SIC ITUR AD ASTRA

II

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Collection of student papers on Hungarian and Croatian legal history 2017

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University of Zagreb / Faculty of Law / Chair of Croatian History of Law and State / 2018

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Croatian–Hungarian Legal History Summer School

The Croatian–Hungarian Legal History Summer School was organised for the first time in 2016 in Budapest as a result of the cooperation of the Eötvös Loránd University Faculty of Law and the University of Zagreb Faculty of Law. The two History of State and Law Departments of these universities published the best student presentations in the book entitled *Sic itur ad astra I.* (ISBN 978-963-284-935-5, Eötvös Loránd University Faculty of Law, Budapest, 2017, 64 p.).

Our second summer school was held in Zagreb in 2017. The topic was "Croatian and Hungarian Public Administration and Constitutional History 1848-1991'. Fourteen students (from the Master and Ph.D. level) held their presentations, all of them are listed in this book.

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

Zagreb–Budapest, 2018.

The Editors

András SZABÓ: The regulation of the exceptional power

Eötvös Loránd University, Faculty of Law

1. Definition

In my work, I intend to introduce a part of exceptional power's history in Hungary. In the period between the 1848–1849 Revolution and World War II the legal institution's content has gone through changes because the government got more and more authority. Before I introduce the history of exceptional power, I would like to give its definition: usually by constitution or separate act ensured right of the government, in order to ensure the inner safety in special occasions, it can manage with edicts the legislation's case, moreover it can narrow the individual rights with it.[1]

2. History of exceptional power

The exceptional power, as a legal institution was created with the Act accepted in 1912. Its content was used in other periods of history of law. The martial law was the same in the 16th century. In this age the deputy-lieutenant travelled around the country with servant judges in order to enforce the law and to resettle the piece in the territory of the country.[2] Usually opportunity of martial law was made for the situation, when in the country the disorder was typical. This ensured the background of the breaking-down of the outlaws and of the serfs' movement in the 18–19th centuries.[3]

A royal rescript was also about the delegation to martial law which had a justification about why they established these kinds of courts. In the centre of the martial law was the depravation of the public security, which remediation seemed to be impossible with the traditional form of the legislation.[4] This rescript's curiosity was that it was operative until 1852, which means that it had to operate with the Act 1 of 1849 parallel.

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[1] POMOGYI, László: Magyar alkotmány- és jogtörténeti kéziszótár [Dictionary of the Hungarian Constitutional and Legal History], Budapest, 2008, Mérték Kiadó, p. 603.
[2] MEZEY, Barna: A kivételes hatalom jogi természete [About the legal nature of the exceptional power], Jogtörténeti Szemle 2015/4, p. 26.
[3] *Ibid.* p. 27.
[4] *Ibid.*

3. Act 1 of 1849

Though the Act 1 of 1849 had not lead the legal institution of exceptional power into Hungary's legal system, but in its content could be found the martial laws rules, which appeared in the Act 63 of 1912 too.

The Act 1 of 1849 delegated the civil and the criminal jurisdiction to courts that was established by the *Országos Honvédelmi Bizottmány* [*National Defence Committee*], what led the country as a government in this stand of the revolution. This delegation had narrows: they were allowed to use this power only on that part of the country which were war zones and were important in favour of the revolution. These courts stood out of five people and its competency included civilians and soldiers too. Regarding the judges there were criteria: in a council had to be two civilian judges and two military judges. The leader of them could come out of both social groups. The prosecutor was represented by the *Országos Honvédelmi Bizottmány*. The Act regulated the crimes which could have been judged by martial law. For example: armed action against the country or made someone do this, helping the enemy and obstructing the army.

The members of the parliament had immunity and this was only suspended if they had not found any other opportunity. If someone was caught in act anyone could capture him or her, but he or she had to be given immediately to the civil or military authority. After the capture he or she had to be brought to justice in twenty-four hours. One of the five judges wrote the record. The defendant could have a defence attorney. If he or she had not a lawyer, the court allocated one for the criminal. The process could be suspended in order to let the defendant get evidence in his or her defence.

To adjudicate the five judges had to share the same opinion by sentencing the defendant or releasing him or her. If they had an agreement and sentenced the defendant that meant a sentence to death, which was executed by bullet. If the judges were unable to sentence the defendant or release him or her, he or she was given to the ordinary court. By sentencing to death, the execution had to be done in the next three hours counted from the sentence. The whole process, with the execution had to last less than three days.

4. Act 63 of 1912

The first act that was made about the exceptional power after the Austro–Hungarian Compromise was the Act 63 of 1912. Before this, Austria tried to institute a similar institution, but the Hungarians did not accept it, because the military leader would have taken over the force, over the civilian leaders during the war or during the threatening of war.[5] In the background stood that its acceptation would have been against the acts of 1848 because the exceptional power could have been delegated only to the government.[6]

This act was known also by another name: the delegation act. The legal institution of exceptional power was not defined by it. It only listed the right of the government during war or during threatening of war. The reason of this act was that the exceptional power had been only interpretable with the interest of the state but after the statute was made the politician were able to refer to an act. This means that it had expediency and constitutional backgrounds.[7]

After the war, the government that lived with the opportunities ensured by the exceptional power, had to overrule its edicts. It means that another act was needed.[8] I have to highlight that the dictatorial empire had the end after the war was ended, but the edicts that was created during the war did not lose their operative automatically, they had to be withdrew.

Because of the act the government had to present government commissioners and later they had the right to name the commander, who were acting on their definite region. Both of them vowed to the Prime Minister and belonged under the government.[9] Their authority covers only two cases: they could restrict the right for junction, and the right for assembly.[10] This act gave to the interior minister some rights too. He had the right to command the gendarmerie and could overrule the ordinance of the self-governments. The minister had the right to restrict the set out of passports and to evacuate separate region of the country, those parts of the country that were under attack.

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[5] *Ibid.*, p. 31.
[6] *Ibid.*
[7] Főrendiházi irományok [Documents of the Upper House], 1910, vol. XXI, p. 403.
[8] TAKÁCS, György: A sajtó és a kivételes hatalom [The press and the exceptional power], Jogtudományi Közlöny, 1973. július-augusztus, p. 407.
[9] BUZA, László: Az államjogi kivételes állapot [The constitutional exceptional state], Jogtudományi Közlöny, 1915. augusztus 13., p. 361.
[10] *Ibid.*, p. 361.

Some defined products were not allowed to use, to trade or these could be narrowed. This could be done by referring to the country's interest. Moreover, the leaders had more rights during war: they were allowed to dictate the highest price of some products. Those, who sold the defined products or asked more for these or just used them, committed petty offence. This could have been punished with a two months long seclusion and six-hundred crown penalty.

More fundamental right could have been restricted: the privacy of letter, the privacy of telegraphs, the right of assembly and the right of association. If someone used these rights they could have been punished with two months long seclusion and six hundred crown penalty.[11] The act included the opportunity to the censorship of the press. The first copy had to be sent to the King's Prosecution before it was published.[12]

5. Act 50 of 1914

The dictated price was just an opportunity in the act from 1912, but after the Act 50 of 1914 it was necessary. If someone asked more than the defined price, the plus was invalid and the buyer had the chance to claim that amount of money. After 1914 the owners had not have to announce the being of products, but also had to sell it to the authorities on the defined price.[13]

The act had some new command: if it was impossible to attend the works with wageworkers, then anyone between the age of eighteen and fifty could have been forced to work out of public interest. The animals and vehicles had to be provided if they were needed to the war.

6. Act 6 of 1920 and Act 27 of 1922

The Act 6 of 1920 was published after World War I during the peace talks. It had only four paragraphs, even though it had a big effect to the exceptional power. Despite of the end of World War I, the government got the delegation to live with the opportunity of the exceptional power for another year. Moreover, they could keep this delegation for three

[11] Act 63 of 1912, Section 8, 9, 10
[12] TAKÁCS, *op. cit.*, p. 407.
[13] Act 50 of 1914, Section 2, 3

months after a legit election.[14] If they wanted to keep the commands in effect, they had to submit a bill with the same content.[15]

The next act, which dealt with the exceptional power was practically a budgetary act. It regulated the first six months of year 1922/1923. The government got a warrant to keep in force those edicts that were given out by right of its exceptional power and were not overruled. These should not have been repealed until the freedom and the economic life were not restored. But if the edicts were not necessary, the government had to repeal those, which to keep in effect was not reasonable.

The Act 27 of 1922 defined a deadline until the bill had to be submitted in those tasks that were regulated by edicts. They had to be submitted in four months, because if they have not done this, the edicts would have repealed six months after they became operative. The government got the authority to live with the exceptional power to restore the order after the peace-treaty and give out edicts. They had to notify the diet about these edicts.

7. Act 2 of 1939

The question of the exceptional power became actual before World War II again. As I said earlier, this institution could not be only used during war, but also during those times when there was a threat of war. This is why we can look on the Act 2 of 1939 as a preparation for the World War II. This act listed the cases in which the government was allowed to give out edicts or provisions during war, or during war-threatened time. This authority was improved right after the edict, so the leader of the country was allowed to make provisions in almost every case they wanted.[16] The exceptions were: changes in the organization of the state enforcement and the changes in the system of the local-governments and those changes in criminal law for what the government did not have the mandate.

Another limitation of the government's exceptional power was that the edict had to be introduced to a committee which stood out of members of the two chambers of the parliament. This had thirty-six members and it continued its work even if the parliament's session was adjourned or the parliament was dismissed. Its role was to examine the

[14] Act 6 of 1920, Section 1
[15] Act 6 of 1920, Section 2
[16] TOMCSÁNYI, Móric: Magyarország közjoga [Public law of Hungary], Királyi Magyar Egyetemi Nyomda, Budapest, 1942, p. 265.

correctness and the subservience of the edicts. They also had to make their opinion about it. If it was necessary, they could initiate at the parliament that they should challenge the government. It had the chance to decide from what time they can live with the power of the exceptional power and the act consisted it too, that the exceptional power will be ended when the war did not break out in the next four months, after the proclamation of the edict and the parliament did not give the permission to keep the government their mandate.

The Act that was given out in 1912 was in force in 1939. At the end of the war the edicts had to be repealed with an exception: the government was allowed to restore the order in the country with edicts. The work of the local-governments could have been influenced and suspended through the minister of interior and through the government commissioner. They were able to suspend those regulations that were injurious to the war. The government commissioners were allowed to wield the employers' right above the governments' employees except for the courts employees and the prosecutors. They could suspend the employees from their position who did have the chance to appeal, but that did not have a delaying force.

With the government commissioner together, the minister of interior got the most rights during war or during war-threatened time. He was allowed to wield the right for filling out passports, which meant he could deny to give someone passport. Moreover, he had the right to empty buildings, cities and parts of the country with the agreement of the secretary of war. Other fundamental rights could have been restricted. Creating new associations could have been banned, or the existing ones' work could have been limited or suspended.[17] The right to protest could have been also narrowed with the exceptional power.

After the World War II, the use of exceptional power ended. If we look the content of this institution, it can be said that until the fall of the Soviet Union, the Hungarian government led the country as the governments during the wars did. Hungary's constitution nowadays contains the exceptional power. It lists the cases when the government can live with its mandate. The list from the past has been extended with three other occasions: state of emergency, in emergency with two meanings in Hungarian, preventing defence situation, and unexpected attack. This has extended only with catastrophes, so they invented an institution that is in the legal system for a century.

[17] Act 2 of 1939, Section 148

Matija PLAŠĆ: Constitutionality in the first Yugoslavia (1918–1941)

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1. Introduction

The question of constitutionality between 1918 and 1941 on these territories was quite complex. The reason for this was political and social conflicts between the ruling authorities that resulted in the predominant position of the king in relation to the legislature and the judiciary. Since the foundation of the Kingdom of Serbs, Croats and Slovenes (Kingdom of SCS) in 1918, the king had the constitutionally strongest position because all concentration of power was entrusted to him. Of course, dissatisfaction of other social actors over time has resulted in a conflict with the king.

The first form of constitutional arrangement was the adoption of the so called Vidovdan Constitution in 1921 despite the dissatisfaction of Croats. Political life in the Vidovdan era was characterized by persistent political and social instability whose causes lay in the tensions of national, cultural and social extremely heterogeneous countries that were trying to resolve the authoritarian way of ruling of the Serbian political elite. Everything culminated on January 6, 1929 when the sixth-of-January dictatorship' abolished the Constitution and delegated all power to it by passing a series of laws that had unified law in Yugoslavia.

On March 9 1931 the Constitution of the Kingdom of Yugoslavia was adopted. Fundamental aim of this constitution was to preserve essential rules of dictatorship in constitutional form. Yugoslavia has become hereditary and constitutional monarchy, and despite the constitutional tripartite of power, the king still had the strongest position.

2. Kingdom of Serbs, Croats and Slovenes

During the period from the establishment of the Kingdom of the SCS in 1918, until the adoption of the Vidovdan Constitution in 1921 there was no constitutional arrangement. Well, at that time the document named Address and statement of King Aleksandar

Karađorđević was a unique legal act that legitimized the emergence of the new state and the basic principles of state arrangement. Head of the state was king who had right to appoint the government. Legislative authority was administered by the Provisional Assembly of the Kingdom of Serbs, Croats and Slovenes as a pre-parliament with the function of a provisional legislative body and with the main task of preparing the constitutional assembly. The question of citizens' rights was regulated by the Serbian constitution and in 1919 the provisions of the Serbian Criminal Code were also taken over.[1]

3. Vidovdan Constitution

The Vidovdan constitution was drafted in accordance with the Constitution of the Kingdom of Serbia of 1903, which was based on the Serbian Constitution of 1888, which had a role in the liberal-democratic Belgian constitution of 1831. This constitution stipulates that the state of Serbs, Croats and Slovenes is constitutional, parliamentary and hereditary monarchy called the Kingdom of SCS, and the power is divided into legislative, executive and judicial. It guaranteed the independence of the judiciary, but it was disrupted by the position of the King envisaged by the Constitution and the statutory regulations.

The king exercised the legislative power with the National Assembly and the Council of Ministers, which was in his capacity as a government. But the king's position was stronger because he had the right to call for the election, convocation, opening and dissolution of the National Assembly, appointment of the Prime Minister and Ministers, and legislative initiative through the ministers. Well, the government could not support legislative initiatives without its consent. Furthermore, the king also had the right of legislative sanction that was not limited and gave him the right of an absolute veto to the adopted laws. Regarding foreign policy, the king had the right to represent the state in relationships with other states, and he was also the supreme military commander which means that he could proclaim war and make peace.

Another form of legislative power was the National Assembly which acted as a monotonous body elected for a period of four years. Each representative was a

[1] See more in: ČEPULO, Dalibor: Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context], Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2012, pp. 264–266.

representative of the entire population and had to listen to the instructions given to him by the citizens.

The Council of Ministers was a collegial body that was in charge of the executive branch. As such, it had the right to anti-counterfeiting, but it was legally and politically responsible to the King and the National Assembly. Judiciary as the last branch of government was basically independent, but it should be borne in mind that judges were appointed by the king for a lifetime, which means that they were specifically influenced by him. A major novelty in terms of the judicial system was the abolition of the court of appeal and jury court, which allowed the laureates to be completely excluded from the decision-making process.

About the human, civil and political rights, this constitution was liberal but despite the fact that it prescribes many rights such as: inviolability of the apartment, secrecy of letters, freedom of movement, conscience and faith, abolition of the death penalty for purely political delinquencies and the like; These rights were a dead letter on paper if the political demands required differently. The real example of the real functioning of the constitutional rights was the passing of the "*Obznana*", which directly discriminated the Communists and members of the Croatian Republic's Peasant Party. This document significantly restricted the freedom of speech, association, and the like.[2]

4. Sixth-of-January dictatorship

King Aleksandar Karađorđević on January 6, 1929 proclaimed a proclamation in the official newspaper that it has come the time when there was no longer a need for mediator between the king and the people. By acting in the state, he introduced personal dictatorship, abolished the National Assembly and the Vidovdan Constitution which will be replaced by a series of carefully prepared laws in a short period of time. The first in a series of such laws was the Law on the Royal Government and the supreme state administration, whereby the king transferred all state power to himself. In fear of an organized attack on his full power, the State Protection Law was soon adopted and that the Act prohibited any form of association and establishment of political parties that would aim at the destruction of the

[2] *Ibid.*, pp. 266–269.

system. The state has been given a new name, so it has since been called the Kingdom of Yugoslavia. But the pressures of the world's mighty were still too great, so Karađorđević had to give in and on September 3, 1931, he adopted a new constitution. This was an octroyed constitution whose purpose was to satisfy personal interests (maintenance of the imposed system of 1929) and international dissatisfaction by the fact that Yugoslavia was dictatorship country at that time.[3]

5. Octroyed constitution

With this constitution, the Kingdom of Yugoslavia became hereditary, parliamentary (but limited) constitutional monarchy in which power was apparently divided, but in reality the king still had the strongest position as "guardian of national unity and state ensemble"[4]. The power structure has undergone major changes in the very division of power in relation to the Vidovdan constitution because the new constitution provides for unity of power that is shared only with regard to the functions of the authorities in the legislative, judicial and administrative.

The king represented the state with international relations and concluded contracts with other states through a self-empowered body, but novelty was that the power of attorney (except in the case of political agreements) was required by the National Representation. In addition, it was necessary that before the King ratified the treaty, the National Representative approved such an international treaty, and when the law was promulgated, it was necessary to have the signature (counter-signature) of the ministers. However, a bit more limitation to the powers of the king from the Vidovdan Constitution can be seen in Article 31 which says that the king is the one who declares war and concludes peace. But this constitution imposes a limitation on the publication of war without the approval of the National Representation only for the wars in which the Kingdom was attacked or declared war.

Legislative power with this constitution was divided between the King and the National Representation, which was consisted of the Senate and the National Assembly. The

[3] *Ibid.*, pp. 272–273.
[4] Ustav Kraljevine Jugoslavije [Constitution of the Kingdom of Yugoslavia], Tisak i naklada knjižare St. Kugli, no. 2343, Zagreb, Art. 29.

reason for the duality of the Presidency was the preservation of the king's authority, despite that Assembly was formally equal with the Senate, was the lowest legislative level in which representatives elected by the people were present and the aim of the two-mannership was to prevent through Senate from being absent from the Assembly which may have been entered into by those who opposed the king's authority. The senator was partially elected at the election, and partially appointed by the king. But the party that was supposed to be chosen by the people was not directly elected from them but from the people's representatives.

The governing authority was also regulated by the constitution, but only the basics were regulated because the predominant part was previously regulated by the laws. The administrative authorities were the ministries headed by the ministers, and all the ministers worked together through a ministerial council whose main task was to coordinate the activities of all ministries, but also to approve individual acts of each ministry. Ministries could adopt legal and administrative regulations.

The last part of government is the judiciary, and the constitution regulated very strictly this branch of government through only two articles. The courts could not determine the material constitutionality of the law, whether the law was in accordance with the spirit and the text of the Constitution, and formal constitutionality had to be established, but it should be noted that in practice that determination came to the determination of the act of proclamation. The judges personally had a permanent and immobile position.

The state was divided into *banovinas*, districts and municipalities and that was a change in relation to the Vidovdan Constitution when the state was divided into areas, counties and municipalities.[5] With regard to human rights, the constitution contained provisions that only formally guaranteed such rights. Basically, there are two groups of such rights. The first group includes the basic civil rights and duties, while the other is social and economic.

Constitution guaranteed the equality of all citizens who have only one nationality[6] and are entitled to state protection. Article 5 prescribes personal freedoms under which no one can be deprived of liberty if it is not based on the law and that only the competent court

[5] More about state authorities see in: BLAGOJEVIĆ, Anita: O Ustavu Kraljevine Jugoslavije iz 1931. [About Constitution of the Kingdom of Yugoslavia from 1931], Pravni vjesnik, yr. 28, no. 1, 2012, pp. 127–138.
[6] Ustav Kraljevine Jugoslavije [Constitution of the Kingdom of Yugoslavia], *op.cit.*, Art. 4.

can be tried and that he has the right to file his defence. Although the constitution generally prohibited the retroactive application of criminal material regulations, the reality was that the new law was applied only if it was not stricter than the previous one. It should be noted that certain rights from the Vidovdan Constitution such as the inviolability of the apartment,[7] the right to express opinions through texts, pictures and the like,[8] and the secrecy of letters, telecommunications and telephone communications. It also guarantees the freedom of religion and conscience,[9] but also the right of association[10]. About last point it is important to emphasize part of the constitutional text that says that persons can only associate within the boundaries given by law, and as the king has during the dictatorship limited political and similar association which could potentially undermine the state order, as in the Vidovdan Constitution, this right was just a dead letter on paper.[11]

With regard to social and economic rights, Vidovdan's constitution in relation to the new Constitution was significantly better. Well, only four of the provisions of the Vidovdan Constitution concerning social and economic rights were reciprocally incorporated into the Constitution of 1931: the right to protection of family and children,[12] protection of property,[13] freedom of work and business relationship arrangements,[14] and the provisions on the establishment of the Economic Council[15].

