraph (2), the Kuria ensures the legal uniformity of courts, it adjudicates provisions of mandatory legal uniformity for courts.
4. The organization of the judiciary is multileveled. For predetermined categories of cases – especially in the fields of public administration and labor – it is possible to establish separate courts.
5. The judicial organs of local governments cooperate in the management of courts.
6. Law can enable procedures by other organs in certain legal debates.
7. 2/3 majority legislation defines the management and organization of courts, the legal statuses of judges, and the salaries of judges.

Article 26

1. Judges are independent and are only subjugated to law. They cannot be ordered in their adjudicative activities.
2. Professional judges are appointed – as defined by 2/3 majority legislation – by the President of the Republic. A person can be appointed as a judge if he/she is at least 30 years old. With the exception of the Kuria's president, the legal status of judges is valid until they reach the general age of retirement.
3. The president of the Kuria is elected from the judges by the National Assembly on the President of the Republic's suggestion. A 2/3 majority of the National Assembly is necessary for the election of the president of the Kuria.

Article 27

1. The court – unless otherwise prescribed by law – adjudicates in a council.

2. In certain cases defined by law non-professional judges can participate in a manner as prescribed by law.

3. Only a professional judge can act as a singular judge or a president of a council. In certain cases, as prescribed by law, a judicial secretary can act as a singular judge. This person must be subjected to paragraph (1) of Article 26.

Article 28

When applying the law, the courts must primarily interpret the texts of legislations according to their goals and in harmony with the Basic Law. When applying the Basic Law, one must aim to achieve a goal which is morally sound, beneficial to the public, and can completed in an efficient manner.

the belief that methods of interpretation have no place in the Basic Law.[20]

No one reacted to the president's comment that day. We were unable to find out enough information about the future plans for the judiciary later as well. The Basic Law was discussed in nine session days and in over 44 hours by the National Assembly, including the general and the detailed debates and voting. In these 44 hours, besides the Supreme Court's president's 22 minute statement, about fifteen minutes were devoted to the role of courts in the Basic Law. Not a single member of the government uttered a single sentence about it. The representatives devoted significantly more time to the discussion of sports.[21] But let us see who said what about our topic.

According to Gyorgy Rubovszky – whose statements featured about a minute on the judiciary – the government must take on a bigger role in judicial management. What this means exactly, the *"how and what"* of the matter will be revealed to us during the debate of 2/3 majority laws.[22]

Istvan Balsai – who dealt with the topic for two minutes – reacted to the statement by the Supreme Court's president by declaring that Baka should deal with the immense workload of the courts instead of addressing the National Assembly. This proves, he added, that the system of self-supervision is fundamentally flawed.[23]

In his convoluted commentary, Istvan Varga set a 6 minute 18 second record for discussing the judicial branch. He expressed that the abolishment of the system of self-supervision is the correct step to take. In the future, one of the departments of the Justice Ministry will *"relieve the courts from unfitting burdens… it is not necessary for them to deal with such small, 'blah-blah'*[24] *matters, like, how many judicial provisions should be taken to the courts, and the renovation of the building… We will relieve the courts of these duties, they won't have to deal with such degrading stuff…"*.[25]

In a minute and a half, Istvan Vitanyi said that it is not a problem, if the rules relating to the judiciary are not sketched out at the moment, because the details will be outlined by 2/3 majority legislations.[26]

Finally, during the detailed debate Imre Vas took four minutes to explain the introduction of the amendment proposal which decrees why no one under the age of 30 can be appointed as a judge, why the Kuria's president has to be selected from amongst judges, and why the Chief Prosecutor needs to be elected for 9 years.[27]

All statements agreed on one aspect: instead of judicial self-supervision, the managerial duties will be handled by the minister responsible for the judiciary. This is a completely new stance compared to the one taken a month before, when the MPs from the governing parties argued for sustaining the OIT. On the other hand, as we will see, the plethora of possibilities has not yet been exhausted. This provided the governing parties with the opportunity to change their opinion a third time a few months later during the discussion of a new organizational 2/3 majority act, at which point they recommended a structural configuration wholly different from the one outlined in the debates of the Basic Law.

In the final comments made in the name of the initiators, Gergely Gulyas also failed to address the comments of the Supreme Court's president. He treats the judiciary in a single passage which is worth quoting:

"The Basic Draft makes it clear that we have introduced a sufficiently detailed basic law which also includes a regulation for the structure of the state. From this it is obvious, that the previous depths of regulation must be maintained. We think that this draft fulfills that purpose. It fulfills this purpose because on one hand is neither shorter than the previous one, and on the other, the depth of regulation does not reach the level which was characterized by the previous Constitution only when it comes to the judiciary. This is a refutation for the criticism which accuses the parties of the current governing coalition that they intend to 'hide the devil' in miscellaneous regulations."[28]

Well, yes. It is possible to argue about whether this is a refutation or not. But self-admittedly, when it comes to the judiciary, it definitely cannot be considered as one.

4. Amendment Proposal For the Basic Law – Lowering the Retirement Age for Judges

On February 2, 2011, The president of the National Assembly's Constitutional Committee (a member of the governing party and currently a Constitutional Court judge) introduced the so-called "nullity legislative proposal", which voided judicial verdicts based solely on police witnesses in connection with the crowd control activities of 2006.[29] This legislation not only mandates repeating the said legal proceedings, but it also determines their outcomes. On February 16, 2011, the president of the Supreme Court protested the proposal. In his opinion, it violates the judges' freedom of adjudication which is a serious constitutional offense.[30] This was the first instance in which the president voiced criticism openly against the activities of the government and the governing parties. I must add that the proposal warranted an emotional outburst within the OIT and the judicial body as well.

19 days after this, the governing parties introduced an amendment proposal aimed at supplementing the Basic Law, which stated that judges had to retire when they reached the age of 62. According to the proposal, *"[t]he legal relationship for the services of judges can only be sustained until the fulfillment of the general age of retirement."*[31] The proposal was widely disputed, and many considered it to be the government's retribution for the judges' behavior. The governing parties tried to prove two things. First, that the provision was meant to stop discrimination, because the general age of retirement would be identical. Second, that this is a European norm. The problem is that neither statement is true. The provision not only made the judges the only group – across Europe – on whom the general retirement age imposes a duty of retirement, but it also made them the only group whose retirement is regulated by the Basic Law. It is also a fact that 2/3 of all county and district courts of appeals judges and 1/3 of Supreme Court justices were sent to retire-

ment by the amendment. It is revealing that the provision is not included in the basic proposal, but it is contained in a related amendment initiative. This, besides ruling out the conceptional nature of the proposal, means that the leaders of the parliamentary groups of the two governing parties only thought about this initiative after the general parliamentary debates for the proposal had already been ended. And what is the official justification? The proposal's explanation, in its entirety, goes as follows: *"[t]he related amendment initiative specifies the text of the legislative proposal, and it defines a minimum age requirement for the appointment of judges, along with a maximum age limit for their legal status".* Maybe it would have been reasonable to write a lengthier justification, if only for show. It is difficult to find a rational explanation for this (besides revenge, of course). While the government's main purpose is to expedite legal procedures, it sends 10–15% of the most experienced echelons of the judicial apparatus to retirement.

Judicial leaders voiced their opinions in outstanding numbers and with remarkable openness regarding this subject. The presidents of the Supreme Court, county courts, and district courts of appeals turned to the nation and the European Union in a letter. It is worthwhile to quote a few lines from this document:

"The proposal goes contrary to the domestic and European efforts to raise the age of retirement, as well as to the international practice of raising this age limit for judges. This proposal, which exclusively affects judges, is discriminative and goes against the most basic international principles regarding the independence, legal status, and positional security of judges.

[…]

It is also difficult to understand why the retirement age of judges is susceptible for regulation by the Basic Law. Only one answer offers itself, and this is to provide for the inability to attack legislation contrary to the democratic rule of law in front of the Constitutional Court. This unjustified effort signals political motivation. This hypothesis is also supported by the efforts to undermine the model of judicial self-supervision – a first in Europe…

It seems implausible, that 21 years after the democratic transition, in a country currently holding the rotating presidency of the European Union, we must fight for the minimum values of democracy."[32]

In a newspaper interview, the leader of the parliamentary group of the largest governing party stated that *"it would have been better not to deal with [the retirement age of judges] in the Basic Law, but this is how it turned out".*[33]

A handful of justices from the Supreme Court turned to the Constitutional Court and asked the President of the Republic not to sign the legislation.[34] At this time, the body has not made a decision in the case. Since his inauguration, the head of state has signed all legislations forwarded to him, this one included.