6. Decree on the Banovina of Croatia

After the so called Cvetković–Maček–agreement Banovina Croatia was agreed-upon, and the question arises as to how the state system will be in view of the new territorial unit. This issue has been resolved by the adoption of the Decree on the Banat of Croatia, which acted as a kind of "constitution" for this territorial unit, because it determined the state-owned position of Banovina within the Kingdom of Yugoslavia. The decree was essential in constitutional terms because it represented a kind of revision of the 1931 Constitution,

[7] *Ibid.*, Art. 10.
[8] *Ibid.*, Art. 12.
[9] *Ibid.*, Art. 11.
[10] *Ibid.*, Art. 13.
[11] BLAGOJEVIĆ, *op.cit.*, p. 126.
[12] Ustav Kraljevine Jugoslavije [Constitution of the Kingdom of Yugoslavia], *op.cit.*, Art. 21.
[13] *Ibid.*, Art. 22.
[14] *Ibid.*, Art. 23.
[15] *Ibid.*, Art. 24.

which manifested itself in two directions. The first one was the recognition of Croat nationality, which departed from the provisions of the 1931 Constitution which spoke of the unity of the people of Yugoslavia. The second one was the fact that the establishment of the Banovina of Croatia was considered as the beginning of decentralisation of the country because Banovina was recognized partial autonomy as it had its executive, legislative and judicial bodies although it was not fully decentralized because most of the issues were still in charge of the King and the National Assembly.[16]

7. Conclusion

In the political and social meaning period during the First Yugoslavia was very turbulent, so we can say that as well it was turbulent in the constitutional view. This claim has a strong point in several facts. Since the founding of the Kingdom SCS there was no constitution, so the organization of the state was provisional. Adoption of the Vidovdan constitution was an attempt of ending of non-constitutional period in country, but the problem was in the king who did not want to give up his power completely. That act provoked the dissatisfaction of many political opponents. This constitution was not perfect, but the one that followed in 1931 was even worse because it was adopted only to calm down political opponents, but it did not really make any changes and aimed to overthrow the dictatorship and make king's power even stronger than it was. Even though it was a parliamentary monarchy in which parliament and government were in principle aligned with the king, the king really was the one who approved the laws, represented the state, appointed judges, and even could abolish the constitution.

Croatia's aspirations to achieve independence, fuelled by many years of dissatisfaction with the situation in Yugoslavia, culminated in 1939 by Cvetković–Maček– agreement about Banovina of the Croatia, and a part of that was the Decree on Banovina of Croatia. The decree itself is quite controversial from the constitutional law aspect, for some of it renounces the constitutional law character, but if we look at the facts it is easy to conclude that it was a constitution for Banovina Croatia because it regulated the legal character of Banovina Croatia within the Kingdom Yugoslavia and the fundamental powers

[16] See more in: ČULINOVIĆ, Ferdo: Jugoslavija između dva rata, knjiga I. [Yugoslavia between two World Wars, first book], Historijski institut Jugoslavenske Akademije znanosti i umjetnosti, Zagreb, 1961., pp. 151–152.

of all the authority of the state, which brought about a kind of decentralization of the state and recognized the national character of the Croats, which further undermined the provisions of the 1931 Constitution and the previous order because it clearly departed from the principle of the unity of all the Yugoslavian peoples.

Rita ANGELI: "Open and close" – The final points of the educational politics during the dualism

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1. Introduction

The inheritance of the dualism can be undoubtedly found in Hungary's historical past as well as in its present. May is the effect of this period in the area of education the most traceable. The educational politics are perhaps the most influencing and most dangerous forum at the same time since the appropriate education necessarily creates critical-minded individuals. I would like to cite József Eötvös, the first Minister of Culture within the era, who has given a really picturesque definition to the function of education: "Strive to see, no one can walk straight blindfolded."

Was it managed to open the eyes in that half a century period? We can wonder if it brought an undeniable smashing change on the sphere of education. Did it close the nations of the Monarchy or result in the dissension? This lecture venture to give answers to these questions, highlighting and contrasting the activity moreover the legislated laws in the era of two significant Ministers of Culture, namely József Eötvös and Albert Apponyi.

2. The inheritance of the Enlightenment – the main points of the *Ratio Educationis*

The first interesting question are the antecedents during the Enlightenment, namely introducing the educational politics of the era of Maria Theresa and the main points of the *Ratio Educationis*, the order legislated by her. Derived from her Enlightenment-characteristic reign, she tried to direct the life of her dependents, considered to be underage. Moreover, it was her firm belief that "the case of education has been a political issue from time immemorial".[1]

Besides the *Ratio Educationis*, we have to mention several acts taken by the empress. She supported the establishment of trade schools, enhancing practical knowledge. We can take for instance *Collegium Nobilium Theresianum*, the direct aim of which was the

[1] NIEDERHAUSER, Emil: Mária Terézia [Maria Theresa], Budapest, 2000, Pannonica Kiadó, p. 71.

qualification of bureaucrats. Besides the fact that the education was free in some cases the parents received payment for the schooling of their children. This obviously shows the commitment of Maria Theresa to the case.

The reforms were brought to Hungary by the *Ratio Educationis* in 1777. Naturally, all the theories mentioned before were contained. As an evidence of the enlightenment I would like to emphasise the fact that reading the order, we can experience high-level tolerance as far as nations, religions, and social layers are concerned. Moreover, the complex system from the elementary school to the university had had personalized aspects. Although the order did not predominate in practice, it had definitely laid the foundation for the following periods.

3. The activity of József Eötvös and the breakthrough – the Act 38 of 1868

The spring of 1867 is a substantial turning-point in the Hungarian history. The organised public position due to the compromise with Austria has provided opportunity to deploy the civil economic and social relations. In order to achieve the demanded goals, the qualification of white-collar labour was a necessity. These requirements and the undeniable role of education was realised by the first Minister of Culture of the dualism, József Eötvös among others.

We will understand the significance of his politics if we examine the basic state at the beginning of the period and highlight the development in its reflection. We can even determine the starting-point numerically, thanks to the results of the first official population censuses. As regard to the state of the illiterate, the following data is demonstrable. The rate of population, not able to read, above six years old was estimated to be around 70 %, this rate in 1880 still covered more than half of the population, whilst the measures in 1910 shows only around 30 %. What triggered this progress? I would like to emphasise the role of Eötvös in this development.

As the basis of his program he put a great effort into the adult education. He drew the attention to the importance of the establishment of educational associations. Among others he supported them in the official newspaper of his Ministry, the "Paper of the People's teachers", where he had described these institutions as the "fortresses of the Hungarian

Culture".[2] The fact that these invitations to join educational associations were published in seven languages is a significantly meaningful aspect of the era of Eötvös. This obviously meant a prominent progress in the field of nationalities. The program had not stayed without results: due to the invitations around sixteen thousand students had participated in the educational associations.

Naturally without the qualification of the younger generations, the redevelopment of the adults would have become meaningless. The introduction of the compulsory education, the break-through of the period was indispensable. It occurred in the Act 38 of 1868, which can be tightly connected to the name of Eötvös. Thanks to the professional and profound preparations, it had become "the democratic and liberal Basic Law of the Hungarian education". Besides the introduction of the compulsory education it also regulated the range of institutions, the role of denominations, the qualification of teachers and authorities.

This institution unquestionably provided a strong basic for the social development. In the adaptation of this law the six to twelve years old children were touched, obviously with the exception of children with physical and mental disabilities or catching diseases. I would like to emphasise that the law holds out the prospect of sanctions for parents, who had failed to fulfil their obligation. The final sanction, the appointment of a guardian squarely confirms the seriousness and reform-characterised function of the law.

We can tightly connect to this law the Act 44 of 1868 concerning the equality of nationalities. This law – also as a liberal acquisition – regulated the use of languages among others. It ensured nationalities that they could receive an education on their own native language with a high-level academic qualification.

Even though we cannot state, that regard to the issue of nationalities a comprehensive and consistent regulation took place. It is shown by the fact that the determination of the languages was delegated to the sphere of educational minister, refusing to give a detailed enumeration and that way to give a guarantee by the law. [3] However, the following paragraphs refine the picture, when obligating the establishment of literature and language department for the "fashionable languages". Furthermore,

[2] Néptanítók Lapja [Teachers' Paper], 1868. február 1., I. évf. 1. sz., pp. 6–7.
[3] Act 44 of 1868, Section 17

regarding to the universities, it made possible to educate these languages in favour of the coherent educational system. Moreover, we can underline that this law – as opposed to the one about the education – did not contain sanctions, making the observation and enforcement doubtful. The theoretical-characterised regulation can be explained with the previous, delayed discussion before the acceptation, the search for compromises since the issue of nationalities had divided the Hungarian political upper-class.

4. The Act 18 of 1879 and the Act 30 of 1883

The Act 30 of 1883 passing on the track, proposed the uniform regulation of secondary schools. The positive effects can be primary observed regarding to the teachers' qualification. A four years long study, a one-year long practice and the exam had become an obligation. Not only does this regulation show the centralised characteristic of the law, we can experience the leading role of the state in other paragraphs, as it had provided the right of supervision and control to the state even in the case of confessional schools. This law undoubtedly provided a great impetus for education, the secondary school graduation and the school-leaving exams had become an elementary aspect to be considered a gentleman. Whilst, on the other hand the strict government regulation may had provided an overly narrow frame for the education, the governmental ideologies, political convictions could be freely mediated.

The ideology of the uniform state was even strengthened by the Act 18 of 1879, which regulated the education of Hungarian language in the institutions. The proposal was handed in by Gábor Baross, who had emphasised that the law shall not prejudice the autonomy of nations, the boot is on the wrong leg, it provided advantage for them as the Hungarian language in the everyday life was essential, moreover it enhanced the participation of nationalities in public life. On the other hand, he underlined the necessity of the law as a pedagogical tool, namely, promoting the patriotism. He referred to the fact that whilst the nationalities had mother-country, the Hungarian nation disappears with the loss of their language, confirming the statements with statistics.

Among the national representatives several counter-advices can be introduced, take for instance the picturesque argumentation of Miklós Maximovics, the Serbian

representative, who had claimed the education of another language, different from the native one means that the children learn running before walking.

5. The "Lex Apponyi"

In connection with the previous Act several questions can arise. Take for instance, whether the rigour of the regulation stopped at that level or became more acute during the period. Numerous ministerial decrees had been legislated concerning this subject in the beginning of the 20th century, displaying an intensifying tendency, which culminated in the birth of the so-called "Lex Apponyi".

However, with regard to Apponyi we cannot forget about the progressive conceptions. The Act 46 of 1908 can be assessed as the accomplishment of the freedom of education, as it lay down: "The education in public, municipal and denomination elementary schools are totally free." We can compare these regulations to the institutions of Pericles, who may have deployed the ancient democracy at the most expansive level with the aid of the introduction of daily fees, providing real opportunity to participate in the public life. Similarly, the mentioned law created not only the obligation but also the opportunity to acquire elementary cultivation.

This undeniably progressive institution woven with the Act 27 of 1907 however resulted in a prejudicial position as for nationalities. It is easy to realise that after making the education free, the maintenance of the institutions became possible with the aid of subventions. In the adaptation of "Lex Apponyi" institutions had to meet strict conditions to be subvented. The law states that "…in the spirit of children the consciousness of belonging to the Hungarian nation, as well as the religious thought has to be instilled and developed." Naturally the regulation did not stop at theoretical level, the law engaged the subvention to the education of Hungarian language.

6. Conclusion

To draw the conclusion, we can realise that a Janus-faced progress had occurred during the period without any doubt. As a consequence of promoting the compulsory education a vibrant cultural life was born. The universities and cultural institutions,

established during the dualism mean an integral part of the Hungarian national culture. Although, perhaps thanks to this national consciousness, could be the political orientation against nationalities experienced. Owing to this fact, my firm belief is that the message of this period shall survive, with the positive and even with the negative edifications. Since I am convinced that the freedom of education gets lost due to the strict regulations, the most essential part of it is the diversity and the freedom of thought.

Mateo VLAČIĆ: Citizenship in communist Croatia (1945–1990)

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1. Introduction

After winning World War II in 1945, Yugoslav communists took over the control of whole country.[1] The list of National Front, whose victory brought supervision over the constituent assembly, was established during the election for the constituent assembly.[2] Under such conditions in 1946 the constitution of Federal People's Republic of Yugoslavia (FPRY) was made.[3] The Second Yugoslavia will last until its dissolution in 1991, and during its existence, FPRY will experience a few major changes caused by both internal factors and foreign policy.[4] It was a socialist and federal state with divided complementary sovereignty, derived and original, that played an important role for citizenship, given the fact that there was federal and republican.[5]

2. Yugoslav citizenship

2.1. The Law on Citizenship from 1948

For the citizens of FPRY, at the time there was one united citizenship.[6] "Every citizen of their national state was at the same time citizen of FPRY, and every citizen of FPRY is by law a citizen of one national state of FPRY."[7] "This means that a person could be a citizen of only one national state of FPRY."[8] Citizenship was acquired by: birth on the FPRY territory, origin, naturalization or regulations of international agreements.[9]

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[1] ČEPULO, Dalibor: Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context], Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2012, p. 307.
[2] *Ibid.*, p. 307.
[3] *Ibid.*, p. 307.
[4] *Ibid.*, p. 307.
[5] *Ibid.*, p. 311.
[6] Zakon o državljanstvu Federativne Narodne Republike Jugoslavije [The Law on Citizenship of Federal People's Republic of Yugoslavia], 1946, Official Journal of FPRY, number 54., page 625., Art. 1.
[7] *Ibid.*, Art. 1.
[8] *Ibid.*, Art. 1.
[9] *Ibid.*, Art. 3.

2.1.1. Acquisition of citizenship by origin

Children would acquire citizenship by origin in one of the following ways. Primary way was that both parents were citizens of FPRY, next if one of the parents is a citizen of FPRY and children are born from a marriage that was concluded by the FPRY bodies competent for the law of marriage, or if one parent along with their child settles down permanently or if only the child is permanently settled, and finally if a parent, who is a citizen of FPRY, registers a child as a citizen of FPRY.[10] "If both parents are citizens of FPRY but are from different national states, the citizenship of the national state of their child is defined by their agreement."[11] In cases where there is no agreement, the child is a citizen of the national state of the residence of the parents.[12] If there is no common residence, the child is given a competent citizenship to which it is more connected to by law.[13]

2.1.2. Birthright citizenship

Birthright citizenship was a category that was used for children of unknown parents that was born or found on the territory of the FPRY.[14] Child born or found that way was considered a citizen of FPRY if the parents aren't unidentified by the time their child is fourteen years old.[15] "The child would acquire the citizenship of the national state it was born or found in."[16]

2.1.3. Acquisition of citizenship by naturalization

"Foreign citizens could request to acquire citizenship of FPRY by exceptional or regular way."[17] For acquisition by regular way these conditions had to be met: request made, working ability and legal age, continuously living in FPRY for at least five years and two on the territory of the chosen national state, release or guarantee of release of their current foreign citizenship and finally if can be concluded that the person will be a loyal citizen of

[10] *Ibid.*, Art. 4.
[11] *Ibid.*, Art. 5.
[12] *Ibid.*, Art. 5.
[13] *Ibid.*, Art. 5.
[14] *Ibid.*, Art. 6.
[15] *Ibid.*, Art. 6.
[16] *Ibid.*, Art. 6.
[17] *Ibid.*, Art. 7.

FPRY.[18] Exceptional citizenship can acquire a person whose naturalization is in the interests of the FPRY, and that is decided by the Ministry of Internal Affairs of FPRY.[19]

2.1.4. Loss of citizenship

"Citizenship can be lost by: absence, subtracting, release, voluntary renunciation or regulations of international agreements. By losing the FPRY citizenship a person also loses national state citizenship."[20] FPRY citizen, who is constantly abroad would lose their citizenship because of absence.[21] FPRY citizenship could be lost if a person was a national member of a country that was in war against FPRY, if a person got their naturalization by false statements or consciously refused to tell important information and to every FPRY citizen that harmed state interests abroad during war or to every citizen that neglected civil duties.[22] Another way of losing citizenship was by release, if a person is legal age, has fulfilled all duties towards the country and will get a foreign citizenship.[23] Final way of losing citizenship is by renunciation which every citizen of FPRY can make by the time they are twenty five years old if he or she is born in a foreign country and lives there, or if the person proves that he or she is a citizen of a country he or she was born in or is currently living in.[24]

2.2. The Law on Citizenship from 1964

The citizens of FPRY still have one united citizenship. But there is a change in terminology because Federal People's Republic of Yugoslavia (FPRY) is now called Socialist Federal Republic of Yugoslavia (SFRY). Now all the citizens have SFRY citizenship.

2.2.1. Acquisition of citizenship

There aren't major important changes in ways of acquiring citizenship in relation to the Law on Citizenship from 1948. The change is in the third category, acquisition by

[18] *Ibid.*, Art. 8.
[19] *Ibid.*, Art. 11.
[20] *Ibid.*, Art. 14.
[21] *Ibid.*, Art. 15.
[22] *Ibid.*, Art. 16.
[23] *Ibid.*, Art. 19.
[24] *Ibid.*, Art. 22.

naturalization. By previous law the person, who made the request, had to continuously live in SFRY for at least five years, but now the census is reduced to only three years.[25]

2.2.2 Loss of citizenship

There are changes in relation to the Law on Citizenship from 1948 in the ways of losing the citizenship. The categories of losing by release, subtracting, voluntary renunciation or regulations of international agreements have been kept, but citizens can no longer lose their citizenship by absence.[26]

In the category of release the person still had to be over eighteen years old but the person mustn't have obligations towards military, had to pay all debt, regulate the obligation to social security and property obligations from marital relations and the relationship between parents and children – people living in Yugoslavia, and to prove that they were not conducting criminal proceedings for the criminal offense or had already served the sentence.[27]

In the category voluntary renunciation, the citizenship was lost in the same ways as in the previous law but the citizen must fulfil the same conditions as in the category of release. The citizen would lose their citizenship if they harmed the country's interests and if they refuse to respect the decisions of the state bodies.[28]

2.3 The law on Citizenship from 1976

The new Law on Citizenship, adopted in 1976, has achieved minimal changes in terms of obtaining citizenship by way of exception.[29]

[25] Zakon o Jugoslavenskom državljanstvu [The Law on Yugoslavian citizenship], 1964, Official Journal of SFRY, number 38., page 733., Art. 7.
[26] *Ibid.*, Art. 12.
[27] *Ibid.*, Art. 13.
[28] *Ibid.*, Art. 18., 19.
[29] Akon o državljanstvu Socijalističke Federativne Republike Jugoslavije [The Law on citizenship of Socialist Federal Republic of Yugoslavia], 1976, Official journal of SFRY, number 58,. p. 1825. Art. 9., 10.