In the views of opposition parties, the proposal also served another purpose. The judicial leaders who were forced to retire had mandates which would have lasted for about the same time as the government's, or in many cases even longer. The practice of the past year and a half showed that the ruling power aims to replace state leadership with its own candidates.[35] This intent is also supported by the appointment moratorium instated at the same time with this provision. According to a May 20 independent initiative by an MP, *"for the period until January 1, 2012, a call for applications for a judicial position cannot be introduced, current applications cannot be evaluated, furthermore, a judicial leader cannot be appointed and an office of judicial leadership cannot be fulfilled in any other way."*[36] In practice, this resulted in a situation in which new leaders could only be appointed, according to a – then unknown – 2/3 majority legislation, by a new leader, leading body, or the government. The proposal justified the change by stating that the empty positions should only be filled when the new system of distribution will be able to allow for a nationwide equalization of caseload amongst individual courts.[37] In certain cases – e.g. in the case of council presidents – this is an acceptable stance. However, in instances related to the primary judiciary leaders, it is not. It is widely known, that the government wished to maintain the county system and the parallel judicial level as well. The change of the statuses of the county court's president and his/her deputy was definitely not in the plans. Of course, debate is possible, even through logical explanations for the regulation's benefits. I have to admit, without being familiar with the government's "personnel politics" for the past year and a half, I would have been less susceptible to suspicion myself with regards to the provision's actual goal.

The hasty legislation quickly resulted in new law. The government realized that the retiring judges were entitled to at least 3, but mostly 6 month long relief periods in which they did not have to work. As such, with the eminent leave of the most experienced 10% of the judicial branch, the system would have collapsed. Due to this, the government added a new provision to the law concerning the organization and management of the judicial system (abbreviated as *Bszi. – trans*), which was also adopted in the new Bszi. after its acceptance. This stated, that those judges who fulfilled the age requirement for retirement prior to January 1 will start their relief periods on January 1. Furthermore, those who will fulfill this requirement by December 31, 2012, will start their relief periods of July 1, 2012. The problem with this decree is that it is unconstitutional, since the Basic Law states that *"the legal status of judges stands until they reach the general age of retirement."* However, the relief period is part of the term of service.[38]

5. 2/3 Majority Legislations Concerning the Organization and Management of Courts (Bszi.) and the Legal Statuses and Salaries of Judges (Bjt.)

The National Assembly discussed these two 2/3 majority legislations in a general debate. The debate almost exclusively dealt with the organizational law. This is not surprising, since the organizational law restructured the managerial system of the judiciary, while the other act brought insignificant changes compared to it. Since I did not intend on providing a detailed analy-

sis of the laws for institutional organization and legal statuses, I will not describe all the amendment provisions of Bszi. and Bjt. Instead, I will limit myself to the application of a fundamentally "public law- centered perspective" to analyze aspects which affect the public law statuses of courts, the internal and external implications of the system of checks and balances, and the restructuring of the managerial organization, and thus judicial independence. In fact, as only one debate occurred concerning the Bjt. according to the above defined system of standards, I will only discuss that law during the analysis of the detailed debate and only in connection with this provision.

a) The Debate of the Law Concerning the Organization and Management of Courts

This law completely reshaped the directorial system of judiciary. It abolished the previous model of self-management and designated the powers of the OIT and its president (with a few additions to boot) to the sole person of the president of the newly created OBH. The law details the tasks of the president in over 50 points. Because the OBH's president is not elected by judges but by 2/3 of the National Assembly, it cannot be considered part of a system of judicial self-supervision. Despite this, the new law designates all important status decisions to the exclusive competency of the president. His managerial duties are supposed to be supervised by the National Council of Judges (hereon referred to as OBT), which is elected by judges. This council does not have any relevant powers besides the appointment of service judges and the conduction of personal income statement inspections. It issues opinions, recommendations for initiatives, preliminary opinions, comments, releases annual reports, etc. It does not have veto or codecision powers in a single competency in which the OBH's president makes decisions. Its only power relating to the OBH's president is that it can initiate his relief from duty with the National Assembly. The decision, however, is made by the Parliament. Another important aspect, according to the standards mentioned above, is the schism between the professional and the directorial leadership enshrined in the new system. The professional leadership will now be the responsibility of the Kuria's president, while managerial accountability will be held by the OBH's president. The name of the Supreme Court has been changed to Kuria, that of the county court has been altered to tribunal, while the city court has been renamed district court.[39] [40]

Before speaking of principles related to content, I must discuss the events leading to the submission of the proposal, or rather the lack thereof. While they were harmonizing separate 2/3 majority laws – one concerning the Constitutional Court with its Chief Justice, one concerning the State Audit Office with the head of that body, one with the Prosecutor General relating to his office, and one concerning National Assembly rapporteurs with the ombudsmen – the 2/3 majority law pertaining to judicial organization was not inspected by neither the Supreme Court's president, neither the OIT. Not only was this case with the legislative proposal, but also with the concept behind it.[41] Thus, the proposal appeared before the National Assembly without adhering to the requirements of consultation prescribed by law.[42] This cannot be remedied by the fact that the government found itself an judicial body – the Hungarian Association of Judges – where they debated the proposal.[43] Here we must note, that according to the organization's web page, during the meetings of this body where the 2/3 majority laws in question were discussed, politicians from the governing parties and the state secretary for the judiciary were present and offered their observations. However, opposition MPs were not invited.[44] All of this, especially in light of a fresh Constitutional Court resolution,[45] can raise the question of the law's public law validity. In his closing remarks, the president of the Supreme Court alluded to the fact that the highly respected Finnish judicial reform was the result of a three year process.[46]

The general debate of the legislative proposal went on for five hours. The orators of the governing parties repeated the general justification provided by the minister. A significant part of the chief orator's speech was the word-for-word repetition of the justification's text. This man, the state secretary introducing the bill, and further speakers talked about how the judicial system of self-management did not fulfill the hopes which were attached to it, how it cannot be reformed, how it is not quick enough, how it cannot provide for an evenly distributed caseload, and how it is not active to a sufficient degree – since the OIT only has a single monthly session. In addition to this, the leaders of the OIT came mostly from the rank and file of judicial leaders, thus they controlled their own courts. Active operation necessitates economy of personnel and a wide range of tools for the OIT president. Those opposition politicians voicing their concerns about the selection of a loyal leader offend all judges, since they state that amongst the judges loom individuals who are politically biased. Both the ministerial explanation and the orators called attention to individual accountability due to the issue of proactive operation. Several of those offering their remarks would have been eager to place control in the hands of the ministry responsible for the judiciary, but according to their viewpoints, this move would have been a mistake in the currently over-politicized atmosphere.[47]

The Supreme Court's president offered his observations regarding the legislative proposal – and conferred rather specific professional advice – to the Speaker of the National Assembly, to the Minister of Justice and Public Administration, and to the president of the National Assembly's Constitutional Committee. During the general debate, he emphasized his main concerns as well. He pointed out, that the procedural sluggishness and the disproportional caseload is not due primarily to the directorial model, but to the underfinancing of the justice system, the distorted judicial organization, to the terrible work conditions – in some cases, there is only one office for five judges –, to the shortcomings of the IT system, etc. Solving these problems is the duty of legislators, not directors. In addition, he signaled that though this is the government's intent, professional and directorial leadership will not be divorced in all cases. The legislative powers of the directorial leadership should lie within the reach of the

president of the Kuria. He thought it odd, that a few months ago the government seemed to favor a reformed OIT. In a conceptional twist they now abolished that same institution. He sternly criticized the powers of the OBH president. In his opinion, *"the unlimited, opaque, and uncontrollable power defined in the legislative proposal is unparalleled in Europe in its authority and in its offered solutions"*. This is true for places where there is a judicial council, and also for places where economic roles are handled by the ministry of justice, he stated. Furthermore, the idea that the OIT's president's powers are identical to those of the OBH's president's does not correspond with reality, since the OIT's president could only decide independently on appointments if he or she agreed with professional judicial organs – if not, the right to appoint was returned to the body. This same restriction is not applicable to the president of the OBH. The OBT, to be created for the supervision of courts, cannot influence personnel and other miscellaneous decisions due to a lack of necessary powers, and the advancement of its frequently alternating members depends completely on the persons they are supposed to inspect.[48] In addition to the comments offered in his speech, it is definitely worth highlighting some of the perspectives included in his 30 pages of observations. According to the president, the judiciary's budget should be determined in a manner in which it does not decrease from the previous year's sum, and the expansion of the types of cases belonging to the courts would only occur along with budgetary increases. The OBH's president, according to the law, is not a representative of judicial self-governance. As such, his exclusive powers could violate the constitution and international law. According to the European Association of Judges, allocating the power to appoint judicial leaders to a single person is not in harmony with European standards.[49]

The opposition parties agreed with the president and often repeated his remarks. I have already discussed the directorial model which I personally favor. I will express my perspective on the organizational law through the criticisms provided by the opposition. I agree with these wholeheartedly, just as I do with the position of the Supreme Court's president. I am responsible for a good amount of criticism delivered by the opposition during the National Assembly debates.