3. Republican citizenship

3.1. The Law on Citizenship from 1950

"The citizen of People's Republic of Croatia (PRC) could only be a person who is also a citizen of FPRY."[30] Citizens of other national republics could've been honorary citizens of PRC and they had the same civil rights as citizens of PRC when they were on the territory of PRC, except those who especially requested citizenship of PRC.[31]

3.1.1. Acquisition

Citizenship of PRC could be acquired by: origin, birth, acceptance of foreign citizens or citizens of other national states. Person would acquire citizenship by origin in the following way: child, whose both parents were citizens of PRC, is also a citizen of PRC.[32] "If one parent is a citizen of PRC but the other is a foreign citizen, the child is a citizen of PRC if it's by the law a citizen of FPRY."[33] "If one parent is a citizen of PRC but the other is a citizen of another national state of FPRY, the child is a citizen of PRC by their agreement."[34] If there is no agreement the child will still be a citizen of PRC if the parents both lived on the territory of PRC at the time of birth. If they didn't have the same residence but the child is born in PRC and the father is a PRC citizen, the child will get a PRC citizenship.[35]

By birthright citizenship, a child is considered a PRC citizen if it is found or born on the territory of PRC and both parents stay unknown until the child is 14 years old.[36] The same is valid if both parents don't have a citizenship or their citizenship is unknown.[37] Foreign citizen, who has met all conditions for FPRY citizenship, can also get PRC citizenship by request, while citizen of another FPRY national state who requests PRC citizenship will be accepted if they are 18 years old, if they are not deprived of civil rights and are not

[30] Zakon o državljanstvu Narodne Republike Hrvatske [The Law on citizenship of People's Republic of Croatia], 1950, The People's Newspaper, number 23., page 64., Art. 1.
[31] *Ibid.*, Art. 2., 3.
[32] *Ibid.*, Art. 4..
[33] *Ibid.*, Art. 5.
[34] *Ibid.*, Art. 6.
[35] *Ibid.*, Art. 6.
[36] *Ibid.*, Art. 7.
[37] *Ibid.*, Art. 7.

prosecuted for acts that would result in the loss of such rights, and the citizen must remain in the PRC area for at least one year before requesting the citizenship.[38]

3.1.2. Loss of citizenship

Loss of the FPRY citizenship would result in losing the PRC citizenship as well.[39]

3.2. The Law on Citizenship from 1965

3.2.1. Acquisition

"Only the FPRY citizen could have the citizenship of PRC."[40] Now as the country name changed from FPRY to SFRY, People's Republic of Croatia (PRC) became Socialist Republic of Croatia (SRC). The child, whose both parents were citizens of SRC, would get a birthright citizenship if both parents lived on the territory of SRC at the time of birth, if the parents didn't live on the territory of SRC, the child would get a citizenship depending on their agreement.[41] "A child, whose parents were unknown, had unknown citizenship or didn't have one, was a citizenship of SRC if it was born or found on the SRC territory."[42] Every SFRY citizen could get SRC citizenship who gives a statement to the competent municipal administration board for internal affairs.[43]

3.2.2. Loss of citizenship

"Citizen lost their SFRY citizenship or gained a citizenship of another national state of SFRY, would automatically lose their SRC citizenship."[44]

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[38] *Ibid.*, Art. 8., 13.
[39] *Ibid.*, Art. 21.
[40] Zakon o državljanstvu Socijalističke Republike Hrvatske [The Law on citizenship of Socialist Republic of Croatia], 1965. The People's Newspaper, number 13., page 172., Art. 1.
[41] *Ibid.*, Art. 2.
[42] *Ibid.*, Art. 3.
[43] *Ibid.*, Art. 4.
[44] *Ibid.*, Art. 5.

3.3. The Law on Citizenship from 1977

3.3.1. Acquisition

The citizenship was acquired in the same way as in the Law from 1965. Child acquires the SRC citizenship: if both parents are citizens of SRC, if parents are citizens of different SFRY national states the child acquires a SRC citizenship if the parents make an agreement, if there is no agreement the child is a citizen of SRC if both parents are living on the SRC territory at the time of birth, if parents don't have the same resident in SRC, the child gets SRC citizenship under the condition that it is signed in the birth register.[45] "If one parent is a citizen of SRC and the other is foreign citizen, without citizenship or has unknown citizenship, and the child is born in SRC it will have SRC citizenship."[46] Child born in a foreign country is a citizen of SRC if one of the parents is citizen of SRC, and the other doesn't have a citizenship, has an unknown citizenship or foreign citizenship but only if SRC citizenship is requested or if the child is permanently settled in SRC.[47] The child born or found on SRC territory, whose both parents are unknown, is a SRC citizen.[48] Citizen of another national state of SFRY can get a SRC citizenship by request, if they are 18 years old and if they are living on the territory of the SRC at the time of the request.[49] Acquisition by naturalization can be acquired by a foreign citizen who made the request for a SRC citizenship.[50]

3.3.2. Loss of citizenship

"Citizenship can be lost by release, voluntary renunciation, subtracting, and regulations of international agreements or gaining a citizenship of another national state of SFRY."[51] Citizen of SRC who made a release request will be released.[52] Voluntary renunciation will be valid if a citizen makes a statement about renunciation.[53] "A citizen who is absent from Yugoslavia could lose their SRC citizenship if the conditions of the law about the

[45] Zakon o državljanstvu Socijalističke Republike Hrvatske [The Law on citizenship of Socialist Republic of Croatia], 1977, The People's Newspaper, number 32., page 515., Art. 4.
[46] *Ibid.*, Art. 5.
[47] *Ibid.*, Art. 6.
[48] *Ibid.*, Art. 7.
[49] *Ibid.*, Art. 8.
[50] *Ibid.*, Art. 10.
[51] *Ibid.*, Art. 14.
[52] *Ibid.*, Art. 15.
[53] *Ibid.*, Art. 17.

citizenship in SFRY have been fulfilled."[54] Finally if a citizen is accepted as a citizen in another national state, they will lose their SRC citizenship.[55]

4. Conclusion

Despite the fact that dual citizenship existed from 1945 until 1991, by analysing the law we can see that the conditions for acquisition both citizenships were the same, with a few differences, for example the time of residence in the naturalization category. The most differences in acquiring and losing SFRY citizenship were made in 1948 and 1965 which can also be said for national states citizenships. In 1991 Republic of Croatia got independence and made a new law on citizenship, which was a big step in its regulation and departure from dual citizenship.

[54] *Ibid.*, Art. 18.
[55] *Ibid.*, Art. 19.

Patrik SZABÓ: Women's suffrage in Hungary and abroad

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1. Introduction

Due to their different economic and cultural development several countries have applied different forms of government throughout the history. All these have resulted a significant temporal distinction regarding the territorial evolution of the ideas of the Enlightenment and the civic era. In the second half of the 18th century in Western Europe and in the United States of America several fundamental human rights got guaranteed, whereas both in Hungary and in the Central European region, they could only be assured by the revolutionary wave of 1848, and could evolve after the Compromise of 1867. The revolutions of the 19th century and the beginning of the civic era conceived some reform-thoughts that influenced the whole society, such as the idea of the extension of rights and basing the parliament on the representation of the people, which correlated to the extension of suffrage.

As a result of the changing economic and social tendencies and the demand for equality and popular sovereignty the political and legal situation of women became a subject of the public discussions. The fight for the political rights of women began, of which the most meaningful stages were the French Revolution, the revolutions of 1848, and the black integrationist movements in the USA. After the World War I heavy social changes happened. The turnout of the industrial proletariat and their multitudinous access to employment made women demand their rights in connection with labour and education and they even wanted to have a more secure legal and financial position in marriage. These claims were acquired by the most progressive movements, whose success was mainly determined by their endurance, commitment and the way they took advantage of the political situation. All these resulted a step by step observable legal regulation of women's rights, which ended up with the universal suffrage.

2. Suffrage in the world

Among the member states of the USA women, who were elder than twenty-one first in Wyoming in 1869 were given electoral entitlement, in 1917 five more states gave them the right to vote within the confines of the primary before the presidential elections and finally in 1920 the 19th amendment entered into force and gave women the right to vote. In Germany, women almost simultaneously gained suffrage. In 1919 the Weimar Constitution came into force, and guaranteed universal, equal and secret suffrage for both men and women, who were elder than twenty. Besides this, women came into electoral entitlement in 1915 in Denmark, in 1918 in Austria, in 1920 in Czechoslovakia and in 1921 in Sweden. Nevertheless, these results could not come true without a movement, which set an example for the other European campaigns of women with its structure and techniques, and for this reason we particularly have to mention the fight of the English suffragettes.

In England, the fight for suffrage began relatively early. In 1869 women came into municipal suffrage with equal conditions to men, and the 1840's even organized movements of women existed, but the whole story stepped on a higher level than ever before, when in 1903 Emmeline Pankhurst established Women's Social and Political Union (WSPU). The most significant aims of the movement were to increase the public activity of women, get equal education to men and terminate the subordinated domestic role of women. They were against everyone who did not support their case. They targeted the buildings of state institutions, destructed churches and schools. They tried to disturb the events taking part in the presence of the king with shouting and exploding bombs, but they also organized some mass meetings. The government squeezed the members of the movement so hard even though their actions were violent, but in principle did not mean to kill anyone. The well-known hunger strikes of the imprisoned feminist started in 1909 which the government tried to solve with the so called forced feeding. A mystical image of them used to exist and their heroic idea was completed by Emily Davison, who died because of jumping in front of the king's horse, and whose funeral turned into an enormous sympathy-protest. At the beginning of the turn of the century the social support of the movement was

quite remarkable, but they never managed to take part in institutional politics, and after their violent strategy had failed in 1915 WSPU finally broke up.[1]

The significance of the suffragettes is still controversial. They were the first, who systematically fought for women's rights and set an example for the other movements in Europe, but that is also a fact that their support was not as considerable as they stated and the social and economic changes following the World War I rather determined that women gained suffrage. First, in 1918 the English ladies over thirty got the right to vote with the rating according to property and literacy and eventually in 1920 all women, who were elder than twenty-one years came into universal suffrage.

3. The regulation of women's suffrage in Hungary

3.1. The beginnings

Regarding the Hungarian regulation of women's political rights, we can only talk about relevant legislative results in the 20th century, despite the most progressively thinking persons of the 18th century, who were often ridiculed, supported women's claims for their rights. After Joseph II had died reformative movements came alive, that first dealt with the intellectual status of women. Most of the claims of the modern movements of women were worded within the confines of these discussions. The intellectuals of this period often referred to the English constitutional development and aimed to extend the right of having equal education and taking part in public life, and according to the natural law they demanded equality between men and women, but yet only restricted for the noble women.

3.2. Reform era

This period of history could not even assure the most fundamental educational needs of women consequently their political rights did not become one of the main points of the social debates. The most significant result of this period was that it could make women join the fight for the Hungarian language. As an answer given to the cultural policy of Vienna the intellectuals started to emphasize the need for Hungarian language education

[1] NÁZER, Ádám: Harc a női jogokért. Szüfrazsettek [Fight for the women's rights. Suffragettes]. In: Rubicon, 2007/8., http://www.rubicon.hu/magyar/oldalak/harc_a_noi_jogokert_szufrazsettek [Access on 5th March 2017]

including raising the learning level of women. Despite these ambitions we can realize no improvement regarding the social and public situation of women. The main reason for this is that the feminine ideal did not change at all and women were only considered as mistresses, mothers and wives and their education was also subordinated to this mission. Among the ones who supported the idea of giving women a better education we have to highlight the work of Blanka Teleky, whose goal was to impart women in an equal education, which she thought to be a condition of the legal equality between the two sexes. She opened her Hungarian language teacher's training college for women in 1846 in Pest, where the best-known teachers of the country worked, using the most modern methods.[2]

The first question affecting the regulation of the political rights of women became a subject of the parliamentary debates in 1843 and 1844. The suffrage of the civic and noble women became an item of the agenda at the regional sessions. A few representatives wanted to give even the civic women this entitlement, but there were concepts that would have granted this right for all the women who were elder than 18 and single. Even though, neither of these ideas came alive, the parliament could show up an important result. A team led by Ferenc Deák worked out a bill which ordered teacher's training colleges to be set up in Budapest, where besides the feminine tasks the same subjects must have been taught similarly to the same institutions for men. On the other hand, this bill would have guaranteed the same legal status for the schoolmistresses compared to men, but this time the revolutionary legislation failed.

3.3. The Revolution of 1848 and the war of independence

The ideas of the reform era mainly influenced the revolution of 1848 that ruined the antipathy against politically active women and especially condemned the public inactivity of them. Even though the revolution could not cause concrete results, meant a big step for women towards their emancipation. The Act 5 of 1848 on suffrage raised the proportion of citizens who were able to vote from 4 % to 10 %, but similarly to the fire raisers and murderers women did not come into electoral entitlement. The Acts of April guaranteed the

[2] SCHULLER, Gabriella: Az úttörők. Magyar nőtörténeti arcképcsarnok [Pioneers. Hall of fame of Hungarian women]. In: Rubicon, 2007/8., http://www.rubicon.hu/magyar/oldalak/az_uttorok_magyar_notorteneti_arckepcsarnok [Access on 5th March 2017]

basements of the civic transformation and the most important franchises but not everybody was satisfied with the regulation. The most radically thinking revolutionist aimed to expand suffrage for women and even for the cotter and day laborers. There was also a conception which would have granted both active and passive electoral entitlement for every citizen who were elder than twenty. However, the contemporary Hungarian society was not ready to accept reforms like these for which the reason is that the conservative, family-orientated feminine ideal was still alive and moreover the women themselves were not even ready for practicing their rights on a wide range like this.[3]

The absolutistic era, coming after the repression of the revolution did not serve the emancipation of women. Due to the bare and overdue pedagogy and the failing educational situation of women their fight for their civil rights began to decline. The powerfully centralized society fundamentally condemned the idea of the extension of rights and supported the view considering running a household and raising children as the profession of women.[4] The only breakthrough of the era was the teacher's training college reform executed in 1856. As a result of the program the first state-funded colleges were built first in Pest than all around the country.

3.4. The era of dualism

With the Austro–Hungarian Compromise of 1867 Hungary stepped on the way of becoming a civil society, but it is partly surprising that women's suffrage also became a topic of the parliamentary debate because the conservative view about women and their social role did not change at all. The ruling Freedom Party's feminine ideal consisted of attributes like "the obedient wife and the good countrywoman" that changed only decades later due to the more intensive unfolding of capitalism and the civil ideas. In the 1870's the question of women became a part of the public life, after different clubs had been established to represent the interest of women. These clubs substantiated the work of the later social democratic and civil movements of women, but they did not claim the extension of the

[3] SIMÁNDI, Irén: A nők parlamenti választójogának története Magyarországon, 1919–1945 [The history of women's suffrage in Hungary 1919–1945]. In: Rubicon, 2009/4 onlineplusz, http://www.rubicon.hu/magyar/oldalak/a_nok_parlamenti_valasztojoganak_tortenete_magyarorszagon_1919_1945/ [Access on 5th March 2017]

[4] NAGYNÉ SZEGVÁRI, Katalin: A női választójog külföldön és hazánkban [Women's suffrage in abroad and in Hungary]. Budapest, 2001, HVG-ORAC, p. 54.

political and legal rights of women as a part of their programs. The civil women's movement led by Pálné Veres imported the western ideas and defined the question of women as a cultural and educational question. Similarly to the black integration movements in the USA they aimed to liberate women from their intellectual dependence, consequently they emphasized the importance of improving the education of them which they claimed as a human right. Analysing the cultural situation of women, they pointed out the failures of the government and stressing the role of the well-educated women in the family they demanded the opening of different cultural fields, higher education and intellectual professions for women. Moreover, their newspaper urged the support of self-maintaining women and fought for their labour and cultural rights.

During the time of dualism vital debates took place on the public role of women in the parliament. During the parliamentary term from 1869 to '72 the self-government suffrage of the noble widows became a point of the controversies but the Act 42 of 1870 did not let them have electoral entitlement. [5] The Act was relevant considering the rights of women because it was the first time they handed in their petition on the self-government and national suffrage. The b) point of the §40 of the Act indirectly granted suffrage for women and according to the §40 women living in the village were represented by procurators.

3.5. Parliamentary session between 1872 and '75

Since the revolution the economic and the cultural background of the country changed a lot. As a consequence of the industrialization the working class began to develop and the social status of women was also undergoing a change. The universal and secret suffrage plus the political and civil equality of women became a part of the programs of the far-left parties.

During the parliamentary session from 1872 to 1875 not only the electoral entitlement of women but their labour rights and employment came also into question even though the most significant subject of the debates was their majority. István Teleszky, a well-known civil lawyer of the era and Tivadar Pauler, a professor and the rector of the

[5] *Ibid.*, p. 60.

University in Budapest aimed to guarantee the majority of women who were elder than twenty-four or got married. They based their proposal on the Codex Zurich which declared that women liberated from tutelage and paternal power with their marriage and these could not be set back even if the marriage ended when she was minor. The parliament accepted the bill so Act 23 of 1874 on "The majority of women" could come into force and finally terminated the ruling of Tripartite, according to which men became major at the age of twenty-four and women at the age of sixteen.

The next negotiation on women's suffrage took place in 1874, when two similar but substantially different proposals were the subjects of the sessions. One of the proposals supported women's complete political and civil emancipation and the introduction of the universal and secret suffrage emphasizing that women who used to be the part of the "honoratior" class were also entitled to vote. On the other hand, the other proposal aimed to enforce the newness gradually and would have granted the right to take part in the elections for the chartered schoolmistresses and midwives etc.[6] Despite their fundamental distinctions both of them got condemned, so even the modest extension of rights could not come true.

After the turn of the century, as a consequence of the economic and cultural changes the social status of women also altered. In 1895 women were allowed to go to the faculty of medicines, pharmaceutics and arts and with the wider acknowledgement of their claims their possibilities became broader and the development of the organized movements of women finally began. At the beginning of the 20th century three stream of these kinds of movements must be separated: the Hungarian feminists, the social democrat feminine movement and the Christian-socialist direction. The Feminist's Club was established by Róza Bédy-Schwimmer in 1904. Among the goals of the club besides the political and educational rights of women the fight for suffrage became more and more important. Their techniques were mostly similar to the English suffragettes, but they also tried to strengthen their arguments with articles, meetings and declarations. The association organized an international conference on women's suffrage in Budapest in 1913, in which besides 230 reporters more than 3000 person participated, who came from all around the world. The international press appreciated the organization, which – according to the feminist – was

[6] *Ibid.*, pp. 67-70.

not remarkable for the material they discussed but the international spirit it created.[7] After the Word War I had broken out the aim of feminists was to avoid the economic and moral collision of hinterland, so they concentrated on correcting the mistakes of the government's social policy, the protection of women and children and labour exchange.

The domestic development of the social democrat movement of women began at the early years of the 20th century. The followers of the campaign were committed to expanding suffrage and represented the most radical standpoint that is proven by the program accepted by the 10th Congress of the Hungarian Socialist Party. The program claimed direct, secret, equal and universal suffrage for all citizens who were elder than twenty-four regardless on their gender. Moreover, they demanded the complete equality between the two sexes and forbidding night work and jobs that were harmful for women.

The social democrat movement was based on a class-oriented ideology and found the interests of women and the working-class similar. Distinctly, the Christian-socialist movements of women were not defined by a social class and did not connect to any political parties. This direction involved Christian feminism that aimed to preserve social harmony by financially supporting the workers and the cultivation of the religious spirit. Besides the domestication of the progressive movements, they wanted to protect the traditional role of women in the family and to ruin the obstacles against the intellectual civilization of them. The result of their operation was the above-mentioned ministerial decree that let women take part in the higher education and made the number of women studying at university higher.[8]

Despite the work of the organized movements of women and the results they gained at the field of education and culture the period from the turning of the century to the beginning of the World War I did not help the legal regulation of the rights of women, but after the war had broken out heavy changes came at all fields of life including the fight for suffrage. Women increasingly took part in the production and contributed to the supplement of the soldiers fighting on the front line so the question of electoral entitlement became a part of the public life again and its regulation went inevitable. In 1917 the radicals,

[7] CZEFERNER, Dóra: Nemzetköziség a századforduló hazai feminista mozgalmában [Internationalism in the Hungarian feminist movement at the turn of the century], Újkor.hu, http://ujkor.hu/content/nemzetkoziseg-a-szazadfordulo-hazai-feminista-mozgalmaban [Access on 5th March 2017]
[8] NAGYNÉ, *op. cit.*, p. 101.

the social democrats and the democrats established the "Block of Suffrage" led by Mihály Károlyi and Vilmos Vázsonyi. The latter handed in a bill in 1917 in which he equally determined the general necessities of suffrage. These conditions were the age of 24, the Hungarian citizenship and the ability of reading and writing. Nevertheless, there were differences regarding the special conditions because of a stricter rating of literacy but being a widow of a soldier counted as an alternative rating. This proposal was behind the European regulation but it would have affected almost 300 000 women and would have been satisfying regarding the domestic situation but it failed because of the withstanding of the conservatives.