Opposition MPs believe the expediency of judicial proceedings to be a sad excuse. They highlighted that the purpose of this reasoning is to appeal to the public, to whom such cases always seem lengthy and tedious. In agreement with one of the leaders of a Budapest law school, I would like to note that *"a legitimization of a dictatorship is always rooted in the improvement of efficiency"*. But continuing the argument, the opposition emphasized that according to their own informations and European sources, the length of procedures is in line with the European average. With regards to the powers of the OBH president, they stated that this is yet another instrument of centralization, and that the new system only enables the government's further exercise of power. Two attributes of judicial independence are that the judge cannot be ordered and that he/she is independent in his/her status. The OBH president, who will probably be loyal to the Prime Minister, will exclusively decide in judicial personnel questions. In this regard, he/she can appoint a judicial president he finds suitable, and judicial councils can be composed according to his/her liking. The OBH president will decide on the leader of the college who will distribute certain cases to different courts. On lower levels, this will be even easier. So, even if the judges believe in neutrality, the system itself will allow for the head of government's influence to be exhorted. This will abolish checks and balances within the system. Not to mention, the OBH's president – violating the right to a judge prescribed by law – can defer from rules of competency and decide which court will adjudicate in specific cases. 2/3 of OIT was elected by judges. The president of the OBH will now be exclusively delegated by the governing parties. They thought the argumentation according to which the National Assembly can remove the president on the OBT's recommendation to be cynical because this requires a 2/3 majority, and such a majority will foreseeably not be present in the near future. The independence of the judiciary has thus been endangered. The proposal does not aim to repair, but to destroy the system of judicial self-supervision, even though there is a necessity for the former. It was raised as an excuse, that the proposal was written by a representative of one of the governing European parliamentary parties, and that the minister simply introduced it. With this, the institutions of the "figurehead representatives" and "figureheads ministers" were created. All opposition parties protested a scenario in which the OBH president can keep his/her position even if his or her status as a judge comes to an end. This allows for a situation in which the judiciary is led by someone who is not a part of the judicial branch. In addition, the president's unreasonably long 9 year term of office (and the fact that he or she can remain in office until a replacement is approved) was met with the same unanimous discontent. As a result, as long as the current governing majority has a 1/3 representation in the National Assembly, it can block the removal of a president loyal to it even after the completion of his or her 9 year term. Finally, the opposition criticized that the government is not represented by a minister in such an important matter. The executive branch communicated through state secretaries who alternated during debates.[50]

The detailed debate of the organizational and legal status law was conducted separately, unlike the general debates.

The legal proposal pertaining to the organization received over 100 amendment proposals, all from opposition parties with the exception of eight of them. These can be divided into three categories. The first included those submitted by the governing parties. Out of these, there was only one that mentioned the Kuria's president at length, but I will talk about this later. The rest of the governing parties' initiatives contained minor grammatical and professional amendments. The second category included those opposition proposals which aimed to restructure the directorial

system of the judiciary according to principles outlined in the general debate. The third class was made up of initiatives submitted by me which were based on the 30 page opinion of the president of the Supreme Court. I provided these so the National Assembly could discuss those within a formal framework. 90% of the initiatives in the last two categories were not even put to a vote. As a result, the National Assembly approved the initially introduced proposal without substantial changes.[51] During the detailed debates and the discussions in the professional committees, the MPs basically repeated things already stated during the general debates. The same is true for the closing debate with one exception: the plan for removing the president of the Supreme Court prior to the expiration of his mandate was then revealed for the first time.[52]

b) The Debate of the Law Concerning the Legal Standing and Salaries of Judges

As I have mentioned in the introduction, only one aspect of the Bjt. sparked debate. The provision expands the OBH president's power to appoint described in the Bszi., according to which the president is not tied to the order of preference forwarded as a result of recommendations by the judicial bodies. In fact, one of the provisions enables the president to appoint judges without an open call for applications. As a criticism for this system, it has been said that this method is nothing else but the adaptation of a regime which was applied to public administration posts already. The point of this is to nominate and appoint loyal leaders without an open call for applications or a transparent procedure, and to elect these candidates even if they would have no chance of winning such positions in normal competitive environments. As such, the government can easily shape these circles. This is an example of how loyalty is the primary factor for the government, and professional eligibility takes the back seat to it. To boot, the OBH president can utilize this power without control.[53] We must note that the criticism was only partially deserved, since the law only allows for the ignorance of competition in very few instances. On the other hand, the list of preferred candidates is non-binding for the president, and the call for applications is announced and officiated by the president himself. In practice, this basically makes competition unnecessary. It can be generally stated, that the new Bjt. copied several chapters of the previous legislation. The amendments are primarily concerned with the organizational structure – as described in the ministerial explanation. Finally, it is worth highlighting that the entirety of the law features broader powers for the central authorities with regards to the statuses of judges. Let these be in the fields of evaluation, relocation, aptness, or promotion. At the same time, it limits the rights of judges in certain cases – such as in those related to their appeals to labor courts. The compounded results of all of these legislations culminate in the significant instability of judicial career models.

c) The Right to Appoint the Chief Prosecutor and the OBH President

On December 19, 2011, the Constitutional Court declared certain provisions of the procedural-criminal law legislation unconstitutional and incompatible with international law. Among them was the notion that the prosecutor can choose the court in which it will prosecute in select cases, thus he/she received the right to utilize a court not prescribed by the legislation determining jurisdiction.[54] The idea surfaced in the justification, that the same power of the OBH president provided by the Bszi. is also unconstitutional. The possible contents of the decision captured the imagination of newspapers early on. Because of this, the Constitutional Committee submitted an amendment proposal for the temporary provisions of the Basic Law on December 13, in which it raised out-of-effect decision-making to the constitutional level. It did not only guarantee the right in select cases, but it did so in general.[55] Here we must note that this does not improve the proposal's incompatibility with international law. As far as the publicity before announcement is concerned and the legislative reply to it: the Chief Justice of the Constitutional Court responded to it in a very negative tone.[56]

6. On Removing the President of the Supreme Court Before the End of His Term and Appointing (Electing) New Judicial Leaders

The head of the Supreme Court was dismissed through amendment proposals to three legislations before the term of his office ended. The basis for his dismissal was included in a November 21, 2011 law entitled the Temporary Provisions of Hungary's Basic Law. In this it was stated, that *"the president's appointment ends when the new Basic Law takes effect".*[57] An independently submitted representative initiative containing only this and the date of the election of the Kuria's president (December 31) was handed in on November 20.[58] The third leg of the provision was an amendment proposal for Bszi. initiated on November 23 which became a valid recommendation just prior to the final vote. This document finalized the removal of the president's deputy as well.[59] The government and the governing parties continued to stress that this was not a matter of personal problems.[60] But before we believe this statement, it is important to look at the context and the prelude, with special regard to timing and the fates of other officials criticizing the government.

During the process of constitutionalization and the general debates of Bszi. and Bjt., it did not even occur that the president of the Supreme Court (whose term was supposed to last for three more years) would not fulfill the role of the Kuria's leader. MPs from the governing parties continuously voiced that the only measures enacted will be the renaming of the court and the transferring of some of the powers previously held by the OIT to a new managerial leader. This was the reason why nobody had to reapply for their positions. Everyone from office managers to the head of the Bar could keep their positions, and the same was true for

other levels of the judiciary as well. The new 2/3 majority law pertaining to the legal status of the Kuria in fact makes note of this.[61] The same is true outside of the organization of the judiciary. The system of ombudsmen was restructured and renamed, but the leader remained in place.[62] Even though the name of the country was changed to Hungary, the President of the Republic remained in place. Perhaps the most serious problem is that neither the Basic Law, nor the Bszi., nor the Bjt. included the termination of the president's mandate.[63] No governing party politician argued for this in the debates for these legislations. This already excludes the possibility of this step being a part of the government's conceptional vision. As such, we must conclude that this is simply a personal matter. On November 3, 2011, the president of the Supreme Court voiced his criticism on the floor of the National Assembly.[64] The first amendment proposal was handed in 17, the second 18, and the third one 19 days after this.[65] All opposition parties drew attention to the connectivity of these events, and as usual, they did not receive a response. In a late-December interview, the president openly identified the reason for his removal as political.[66]

Furthermore, it is worth mentioning the committee amendment proposal which was submitted six days after the president's parliamentary criticism by the Constitutional Committee. The proposal made 5 years of judicial experience one of the prerequisites for the Kuria's presidentship.[67] It is well known that the departing president of the Constitutional Court had four years of domestic judicial experience. Thus, this rule outlawed his renomination. There would have been no problems with this piece of legislation if it did not exhibit, once again, signs of custom-tailored law-making. In his response to an opposition party's group leader (who prior to his election as a Parliament representative served as a lawyer), the minister responsible for justice and public affairs stated in connection with the MPs criticism of above described issue: *"[m]aybe for a lawyer it is good if the Kuria's president does not have judicial experience {amusement within the rows of the governing parties}, but I believe it is better if he has some"*.[68]

And if we are talking about the lack of generosity and we want to quote less eloquently but still from among the "classics", than we must mention that according to a November 28 amendment to the legislative proposal pertaining to the statuses and salaries of judges, they denied all benefits to the departing president of the Supreme Court which are traditionally offered to persons fulfilling such a high office. The proposal highlighted this in a four-part segment entitled "Rules for the Departing President of the Supreme Court". Reasons for this are not mentioned in the proposal's justification.[69]

The opposition protested during the selection of his successors. They did so unanimously in the case of the OBH president, and in the instance of the Kuria's president with the exception of the smallest opposition party. They criticized the candidate for OBH's presidency because she was the wife of a government politician, a known friend of the Prime Minister, and the godparent of one of his children. Her promotion is a good illustration for how the head of government aims to install loyalists in all important positions and thus contributes to the deterioration of the system of check and balances. The Kuria's presidential candidate did not have sufficient experience. He applied for leadership positions twice within the Supreme Court, but his colleagues vetoed his candidacies on both occasions. As such, he does not enjoy the respect of the judicial apparatus.[70] It is very interesting to see that the OBH's president was not supported by 5 government MPs. These MPs were all summoned by the PM individually afterwards.[71] In the end, his election was determined by two candidates.[72] On January 1, the husband of the OBH president resigned. He stated that he wanted to *"avoid all suspicion that Fidesz is aiming to control the judiciary through his person or his family"*.[73] However, he retained his Fidesz membership and his mandate in the European Parliament. Maybe it is not an exaggeration to call this move cynical. Five days after her taking office, the OBH's president relieved the Kuria's justice responsible for personnel matters from his position and appointed her own previous deputy to the position.[74]

7. International Opinions

a) The Report of the Council of Europe's Venice Commission

Up to this point, the Venice Commission completed the analysis of the Basic Law.[75] The examination of the 2/3 majority laws is yet to be undertaken. According to the report's references to the judiciary, the Basic Law *only provides a very generic regulatory framework with regards to the operation of the courts* which does not signify the direction of the planned judicial reform. It warns the government that *no matter which direction it shall take, it needs to ensure independence in the management of courts, and leave no room for political influence.* The report questions the premature dismissal of judges on the basis of principle, and makes reference to the serious consequences of this action. The Commission believes that the measure could endanger legal security and makes the composition of courts susceptible to outside influences. The report also criticizes the allowance of secretaries to fulfill roles of adjudication. In addition, they interpreted Article 28 paragraph (3) of the Basic Law as a political declaration. The critique was not met by a substantial response by the government.[76]

It is obvious, that there is an overlap between the criticisms voiced during the constitutional debates and the opinion of the Venice Commission. I suppose that this statement will also be true for the evaluation of 2/3 majority laws as well. The European Commission already signaled that it will enlist the Venice Commission's help with regards to the judicial reform. In the not-so-distant future, we can expect another memorable report.

For the past few months, our country's centralization processes have been the targets for numerous criticisms, and this has been true even in the field of the judiciary. Our homeland is featured in papers such as Die Presse, Der Standard, The Economist, Frankfurter

Allgemeine Zeitung, Spiegel, Berliner Zeitung, Le Monde, or the Wall Street Journal on a daily basis. The list could go on and on.

The most serious denouncements in relation to the restructuring of the judiciary have been provided by the United States and the European Commission. So, in a nutshell, they came from places which have the most influence over Hungary. Perhaps this is not disputed by anyone.

b) Criticism From the United States

The levels of criticism follow each other neatly. First came newspaper articles, then followed the interest of various levels of diplomacy. Finally, an explicit warning arrived. After this, the only step left to take are tangible formal and informal sanctions.

The most comprehensive analysis was authored by Kim Lane Schleppe, a professor from Princeton University who heads a department specializing in law and public affairs. She has been studying Hungarian constitutional law for 20 years. She condemned the systematic dismantling of the system of checks and balances in a lengthy interview. In relation to the judiciary, she highlighted that *perhaps the most disturbing actions of the government are its attacks against the independence of the judiciary. The new judiciary law and the strategic decrease in the retirement age of judges basically means that every single judicial head in the country can be removed through simple moves. The structure of the new OBH allows a single person to select all the judges in the country without the substantial involvement of the judicial bodies or any type of independent organization.*[77]

Similar thoughts were expressed by The New York Times' web page, which was available in Hungarian on a couple of news portals.[78]

Thomas Melia, an American Deputy Assistant Secretary of State who is also responsible for human rights expressed *concern over the law on the judiciary.*[79]

The US ambassador to Budapest voiced her dissatisfaction related to the dismantling of democratic institutions to the PM multiple times in both person and in writing. The ambassador reminded the Prime Minister that her Secretary of State has asked for *a real commitment to the independence of the judiciary, to the freedom of the press, and to governmental transparency.* Furthermore, she wrote that *both her colleagues at the US embassy and in Washington have tried to understand the kind of impact these majority legislations will have on democracy. They remain worried.*[80]

One does not need to understand the nuances of diplomacy to draw the conclusion from American criticism.

Finally, the US Secretary of State wrote a letter to the Hungarian PM at the end of December. In this, she highlighted three different topics. One of them was the judiciary. The Secretary of State words her argument very clearly:

[She] was sorry to see that the dialogue between the Hungarian and American governments and other constructive groups above mentioned failed to result in the reconsideration of certain laws. For example, as the European Commission noted, the new regulations of the judiciary centralize power in the hands of the president of the judicial body. It is [their] opinion, that this regulation eliminates certain necessary checks and balances from the system. Many analysts believe that the power to appoint and promote judges should be awarded to the OIT.[81]

After all of this, of course, we can still tout that "no one from abroad should tell us what to do". We can neglect the American opinion based on this mentality. It's just not the best idea when considering the interests of Hungary. It is often said that these criticisms are the results of the opposition's efforts to "shame" Hungary abroad. As an opposition MP, I would like to think that these claims are true and we actually possess such tremendous influence on the government of the US, on the European Commission, and on the Council of Europe. But to revert to serious matters, I know from personal experience that the employees of the US embassy were as familiar with the processes taking place in Hungary as I was. The Secretary of State, the Ambassador, and the Deputy Assistant Secretary of State have followed events very attentively. So one can share their opinions or dispute them, but one certainly cannot say these statements are without solid, carefully considered basis.

c) Criticism From the European Union

On December 16, the commissioner of the European Commission turned to the minister responsible for justice and public administration with similarly well-informed concerns. As he stated, several complaints were addressed to him with Hungary as their subject matter and authored by the highest courts of member states, MEPs, and NGOs. Based on these, it was his perception that the judicial legislation poses significant concerns with regards to EU law. His questions dealt with the exact themes the opposition emphasized during the debates: the mandatory retirement of judges, the possible effects of this phenomenon, the independence of the judiciary, the mechanisms determining the statuses of judges, etc. The commissioner asked the leader of the portfolio to *halt the execution of all related measures while the doubts over the compatibility of said elements with EU law are dispersed.* The minister forwarded his reply to the commission.[82] One thing is for certain, however: the "interest" shown is a certain kind scolding on its own. On January 17, 2012, the European Commission officially started misconduct procedures against Hungary over the expedited retirement of judges. The Commission also decided to work more closely with the Hungarian government on these matters.[83]

II. THE PROSECUTOR'S OFFICE

1. The Organization of the Prosecutorial Body in the Constitutional Concept

a) The Recommendation of the Chief Prosecutor

The Chief Prosecutor, at the request of the ad-hoc Constitutional Preparatory Committee's president and similarly to the president of the Supreme Court, forwarded his organization's official opinion on the process of constitutionalization.[84] With references to

the decision of the Constitutional Court, according to which the Chief Prosecutor is not politically accountable to the National Assembly, the Chief Prosecutor has requested the removal of his ability to be interpellated. Furthermore, he proposed that in the future decisions affecting his status and the statuses of prosecutors should only be modified through the support of 2/3 of the National Assembly. He initiated the constitutional inclusion of his right to introduce legislation and the alteration of rules relating to the immunity of MPs.

b) Debate in the Preparatory Committee

Similarly to how I did it before, I will proceed to quote the constitutional concept's detailing of the fine points of the prosecutorial system along with brief explanations which were compiled by our experts and according to which I have ordered the voting within the Working Group for the Judiciary, Constitution, and Rights.