During the World War I several social changes happened and women proved their commitment at the field of labour so consequently the electoral entitlement became a subject of the parliamentary debates again in 1918. Part of the aristocrats joined the "Block of Suffrage" and supported the idea, but the congressmen who opposed thought the reforms were unsure and in their opinion the fight was not only for emancipation but the political power. Prime minister, Sándor Wekerle handed in a bill in 1918, in which he named three alternative necessities. Women who had secondary qualification or was a wife of a man having the same qualification or worked in the agriculture or in industry and paid at least hundred crown direct tax and were single or divorced could have had suffrage, but the proposal got condemned. It was clear that suffrage for women is only reachable by a democratic revolution, which finally happened in 1918 and as a consequence the Károlyi-government published Act 1 of 1918.[9]

3.6. Act I of People of 1918

This Act was the first in Hungary to declare equal, direct, universal and secret suffrage for all the Hungarian citizens who were elder than twenty-four years old and were a Hungarian citizen for more than six years. The only difference between men and women was, that apart from the previously mentioned ratings women were required to be able to read and write to have electoral capacity, but due to the events of the war no elections were held based on these regulations.

[9] *Ibid.*, p. 123.

3.7. The Soviet Republic (1919)

The Act I of People of 1918 and the fall of the Károlyi-government was followed by the Soviet Republic in Hungary in 1919 where the regulation of suffrage was quite antidemocratic because even though it was regardless on sex and nationality, only those came into electoral entitlement who were elder than eighteen years old and did socially useful work. As a result and as a violation of popular sovereignty all the workers and the soldiers of the Red Army and even citizens of other countries got entitled to vote, but on the other hand clericals; capitalist and merchantmen got excluded from suffrage.

3.8. No. 5985/1919. Prime Minister's decree

The next truly significant legal document was the No. 5985/1919. Prime Minister's decree published by Prime Minister István Friedrich, which aimed to create political support for the ruling government, and therefore introduced stricter ratings regarding age, citizenship and inhabitancy. The only difference between the rules concerning to men and women was, that the latter were still required to have the ability of reading and writing.[10] In 1920 elections were held where Hungarian women voted for the first time, and as a result of the elections the first female MP called Margit Slachta became a member of the parliament as a Christian socialist representative.[11] On the other hand, these elections raised the power of those who demanded the stricter regulation of suffrage, and as a result of their claim another decree got published in 1922.

3.9. No. 2200/1922 Prime Minister's decree

The No. 2200/1922 Prime Minister's decree – generally called "Lex Bethlen" – was published by Prime Minister István Bethlen and aimed to politically stabilize and consolidate the country. It was more antidemocratic than the previous regulations because of the higher requirements it included. The most important change for women was, that they had to be elder than thirty years old to be entitled to vote. Regarding the effects of the decree, we have to highlight, that it decreased the number of voters with a million persons and

[10] MEZEY, Barna: Alkotmánytörténet [Constitutional history], Budapest, 2003, Osiris Kiadó, p. 325.
[11] SIMÁNDI, *op. cit.*

therefore the Hungarian feminists heavily criticized it. According to them, it was anachronistic and beneficial for the conservative parties, and they even opposed the rating of age. Moreover, the left-wing parties also tried to raise their voice against the decree, so they handed in a proposal, which became the principle of Act 26 of 1925.

3.10. Act 26 of 1925

This was the first act in Hungary to summarize the electoral regulations. It did not change the conditions but introduced new methods such as the proportional representative system, which was used in the capitol city, and the individual election districts applied in the villages, and where people had to vote openly. Regarding the number of voters, we can say, that more than half of the population were excluded from electoral capacity because only 2 242 000 out of 7 980 000 people were allowed to vote.

3.11. Act 19 of 1938

One of the most important events in the history of the Hungarian constitutional law before World War II was the acceptance of Act 19 of 1938, which introduced secret suffrage and plural electoral system. Reckoning passive electoral capacity, apart from the rating of the age of thirty-five, it required professional employment, and only those could vote who had no text-debt, were no criminal offenders or political officers of the Soviet Republic. Considering active electoral capacity, we have to make a distinction between two types, first the registry election district and second the individual election district. In the former there was a difference between the regulations referring to the two sexes, because apart from the previous types of ratings women were required to fulfil the requisites of the rating of literacy, whereas in the latter equal conditions referred for both men and women. Paying regard to the effects of the decree we have to underline, that it made countrymen and civils come into a more favourable situation.

3.12. Act 8 of 1945

Last but not least, we must highlight Act 9 of 1945 because of its legal importance and truly democratic rules. It declared universal, direct, secret and equal suffrage, and

besides the natural disqualifications,[12] basically the same conditions existed as before, but it lowered the rating of age to the age of twenty. The document let 60 % of the population and all the nationalities of Hungary come into electoral entitlement except the German, and as a result of the elections held according to these regulations sixteen female MPs became members of the parliament.

4. Conclusion and the fundamental law of Hungary

To draw the conclusion, universal suffrage involving women got legally guaranteed after World War I and during World War II both in Hungarian and international relations. Nowadays, women's suffrage namely both active and passive universal suffrage is declared in the constitutions of the democratic Western European countries as Article XXIII and Article 2 of the Hungarian Fundamental Law declares that "Every adult Hungarian citizen shall have the right to vote and to be voted for in elections of Members of the National Assembly" and "Members of the National Assembly shall be elected by universal and equal suffrage in a direct and secret ballot".

[12] MEZEY, *op. cit.*, p. 332.

Martina PROTEGA: Political rights and freedoms in the Banovina of Croatia

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1. Introduction

The aim of a paper called Political rights and freedoms in the Banovina of Croatia is through the view of the establishment of the Banovina of Croatia, its special characteristics as a separate territorial unit which shared some competences with the central Belgrade, but self-regulated some, through political and legal basis and ultimately regulations that have edited political rights show how the regulation was. Primarily we will show how the structure and division of powers were conceived between the Central Government and those in the Banovina. In this way, we are going to see how the political rights and freedoms were still in the domain of the central government in Belgrade. Then we will expose the legal basis of the regulation of political rights and freedoms and, at the very end, with the case found in the Croatian State Archive, we will try to cover implementation of the law.

2. The establishment of the Banovina of Croatia

In order to understand the establishment of the Banovina of Croatia, it is important to emphasize what would encourage the Central Government in Belgrade to create a state with particular form of territorial self-government. The reason for this was solving the "Croatian issue" which, in this context of the Banovina of Croatia's establishment, can be explained as an aspiration for the establishment of federalism in the Croatian territories.[1] Two important documents for the founding of the Banovina of Croatia are the Cvetković–Maček–agreement, signed on August 26, 1939, on the basis of which the legal acts regulating the Banovina of Croatia were created, and the Decree on the Banovina of Croatia, which represents the legal basis for establishing this special form of territorial self-government.[2] In order to justify the adoption of the Decree on the Banovina of Croatia and

[1] About political tensions see more in: ČEPULO, Dalibor: Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context], Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2012, p. 276.
[2] *Ibid.*, p. 277–278.

then to abolish, but not completely eliminate, dissatisfaction with the establishment of the Banovina, the authors referred to a constitution stating that "…in the case of mobilization, war and riots that would bring in question the public order or the security of the state or, to the extent that the public interests are at stake at all, the king has the right to order the taking of extraordinary and precautionary measures at his discretion, irrespective of constitutional and legal regulations, provided that these measures are submitted without delay for approval by the National Representation Office."[3] However, as this has not happened, many authors rightly speak of the provisional constitutional basis of the Banovina of Croatia because its constitutional foundation was indeed dependent on political developments in the future, which – considering the political situation and the elements of the beginning of the World War II – was all but not certain.[4]

3. Political rights and freedoms in the Banovina of Croatia

3.1. Division of powers

Regarding the regulation of political rights and freedoms, the Decree on the Banovina of Croatia, which performs the division of competencies between the central authorities and those in Banovina, which is assigned to "…agriculture, trade, industry, forestry, mining, construction, social politics and public health, justice, education and internal administration…"[5] At first glance it may seem that those two most important ministries for regulating and implementing the provisions on political rights and freedoms were indeed handed over to the Banovina of Croatia's authorities, but that was not the case. Also it stated that under the authority of governmental authorities remain competences that are of particular importance to the general interests of the state, such as: security of state, the suppression of anti-state and destructive propaganda, police intelligence service and the assurance of public order and peace.[6] Thus, despite the generally internal affairs and the judiciary being given to Banovina, by extending state security, propaganda, intelligence services, and ensuring public order and peace, the powers in that domain have significantly

[3] Ustav Kraljevine Jugoslavije objavljen u Službenim novinama 3. rujna 1931. [The Constitution of the Kingdom of the Yugoslavia published on September 3, 1931], Tisak i naklada knjžara St. Kugli, Zagreb, number 2348., Art. 116.
[4] ČEPULO, *op. cit.*, p. 277.
[5] See more in: Uredba o Banovini Hrvatskoj [The Decree on the Banovina of Croatia], Art. 2.
[6] *Ibid.*, Art. 2.

diminished. Knowing that political rights and freedoms are a group of traditional constitutional rights and freedoms whose purpose and meaning are to provide citizens with active participation in the exercise and legitimation of the authorities,[7] it is easy to conclude why the central government the regulation and implementation of the assurance of political rights and freedoms remained in its jurisdiction. Therefore, that from the day of the establishment of the Banovina of Croatia there were no legal basis that would regulate political rights, the regulations that were in force were valid.

3.2. Public Safety and Ordering in the State Act from the 1929

This act prohibited all associations and political parties acting in order to persuade others to change the existing state order as well as political parties with a religious character.[8] The article we are just about to provide may be a guiding argument which, of course, does not justify but potentially explains why the regulation of political rights and freedoms remained within the jurisdiction of the state. Given the moment of the emergence of the Banovina of Croatia dating immediately before the start of World War II, the authorities considered it dangerous to hand over the regulation of such an important mechanism into the hands of a newly established form of territorial self-government. Also, propaganda, written and oral was prohibited, with the aim of changing the existing political or social order in the state and books, brochures and magazines had to go through preventive censorship and get approval in order to be published.[9]

3.3. The 1929 Press Act

The 1925 Press Act stipulated that it was not possible to enact any preventive measures to prevent the issuance and sale of the papers and newspapers,[10] but by the new law, this provision was deleted and opened the way for the prohibition of the freedom of

[7] Pravni leksikon, [The Legal Lexicon], Leksikografski zavod Miroslav Krleža, p. 1103.
[8] Zakon o zaštiti javne bezbednosti i poretka u državi [Public Safety and Ordering in the State Act], Izdavačka štamparija Gece Kona, Beograd, 1932, Art. 3.
[9] For more in: STANKOVIĆ, Čedo: Ustavni razvitak Kraljevine Jugoslavije (1931–1941) na temelju ustava od 3. rujna 1931., [The Constitutional Development of the Kingdom of Yugoslavia (1931–1941) based on the Constitution from September 3, 1931], p. 22.; see also Zakon o zaštiti javne bezbednosti i poretka u državi [Public Safety and Ordering in the State Act], Izdavačka štamparija Gece Kona, Beograd, 1932, Art. 3.
[10] Zakon o štampi Kraljevine Srba, Hrvata i Slovenaca [Press Act of the Kingdom of Serbs, Croats and Slovens], Naklada i tisak štamparije Antuna Rott, Osijek I., 1925, Art. 2.

the press. Also, it is forbidden to issue, distribute and sell newspapers if a criminal offense or an offense against the state is envisaged by the criminal law, the law on public security and order in the state, and if the printed titles contain insults or defamation against the authorities.[11] Also it states that the truthfulness of the allegations in the case of defamation, concerning the king and his family, the foreign heads of state and the National Assembly, could not be proved.[12] Of course, freedom of speech must have its limits, but they must be clear, not go hand in hand to one of the eligible groups, but at the same time allow for the protection of honour and reputation and the submission of their own opinion, which is by no means achieved by censorship.

3.4. The Law on Associations, Gathering and Agreements of 18.9.1931 with amendments of 24. 3.1933

This law governed the establishment of political associations, political parties and the gathering in the open or in other, legally determined places. The name of the association should not be in contravention of the task of the association, and if it would be against the state and the social order or the public morality, the administrative authority might prohibit it.[13] It was prescribed that the second-instance administrative authority may prohibit the work of an association that would exceed the scope of work prescribed by the statute or act in violation of the state or social order.[14] Particularly interesting is the concept of public morality, which opens up the possibility of submitting to this category all cases that would not meet the remaining legal requirements for the prohibition of action.

In addition to the merger, the scope of application of this law, as his name suggests, was also the public gathering of citizens who were legally prohibited if it were in conflict with the law, dangerous for public order, public health or essential state interests.[15] Given that the law does not state the notion of essential state interest, we can compare it to the

[11] Zakon o štampi od 6. avgusta 1925. godine sa izmenama i dopunama od 6. januara 1929. godine [Press Act from August 6, 1925 with changes and additions from January 6, 1929], Štamparija Privrednik, Beograd, Art. 19.
[12] *Ibid.*, Art. 61.
[13] Zakon o udruženjima, zborovima i dogovorima, [The Law on Associations, Gathering and Agreements] Izdavačka knjižarnica Gece Kona, Beograd, 1933., Art. 3, 4.
[14] *Ibid.*, Art. 11.
[15] *Ibid.*, Art. 21.

concept of public morality regulating the right to association, which means that the use of that term allowed its different interpretation.

3.5. The election system

For a better understanding of the Banovina of Croatia's electoral system regulation, it is necessary to explain its territorial division. The Banovina was divided into rural municipalities (municipalities), city municipalities (cities) and districts, which were composed of several municipalities.[16] Each municipality had a municipal board (consisting of twenty-four to thirty-six members), municipal administration and the municipal chief, towns had the city council and the president of the city, and the district had district assembly and the district government board.[17] Elections for the National Assembly as well as parliamentary ones were not held.[18] Only municipal elections were held, not in the entire Banovina area, because they were not held in the districts of Kastav, Čabar, Sušak, Delnice, Benkovac and Šibenik and elections for city councils were not even announced in Banovina, so in the rest of the state. [19]

3.5.1. The election system for the Parliament of the Banovina of Croatia

The election system for the Banovina of Croatia's Parliament was regulated by the Decree on the Electoral Order and the Structure of the Parliament of the Banovina of Croatia of January 14, 1940.[20] According to the aforementioned decree, elections were held throughout the Banovina on Sundays and it was determined, for the purpose of safeguarding the voter's right, that fifteen days before the elections until the third day after the parliamentary elections were held, no authority could invite voters to public works and military exercises, but if they were invited before the elections, they must be released at least sixteen days before the election.[21] Active voters' rights were enjoyed by male Yugoslav citizens aged twenty-four and over who had residency in one of the municipalities in the

[16] See more in: MILUŠIĆ, Anto: Izborni sistem Banovine Hrvatske [The election system of the Banovina of Croatia], Zbornik Pravnog fakulteta u Zagrebu, no. 33 (3–4), Zagreb, 1983, pp. 347–353.
[17] *Ibid.*, pp. 347–353.
[18] *Ibid.*, pp. 347–353.
[19] *Ibid.*, pp. 347–353.
[20] *Ibid.*, p. 353.
[21] *Ibid.*, p. 354.

Banovina area and only the one who was enrolled in the voter list could have used the right to vote, and those who had been resident in the respective municipality for at least six months were enrolled.[22] The right to vote did not have: active officers and soldiers under the flag, persons without honourable rights, all who were in custody by a court verdict, a person whose property was under bankruptcy and those under custody.[23] Passive voters' rights were given to men with thirty years of age if they were literate and ruled in the national language and voting was secret and executed personally or by attorney if the voter due to the existence of some physical defect could not vote independently.[24]

3.5.2. The electoral system for municipal committees

Municipal elections were governed by the Decree of April 9, 1940 in which it was determined that the active voters' right was acquired under the same conditions as that for the elections for the Parliament of the Banovina of Croatia, while the following conditions were foreseen for passive voting rights: the age of twenty-five, the active right to vote and the absence of reasons for opting out (a person is not a municipal official at the time of election, an official, a person with a property dispute, people who are supported by the municipality).[25] It is precisely said, according to the passive voting right that there is a difference in relation to the same in the choice of parliamentary representatives (the age census for five years is smaller, no knowledge of the national language and literacy is required).[26] The Decree envisages general, equal, direct and public voting by allowing the voter to name the first candidate from the list and voting was personal, with the exception of the ability to vote for another person with the power of attorney if there are physical disadvantages.[27]

[22] *Ibid.*, p. 354.
[23] *Ibid.*, p. 355.
[24] *Ibid.*, pp. 355–357.
[25] *Ibid.*, p. 359.
[26] *Ibid.*, p. 360.
[27] *Ibid.*, p. 360.

3.5.3. The electoral system for city councils

All the men of Yugoslav citizenship who had reached the age of twenty-one had an active electoral right, with an additional condition of being resident in the area of the city for at least one year, while members of the city municipalities who had thirty years or over and had been living there for past five years had passive voting rights. Voting was also public as well as in municipal elections.[28]

4. Conclusion

Despite the fact that the establishment of the Banovina of Croatia opened the possibility for a definitive solution to the "Croatian issue", after all, the provisional character of the Banovina of Croatia was evident. Political rights were just part of the group that was divided and transposed into the jurisdiction of the state, which demonstrates the importance of regulating those rights. Immediately before the start of the World War II, when it was more than apparent that the conflict would come, leaving the regulation of the Banovina's political rights, from the point of view of central government, was inadmissible. Objectively speaking, despite the fact that it meant the degradation of the Banovina, from the point of view of central government it was a very logical move. In this way, preventive action has enabled them to have control over the gathering, printing, merging and elections in an area that has for centuries been the leader of the struggle against centralism.

[28] *Ibid.*, pp. 364–365.

Lilla BARTUSZEK: The beautiful Budapest – The formation and participation of the capital in the system of state administration

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1. Early history of the Hungarian capital until the Turkish Era

The capital of Hungary was inhabited as early as in the 400s BC, as evidenced by the remnants of the Scythian and Eraviscan settlements found in the Tabán and Gellért Hills. The Romans occupied the area in the 1st century AD, making it a province of Pannonia, and soon founded Aquincum.[1] In 106 the city became the provincial capital of Lower Pannonia, a small part of Pannonia, divided by Emperor Trianus.

The nomadic tribes set off from far Asia and settled permanently on the Pannonian Plain after a long migration in 896. After the internal struggles – as is known – the tribes made a "blood contract" and Árpád served as "monarch". The headquarters of the Árpád-house kings were initially in Esztergom and Székesfehérvár. The development of Buda, Pest and Óbuda will only begin in the second half of the 12th century, which was then interrupted by the Tartar invasion in 1241.[2]

After the Tartars have left, IV. Béla returned to his country, so that the city could flourish again. Apart from the castles built in this era, the king needed the cities as well: urban artisans made the crosses and armor, and the city wall could serve as a shelter in the event of hostilities. Among other things, this defence was the basis of the king's most important measure, which still has an impact: the founding of Buda on the right bank of the Danube, called the "Pest Hill" today called Buda Castle Hill.

Due to the Anjou Kings and King Sigismund of Luxembourg, in the 14th century, Buda's Gothic style started to blossom. The Buda and Visegrád summer palaces were beautifully built at that time. Regarding the territory of the capital, Óbuda could also play a central role during this time. King Sigismund founded a philosophical higher education institute in 1389, which later served as a university with Pope's approval. After the defeat of the fortress, the Hungarians eventually won a great victory at Nándorfehérvár, thus halting the Turkish invasion.

[1] Barbara, OLANSZKA – Tadeusz, OLASZANSKI: Útitárs – Budapest [Fellow-traveller – Budapest], Panemex-Grafo, Budapest, 1999, p. 20.
[2] *Ibid.*, p. 22.

During the reign of Matthias Corvin, Hungary – and thus the present-day Budapest region – has risen to the strongest European empires. Matthias' wife, Beatrix, opened the way to the flowering of the Renaissance culture. King Matthias also promoted the rise of Buda by moving the University of Bratislava, which was founded by the Archbishop of Buda. The Bibliotheca Corviniana, a famous library of one of the most important works of the king, has been developed from the personal library of Matthias, located on the side of the Royal Palace of Buda overlooking the Danube, next to the royal chapel. [3]

A dark period greeted us at this time, as the Turkish rule of 150 years started. This period did not evade the territory of the Hungarian capital: Buda became the capital of the Turkish occupation area. The Turks soon transformed the churches of the city into the image of their own tastes (or rather their religion). During the Turkish period, Buda suffered such destruction that his old glory was barely recognizable: larger houses were inhabited by Turkish soldiers who did not care about keeping them intact. Finally, when he was able to retire, the city showed a miserable picture.