1. The primary tasks of the prosecutor's office are related to criminal law, but they also include other areas of law to ensure legality in them as well. The new Constitution places emphasis on action against offenders and the prevention of future offenses.

i. The new Constitution defines fundamental prosecutorial tasks and refers to the office's definitive role in punitive policy.

2. The Chief Prosecutor is elected by the National Assembly for six years at the recommendation of the President of the Republic. The CP cannot be reelected.

i. The justification for this article is identical to the one found in *I./1./b./5.* relating to the courts.

3. The National Assembly needs to maintain and even expand its power to monitor the prosecutorial office. The new Constitution records the relationship between the National Assembly and the CP more specifically than the previous text did. The CP is held accountable by the National Assembly and has to inform it about his/her activities.

i. In case the prosecutorial office does not find itself under the authority of the government, the possibility for parliamentary control needs to be maintained and made more efficient than it currently is. This does not necessarily mean the maintenance of its ability to be interpellated, parliamentary control can have different tools as well, for examples within the framework of a professional committee. The creation of unlimited and uncontrollable power is to be avoided. This is especially true for the Chief Prosecutor, whose status cannot be compared to that of the president of the Supreme Court. While the president has no right to intervene with the adjudicative activities of judges, the CP can provide any prosecutor in the country with unquestionable instructions. It is unacceptable to have such power without control. It is unacceptable to maintain the prosecutorial office's current state of independence while decreasing the amount of available parliamentary tools.

4. The relationship between the CP and his/her deputies, the extent and limitations of substitutions are regulated by the new Constitution.

i. Not long ago, the problem of substitution caused serious dilemmas during the period beginning at the end of the last CP's term and lasting through the era of replacement. The rules for this must be worked out.

All five parliamentary groups agreed with regards to points 1 and 3 during the working group's session.

Though no official initiative was made, the idea of subjugating the prosecutorial institution to the government surfaced in the parliamentary group. In the future, I would surely not entertain such a possibility. There are rule of law precedents for such a configuration, and the current setup is also compatible with the rule of law concept, but the arguments for the former are equally significant. Defining the direction of punitive policies and establishing public security are the tasks of the government. In addition to the police, the most important body for this is the prosecutorial apparatus. The independence of judicature is an argument which has no basis. It must be emphasized, that the independence of the judicature means the independence of the adjudicative activity. Even judicial management is not necessarily a part of this, let alone jurisprudence. However, the independence of the prosecutor is by no means part of this category. On the other hand, independence and the duty to operate in an unbiased manner are not to be confused. The prosecutorial body needs to operate not independently, but in an unbiased way, similarly to the police, an organ ordered under the executive branch. The most important area of activity for the prosecutor is related to criminal judicature. If there are a procedures within the confines of prosecutorial activities (e.g. the monitoring of the legality of foundations) which mandate complete institutional independence, these can be redistributed under the competency of the judiciary. Finally, no parliamentary group supported subordinating the prosecutors under the government. Thus, this formal proposition did not appear.

On the Preparatory Committee's November 10, 2010 session, when the prosecutorial body was on the agenda along with the judiciary, no one commented on the propositions introduced in connection with the body. Despite this, the committee's members set forth the following text:

- The CP and his/her office are elements of the judiciary. These institutions respond to the state's necessity to punish, to prosecute. They ensure the persecution of activities endangering or violating the constitutional order and the security or sovereignty of the country by natural persons, legal persons, and entities without a legal person. This body exercises rights prescribed by law and represents the prosecution in judicial proceedings. It exercises supervision over the legality of execution of punitive measures and tends to miscellaneous duties prescribed by law as the defender of public interest. The CP, who is elected by a 2/3 majority of the National Assembly based on the recommendation of the President of the Republic, is publicly account-

able to Parliament and is mandated to inform it about its activities. The CP's deputy is appointed by the President of the Republic at the recommendation of the CP. The prosecutorial organization is led and controlled by the CP. He appoints prosecutors, none of whom can be members of political parties or involved in political activities. Regulations pertaining to the CP and the legal statuses of prosecutors are determined by 2/3 majority regulations.

Reading the above text, I am once again clueless as to who inspired such a composition. How did the author know that the members of Preparatory Committee will vote in favor of such a wording despite the fact that the document does not reflect a single committee memo or the contents of committee minutes? But we most note that the expert did not make a mistake, this wording was approved unanimously without the participation of the MSZP and LMP parliamentary groups.

c) Debates at the Plenary Sessions

In total, three persons commented on the subject of the prosecutorial apparatus during the plenary debates. One of their commentaries was made up of the repetition of the above quoted text with a couple of extra words added.[85] The others are worthy of referencing in their entirety.

"The concept of the new Constitution regards the prosecutor's office as a cooperator of the justice system, and declares its main task as relating to such activities. The ad-hoc Constitutional Preparatory Commission considered the recently constitutionally amended and thus consolidated administrative-organizational place of the prosecution to be definite. As such, it does not make substantial contributions for amendment."[86]

"In connection with the prosecutor's office, I'd like to state that we intend on introducing a prosecutorial system based on the amendments of the prosecutorial legislation done in the Fall of 2010 to the constitutional draft, and that the concept basically includes the regulations of the currently applicable code."[87]

Both MPs referred to the constitutional amendments relating to the prosecutor's office which were created coincidentally with the constitutionalizing process. In these, the government made the changes which it considered to be the most important. This is partially the reason why these legislative proposals and provisions did not spark more serious debate in this currently analyzed phase of the discussions, and nor did they do so later on.

2. Amending the Constitution and the Law Concerning the Terms of Prosecutorial Service

As I have alluded to this previously, coincidentally with the preparatory measures for the constitution, the the National Assembly accepted the amendment of Act LXXX. of 1994 concerning the terms of prosecutorial service and the prosecutorial handling of data.[88] According to this, the prosecutors' term length increased from six to nine years, the CP can only be selected from among prosecutors, and the CP also received the right to relieve prosecutors above 65 of their offices. After the expiration of the CP's mandate, if the Parliament cannot elect a replacement, the mandate of the old CP is extended even if he or she is above the age of 70. The basis for these alterations was provided by a constitutional amendment, which supplemented the previously described articles by necessitating the approval of a 2/3 National Assembly majority for the determination of the terms of service of the prosecutorial body and by abolishing the CP's ability to be interpellated.[89]

In this instance of constitutional amendment relating to the abolishment of interpellation, the ministerial justification highlighted the necessity of this step as explained by a Constitutional Court verdict and the recommendation of the CP. It also stated that this parliamentary system of supervision cannot be included in the prosecutor's office's constitutional legal status. In addition to this, the 2/3 requirement *"completes the independence of the prosecutor's office from political branches of power".*[90] In his exposé and final statement, state secretary also added to the abolishment-of-interpellation-concept, that in politically sensitive cases, this compatibility was often used as an instrument of political pressure.[91] The prosecutorial law's one-page explanation is very brief in terms of professional and constitutional material, and the state secretary's exposé is similarly concise. Comments offered by MPs from the governing parties consisted of disputing the opposition's ideas, though they certainly did not prove them wrong.[92]

Questions of actual legislative intent are raised by the products of the period directly preceding the acceptance of the proposal. One of the simplest and most effective tools for the exercise of power is if the executive power installs loyalists in positions of authority in other branches or supervising organs. If this is not possible, it makes it so by amending legislation. In the past period, there have been plenty of examples for this. The members of the National Electoral Committee were prematurely dismissed. Today, with the exception of a single member, only the appointees of the governing parties constitute the body. The rules for the appointment of justices for the Constitutional Court have been altered. All recently elected justices have been appointed by the governing parties. Not a single opposition member made it into the body supervising the media. The President of the Republic and the head of the State Audit Office were both previously MPs for the governing party. The list goes on. To conclude with a grand finale, the current CP was also an appointee of the governing party.[93]

The results of these techniques is the increase in the controllability of appointed leaders, and the increase of their competencies, especially in personnel matters, as to ensure solid HR foundations for the consolidation of power. If we keep the above mentioned information in mind and inspect the proposition according to it, we will come to a very interesting conclusion.

At first sight, the 2/3 majority necessary for the selection of the CP could appear to be a more consensus-based rule of law approach. Of course, this approach is hindered by the fact that the governing parties enjoy a 2/3 legislative majority in Parliament. The answer read-

ily presents itself: perhaps the government is not motivated by the "currents of current affairs". But let us look behind this proposition. The presently elected CP, whose mandate should theoretically expire after 9 years, will only leave office technically if the National Assembly is able to produce a 2/3 majority for the election of a new one. Basically, the current CP can remain in office until the current governing majority retains 1/3 of legislative seats. The constitutional amendment also rules out the possibility of overwriting this regulation through the obtainment of a simple majority.

The personnel competencies of the CP were previously fundamentally unlimited as well. Now, he possesses the right to let go prosecutors over the age of 65. One does not have to ponder too much to realize this is an instrument – seemingly in the spirit of the rule of law – to rid the system of leading prosecutors. During the evolution of this doctrine, an incoherence was visible between various policies relating to the retirement age. This was finally solved by the Basic Law's taking effect. In the present configuration, prosecutors over the age of 62 are forced to retire.

To make a complete list of such political instruments, we must also note the implications of the abolishment of the CP's subjection to interpellation. I do not dispute that there are arguments for this – among them the ones provided by the Constitutional Court. However, during the process of constitutionalization, even the representatives of the governing parties shared the view, that if the Office of the Prosecutor is not subjugated under the influence of the executive – with regards to the idea that uncontrolled authority is never desirable – the National Assembly's oversight of the office needs to be strengthened. But if the ability to interpellate the CP is discarded, this control is effectively weakened. During the course of the parliamentary debate it was stated, that the interpellation of the CP makes little sense because while voting against the response to the interpellation could affect the political accountability of the members of the government, the CP – according to the decision of the Constitutional Court – has no political accountability. As such, an unfavorable vote does not affect him or her. Because of this, the interpellation is no more than an inquiry, even if it is an immediate one. This is only partially true. However, it should become part of public administrative culture, that if the CP's answer to the interpellation is rejected multiple times and the professional opinion of the legal bodies is in favor of this, the CP resigns from his or her position. But a more tangible difference between an inquiry and an interpellation is while the former ends with a response, the rejected response to an interpellation results in the National Assembly's action through a professional committee which includes the participation of the CP this time, and finally a renewed parliamentary vote. The point is the discussion of the subject matter without time constraints and the recording and transparency of such an exercise. Interpellation is thus a much more effective institution.

The opposition parties expressed their discontent along these lines during the debates surrounding the two proposals. All opposition MPs expressed their frustration that these discussions are occurring simultaneously with the process of constitutionalization. The smallest opposition party's leader stated, that because most crimes lapse in 5–10 years, one of the current leadership's goals with the 9 year mandate could be to avoid punitive measures for criminal activities they are currently committing.[94]

The concept thus preserved the independent status of the Prosecutor's Office. It played a fundamental role in increasing the powers of the CP and also in increasing Fidesz-KDNP's influence regarding the office. Outside capabilities for control were hindered. These were the events leading up to the governing coalition's submission of the constitutional concept.

3. The Debates of the Basic Law

During the Basic Law's debates, two MPs commented on the provisions affecting the Prosecutor's Office. To calculate the total time devoted to this subject, the fingers on one of our hands are more than sufficient. One MP stated that this debate shows that it was warrant-

The Prosecutor's Office
Article 29
1. The Chief Prosecutor and the Office of the Prosecutor cooperate in judicial process, and they fulfill the state's punitive needs. The Office of the Prosecutor persecutes crime and acts against other unlawful activities and in-fringements. At the same time, it aids the prevention of unlawful activities.
2. The Chief Prosecutor and the Office of the prosecutor exercises rights during investigation as prescribed by law.
   a) They exercise rights in relation to the investigation;
   b) they represent public accusation in judicial proceedings;
   c) they exercise supervision over the legality of the execution of punishments.
   d) they exercise further powers as prescribed by law.
3. The prosecutorial body is led by the Chief Prosecutor, he/she leads and controls it and appoints prosecutors. With the exception of the Chief Prosecutor, the legal terms of a prosecutor's service are applicable until he/she reaches the general age of retirement.
4. The Chief Prosecutor is elected from amongst the prosecutors by ⅔ of the National Assembly on the President of the Republic's recommendation for a term of 9 years.
5. The Chief Prosecutor reports on his/her activities to the National Assembly annually.
6. Prosecutors cannot be members of political parties and cannot conduct political activities.
7. he organization and the operation of the prosecutorial apparatus and the detailed terms of prosecutorial legal status are determined through ⅔ majority legislation.

ed to amend the constitution in this regard a few months prior, because the Basic Law can adopt this same text in its entirety. The other declared that the CP will be elected by the National Assembly on the recommendation of the President of the Republic for a term of 9 years.[95] The Chief Prosecutor did not take the Parliament floor during the debates of the Basic Law.

Even if the Basic Law's provisions on the prosecutorial apparatus are not completely identical to the previously applicable regulations, the public law situation of the Office of the Prosecutor did not in fact change. It remained an independent organ of judicature. Thus, for the time being, the debate of whether it should be a body subjugated to the executive or an independent actor of judicature has been decided. The status and powers of the CP have been determined according to the standards described above. Still, we must highlight two changes. The first is that the Basic Law identifies the CP and the Prosecutor's Office as functions of the judiciary. The CP labeled this as the result of a *"century long struggle"* in the debate of a different proposal. According to the CP's stance, the finalization of punitive powers described in the Basic Law are thus completed. The prosecutor is *"not looking for punishment, but he searches for and encourages justice. He does not simply persecute, but he also averts and even defends."*[96] However, we must also note that this duty has been applicable previously as well, except maybe not on the constitutional level, but it was declared in procedural law. The other important modification is the retirement age for prosecutors, which is comparable to the one imposed on judges. They fell victim to the debate surrounding the retirement age of justices. Originally, only judges were limited in such a way, but the governing parties, in an effort to prove that their measures are non-discriminative, amended the Basic Law on the day of its acceptance and just a little prior to the final vote.[97]

4. 2/3 Majority Laws Concerning the Prosecutor's Office and the Legal Statuses and Career Paths of the Chief Prosecutor, Prosecutors, and Prosecutorial Employees

Similarly to the case of the judiciary, these two majority laws were discussed during common debates by the National Assembly. The analysis of the debate is not mandated, because no new arguments were introduced in it. As was the case with the Basic Law, these legislations also failed to bring monumental changes to the situation of prosecutors and featured the reintroduction of previous regulations. The modifications thought to be necessary by the government were already introduced in three legislations which also regulated punitive procedures.[98]

The most significant change in the law concerning the prosecutorial body was perhaps the abolition of military prosecutors and their integration into the prosecutorial organ. Certain aspects were removed from the proposition – certain regulations of investigations, the preparation of the prosecution, etc. – and these are contained in procedural laws. Even though I do not agree with making the prosecutorial law a 2/3 law, in this scenario, I agree with these steps. The law specifies and details the prosecutor's roles in executing punishment. Another change is that the Prosecutor's Office is no longer a generic forum for complaints, it only conducts operations in relation to the fundamental legal relationships affecting the merits of a case. The public law situation and the powers of the prosecutor were not modified by this legislation either.[99]

Perhaps the only achievement of the Law Concerning the Prosecutor's Office and the Legal Statuses and Career Paths of the Chief Prosecutor, Prosecutors, and Prosecutorial Employees is that it placed the legal status of the CP on the same level as that of the Kuria's president. The act also allows for personal protection in both official and personal functions.[100]

The CP took the floor during the plenary session. As it was later emphasized by the lead orator of the radical right wing party, his opinion only contained praise and no criticism. According to the CP, these and previous changes to legislations were mandated and are in line with the Council of Europe's recommendations on the independence and neutrality of the Prosecutor's Office. In addition, he found the regulations for the election of the CP and the office's 9 year term to be in line with the stance of the Venice Commission. He believed the decision to exclude the CP from the restructuring of the management of courts was justified, though his presence is guaranteed at Kuria sessions. He recommended the establishment of greater mobility between the prosecutorial and judicial professions.[101]

The proposal's debate was surprisingly "quiet and boring". In his exposé, the state secretary discussed the legislative proposal's main points. The MPs of the governing parties did not offer significant comments besides praise for the initiative and slander for politicians of previous administrations. Opposition parties have also argued more moderately than during the debates of judiciary matters on the same day. The main instrument of criticism was the revisiting of previously used negative factors. One new element in their argumentation was the CP's ability to designate courts for hearing certain cases. As I have previously mentioned, however, this point has very little significance for the regulation. Another denouncement was made about equating the roles of the head of the Kuria and Prosecutor's Office, as these positions were deemed to be on different levels. Finally, the smallest opposition party recommended that no one should be able to force the acting prosecutor to accuse or to drop charges.[102]

Closing the Process of Judicial Constitutionalization

The process of judicial constitutionalization was closed on January 1, 2012. In the life of the prosecutorial body, this date only brought the consolidation of the status quo. For the judiciary, it created a brand new situation. The Basic Law and 2/3 majority laws concerning the judicial branch took effect, while new leaders took office and started their nine year terms. Nat-

urally though, the process of judicial transformation is not over. On one hand, the new leadership will begin the restructuring of the organs through new powers. The actualities of this process will prove whether self-control can replace the roles previously fulfilled by a system of checks and balances which has now been removed. The absence of such self-control will show how much the judiciary can or wants to resist. Also, light will be shed on whether the new management will be able to bring about expediency and a fairly distributed caseload – the main reasons for restructuring cited by the government. Most importantly, we will see the price that we will have to pay for this, for there is indeed a price which is too high for these goals.