2. The situation of the Hungarian capital before the Reform Era

The most important year of Buda and Pest's history was in 1703, when the two cities received from King Leopold I – against redemption – his letter of privilege and then returned his free royal city status. From an administrative point of view, the city council should be emphasized from this era. That council was the decision-body of the residents, and he managed the incomes, accounted for the officials, and filled the city offices.

The effects of the presence of the Habsburgs could be felt: The Habsburg rulers deployed Germans in the depopulated Hungarian territories, which resulted in the outbreak of the Rákóczi War of Independence.[4] At the same time, unifying under the rule of the Habsburg-kings, even though it was still unanimously governed, the decade of the 18th century was characterized by a demographic boom. The development of Buda, Pest and Óbuda started only in the second half of the 18th century, as a result of which the economic life and the population started to grow. Nagyszombat University was transferred in 1777 to Buda, and then in 1784 to Pest, which was an important fact for the further development of the city.

[3] ÁLDOR, Imre: Magyarország fővárosa: Budapest leírása képekkel. Írta Cassius [Capital of Hungary: description of Budapest with pictures. Written by Cassius], Budapest, Helikon, 1995, p. 44.
[4] OLANSZKA – OLASZANSKI, *op. cit.*, p. 30.

The political-military revolutions of Napoleonic times did not affect either the order of Pest or Buda, established in the previous century. In fact, the actual administration and governance in the reform era was in the hands of the so-called "inner council": this body consisted, among other things, of the city captain, the chief notary, and of eleven elders of elected councillors. At the beginning, the initially twenty-four-member external council dealing with tax matters, control, authentication and some economic issues merged the centennial in Pest, and the *sexaginta viratus* institution in Buda. There are hundreds of sixty citizens here, joining the council and practically melting with it. Subsequently, members of these bodies were the electorate themselves at the time of renewal.

3. On the path of development, the growth of Budapest in the 18th and 19th centuries

The growth process, which began in the 18th century, continued uninterruptedly in the next century: as a first indicator of this, population growth can be determined. Looking at these data, the most controversial series of data was the massive growth of Pest's population, which only by one third of Buda exceeds the beginning of the era, but two decades later, the number is almost three times smaller than the one after the unification of the city. The conservatism of the Viennese court, however, sought to stop all these reform efforts, which in the long run led to the outbreak of the Revolution and the War of Independence of 1848. The Habsburgs finally defeated the freedom fight and absolutism began again in Hungary.

3.1. The impact of the Acts of 1848 on the Hungarian administration

By 1848, the basis of a public administration based on a popular representation was established by abolishing the differences of law. The Act 3 of 1848 ordered the establishment of the independent Hungarian Ministry. Accordingly, royal orders, rulings or regulations could only be enforced if they were countersigned by a minister in Budapest. For the counties the main task was to reorganize them in a democratic way and to reconcile their competences with the independent Hungarian ministry, so that the Act 16 of 1848 deals with the "provisional practice of the county authority".

The free royal towns were placed on peoples' virtues by the Act 23 of 1848, which basically honoured the county, but did not lay down univocal rules. Under the influence of this act, a council of seventy-five members was elected at Óbuda, and after the defeat of the

War of Independence, the authorities of autocracy took a legally injurious but economically and socially more timely action: with his own council, and subordinate judge, Óbuda was admitted to Buda.

3.2. The impact of the Austrian administration

After the defeat of the War of Independence, the separation of the countries of the Hungarian Holy Crown was abolished, and Hungary was divided into five "Crown Regions". The most important features of the administration of neoabsolutism were the abolition of county, urban, and even administrative autonomy, and the principle of uniformity was introduced, that is: the individual crowns were built on the same principles. A rigorous centralization took place, in which the subordination arrangements, as well as the command system and the responsible implementation, played a significant role. In 1851, a decree was issued on the basis of which, fifty-three in Pest and thirty-six men in Buda formed the town councils for three years, holding the right to appoint members to the governors.

At the end of the 1850s, during the unification struggles of the Italian peninsula, Austria suffered a serious military defeat, and the young emperor Francis József I was forced to make significant domestic political concessions. Thus, for example, the October Diploma of federal and constitutional elements – issued in autumn 1860 – made the reorganization of the laws of free royal cities possible. A year later, in 1861, the mayor Lipót Rottenbiller, the mayor of the revolutionary period, came to the head of the City of Pest. However, in László Csorba's words, "The constitutional spring was again followed by an absolutist autumn".[5]

3.3. The Compromise and the Austro–Hungarian Monarchy: the basics of economic and cultural development

In that era the last major transformation of the twin townships was made in 1867, when the Habsburg Empire and Hungary were concluded. After the defeated Austro–Prussian war, in 1866, the Habsburgs began to seek compromise with the Hungarians, which largely determined the further development of the city. The compromise allowed the

[5] CSORBA, László: Budapest – gondolat és városegyesítés [Budapest – thought and city unification], Budapesti Negyed, 2. szám, 1993. ősz-tél, p. 20.

establishment of a responsible ministry in Hungary and the establishment of a new public administration.

The most important legal translation of the era was the Act 4 of 1869, which distinguished between judiciary and administration, since "the conflict between the two branches of power was contrary to the requirements of the bourgeois constitution". The new era brought about the modernization of the Hungarian public administration: the dissolving of the various territorial positions held in Hungary for the feudal age, and the administration of several new tasks.

3.4. The most important date: 1873 and the emergence of "today's" Budapest

The desire to merge Pest, Buda and Óbuda into capital was already formulated half a century earlier, when in 1831 Széchenyi used the title of Budapest for the first time in the world. Széchenyi's Budapest Vision of the Reformed Revolution soon became popular, even as Kossuth agreed with it, as evidenced by numerous letters from prison in 1838. The unification finally took place in 1873, after which Budapest became one of Europe's most dynamically developing cities.[6] The act of uniting the city has sanctioned the fact that the political capital of Hungary, partially regaining its constitutional independence, was definitively transformed into Pest-Buda.

In the period between the unification of 1873 and the Millennium of 1896, the city fulfilled all the economic, political and cultural functions for which it has been established as a national capital by standardization.

4. Budapest in a new era: contradictions and solutions

The next period can be calculated from 1896 to 1918, until the end of the World War I. The delusions of the millennium celebrations have not even passed yet, but soon the contradictions emerged, with increasingly marked signs that shadowed the development of the capital. The dilemma was in fact based on the old, existing solution to the problems and the new unbreakable conditions: for example, public utilities and housing were already

[6] GYÁNI, Gábor (ed.): Az egyesített főváros: Pest, Buda, Óbuda [The United Capital: Pest, Buda, Óbuda], Budapest, Városháza Kiadó, 1998, p. 9.

inadequate to accommodate an increasing population and the administration and teaching staff of the city was not sufficient enough to carry out its activities.

Budapest, however, responded to the challenges it had faced: it was an integral part of, and in most respects, organizer and leader of the development that inflicted the sharp features of the capitalist society onto Hungary. The town's social development is also worth mentioning: the period from the millennium to the World War I became the time of the proletariat in general. The number of industrial workers also grew, and the structure and internal structure of the workers also changed: they have truly become truly the largest part of the workforce.

The post-World War I era created new and more severe conditions for the country and for Budapest: the highly dynamic development of the previous decades has stopped and gave the floor to the "era of severe crisis."

4.1. Fight for the efficiency of public administration

The Hungarian government between the two World Wars has inherited from its predecessor the struggle for the efficiency of public administration. Budapest was originally "made" for the capital of a large multinational country, so the new conditions often raised the question: "Is this capital concentration of this size unhealthy?" The tendency for the development of public administration was the following: on one hand, an increasingly demanding direct center-based administration, while on the other hand local governments with decreasing powers had the desirable purpose.[7]

4.2. Central administration – decreasing circle of local self-governments

In order to build centrally-controlled management, a long process of nationalization of individual bodies and organizations began: the police, the economic inspectorates, the forestry organs, the public health sector, the municipal audits, and finally social services were centralized. In 1930, Parliament adopted an act regarding the capital, which sought to increase the influence of the government and to reduce urban autonomy. Another act adopted in 1934 further strengthened the government's direct influence over the leadership of the city.

[7] MEZEY, Barna: Alkotmánytörténet [Constitutional history], Budapest, 2003, Osiris Kiadó, p. 390.

The anti-Jewish laws introduced between 1938 and 1941 had a major impact on the capital: these were mainly seriously existential difficulties and growing social exclusion for Jewish workers and intellectuals. In addition – primarily with the Act 22 of 1942 – the government's right to intervene has increased, as they have already filled government offices under the aforementioned law.

6. Conclusion

The development of the Hungarian capital is a result of long and sometimes struggling historical development. However, it can certainly be stated that every historical age has left its mark on the city, forming it in its own image, thus contributing to the cityscape of today's capital regarding its external aesthetics, its social and cultural structure, or its administration.

Darija ŽELJKO: *Heimatrecht* in Croatia–Slavonia (1868–1918)

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1. Introduction

This paper is dealing with the concept of *Heimatrecht* in Croatia and Slavonia during the turbulent period from 1868 until 1918. The main aim of the paper is to explain this specific concept and its importance for Croatian public law (in the matter of public administration) and in long term even for Croatian Constitutional history. For the purpose of better historical understanding, it is important to emphasize that complex structure of the Austro–Hungarian Monarchy and Croatian–Slavonian limited autonomy within Hungarian part of the Monarchy had significant reflection in the matters of citizenship in the analysed period.

2. Term *Heimatrecht* and its implications

Firstly, it is important to emphasize complexity of different forms of public belongings that existed in Croatia in the analysed period. Three different forms of public belongings that were important for someone's legal position/status were following:

1. Common Hungarian–Croatian Citizenship;
2. Local Citizenship (cro. zavičajnost);
3. Croatian–Slavonian Membership (cro. pripadnost) as the smallest unit of public belonging.[1]

Just briefly, in the Austro–Hungarian Monarchy from the 1867 there were two national citizenships, Austrian and Hungarian, so the people who lived in Croatia mostly had Hungarian citizenship (that was also clearly stipulated in 1879 in Law on acquisition and loss of Hungarian citizenship).[2]

[1] KOSNICA, Ivan: Citizenship in Croatia–Slavonia during the First World War, Journal on European History of Law, 1/2017, p. 59.
[2] ČEPULO, Dalibor: Prava građana i moderne institucije: europska i hrvatska pravna tradicija [Croatian Legal History in the European Context], Pravni fakultet Sveučilišta u Zagrebu, 2003, p. 73–75.

But, the subject of this paper is narrower since it is dealing with the term *zavičajnost* (engl. domicile, germ. Heimatrecht, fran. droit de domicile), which historically represents the affiliation of an individual to a certain district and at the same time domicile is the basis of his rights and obligations according to public law.[3] The concept of domicile was firstly introduced in Austria in 1754 and applied to all citizens and the members of their families who lived and worked in a town or village for more than ten years, while it basic content included the right to enjoy care for the poor or older members of the community. As mentioned above, *Heimatrecht* was special concept for Austrian law, while the traditional system of Western states was not familiar with it.[4]

Rights that arose from domicile in general included: "… the right of free residence in a certain area, the right of an individual to sustenance in the case of poverty and old age, the right to acquire and enjoy immovable in land communities, the right to practice crafts and, what was of most importance, active and passive voting rights".[5] The domicile was acquired through permanent residence and ownership of immovable on the area of the district, descent, marriage or special acceptance into the district community, and its general precondition was citizenship.[6] Also, it needs to be mentioned from a perspective of public law that a domicile is a multidimensional concept because it includes the dimension of acquisition and loss of citizenship, the dimension of rights and obligations of citizens and even the dimension of loyalty of citizens.[7]

By Croatian–Hungarian Compromise[8] the legislation about acquisition and loss of citizenship was common for all the lands of the Hungarian Crown, while their execution was

[3] HAMERŠAK, Filip: The Little Lexicon of Croatian Legal History. Pravni fakultet Sveučilišta u Zagrebu and Miroslav Krleža Institute of Lexicography, Zagreb, 2013, p. 45.
[4] ČEPULO, Dalibor: Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context], Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2012, p. 191.
[5] HAMERŠAK, *op. cit.*, p. 46.
[6] *Ibid.*, p. 46.
[7] KOSNICA, *op. cit.*, 2017, p. 58.
[8] Due to constitutional tradition of Croatian–Slavonian autonomy, Croatian Diet in the year 1868 reached an agreement with the Hungarian Diet which was called the Croatian–Hungarian Compromise. Common Croatian–Hungarian affairs were finances, commercial policy, communications (including railways) and common institutions were the Common Hungarian–Croatian Diet and the Central Government in Budapest. Croatia–Slavonia got the autonomy in internal administration, education, religion and judiciary and the Compromise recognized autonomous Croatian–Slavonian institutions: Croatian–Slavonian Ban, the autonomous Government and the Croatian–Slavonian Diet. More about the Croatian–Hungarian Compromise: ČEPULO, *op. cit.*, 2012, pp. 173–183.

decentralized.[9] Consequently, the Croatian–Slavonian Ban had full executive powers in the matters of national citizenship, although some Hungarian representatives opposed to granting autonomy to Ban in the matters of national citizenship. Based on the Croatian–Hungarian Compromise, prominent Croatian lawyer Josip Pliverić (1847–1907) even sought to prove the existence of a separate Croato–Slavonian citizenship, equating the Croato–Slavonian domicile with denizenship/indigenate.[10]

In the 19th century Croatia and Slavonia the main significance of local citizenship derived from the fact that (with the Croatian–Slavonian membership) it represented special kind of connection through which the citizen was indirectly associated with the wider environment, from the district and the county to finally to the state. Moreover, local citizenship was even more important as the basis for some other (mainly political) rights, including the right to free assembly.[11] To conclude this part of the essay, although *Heimatrecht* was Austrian concept: "… the principal function of the latter was changed in a different social and political context. While the *Heimatrecht* of Austrian communes' primarily ensured solidarity in case of poverty, the pravo zavičajnosti in Croatia served almost exclusively as a basis for particular rights derived from the Nagodba (Compromise)".[12]

3. Legislation concerning local citizenship in Croatia

Local citizenship was regulated in Croatia and Slavonia by fragmentary regulations and then municipal law of 1859.[13] First serious attempts of legislation in the matter of local citizenship happened in 1870, when the Croatian–Slavonian Diet enacted the law on local

[9] KOSNICA, Ivan: Hungarians and Citizenship in Croatia–Slavonia 1868-1918. In: FRENKEL, David A. – VARGA, Norbert (eds.): Law and history, Athens Institute for Education and Research, Athens, 2015, pp. 59–72.
[10] Pliverić was the Dean of the Faculty of Law and the Rector of the University of Zagreb. He was a prominent unionist, a representative of the Croatian Parliament from 1893 to 1906 and of the Hungarian–Croatian Parliament from 1897 to 1905. Pliverić is remembered as a person who did a lot in developing the discipline of constitutional law in Croatia, mostly because in many of his papers he strongly argumented the need for Croatia to maintain its full statehood after the Croatian–Hungarian Compromise. He defended this theory even in front of prominent international lawyer such as professor Jellinek. More about Pliverić: http://rektorat.unizg.hr/rektori/jpliveric.htm [Access on 26th September 2017]
[11] ČEPULO, *op. cit.*, 2012, p. 192.
[12] ČEPULO, Dalibor: Building of the modern legal system in Croatia 1848–1918 in the centre-periphery perspective in Modernisierung durch Transfer im 19. und frühen 20. Jahrhundert, Vittorio Klostermann Frankfurt am Mein, 2006, p. 74.
[13] KOSNICA, *op. cit.*, 2015, p. 6.

citizenship, but this law regulated local citizenship only in rural towns and market towns without magistrate, while in cities the law from 1859 remained in force.[14]

The Croatian–Slavonian Diet finally unified the rules on local citizenship by the Law on regulation of local citizenship in the kingdoms of Croatia and Slavonia that entered into force in 1880. Law that was proposed already in 1877 was directly inspired by the Austrian example (Austrian Citizenship Law from 1863), and its major function was to serve as the basis of special political rights that stemmed from Croatian Autonomy (the right to vote and the right to hold public offices).[15] In all aforementioned laws the fundamental principle of acquisition of local citizenship was the principle of *ius sanguinis*, like in their Austrian model.

Law recognized two different types of naturalization of foreigners: automatic (by appointment to a public office) and the regular one. Regular naturalization was the most common type of naturalization in which the autonomous Croatian–Slavonian institutions were fully competent. Moreover, there even existed two types of regular local naturalizations; explicit and implicit. By explicit naturalization local citizenship could be gained if the person submitted a request to a municipal council proved moral conduct and adequate income or wealth. By implicit, naturalization citizenship was acquired if the person reported the municipality authorities of the intention of settlement and should start paying taxes to the municipality. Only after meeting those requirements could start a 4 year of uncertain trial, during which the municipality was not allowed to object his application unless the applicant was unable to support him financially of was under criminal prospection or found guilty by court. Poor immigrants (mostly Hungarians and even more Roma) had many difficulties in acquiring local citizenship. Because of their lower social status and higher probability that they will become users of social benefits, Croatian–Slavonian authorities often refused to give them local citizenship.[16]

It is interesting to mention that: "… the only way of acquisition of local citizenship that did not include the administrative act was marriage in a case of a foreign woman. As a result, we can say that Croatian–Slavonian local citizenship was a quite closed concept".[17]

[14] *Ibid.*, p. 7.
[15] ČEPULO, *op. cit.*, 2003, p. 82.
[16] More about provisions of 1880 law see in: KOSNICA, *op. cit.*, 2015, p. 7.
[17] *Ibid.*, p. 7.

According to the new law, citizenship could be lost by dismissal, absence, authority's decision, emigration, marriage to a foreigner, and legitimation by foreign citizens.

4. Impact of the First World War on some aspects of citizenship

In analysis which was made by Kosnica it was concluded that the World War I significantly influenced the practice of loss of citizenship by dismissal as well as the practice of loss of citizenship by absence in a way that made the loss of citizenship very difficult or in some cases even impossible.

In the dimension of the rights and obligations the basic change has happened just before the war when the freedom of emigration of men was abolished. Since then the emigration of men has been possible only if the Ban of Croatia and the Hungarian Minister of National Defence gave special permission. In that way previous regulation by which the Croatian–Slavonian counties had autonomous power to issue passports has been significantly changed. Also, during the war the authorities strongly emphasized the importance of military service. The need for conscripts influenced the legal system in a way that meant break with the previous rule of allocation of only Austrian citizens in the Austrian part of the army and changing it in a rule by which it was possible to fill the Austrian troops for Galicia and Bukovina with the Hungarian–Croatian citizens. This indicates closeness of Austrian and Hungarian citizenship which became explicitly evident as a direct consequence of war. Finally, the war had changed attitude of authorities towards their own citizens which can be seen in introduction of ethnic criteria in the administrative practices. The use of ethnic criteria indicated the problems of functioning of citizenship as an ethnic neutral concept and accelerated its change from ethnically neutral to ethnically based concept.[18]

After the end of World War I and the formation of the Yugoslavian state, the domicile was the basic criterion for obtaining a particular citizenship.

[18] For detail data about impacts of the World War I in the matter of local citizenship see: KOSNICA, *op. cit.*, pp. 63-65, 2017

5. Conclusion

Unique Croatian concept of local citizenship was a prerequisite for the enjoyment of many rights in Croatian municipalities in the analysed period. Among them, the most important ones were local political rights and also the right on benefits and relief for the poor.

Moreover, its importance was that it was basis of special Croatian–Slavonian membership, so it is not surprising that some eminent Croatian constitutional lawyers even claimed that this membership should be regarded for national citizenship. They advocated the thesis on federal structure of the Lands of Hungarian Crown and on common Hungarian–Croatian citizenship and separate Hungarian and Croatian–Slavonian citizenships. Also, this Croatian–Slavonian membership was the fundamental prerequisite of electoral right for the Croatian–Slavonian Diet and condition for employment in autonomous public services in Croatia–Slavonia and for other social-economical rights. Consequently, it is not surprising at all that local citizenship in Croatia and Slavonia had a specific doctrinal and political reception which originated from the special status of Croatia and Slavonia in the system.