It will also be interesting to see to what degree the current system will change due to international bodies such as the Venice Commission. Maybe we will never find out what this new system would have been like in its original form. I sure hope so. Maybe just like the exquisitely decorated Basic Law never took effect in the form it was accepted in, the Bszi.'s lifespan will be similarly brief. But all of this will only be suitable for analysis in the context of the post-constitutionalization events.

NOTES

[1] National Assembly Resolution Proposal H/2057
[2] 3056-2010/3. Office of the National Judiciary Council
[3] Due to the Preparatory Committee's decision, the working group's minutes are kept classified. I am quoting from my personal official copy the draft.
[4] "Ítélőtábla" in Hungarian. *[trans.]*
[5] The executive branch *[trans.]*
[6] AEB -7/2010
[7] Statement by Laszlo Salamon (KDNP): minutes of the plenary session of the National Assembly: February 15, 2011 (65th day of session), 18th statement
[8] Statement by Gyorgy Rubovszky (KDNP): minutes of the plenary session of the National Assembly: February 15, 2011 (65th day of session), 34th statement
[9] Statement by Imre Vas (Fidesz): minutes of the plenary session of the National Assembly: February 16, 2011 (66th day of session), 40th statement
[10] Statement by Csaba Gyure (Jobbik): minutes of the plenary session of the National Assembly: February 17, 2011 (67th day of session), 118th statement
[11] Legislative Proposal T/1864
[12] The legislative proposal's passages relating to the transformation of the judiciary: Legislative Proposal T/1864 (after acceptance Act CLXXXIII. of 2010 pertaining to the amendment of certain laws pertaining to the efficient operation of courts and the expediency of legal procedures) Articles 1–99.
[13] Amendment Proposal T/1864/41
[14] see the minutes of the National Assembly's Committee on Constitution, the Judiciary, and Orders of Business: December 6, 2010
[15] Act CLXXXIII. of 2010 pertaining to the amendment of certain laws pertaining to the efficient operation of courts and the expediency of legal procedures Article 55
[16] the minutes of the plenary session of the National Assembly: December 14, 2010 (60th day of session) Statements 346–438
[17] For the amendment of procedural laws, see Gergely Barandy – Aliz Barandy: *Criminal Law -A Political Paradigm Shift? On the Causes of Limitations of the Right to Legal Protection and the Increases of the of Prosecutorial Rights* (Studies for Prof. Mihaly Toth's 60th Birthday – Pecs, 2011.)
[18] Amendment Proposal H/2057/2
[19] for an evaluation of the Basic Law's regulations regarding the judiciary, see: Zoltan Fleck, Gabor Gado, Gabor Halmai, Szabolcs Hegyi, Gabor Juhasz, Janos Kis, Zsolt Kortvelyesi, Balazs Majtenyi, Gabor Attila Toth: Opinion of Hungary's Basic Law. Fundamentum, 2011. issue #1, pg. 72
[20] Statement by Andras Baka (the president of the Supreme Court): minutes of the plenary session of the National Assembly: March 24, 2011 (78th day of session), 90th statement
[21] see: minutes of the plenary session of the National Assembly: March 22, 2011 (76th day of session), statements 12–100, minutes of the plenary session of the National Assembly: March 23, 2011 (77th day of session), statements 1–177, minutes of the plenary session of the National Assembly: March 24, 2011 (78th day of session), statements 1–147, minutes of the plenary session of the National Assembly: March 25, 2011 (79th day of session), statements 19–181, minutes of the plenary session of the National Assembly: April 4, 2011 (82th day of session), statements 41–105, minutes of the plenary session of the National Assembly: April 11, 2011 (83th day of session), statements 27–37, minutes of the plenary session of the National Assembly: April 18, 2011 (84h day of session), statements 135–161.
[22] Statement by Gyorgy Rubovszky (KDNP): minutes of the plenary session of the National Assembly: March 22, 2011 (76th day of session), 59th statement
[23] Statement by Istvan Balsai (Fidesz): minutes of the plenary session of the National Assembly: March 25, 2011 (79th day of session), 22nd statement
[24] The original Hungarian text featured the expression "piszlicsáré", but the translator ran out of rhetorical ideas by this point. [*trans.*]
[25] Statement by Istvan Varga (Fidesz): minutes of the plenary session of the National Assembly: March 25, 2011 (79th day of session), 40th statement
[26] Statement by Istvan Vitanyi (Fidesz): minutes of the plenary session of the National Assembly: March 25, 2011 (79th day of session), 64th statement
[27] Statement by Imre Vas (Fidesz): minutes of the plenary session of the National Assembly: April 1, 2011 (81st day of session), 142nd statement
[28] Statement by Gergely Gulyas (Fidesz): minutes of the plenary session of the National Assembly: March 25, 2011 (79th day of session), 138th statement
[29] Legislative Proposal T/2227 concerning the remedying of indictments related to the crowd control activities of Fall 2006
[30] e.g. see: http://www.hir24.hu/belfold/2011/02/16/aggaszto-asemmissegi-torveny-baka-szerint/, http://tablet.hvg.hu/itthon/20110216_semmissegi_torveny_aggalyos_baka, http://hirszerzo.hu/hirek/2011/2/16/20110216_baka_semmissegi_torveny_aggalyos
[31] Related Amendment Initiative T/2627/155
[32] The Lawyers' Digest published this letter in its entirety. *Lawyers' Digest,* Vol. 50, March-June 2011, pg. 6
[33] *Viszik a bírákat:* Népszava, April 16, 2011
[34] e.g. see: http://www.nepszava.hu/articles/article.php?id=441758, http://nol.hu/belfold/megerkezett_az_allamfohoz_a_birak_peticioja
[35] see my article: Fékek és ellensúlyok? 2010 a hatalomkoncentráció éve (Egyenlítő – Volume 9, April 2011 – published in the journal's addendum)
[36] Legislative Proposal T/3296, Article 8
[37] Detailed justification for Legislative Proposal T/3296, Article 8
[38] Legislative Proposal T/3296 Article 10, Act LXXII. of 2011 Article 10, Act LXVII. of 1997 Article 138
[39] In Hungarian it is now called "járásbíróság". [*trans.*]
[40] Act CLXI. of 2011 concerning the organization and management of courts
[41] see: Statement by Andras Baka (the president of the Supreme Court): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session), 24th statement
[42] see: Act CXXX. of 2010, Article 7 Paragraphs (1) and (2) and Governmental Resolution 1144/2010 (VII. 7.) on the Government's Order of Business, point 21
[43] Expose of Robert Repassy (state secretary): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session), 22nd statement
[44] see: www.mabie.hu/node/941, www.mabie.hu/node/1010, www.mabie.hu/node/1286
[45] ABH 1279/B/2011
[46] Statement by Andras Baka (the president of the Supreme Court): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session), 24th statement
[47] General Explanation for Legislative Proposal T/4743. Statements by state secretary Robert Repassy (Fidesz) (Statements 22, 44, 104, 110) Statements by Imre Vas (Fidesz) (Statements 80–82, 92,106), Statements by Gyorgy Rubovszky (KDNP) (Statements

38,76,98), Statements by Bela Turi-Kovacs (Fidesz) (Statements 118, 122), Statements by Zsolt Horvath (Fidesz) (Statements 34, 48), Statements by Ferenc Papcsak (Fidesz) (Statements 56, 66): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session)

[48] Statement by Andras Baka (the president of the Supreme Court): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session), 24th statement, Opinion CDL-AD 2007/028 by the Venice Commission

[49] I could not find a publicly available copy of the document, this reference is from the copy which was forwarded to me by the president of the Constitutional Committee.