Gréta ZANÓCZ: The history of centralization and decentralization in Hungary especially in the civil era

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1. Introduction

During the Hungarian state development, the centralization and the decentralization as the principles of the public administration had always played significant role. Hungary has achieved the level of the economic and social development only in the 15th century when there was the possibility for the implementation of the centralization intention. Namely, the formal and representative form of the feudal state was created and thus, within the framework of the order, it was possible to implement the first centralization efforts.[1] However disappeared with the death of Matthias Corvin, because after his reign the later rulers' first mission was to blast the mercenary army and transform the central offices into executive offices, which were exposed to the wavering of ordinary politics. In default of the strong central authority Hungary couldn't resist the Turkish threats and became a war zone for one and a half century.[2] After the country split into three territories there was no opportunity for a unitary state development. Hungary was surrounded by foreign empires – on one side the Ottoman Empire and on the other side the Habsburg Monarchy – and the result of it each the orders and each the central power formed a new policy.[3]

The independence fights against the Habsburg Monarchy could be considered as intentions for the centralization. Although these struggles were primarily led by the orders, but the leaders extended their power to the orders. The activities of István Bocskai, Gábor Bethlen and also Miklós Zrínyi could be also considered as steps forward to the centralization, in their activities it was common that they all devoted a great role for the Principality of Transylvania.[4] The 18th century brought a fundamental change in the state development. Hungary was liberated from the Turkish rule and there was the chance to recover the state unity and autonomy, however it should have been engendered under the

[1] ELEKES, Lajos: Rendiség és központosítás a feudális államokban [Estates of the realm and centralisation in the feudal states], Budapest, 1962, Akadémiai Kiadó, p. 19.
[2] *Ibid.*, p. 88.
[3] *Ibid.*, pp. 91–94.
[4] *Ibid.*, pp. 100–101.

law of a foreign authority, the Habsburg sovereigns.[5] The monarch was exercising the executive power from Vienna. In 1723 King Charles III re-regulated the central governing offices, among others the Hungarian Royal Chancellery, the chamber and the Royal Council of Governor.[6] During the reign of Joseph II the absolutist traits, because of it the central dispositions became even more powerful. He wanted to make the public administration more efficient and professional and his aim was to reconfigure the process of the implementation. The monarch became increasingly disliked after his reforms have been implemented, even his former supporters did not follow his actions, because of it the concept of the centralization failed in 1786. After the failure of his reforms, Joseph II restored the former (1780) conditions in Hungary with his famous revocation ordinance.[7]

2. The Reform Diets

"After the suspension of the absolutistic provisions, the institutions of the order-representation have functioned again".[8] However in that time the reform diets main goal was to eliminate the institutions of the feudalism and to form the civil nation state. Around 1840 the transformation of public administration's organizational systems has become crucial there were two trends for the transformation. Among the two organizations there was an ideological debate, which base was, that the centralization parties gave a significant role to the central government, while the municipalities emphasize the role of the counties, because the county made administrative, legislature and implementing duties, and they wanted to conserve these important tasks for the counties.[9] So the civil transformation was characterized by the fight of the municipalities and the centralists.

In 1848/49 the constitutional monarchy was established in Hungary, where the re-organized parliament gradually dismantled the feudal order and created the foundations of the civil state organization. In the result of the legislation of 1848 the power of the former

[5] CSIZMADIA, Andor: A magyar közigazgatás fejlődése a XVIII. századtól a tanácsrendszer létrejöttéig [The development of the Hungarian administration from the 18th century until the birth of the soviet system], Budapest, 1976, Akadémiai Kiadó. pp. 30–32.
[6] MAGYARY, Zoltán: Magyar közigazgatás racionalizálása [Rationalization of the Hungarian administration], Budapest, 1930, Királyi Magyar Egyetemi Nyomda, p. 73.
[7] HAJDU, Lajos: II. József igazgatási reformjai Magyarországon [Administration reforms of Joseph II in Hungary], Budapest, 1982, Akadémiai Kiadó. pp. 399–414.
[8] CSIZMADIA, Andor – MÁTHÉ, Gábor – NAGY, Endre: Magyar közigazgatástörténet [History of the Hungarian administration], Budapest, 1982, Kézirat. p. 59.
[9] CSIZMADIA, *op. cit.*, pp. 79–81.

municipalities had been badly shaken. The counties further activity was manifested in the political resistance[10] became dangerous and because of it the Acts 5, 16 and 17 of 1848 decreased their rights drastically. The Act 5 of 1848 abolished the counties legate sending rights, the Act 16 of 1848 conveyed the jurisdictional authority of the general assemblies to the new constant commission and the Act 17 of 1848 conveyed to the offices of the counties. However, in the case of the counties the legislative power was satisfied with the transitional provisions and because of it they haven't paid attention to the reforms of the local organizations.[11]

The March Laws wanted to order the system of the administrational law on a further National Assembly, however there was no time for it, because of the Hungarian Revolution of 1848. Due to the successes of Windisch-Grätz on the 7th of March in 1849 "the constitution of the unified and indivisible Austrian Empire"[12] was published. Because of this the March Law entered into force and the Hungarian Monarchy was merged into the centralized empire.

"After the fall of the Independence War the Hungarian statehood was liquidated."[13] The Austrian government had started the integration of the Hungarian crown's countries into the global Monarchy. Hungary was dismembered into five "Crown Regions". Because of it the Austrian government had the chance to re-regulate though just on a temporary basis the system of the public administration. The Austrian government tendered a plan to the monarch which topic was about the elimination of the temporary conditions, so they could divide the country into five large administrational areas (Buda-Pest, Pozsony, Kassa, Nagyvárad, Sopron).[14] The March Constitution was revoked owing to the Austrian conservatives who had played a great role in the incentive of the monarch to make his decision. They wanted to return to the open-absolutism, because they thought that "the appearance of constitutionality just tied the monarch's hands".[15]

[10] *Ibid.*, p. 81.
[11] *Ibid.*, pp. 81–83.
[12] SZITA, János: A magyar közigazgatás területi rendezése a Bach-korszakban és az 1849. március 4-i osztrák alkotmány [The localization of the Hungarian administration in the Bach-regime and the Austrian Constitution of 4th March of 1849], In.: Jogtörténeti Tanulmányok V. Budapest, 1983, Tankönyvkiadó, p. 322.
[13] CSIZMADIA – MÁTHÉ – NAGY, *op. cit.*, p. 60.
[14] SZITA, op. cit., pp. 329–333.
[15] *Ibid.*, p. 334.

3. Neoabsolutism

As a result of the impact of the Austrian conservative politicians, on the 31th of December in 1851 the Sylvester edict was accepted which introduced the absolutism. In the result of the edict, the unity of the state power was realized therefore the absolute ruler was in the focus after that the stricter centralist dictatorship of absolutism could have begun.[16] With all of these considerations in the structure of the Hungarian public administration the autocracy resulted a fundamental change. The Hungarian most important government authority was the Royal Council of Governor who was the head of the Royal Council who behaved as a "bureaucratic viceroy". However, ministers and the officials were subordinated to the monarch who was the only bearer of the executive committee. In the result of the Austrian's political changes the Empire had to provide some internal reforms, this reform was the October Diploma which was published on the 20th of October in 1861. This Diploma restored the constitutional situation as it was before in 1848. Thus the territorial division which was introduced in the neoabsolutism, was eliminated, furthermore the Royal Council of Governor, the Hungarian Chancellery and the counties system were restored.[17]

However, "the politicians of the 1860–61s differently imagined the future of the counties".[18] The influential conservative layer preferred the restoration of the states of 1847, emphasizing the role of the counties as the "guard bastions" and the opposition of the 1848 reforms with the Hungarian historical development, which means that the counties are the last place where the Hungarian nobles can resist against the monarch. As a consequence, they thought that the reforms of 1848 were completely opposed against the Hungarian historical development. While a significant number of the liberal politicians thought that the civilian local government is compatible with the central government's institutions, however they had no uniform standpoint about the solution. However, they agreed that both the parlamentarism and the central government are civil achievements and they cannot be sacrificed, because of the former rights of the counties.[19] In the first place the Hungarian politicians were divided, because of the counties duties. The liberals and the centralists wanted to eliminate the executive committee of the counties and wanted to make them an

[16] CSIZMADIA, *op. cit.*, pp. 88–89.
[17] *Ibid.*, p. 93.
[18] STIPTA, István: Provizóriumkori reformtervek és viták a vármegyék átalakításáról [Reform ideas about and disputes about the transformation of the counties], In.: Jogtörténeti Tanulmányok VI. Budapest, 1986, Tankönyvkiadó, p. 356.
[19] *Ibid.*, p. 356.

executive body which only follows the central will. While the conservatives aim was to make the centralization unpopular among the people, to restore the right of *vis inertiae* for the counties. The Austrian politicians whose aim was the centralization gladly accepted the division of the Hungarian politicians. However, Austria's defeat in Königgrätz brought to the fore the referent of the Austro–Hungarian Compromise.

4. The Austro–Hungarian Monarchy

"In the time of the dualism the organization's and system's development of the Hungarian public administration was extremely complicated."[20] Because the Austro–Hungarian Compromise was the result of two opposite concepts, one from the independent Hungarian state and the other from the Austrian total state. The dualism didn't assure Hungary the full independency despite that it was just a personal union because there were some absolute elements like the common interest cases with Austria. "The joint government which implemented the common cases was under the rule of the monarch, so it was totally centralized, while each state's home affairs stayed in the parliamentary, constitutional monarchy."[21] Though the joint government had no influence to the states' self-employed governments. Thanks to this, the structure of the government was transformed, and another problem occurred, namely they had to form a power balance between the central government and the middle elements in the Hungarian state. It is essential for a civilian state that the central government can implement the central decisions, at the same time it is also necessary to form a middle public administrational element which has a limited autonomy, so it could enforce the guarantees of public law. In the result of it during the dualism the central problem was to determine the independence of the municipalities.[22]

When the Andrássy-government came into power their aim was to continue the guarantee to the municipalists a "constitutional protector" role. Because of that the municipiums had the right for the tax collection, although they had no authority to levy the tax, neither indirectly, nor directly. The reason of this dispose was, that they wanted to build up a proper public administrational system for the civilian state and they didn't want to

[20] SARLÓS, Béla: Közigazgatás és hatalompolitika a dualizmus rendszerében [Administration and politics in the dualist system], Budapest, 1976, Akadémiai Kiadó, p. 9.
[21] CSIZMADIA, *op. cit.*, p. 97.
[22] SARLÓS, *op. cit.*, pp. 9–11.

bring back the feudalism system. The decree of 1867 only regulated a baseline level for the affair of the municipiums and the central government, they also had no contain of specific disposes. Although this decree contained several municipalist principles, but its real aim was to widen the government's right of disposal against the monarch, which meant a development for the centralism. The 1870–71s and the 1886 acts gradually reduced the local governments tasks. Finally, the "Lex Szapáryana" was that act which openly eliminated the municipal autonomy.[23] [24]

5. The Act 33 of 1891

The 1886s legislation formed a public administrational system which was stable until the end of the dualism. [25] The fall of the Tisza-government indicated the crisis of the dualism and the problems were formed gradually "couldn't be solved by Kálmán Tisza's invariable policy".[26] After Tisza the next prime minister was Gyula Szapáry, who submitted a reform proposal on the 7th of March in 1891. In his proposal he highlighted the nationalization of the public administration and his aims were to make the public administration cheaper and more effective. In his proposal's explanation Szapáry said, that the current system of the public administration couldn't fit to the needs of the era, so a strong government system was necessary as a result of it. The proposal exactly defined the authority of the central and local governments. "In the whole proposal the stiff and unconcealed centralization was felt, the §20 contained it the most clearly."[27] It secured for every principal the right to destroy their dependents rights of authority.[28] The opposition had a significant interest not to let happen the open nationalization, though they could enforce their interests in the counties. However, with an accidental nationalization the counties would have disappeared. Finally, thanks to the opposition persistent obstruction the government implemented only the first two sections in their proposals, with this they accepted the Act 33 of 1891.[29] "According to the act, in the municipiums the public administration is the state's responsibility, which is

[23] CSIZMADIA – MÁTHÉ – NAGY, *op. cit.*, p. 73.
[24] CSIZMADIA, *op. cit.*, pp. 178–185.
[25] SARLÓS, *op. cit.*, p. 171.
[26] CSIZMADIA, *op. cit.*, p. 225.
[27] *Ibid.*, p. 233.
[28] *Ibid.*, pp. 225–236.
[29] SARLÓS, *op. cit.*, pp. 171–172.

implemented by the public officials."[30] This act finally fixed the principle of the nationalization of the municipiums was abrogated in 1907 during the Wekerle government. The Act 68 of 1907 invalidated the principle of the public administration's nationalization.[31]

6. Conclusion

For the later governments the reform of the public administrational system became a main program point. Which meant that the problems of the public administration couldn't be solved during the whole dualism. During the dualism the intermittent governments resulted just partly reforms but haven't resulted a radical transformation in the system of the public administration. At the beginning of István Tisza's government he formulated several reforms for the public administrational system, among them the renewal of the local government got a place. However, he couldn't realize these reforms, because Hungary entered into the World War. In the period of the World War the reforms of the public administration had stopped, it had to perform another function "on the one hand they had to solve the problems of the war administration, on the other hand they had to plan future".[32] It was obvious to the people who wanted to renew the public administrational system, that they had to put the administrative organization system on a new basis and the former experiments of the centralization will be untenable later. Though to find the proper rate between the centralization and the decentralization became unsolved until the end of the dualism. They could only deal with this problem just after the peace treaties which brought World War I to an end.

To realize the balance between the local and the central government became the task of the later politicians and jurists in Hungary.

[30] CSIZMADIA – MÁTHÉ – NAGY, *op. cit.*, p. 73.
[31] CSIZMADIA, Andor: Bürokrácia és közigazgatási reformok Magyarhonban [Bureaucracy and administration reforms in the land of Hungary], Budapest, 1979, Gondolat Kiadó, p. 391.
[32] CSIZMADIA, *op. cit.*, 1976, p. 299.

Ana TURIĆ: Constitutional position of Croatia in the federal and republic constitution of 1974

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1. Introduction

The aim of my work on this topic is to demonstrate the circumstances of adopting new federal and republic constitutions of 1974 and put Croatia in those frames, or, in other words to describe and picture the constitutional position of Croatia as one of the republics in the former SFRY.[1]

Firstly, the "Croatian Spring" will be introduced. It was a national movement in Croatia led by students, young Croatian communists and by *Matica Hrvatska*.[2] The movement broke out because of Croatian requirements to strengthen Croatian autonomy, freedom of decision-making and equality between SFRY republics. Secondly, the constitutional amendments of 1967, 1968 and 1971 and the most important novelties in the federal and republic constitution of 1974 will be analysed. Finally, all those changes will be reviewed and it will be explained how they affected the constitutional position of Yugoslavian republics, especially on position of, today independent, Republic of Croatia.

2. "Croatian Spring"

In 1971 culminated the "Croatian Spring", a national and political movement in Croatia which has begun to rise since 1967. One branch of leaders of the movement was students who gave inspiring speeches which induced student strikes. The most important students who participated were Dražen Budiša, Ivan Zvonimir Čičak, Goran Dodig, Ante Paradžik, Ferdo Bušić, Ante Primorac, etc. The aim was to cause pressure on the Croatian communist leadership to fight for better economic and constitutional position of Croatia in SFRY. In one hand, students called out the names of some Croatian communists because of their

[1] [SFRY] = in English: [Socialist and Federative Republic of Yugoslavia]

[2] Croatian institution which was established in 1842 and which promotes national and cultural identity in areas such as art, science, etc.; see more about this institution: http://www.matica.hr/omatici/ [Access on 25th October 2017]

conservative views and constant need to hold up progress and development. On the other hand, they approved visions of others. Among them were Savka Dabčević–Kučar, Miko Tripalo and Vlado Gotovac, who, in their opinion, had more sense for Croatian needs and requirements and were closer to people and their initiatives.[3]

It was on that basis, that certain requirements appeared from Croatia and Slovenia. Their citizens endorsed constitutional changes in order to reform the Yugoslav federation and to create certain independence of republics in organizing their economic and social development. Also, companies and other economic actors should have had the power to manage their income, national equivalence should have been brought into life in the way that it was stated in the federal and republic constitution, national identity should have been nurtured and civil rights respected and taken into account. In other words, the rule of law should have become reality according to those requirements.

However, conservative and centrally oriented forces in SKJ[4], authorities and YNA[5] kept pushing against progress and democracy. Those forces saw Croatian nationalism in Croatian requests and stated that it can endanger stability of Yugoslav federation. They had a significant impact on Josip Broz Tito, who, as the highest authority, had the role to stop the political unrest in Croatia.[6] Consequently, political but also police and judicial repression became severe in order to successfully shut down the movement.

3. Constitutional amendments to the Constitution of 1963

Federalism has followed Croatia through most of her modern days and she often had to confront political interference of other countries in all shapes of unification. For example, that kind of interference in the SFRY came from Serbia which never truly accepted the fundamental federal principle of equality in a federative state nor she ever accepted the Constitution of 1974 which thoroughly worked on that principle. In 1966, on the plenary meeting, on the Croatian island Brijuni, the question of real federalism which is put in effect

[3] See more in: ČEPULO, Dalibor: Hrvatska pravna povijest u europskom kontekstu [Croatian Legal History in the European Context], Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2012, pp. 337–338.
[4] [SKJ] = in English: [Yugoslav Communist Party; Alliance of Communists of Yugoslavia]
[5] [YNA] = in English: [Yugoslav National Army]
[6] See more in: DAVORIN, Rudolf: Jugoslavija: Unitarna država ili federacija, povijesne težnje srpskog i hrvatskog naroda-jedan od uzroka raspada Jugoslavije [Yugoslavia: United state or federation, historical aspirations of Serbian and Croat people-one of the causes of the collapse of Yugoslavia], Zbornik radova Pravnog fakulteta u Splitu, vol. 46, no. 2, 2009, p. 305.

has become crucial for the maintained of federation. In subsequent years this question has often been put forward by the people and some solutions were proposed. That led to national and political movements in the Yugoslav republics, especially Croatia and Slovenia, and to adoption of constitutional amendments to the constitution of 1963.

Constitutional amendments that were adopted in 1967 and 1968 have strengthened the position of republics in a legislative body and generally in the federation. In particular, position of the Council of People has been improved and its jurisdiction has been widely expanded in 1967. Those changes made this Council almost equal to the other permanent councils. In 1968, another step was made in that direction. Council of People actually became one of the permanent councils, or, in other words, it took the position that once belonged to the Federal Council. But, this council was not the only one eliminated. The Organisation and Political Council was also suspended and Economic and Social Council took its place.[7]

This rotation wasn't followed in all republics. For example, Croatia didn't establish the new council as the amendments proposed, while Slovenia did. That can also be a way to describe a position of the republics in the federation, more specifically in organizing the legislative body. It is clear that they had certain freedom in this area.

The question of actual application of federal principle has been raised again in the context of "Croatian Spring" which resulted in constitutional amendments of 1971. These constitutional changes are actually an introduction into the great constitutional reform of 1974. Amendments contain a definition of the SFRY which describes it as a state union (federation) of freely united nations and their socialist republics, but also socialist and self-governed provinces of Vojvodina and Kosovo as parts of the Socialist Republic of Serbia. This definition means that constituent elements of the federation are nations and their republics.[8] Other changes will be explained in the next paragraph in the context of new constitution of 1974.

[7] See more in: *Ibid.*, pp. 338–339.

[8] The same provision is stipulated in the Constitution of 1974.; Constitution of the Socialist and Federative Republic of Yugoslavia of 1974, Art. 1.

4. Constitutional position of Croatia in the federal and republic Constitution of 1974

The federal Constitution of 1974 has adopted some provisions which were required in the "Croatian Spring" movement but has also brought some novelties which have strengthened the constitutional position of the republics. Nevertheless, their position has been, at the same time, comprised by provisions which have strengthened the one-party system that resides on a principle of democratic centralism which has nothing to do with democracy. According to the Article 3 of the Constitution, socialist republics are states which are based on the sovereignty of their people and self-governing of labour-people. Furthermore, republics are socialist, self-governed democratic unions of labour-people, citizens and nations that are equal.[9] Constitution itself can only be altered by consensus of national assemblies of republics and autonomous provinces. Republics have the right to self-determination that includes the right to secession.[10] Republic of Croatia has invoked this right (right to secession) while adopting the "Decision on the termination of all state-legal connections with the former Yugoslav republics and provinces". (Croatian Parliament's decision, 8th November 1991)[11]

Pursuant to principle of conferred powers,[12] all matters that are not explicitly assigned to the federation in the Constitution reside in jurisdiction of republics and provinces. This principle and amendments of 1971 have broadened the legislative jurisdiction of republics and provinces and narrowed the federal one down. Jurisdiction of the federation has been stipulated in the Constitution (of 1974) on the basis of an enumerative clause, or, in other words, matters that are left to federation to handle are strictly listed. *Argumentum a contrario*, everything else is on republics and provinces to handle and operate.

The first council of the Federal Assembly has become the Council of the Republics and Provinces (only renamed the Council of People) which means that the federation has lost its power and that it is under supervision of republics and provinces. This council contains twelve delegates from each republic and eight delegates from each province. The

[9] *Ibid.*, Art. 3.
[10] That has been stressed in the preamble; see more in: *Ibid.*, Basic principles, paragraph 1
[11] DAVORIN, Rudolf: Stjecanje međunarodnopravne osobnosti Republike Hrvatske 25. lipnja 1991 [Acquisition of international legal personality of the Republic of Croatia on 25th June 1991], Zbornik radova Pravnog fakulteta u Splitu, vol. 50, no. 1, 2013, p. 70.
[12] ČEPULO, *op.cit.*, p. 342.

second council is the federal one and it gathers thirty delegates from each republic and twenty from each province. This is one of the specialties of this Constitution because the federal dimension is present in both councils although it is common that one of the councils represents the citizens. Moreover, that would require representation of every republic according to the number of their citizens and would lead to greater power of the bigger ones.[13]

Strengthening of republics and provinces is also clear in the federal budget, one of the most important legislations of an economy, which can be passed by consensus of all republics and provinces. This kind of decision-making process can always lead to blockage and ineffectiveness of the legislative process. Therefore, it has been stipulated that in those situations, the Presidency, has the right to pass temporary measures for a period not exceeding twelve months. However, this kind of enactment (and decision-making about the most important decisions such as social plan, monetary system, foreign-exchange system and federal funds) had the purpose of avoiding the possibility of outvoting what actually led to establishment of a highly complicated decision-making process. That was compensated with a strong and integrative role of SKJ.

The principle of parity,[14] or in other words, equal representation of republics and correspondent representation of autonomous provinces, is the principle on which all federal collective bodies were based. For example, according to the Article 321 of the Constitution, the Presidency of SFRY, which is a collegial head of state, is constituted out of one member from each republic and autonomous province, which are elected by republic and province assemblies, and the president of SKY *ex officio* (this is an indicator of the one-party system). The president of the Presidency is elected for a year, in terms of in advance stated order of republics and provinces. This short term actually made this position minor and irrelevant. Moreover, Article 333 of the federal Constitution stipulates the possibility (which has become reality) of electing Josip Broz Tito as a lifetime president by the SFRY Assembly. This made the rotation of republics and provinces impossible for the position of president, except for the position of vice-president. The unlimited, anti-democratic, lifetime mandate

[13] BAČIĆ, Arsen: Politička gramatika federalizma i hrvatsko iskustvo [Political grammar of federalism and Croatian experience], Zbornik radova Pravnog fakulteta u Splitu, vol. 44, no. 2, 2007, p. 136.
[14] See more in: TOMAC, Zdravko: Jugoslavenski federalizam [Yugoslavian federalism], Politička misao, vol. 23, no. 3, 1986, p. 8.

has brought elements of personal governance in the political system of Yugoslavia and has been an indicator of instability and possible crisis after Tito's death.[15]

The principle of parity is also applied in both councils of the Assembly, in the Federal Executive Council, Constitutional court and Federal court. Thereby, every representation based on the number of inhabitants is removed in order to strengthen the role of republics.

This Constitution pleased all the requests that "Croatian Springers" had and even more. The proof of that are provisions which put some classical federative matters, such as defence and foreign affairs in the sphere of republics. Those provisions gave the right to organize and govern territorial defence to social and political communities in social republics. The second right, which concerns foreign affairs, is the right to make international connections with other states and international organizations. Based on those rights, constitution of the Socialist Republic of Croatia contained provisions about a unique system of territorial defence. It can be considered as a potential republic army. This turn of events led to disapproval in YNA which took over the whole armament of territorial defence of Croatia in 1991 under the pretext that it is not well preserved. Croatia and Slovenia have used the right to make international connections in 1978 when they established the Labour Community Alps-Adria together with the regions of Austria and Italy.[16] The goal of the community is to inform each other and to coordinate in the areas of energy, environmental protection, traffic, agriculture etc.

Following the federal Constitution, the Constitution of the Socialist Republic of Croatia was adopted the same year. The Socialist Republic of Croatia, according to the general definition in the federal constitution, is defined in Article 1 (1) as follows: "The SRC is a state founded on the sovereignty of the people and on the rule and self-management of the working class and of all working people and socialist, self-governing democratic community of working people, citizens and equal people and nationalities." Particularity of this article is the second paragraph which for the first time declares Croatia as a national state of the Croatian people: "SRC is a national state of the Croat people, the state of the Serb people in Croatia and the state of nationalities living in it." It is known that in the present

[15] See more in: ČEPULO, *op.cit.*, p. 342.
[16] *Ibid.*, p. 346.

constitution[17] of the independent and sovereign Republic of Croatia, all twenty-two national minorities are listed without emphasizing any of them (this provision has changed several times until it has taken on the current form). According to the Constitution of 1974, SRC has the Parliament (*Sabor*), the Executive Council, the Supreme Court and the Constitutional Court. In this Constitution, as well as in the federal one, the Presidency with eight members elected by the Parliament has been appointed, as well as the president of CK SKH[18] *ex officio*. The President of the Presidency shall be elected from among its members for one year. According to these provisions, it is clear that the Constitution of the Socialist Republic of Croatia of 1974 was a great copy of the federal one. Moreover, that was the case with every republic constitution in the SFRY.

5. Conclusion

The constitutional changes were obviously numerous and they sought their confirmation in practice. It depended on whether the federation would survive in its present form. Today, it is well known that national movements, with the devolution of government to the republics, became even stronger, that the most numerous national group in the SFRY rejected the principle of equal representation in favour of representation based on numerical dominance (which would then provide Serbs with domination in the federal government) and that there was a crisis of federal leadership after Tito's death. The accumulation of all this led to the crisis of federalism and finally to the fall of the federation after the aggression of Serbia and Montenegro to Croatia and Slovenia in 1991.

Despite this negative federal experience, Croatia has turned to the European Union and integration and cooperation with Western democracies. There were many obstacles hindered on this path, and only a few of them are severe war consequences, occupation of one third state territory, privatization and uncertainty in the further steps to be taken (choice between European orientation and isolation, between authoritarianism and democracy). All this slowed the democratization of Croatia and affected its lagging for other transition countries of southern and Eastern Europe. Croatia was subsequently established as a "single

[17] Constitution of the Republic of Croatia, Historical Foundations, https://www.zakon.hr/z/94/Ustav-Republike-Hrvatske [Access on 25th October 2017]
[18] [CK SKH] = in English: [Central Committee of the Croatian Communist Party]

and indivisible democratic and social state"[19] and abolished all state-legal ties with the republics and provinces of the former SFRY and became an internationally recognized state in 1992.

[19] Constitution of the Republic of Croatia, Art. 1(1).

Adelheid NAGY: The role and significance of the "Press Code of '48" in the Hungarian regulation of Press Law

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1. Introduction

The liberty of the press is an essential symbol of civil rights. The very first of the Hungarian "Twelve Points" in 1848 demanded the freedom of the press and the immediate abolishment of the censorship. The issue of freedom of press made different opinions: the progressive aristocracy imagined the reforms only with imperial framework, the liberal nobles, who was the leading force of the revolution and the freedom fight, had a different opinion and the radical youth had another opinion. Lajos Kossuth also had a very radical view, when he was younger.[1] In November 1847, the first district meeting of the parliamentary Lower house forcefully raised the case of organising the press but the parliament just finally decided to setting up a board to develop the press bill. Another fundamental issue that the newspapers should be free to publish the parliamentary news, was undecided. It has been said that the censorship as an institution is correct, only the operation of the censors needed to be improved. The board – which was formed under the chairmanship of István Széchenyi – barely worked, only the secretary, Bertalan Szemere worked for a while on the press law proposal.[2]

The parliamentary wrangling could not proceed calmly, because the news of the revolution in Vienna was associated with the pressure of the radicals. The debate, which was on 14th March, followed a statement, which included a decision on the development of the press law. On 15th March the freedom of press was only just spelled out, creating the press code was a longer process.[3] The operation of the press in the post-15th March period was regulated by a decree of the Council of Filed Support. This decree abolished the prior-

[1] BUZINKAY, Géza: Kis magyar sajtótörténet [Little story of the Hungarian press], Haza és Haladás Alapítvány, Budapest, 1993, pp. 84–85.
[2] BUZINKAY, Géza: A magyar sajtó és újságírás története a kezdetektől a rendszerváltásig [The story of the Hungarian press and journalism from the beginning to the change of the regime], Wolters Kluver, Budapest, 2016, pp. 18–19.
[3] KERESZTY, István: A magyar és a magyarországi sajtó időrendbeli áttekintése [The temporal survey of the Hungarian press], Magyar Nemzeti Múzeum, Budapest, 1916, pp. 32–33.

censorship, prescribed only one copy to deliver to the President of a twenty-five-member committee, which was consisted of liberal nobles and citizens of Pest.

However, the news of the revolution in Pest was not a driving force to the Parliament but also made actions against. Because of that, Szemere had tabled that draft of press law, which was still recorded the ideas before the outbreak of the revolution.[4] So could happened that for political newspapers the bail was much higher than it was before. The possible offenses were not clearly defined but more seriously punished. Many others thought that the law did not serve the interest of the Hungarian nation, as it made the press free for the nationalities. Despite all this, Prime Minister Lajos Batthyány's personal intervention made both House to adopt the amendments immediately, and the bail of the newspapers delivered to the half. The Act 18 of 1848, which was about the freedom of press, was signed on 11th April.[5] The regulation of the establishment of juries was completed on 29th April. This was very similar to the French Revolution's Code Criminal.[6] Still, the Press Law brought important changes, broken up with the old practice and created the freedom of press. Although the public was dissatisfied with the Press Law, it was one of the most liberal regulations of the contemporary Europe.[7] The Press Law based on the Article 18 of the Belgian Constitution, which turned back to a French act, which was declared in 1819.[8] After the Compromise, when the Press Law came into effect again, many thought not without reason that it was hurried. Bertalan Szemere considered it also a temporary law.

2. The Act 18 of 1848

The Press Law consisted of 45 articles. The first chapter was about the violence against the press and the applicable penalties. There was a list of the libels and the related condemnations were defined. There was imprisonment or fine, or both. The most serious

[4] BÉNYEI, Miklós: Első magyar sajtótörvény születése [The birth of the first Hungarian Press Law], Magyar sajtó 33., 1992, p. 5.
[5] Act 18 of 1848
[6] KOLTAY, András: Sajtó és jog 1848/49-ben [Press and Law in 1848/49], In: HORVÁTH, Attila – HAJDÚ, Gábor (eds.): Magyar jogtörténeti tanulmányok – pályakezdő dolgozatok [Studies of the *Hunagrian history of law – entrant essays*], Budapest, Neolife, PPKE-JÁK, 2004, pp. 63–72.
[7] KOSÁRY, Domonkos: A forradalom és szabadságharc sajtója 1848–1849 [The press of the revolution and the freedom fight, 1848–1849], In: KOSÁRY, Domonkos – NÉMETH G., Béla (eds.): A magyar sajtó története II/1. 1848–1867 [The story of the Hungarian press II/1. 1848–1867], Akadémiai Kiadó, Budapest, 1985, p. 29.
[8] *Ibid.*, p. 44.

was the violation of the monarch. The Act leaded the gradual liability in the press: first the author's, then the publisher's, after that the printing-office's owners'.

The second chapter was about the rules of procedure. It empowered the Ministry of Justice to create a decree about the jury court. This was the first codification activity of the Ministry. The regulation of the establishment of juries was done very quickly because it has already been announced eighteen days after the adoption of Press Law. The regulation contained a very detailed criminal procedure rules.[9] In 1867 the press regulation, which was created by Boldizsár Horváth, was almost the same than in nineteen years earlier and remained in force until the 20th century.[10]

The third chapter was about the periodicals. Here belonged to those newspapers or periodical sheets, which partly or wholly were concerned with political subjects. It provided the procedures to follow in case of launching a new newspaper and the amount of the security deposit size. Those, who did not complete the required conditions, were compared with imprisonment or with financial penalty. The fourth chapter was about the printing-offices and booksellers. It determined the amount of the deposit which was necessary to the establishment.

The regulation about implementing the law was created by Bertalan Szemere on 28th April.[11] The regulation was divided into three main parts: the first was about the preamble, the second was about the temporary papers, and the third contained the main orders of the printing-offices. The Ministry of Justice has been initiated these procedures only two times during the freedom fight.

[9] RÉVÉSZ, T. Mihály: Deák Ferenc sajtópolitikája s reformkorban és a negyvennyolcas forradalom napjaiban [Ferenc Deák's press policy during the Reform Era and the days of the revolution in 1848], Jogtörténeti Szemle 2003/1., p. 22. – According to the codex of the criminal procedure, – which was finally not accepted – the trial by jury would became the general proceeding in the Hungarian criminal law.

[10] Boldzsár Horváth, the Minister of Justice, on 17. May, created a new decree (No. 307/eln.) about the jury court's installation, wich re-regulated the press jurisdiction until 1900.

[11] BOTH, Ödön: Szemere Bertalan belügyminiszter sajtórendelete és a vezetése alatt álló minisztérium sajtóügyi tevékenysége 1848-ban [Bertalan Szemere's, the Minister of the Interior, press decree and the press activity of the ministry which was under the direction of Szemere in 1848], In: Acta Universitatis Szegediensis de Attila József Nominatae, Acta Juridica et Politica, Tomus XXVII., Fasc. 1–20., 1980, pp. 111–113.

3. The Press Law during the Austrian suppression (1849–1867)

One of the achievements of the revolution was the freedom of the press, which was formally left intact in the new absolutism. To maintain the autocracy and the pretence of liberalism they created a more effective method: the post-censorship. People could print everything freely, without censorship. However, only the finished forms were required to submit to the police, which then decided that it could be sold or not. Because of that, the press lost its hard-won freedom. The editors feared of any extraordinary costs. This kind of regulation made a strict self-censorship. The Imperial Press Law of the Bach-regime came into force in 1852 and remained in force with minor modifications until the Compromise. The law abolished the prior-censorship and introduced the so-called post-censorship system. However, the law gave a right regulation to the domestic publishers. It was helping to strengthen the domestic Hungarian press. Thus, the Hungarian press were able to play a determining role in the communication between the two parties in the period before the Compromise.

4. The Press Law during the Dualism (1867–1914)

After the Compromise the Hungarian press was free again. In the Austrian Empire the Imperial Press Law of 1862 remained in effect. The Press Law of 1848 came into force again. In Transylvania the Imperial Press Law of 1852 remained in effect until 1871, when the Hungarian Press Law was extended to this region. In Croatia and in Rijeka the Act of 1852, while in the Military Border the Imperial Press Law of 1862 remained in force. This kind of regulation provided freedom to the Hungarian press but also retained the benefits of the absolutism because of the nationalities.[12] It was a modification that the relevant press offenses were no longer belonged to the jury of the municipalities. The new juries were established by the king and district boards. From then Pest, Kőszeg, Nagyszombat, Debrecen and Eperjes were the seats of the juries. In Transylvania from 1871, Marosvásárhely was the seat of the jury. This provoked the minorities of the multi-ethnical country to an immediately resistance because the newspaper trials and affairs of the nationalities

[12] RÉVÉSZ, T. Mihály: Sajtójog a dualista Magyarország első esztendeiben [Press Law in the first years of the dualist Hungary], In: A KAR TUDOMÁNYOS BIZOTTSÁGA (ed.): Acta Facultatis Politico-juridicae Universitatis Scientiarum Budapestinensis de Rolando Eötvös Nominatae, Budapest, ELTE Állam- és Jogtudományi Kar, 1978, p. 310.

belonged to the Hungarian-majority areas. The members of the jury were nominated by a committee, which was led by the president of the relevant court. With this, in the nationality areas they could provide the Hungarian majority.

The Hungarian press was very free between 1867 and 1875. After the Compromise, the Hungarian governments tried to narrow the freedom of press. Some members of the government expected that the press will be government-friendly like it was during the Austrian suppression. Eventually the government could not enforce its will in political affairs. Since the Compromise, there were respected politicians, who though that the press was too free. To 20th century, 23 articles of Press Law were not in effect.[13] In Austria during the Dualism the Austrian regulation was in force. The representatives started to demand the press reform in 1898, in the session of the House of Representatives. The decision of the House ordered the Minister of Justice to draft the new press law proposal but did not set a deadline. Géza Kenedi received the task of developing the responsibility system.[14] The Act 14 of 1914 came into effect on 11th April. The most important points of the press law were the following: the law itself should be permanent and it should ensure the journalists' status and their freedom of expression. It should abolish the degrees of responsibility system and should curb the abuses. It was important that the deposit should be maintained. A question arouses though: is it necessary to separate the press jury?

5. Conclusion

The precedent of the Hungarian Press Law was the French Press Law of 1819, which was the first uniform regulation of the French press. Both have the same structure. The short time of the codification, finding the balance between the political forces and the fear of radical reforms made obvious "clues" on the Hungarian Press Law. The modern freedom of press was created by this Act first time in the Hungarian history, and second time in 1867, after the Compromise. Last, but not least, the Hungarian Press Law was one of the most liberal press regulation at the age of European revolutions.

[13] GERGELY, András – VELIKY, János: A politikai sajtó története 1867–1875 [The history of the political press between 1867–1875], In: KOSÁRY, Domonkos – NÉMETH G., Béla (eds.): A magyar sajtó története II/2. 1867–1892 [The history of the Hungarian press II/2. 1867–1892], Budapest, Akadémia Kiadó, 1985, pp. 88–89.
[14] KENEDI, Géza: A sajtójog reformja, Jogtudományi Közlöny, 1906/52.

Alen ŠUKURICA: Constitutional position of Croatia–Slavonia according to the Croatian–Hungarian Compromise

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1. Introduction and a short history review

The topic of this paper is significant for today both independent countries, Croatia and Hungary. This comes out from that legal history of each country, and its constitutional position, is important for understanding the development of statehood, or said in a modern legal language – constitutionalism. Constitutionalism is a term closely connected with dominion and power. Dominion is possession of power with which one is capable of subjecting others to his own commands. One of the questions in this paper will be what kind of power and dominion, or how much of it did Croatia have within the Croatian–Hungarian Compromise. Then I will try to establish if Croatia had all the three elements of statehood: government, territory and people. To answer that, we need to determine what kind of relation did Croatia and Hungary have until the Croatian–Hungarian Compromise?

They had until then a centuries-old common history bonding them. Since 1102 Croatia stepped into a personal union with Hungary through *Pacta Conventa*.[1] Then Croatia was attached to Hungary only by the person of the king, while Croatia kept elements of its statehood: individual coronation, the function of the ban and furthermore continued convocation of Croatian and Dalmatian Diets'. From this, it's clear that the beginning of the common history between these nations wasn't conquest from the Hungarian side nor were Croats subjugated or simply annexed. Already at that time Croats, better said Croatian magnates formed a political community which had its own rights and obligations. That kind of personal union lasted until 1526 when Ludovik II Jagelović died and left the throne vacant. The Habsburg dynasty reacted and the Diet of Cetingrad comprised of Croatian nobles crowned Ferdinand I as king and pointed out their rights and the rights of the Croatian Kingdom.[2] The next proof of Croatian statehood is the Pragmatic Sanction from 1712[3] also

[1] BUCZYNSKI, Alexander – MATKOVIĆ, Stjepan: Korespondencija Josip Pliverić – Georg Jellinek iz 1885. godine [The correspondence between Josip Pliverić and Georg Jellinek in 1885], Zbornik Pravnog fakulteta u Zagrebu, 50, 2000, 6, pp. 1059–1060., 1067–1068.
[2] *Ibid.*, p. 1060.
[3] *Ibid.*, pp. 1060–1061.

stated in the Croatian Constitution today as an expression of statehood.[4] With it, Croatian nobles confirmed that the crown could be inherited by female members of the Habsburg lineage. It's true that this Pragmatic Sanction wasn't sanctioned by the king and that it doesn't have real legal value, but it has a great historical value. King Charles III replied to the Croatian nobles: "We and our heirs will ever guard your pristine rights, privileges and benefits" with what he confirmed elements of Croatian statehood and independence.