[50] Statements by Gergely Barandy (MSZP) (statements 36, 46, 54, 62, 70, 84, 94, 108, 120, 124), Statements by Csaba Gyure (Jobbik) (Statements 40, 114), Statements by Andras Schiffer (LMP) (Statements 42,50,90,96,100), Statements by Nandor Gur (MSZP) (Statements 52,60,64,74,78,88,116), Statements by David Dorosz (LMP) (Statements 58,68,72,86), Statements by Istvan Kolber (independent) (Statements 102, 112), Statement by Gabor Staudt (Jobbik) (Statement 126): minutes of the National Assembly's plenary session: November 3, 2011 (128th day of session). http://www.nepszava.hu/articles/article.php?id=495978

[51] Amendment Proposals T/4743/1–91, T/4743/95, T/4743/97, T/4743/100–102, T/4743/ 105, T/4743/112. Related Amendment Proposals T/4743/103–104, T/4743/106–110. Pre-Final Vote Amendment Proposals T/4743/117–119. For the result of the vote see: minutes of the National Assembly's plenary session: November 14 2011 (133rd day of session) Statements 246–248, November 28, 2011 (142nd day of session) Statement 256. Minutes of the National Assembly's Constitutional Committee: November 7 and 9, 2011. Document T/4743/116 (uniform recommendation for final vote)

[52] minutes of the plenary session of the National Assembly: November 8, 2011 (131st day of session) Statements 173–196, November 28, 2011 (142nd day of session) statements 210–256. minutes of the National Assembly's Constitutional Committee: November 2, 7, 9, 2011.

[53] Legislative Proposal CLXII Article 7–22, Amendment Proposal T/4744/12. Statement by Gergely Barandy (MSZP): minutes of the plenary session of the National Assembly: November 8, 2011 (131st day of session) Statement 200

[54] ABH 1149/C/2011. III. 1.

[55] Committee Amendment Proposal T/5005/52

[56] http://tablet.hvg.hu/itthon/20120102_paczolay_alkotmanybirosag_interju

[57] Legislative Proposal T/5005, Article 11

[58] Legislative Proposal 4994.

[59] Pre-Final Vote Amendment Proposal 4743/117.

[60] e.g. see Statement by Gergely Gulyas (Fidesz): minutes of the plenary session of the National Assembly: November 28, 2011 (142nd day of session) statement 227.

[61] Act CLXII. of 2011, Article 233, Paragraph (2)

[62] Act CXI. of 2011, Article 45

[63] see: Legislative Proposals T/2627, T/4743, T/4744

[64] Statement by Andras Baka (the president of the Supreme Court): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session), 24th statement

[65] Legislative Proposal T/5005, Article 11, Legislative Proposal 4994. Pre-Final Vote Amendment Proposal 4743/117.

[66] http://m.index.hu/belfold/2011/12/26/baka_andras

[67] Committee Amendment Proposal T/4743/112.

[68] Statement by Tibor Navracsics (Minister of Justice and Public Affairs): minutes of the plenary session of the National Assembly: November 28, 2011 (142nd day of session), Statement 277.

[69] Pre-Final Vote Amendment Proposal T/4744, Point 13

[70] e.g. see http://nol.hu/belfold/schmitt_pal_a_sajtobol_tudta_meg_kit_jelol_fobironak, http://mandiner.hu/cikk/20111213_mszp_szegyen_hando_jelolese

[71] http://tablet.hvg.hu/itthon/20111226_Lazar_Janos_Fidesz_interju

[72] National Assembly Resolution H/5208, Declaration by Istvan Jakab (Fidesz): minutes of the plenary session of the National Assembly: November 13, 2011 (153rd day of session) Statement 32.

[73] http://tablet.hvg.hu/itthon/20120101_hando_szajer_lemondas

[74] www.nepszava.hu/articles/article.php?id=507678

[75] Opinion on the new Constitution of Hungary CDL-AD (2011)016.

[76] Opinion on the new Constitution of Hungary CDL-AD (2011)016. points 102–110. Position of the Government of Hungary on the opinion on the new Constitution of Hungary CDL(2011)058 (opinion #:621/2011). 9–10.

[77] http://nol.hu/kulfold/latszat_csak_a_magyar_demokracia

[78] e.g. see: http://kulfold.ma/tart/cikk/b/0/117605/1/kulfold/Funkcionalisan_halottak_minket_ekez_a_nyugati_sajto?place=srss, http://nol.hu/belfold/slagergyanus_lett_a_magyar_kormany, http://www.napi.hu/magyar_gazdasag/orban_igazi_pofonjarol_ir_az_osztrak_sajto.505534.html

[79] http://origo.hu/itthon/20111216-interju-thomas-melia-amerikai-allamtitkarral-a-magyar-kormany-intezkedeseirol

[80] http://hetivalasz.hu/jegyzet/alaposan-megfontolni-43808, http://origo.hu/itthon/20111207-az-amerikai-nagykovet-a-magyar-demokraciarol.html

[81] http://nol.hu/kulfold/hillary_clinton_levele_orban_viktornak_-_itt_ a_teljes_szoveg

[82] e.g. see: http://tablet.hvg.hu/itthon/20111216_reding_levél_navracsics, www.kormany.hu/kozigazgatasi-es-igazsagugyi-miniszterium/hirek/navracsics-tibor-valaszlevele-viviane-redingnek

[83] http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/24&format=HTML&aged=0&language=EN&guiLanguage=en

[84] Ig. 525/2010.

[85] Statement by Imre Vas (Fidesz): minutes of the plenary session of the National Assembly: February 16, 2011 (66th day of session), 40th statement

[86] Statement by Laszlo Salamon (KDNP): minutes of the plenary session of the National Assembly: February 15, 2011 (65th day of session), 18th statement

[87] Statement by Gyorgy Rubovszky (KDNP): minutes of the plenary session of the National Assembly: February 15, 2011 (65th day of session), 34th statement

[88] Legislative Proposal T/1380

[89] Legislative Proposal T/1247

[90] Justification for Legislative Proposal T/1247, Articles 3 and 7

[91] Statement by Robert Repassy (state secretary): minutes of the plenary session of the National Assembly: October 12, 2010 (34th day of session) Statements 18 and 40.

[92] Justification of Legislative proposal T/1380. Statements by Robert Repassy (state secretary) (Statement 116), Pal Kontur (Fidesz) (Statement 124), Istvan Varga (Fidesz) (Statements 126 and 148), Imre Szakacs (Fidesz) (Statement 142), Peter Kozma (Fidesz) (Statement 157): minutes of the plenary session of the National Assembly: October 27, 2010 (40th day of session).

[93] for more information, see my article: Fékek és ellensúlyok? 2010 a hatalomkoncentráció éve (Egyenlítő – Volume 9, April 2011 – published in the journal's addendum)

[94] Statements by Monika Lamperth (MSZP) (Statements 28 and 38), Andras Schiffer (LMP) (Statements 24 and 32), Tamas Gaudi-Nagy (Jobbik) (Statements 22 and 30) David Dorosz (LMP) (Statement 34): minutes of the plenary session of the National Assembly: October 12, 2010 (34th day of session). Statements by Gergely Barandy (MSZP) (Statement 144), Andras Schiffer (LMP) (Statement 146), Monika Lamperth (Statement 144): minutes of the plenary session of the National Assembly: October 19, 2010 (36th day of session). Statements by Gergely Barandy (MSZP), Statements by Tamas Gaudi-Nagy (Jobbik): minutes of the National Assembly's Constitutional Committee: October 11, 2010. etc.

[95] Statement by Gyorgy Rubovszky (KDNP): minutes of the plenary session of the National Assembly: March 22, 2011 (76th day of session), 59th statement. Statement by Imre Vas (Fidesz): minutes of the plenary session of the National Assembly: April 1, 2011 (81st day of session), 142nd statement

[96] Statement by Peter Polt (Chief Prosecutor): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session) Statement 130

[97] Pre-Final Vote Amendment Proposal T/2627/170

[98] see Gergely Barandy – Aliz Barandy: Criminal Law -A Political Paradigm Shift? On the Causes of Limitations of the Right to Legal Protection and the Increases of the of Prosecutorial Rights (Studies for Prof. Mihaly Toth's 60th Birthday – Pecs, 2011.)

[99] Legislative Proposal T/4745 and its justification. After acceptance: Act CLXIII. of 2011 concerning the Prosecutor's Office.

[100] Legislative Proposal T/4746 and its justification. After acceptance: Act CLXIV. of 2011 concerning the Prosecutor's Office and the Legal Statuses and Career Paths of the Chief Prosecutor, Prosecutors, and Prosecutorial Employees

[101] Statement by Peter Polt (Chief Prosecutor): minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session) Statement 130

[102] minutes of the plenary session of the National Assembly: November 3, 2011 (128th day of session) Statements 127–177. Amendment Proposals T/4745/1, T/4745/12, T/4745/14.