In the same century two acts were enacted which limited Croatian autonomy: Act 58 of 1791 and Act 59 of 1791 by which a great amount of Croatian autonomy was passed on to Hungarian bodies.[5] The Croatian side justified the decision with the argument that in that way it was defending Croatia from Austrian encroachments, but truly it was a great concession, disproportionate, to Hungary. After that, in the revolutionary year of 1848[6] with ban Jelačić the previous community of Croatia and Hungary broke, *de facto* and *de iure*. That is supported by the sanction of the Law on relations of the Triune Kingdom with Hungary by the ruler which legalized the cease of relations. Croatian hopes for a bigger autonomy were extinguished by the octroyed constitution which lasted until 1860. After that, there comes an important historical and legal fact, the enacting of Act 42 of 1861 about relations between the Triune kingdom of Dalmatia, Croatia and Slavonia to the Crown and to the Kingdom of Hungary on which the constitutional grounds for the independence of Croatia and Slavonia were laid, and also the terms for future agreements.[7]

Six years later there comes a deal between Austria and Hungary, which established the Austro–Hungarian Compromise that pointed to an arrangement of relations between Croatia and Hungary but as internal Hungarian issue. In 1868 the Croatian and Hungarian Diet reached an agreement in the form of the Croatian–Hungarian Compromise, which regulated the constitutional position of Croatia and Slavonia until 1918.[8]

[4] Constitution of the Republic of Croatia
[5] HEKA, László: Hrvatsko-ugarska nagodba u zrcalu tiska [Croatian–Hungarian Compromise in light of press clips], Zbornik Pravnog fakulteta Sveučilišta u Rijeci, 28, 2007, 2, pp. 938–939.
[6] *Ibid.*, pp. 938–939.
[7] SOKCSEVITS, Dénes: Hrvatska od stoljeća 7. do danas [Croatia from the 7th century until nowadays], Zagreb, Durieux, Društvo mađarskih znanstvenika i umjetnika u Hrvatskoj, 2016, p. 275.
[8] *Ibid.*, pp. 283–286.

2. The Croatian–Hungarian Compromise 1868

In 1867, the Diet had to be elected to support the Compromise. The Diet was elected in 1867 with an unconstitutional election law (octroyed by the king) which increased the number of virilists and limited the number of elected representatives was to sixty-six. To ensure the conduction of elections Levin Rauch who was known for violent methods, was appointed.[9] At the very elections, methods like threats, criminal investigations, vote manipulation were used. A Unionist Diet was formed in which *Narodna stranka* had only twelve representatives. These twelve members filed a written protest against this Diet and rejected to continue to partake in this Diet which they held unconstitutional.

Even though the Diet was fully unionistic they were split into two main currents.[10] The first was led by count Pejačević and it was for closer relations with Hungary. The other current was led by Jovan Živković and it thought there was an option for a wide Croatian autonomy within the uniqueness of state with Hungary. The latter current prevailed. At the beginning of its work, Diet enacted an address in which it stated that it wants as "a free people with a free people" to come to an agreement with Hungary. Also, uniting of Dalmatia, Croatia and Slavonia, as well as suspension of the Military Border system was demanded. A conclusion was made that a twelve-member delegation should be elected to negotiate for the upcoming Compromise. The position that Croatia always had its autonomy was years before pointed out by Ferenc Deák stating that Croats have always had a separate territory, political nation and its own rights that Hungary respected.[11] It's clear from this that all the three elements of statehood are fulfilled, and that Croatia was an equal party. Again, in the negotiations Deák emphasized readiness to give Croatia wider autonomy and advocated that Croatia should manage its incomes. Andrássy, on the other hand, disagreed, because he thought that it would open space for same kind of demands to other nations within the Monarchy. Even though Deák proposed this idea to the Croatian delegation, they refused that proposition because they thought Croatia was a poor country and that they were not ready to manage their own finances alone.[12] The negotiations were successfully completed

[9] ČEPULO, Dalibor: Hrvatsko-ugarska nagodba i reforme institucija vlasti u Hrvatskom Saboru 1868–1871 [The Croatian–Hungarian Compromise and reforms of the organizations of powers in the Croatian Diet in 1868–1871], Zbornik Pravnog fakulteta u Rijeci, Suppl., 1, 2001, p. 119.
[10] GROSS, Mirjana – SZABO, Agneza: Prema hrvatskome građanskom društvu [Towards the Croatian Civil Society], Zagreb, 1992, p. 224.
[11] *Ibid.*, p. 226.
[12] SOKCSEVITS, *op.cit.*, p. 285.

and Croatian Diet brought the Croatian–Hungarian Compromise at November 18th 1868 as Act 1 of 1868.

Even before the Article 1 it's said: "Legal Article of the compromise, which from one side Kingdom of Hungary, united with Transylvania, from the other side Kingdom of Croatia and Slavonia made for levelling current statehood legal issues between them." From this, it's evident that there were two parties, two Kingdoms, and that it wasn't imposed by Hungary, but that they had had mutually agreed upon them. Of course, in relation to Austria and other countries they act as one, but in internal relations of Croatia–Hungary there is clear subjectivity of each state. It's possible to see a form of a *sui generis* real union. Furthermore, in Article 2, it's pointed out that from now on the king of Hungary and Croatia is crowned by the same crown, but that the coronation oaths must be besides in Hungarian also issued in Croatian language.[13] Further, in the Compromise there is part about separation of competences. The separation of competences in which Croatia would have autonomous competence is of value for assessing how much independence or sovereignty Croatia had. The situation is not the same if an e.g. a state has the autonomy to decide only about culture or if another state e.g. can decide about everything else except culture. Croatia kept its traditionally autonomous affairs, according to Article 48 of the Compromise, internal affairs, religious affairs, schooling and judiciary (except maritime law).[14] It is important to stress out the word kept, because it is held that these affairs have always traditionally belonged to Croatia, and the claim that with the Compromise they were given to Croatia is false. All the other affairs were subject to the Common government.

It's evident that Croatian sovereignty was limited in its autonomous affairs, but that it still existed. The institution of ban was kept, who was responsible to Diet. That responsibility to Diet was primarily nominal and aesthetic because the responsibility already existed *a priori* to the king and to the Hungarian minister president, because the king appointed him and the Hungarian minister president signed the act of appointment. The stipulation that ban cannot be a person that is acting a military duty was introduced. Throughout history that stipulation was interpreted that Hungary was afraid that someone like Jelačić could come again and they were ensuring that it wouldn't happen again.

[13] *Ibid.*, p. 286.
[14] *Ibid.*, p. 288.

Regarding the further division of competences, it's clear each state had its own parliament, and a common one, and two separate governments and a common ruler.[15]

Croatia had its own autonomous supreme court Table of Seven which expressed Croatian judicial autonomy. Another interesting function stands out, the function of the Croatian–Slavonian minister without portfolio who according to Croatian ideas was to serve as protection of Croatian interests, but in reality, he served as a mean of Hungarian control. In the final articles, the Croatian distinctiveness stands out by the fact that within the Kingdom of Croatia, Slavonia and Dalmatia Croatian language is acknowledged as official.[16] This cultural right is important because almost every nation is defined by its language. That is why the right to have Croatian as official within Croatian territory guaranteed preservation of Croatian identity, and not permeation of Croatia by Hungary. Through time, Hungary will infringe that right too which was in fact a positive obligation of Hungary to protect, especially at the times of ban Khuen-Héderváry. At the end, the territory that belongs to Croatia and Slavonia is pointed out and the interest of Hungary to bring it back to life, through joining Military Border and Dalmatia with Croatia and Slavonia together.

3. Conclusion

The Croatian–Hungarian Compromise doesn't bear the name Constitution, but it is a source of constitutional law. Because the Croatian–Hungarian Compromise deals with separation of powers, relations between two states etc. For this act, it's also important how it came about. In my opinion, Croatia and Hungary were equal parties to the occurrence of the Compromise and that was shown through that it could be changed only by consent of both parties, this reminds of hard constitutions which have more complex and harder procedures for changes.[17] Also, each of the separate Diets had to confirm it which means not anyone can decide what happens with it but that there are both legitimate bodies and procedure. Looking at dead letters on paper Croatia was equal, but we must not forget that on the Compromise "Riječka krpica" (Rijeka Patch) was added and imposed by Hungary. Regarding what kind of formation was established, and what position Croatia had, it appears

[15] GROSS – SZABO, *op.cit.*, p. 232–234.
[16] *Ibid.*, p. 232–234.
[17] BUCZYNSKI – MATKOVIĆ, *op. cit.*, pp. 1059, 1064–1066.

that it was a *sui generis* asymmetric real union in which Hungary had a stronger position. However, Croatia was not a province as it was heard throughout history.

Croatia was indeed a weaker partner in that alliance, but it had a great degree of autonomy which is expressed in the text of the Compromise several times, e.g. "Regarding that, Kingdom of Croatia and Slavonia are a political nation, having their own territory and in aspect of their internal affairs their own legislation and autonomous government, it is further established: that the representatives of the same kingdoms can on common parliament as also in the delegation use also Croatian language." According to this, Croatia had its own people, territory and a certain amount of government. These are three main elements of statehood and sovereignty of a state. Croatia had the first two elements, but the main question was the question of government. Croatia did have a certain degree of autonomy in government that was enough to be an expression of statehood, but in that specific moment, Croatia had given up a part of its sovereignty, but it also means that it had it, because if it didn't there wouldn't have been the need to make the Compromise with the consent of Croatia. That was a constitutional moment in which Croatia chose to give up a part of its sovereignty. To conclude, it is undisputed that Croatia was a unique state entity within the sense of the Compromise and that it was by no means only a province, but truly a form of statehood.

Luca VARGA: The comparison of the Croatian and Hungarian public administration after the Compromise

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1. Introduction

During the 19th century there were national ambitions for liberty and they appeared in Hungary against the house of Habsburg who had been on the throne since the middle-ages. Hungarians did not think about the separation because they did not have the right conditions for an independent Hungarian statehood.[1] They felt themselves not strong enough to have a fight against the Habsburg. However, they achieved their biggest goal in the spring of 1848, when they got their widespread government within the Empire and on the 14th April 1849 they proclaimed their separateness within the confines of the Declaration of Independence in Debrecen.[2] The independence was not so long, because Vienna took the help of the Russian tzar and his power, which put an end to the Hungarian independence very fast.

2. The old system of the Hungarian Parliament

The Hungarian parliament had two advisory establishments which were named as Houses. There was the House of Representatives, where there were the representatives, who had been voted by the people. The other House was the Upper House, where there were the true-born counts, dukes and barons, who had automatically got a seat when they reached the age of majority. There were also seats for the bishops, archbishops and the sheriffs, who ruled the counties.[3]

[1] GALÁNTAI, József: Az 1867-es kiegyezés [The Compromise of 1867], Kossuth Könyvkiadó, Budapest, 1967, p. 118.
[2] *Ibid.*, p. 19.
[3] GERGELY, András – SZÁSZ, Zoltán: Kiegyezés után [After the Compromise], Gondolat, Budapest, 1978, p. 24.

3. The Austro–Hungarian Compromise

Ferenc Deák and his supportive wanted to reach the force of the Acts of 1848, so the King was forced to nominate the Hungarian Prime Minister who was responsible to the Hungarian Parliament.[4] On the 17th February 1867 Franz Joseph I of Austria nominated the government, Gyula Andrássy for Prime Minister, who was the Secretary of Defence too. The Minister of Finance was Menyhért Lónyay, József Eötvös was the Minister of Religion and Public Education, Boldizsár Horváth was the Minister of Justice, the Minister of Interior was Wenckheim Béla, István Gorove was the Secretary of Commerce, Imre Mikó was the Minister of Transport and the minister next to the King was György Festetich, so formally they restored the principle of the responsible government[5].

The House of Representatives adopted the community proposal by the Committee which was established in 1867 (Act 12 of 1867)[6]. The proposal contained a gesture between Austria and Hungary against the danger of the foreign policy, also the Slavonic national pursuit. The proposal was voted with generality, but there was a missing part of the enactment. Although Franz Joseph I of Austria governed the country for twenty years, he had to be crowned legitimately.[7] The coronation was on 8th of June 1867, when the new king gave general amnesty to the political prisoners and the refugees could come home[8].

Alongside the common king, there had been common causes like the military affairs, the foreign affairs and the finance dedicated to the mentions. They had also set up a common cabinet which presented in Vienna, because all the significant establishments were in the Austrian capital.

The common causes had delegations from the two countries which had the responsibility for the ministries. The delegations had sixty-sixty members and they were charged for one year.[9] The common causes had ministers who had been appointed by the King, but the Minister of Defence had never been Hungarian. The ministers had ministries, but they only had a corporation for the common causes, they didn't make an imperial

[4] *Ibid.*, p. 26.
[5] GALÁNTAI , *op. cit.*, p. 112.
[6] BENDA, Kálmán (ed.): Magyarország történeti kronológiája III. 1848–1944 [Historical chronology of Hungary III. 1848–1944], Akadémia Kiadó, Budapest 1983: p. 740.
[7] GERGELY – SZÁSZ, *op. cit.*, p. 30.
[8] BENDA, *op. cit.*, p. 740.
[9] GALÁNTAI , *op. cit.*, p. 122.

government and the real head of the ministries was the King. There was a quota for the financial things, which had been admitted by the two Parliaments. It was recognized in an Act and it was in force for ten years[10].

The Hungarian ministries were in Buda and Pest and they did not have too many officials, because their only functions were to prepare some statutes and monitor the implementation of the regulations.[11] They did not have the direct power over the local administrative bodies. The two most important ministries were the Ministry of the Interior and the Ministry of Finance.

4. The economic Compromise

In principle it could be said that Hungary had the chance to make its own finance- and customs policy, but the conciliators of the Compromise believed that the aim should rather be a common financial system between Hungary and Austria, so they made an economic Compromise for ten years. This compromise included that the transport and the postal regulations were standardised, the measurement system had become common. It secured for each citizen of the empire that anywhere in the empire they have the freedom to pursue industry and it could engage in commercial activity.[12]

The Compromise Act only re-established the affairs between the Hungarian crown and the King's other countries. Therefore, Hungary's own inside national questions needed to be sorted out again.

5. The road to the Croatian–Hungarian Compromise

In Croatia, that had been connected to Hungary since 1091, the legislative power always had been exercised by the *Sabor*, which was the Croatian National Assembly and it had the commitments like legislation, conclusion of peace, designing the common policy.[13] In the 19th century, Croatian national movements in Europe were also achieved. In 1848

[10] BENDA, *op. cit.*, p.742.
[11] GERGELY – SZÁSZ, *op. cit.*, p. 120.
[12] *Ibid.*, p. 37.
[13] HEKA, László: Horvátország parlamentarizmusa a kezdetektől napjainkig [Parlamentarism of Croatia from the beginning until nowadays]. In: Forum. Acta Universitatis Szegediensis. Acta Juridica et Politica, 4:(1), 2014, p. 101.

Croatian Diet conferred dictatorial power on Jelačić, whose decision was that in 1848 Croatia *de facto* ended its relationship with Hungary. However, it did not happen *de iure*.

The Croatian National Assembly was willing to renew the state law relationship. The two countries had been negotiating in the spring of 1866, unsuccessfully because the Hungarian delegates refused to let the Rijeka nd the river Muraköz be handed over to the Croats and that it was a personal union system between the two countries.

After the failure of the hearing the Croatian parliament adopted the decision, under which Hungary independently wanted to arrange the affair of the other countries of the Monarchy, although Vienna rejected the *Sabor*'s petition and its delegation. The question of Croatia had been subjected to the Compromise with Hungary.[14] The Hungarian–Croatian Compromise (Act 30 of 1868) contained that Croatia had its own territory, legislature and government with full autonomy in terms of its internal affairs. Its inhabitants were a political nation "who were members of public bodies and subjects of public law."

Opposite to Hungary, in Croatia a unicameral parliament was formed, which consisted of ninety elected representatives and beside them the virilists. The virilists were the noblemen who paid the most taxes and the King had the claim to dissolve the parliament. After distribution within three months, new elections had to be scheduled. The election of representatives was also a little different than in Hungary because Croatia had two stages in the vote of the members of parliament. The mandate was for 5 years, with an absolute among the electorate and the majority of the two candidates who received the most votes in the second round.[15] The representatives elected the president and the two vice-presidents for all mandates, four clerks and the house clerks by secret ballots. They formed the council that the king was informed about.

6. Nowadays story of the two Parliaments

Finally, some words about the Croatian and Hungarian parliaments nowadays. The Croatian parliament is the citizens' representative body and legislative branch depository. It has at least hundred, but a maximum of hundred-and-sixty representatives, who are elected

[14] KOVÁCS, Endre (ed.): Magyarország története 1848–1890 [The history of Hungary 1848–1890], Akadémia Kiadó, Budapest 1979, p. 800.
[15] HEKA, op. cit., p. 109.

in a direct and secret election for a four-year mandate by the voters having equal and general right to vote. There are ten constituencies. National minorities and Croats living abroad elect their representatives in two separate constituencies.[16] The Council meets twice a year, during a spring and an autumn meeting, but at the request of the President of the Republic, the Government or a majority of the Members, the President of the Parliament may convene an extraordinary meeting after consultation with the Heads of the Party. The Parliament's powers extend to the following constitution: to create and amend laws on adoption, the state adoption of the budget, war and peace questions, border amendment, to adopt the national security and the protection strategy, the armed forces and the operation of the security services, to oversee the work of the government and other parliaments responsible for public administration and to cast a referendum. The decisions of the Parliament shall be taken by simple majority. Every member, the parliamentary faction, the working committee and the government have the right to legislate.[17] The president of the parliament replaces the head of state and the executive power is in the hands of the government. The office exemption of the President of the Republic is usually voted by a two-thirds majority. The Hungarian parliament is the supreme representative body in Hungary, which makes laws, amnesty exercise, determines the state of war and peace declared.[18] Currently the Parliament has one-hundred-ninety-nine representatives of which one-hundred-and-six are in individual constituencies, while ninety-three members are based on a national list and the voting is one-way. The Parliament's constitutive session starts within one month after the election. The president of the republic calls it together and they elect a parliamentary president and five vice-presidents.

[16] *Ibid.*, p. 114.
[17] *Ibid.*, p. 108.
[18] Hungarian Constitution, Art. 1.

Ingrid RÁK–RADI: Voices of the Croatian nation in the Hungarian parliament

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1. Introduction

The current study's aim is to present the style and culture of discussion in the Hungarian Parliament in the period between 1868 and 1918. The study focuses on the nationality issue and primarily on the activity of Croatian deputies in the common parliament. For 40 years, after the Hungarian–Croatian Compromise, the speeches by the Croatian deputies in the common parliament came to a negligible number, therefore the activities and the intentions of the Croatian deputies can be deduced from the speeches of the Members of Hungarian Parliament. Furthermore, the use of the Croatian language by the Croatian deputies and the aura of Hungarian politics made it difficult to document their speeches.

2. The status of Croatia

2.1. Before the Compromise

Croatia's status, already in the 19th century was not comparable to other non-Hungarian nations on the territory of the Monarchy. Taking into account the conditions for becoming a nation, the Croatians had their own autonomous territory, local self-government, their own political institutions, and have become state-recognized nation in the state-political structure of Hungary.

During the Revolution of 1848/49, Croatia already hoped it could create a state with its own responsible government, which is equivalent with Austria and Hungary and also directly connected to the Vienna court. The Croats emphasized the union with Hungary on the grounds of the state-right of the Triune Kingdom, which should become the Croatian national state. After the Austro–Hungarian Compromise this tendency became stronger among the Croatian bourgeoisie in Croatia.

But all the efforts for the Triune Kingdom proved to be in vain with the Croatian–Hungarian Compromise of 1868 on the relations between the Kingdom of Croatia, Slavonia and Dalmatia and the Kingdom of Hungary. The Croats had to give up their demands of national autonomy. They finally agreed that Croatia and Hungary "were part of the same state complex", which was part of the reorganized Monarchy. Within this complex, the Croats were a political nation with their own territory, which would be ruled by its own legislature and government.

2.2. After the Croatian–Hungarian Compromise

The Hungarian government, however, offered only limited autonomy in internal administration, religion, education and judiciary, while the economy, finance and transport were to remain in the hands of the government in Budapest. Complete autonomy for Croatia as a state was firmly rejected. The management of common affairs was entrusted to the common parliament. The *Sabor* sent deputies to the common Parliament in Budapest from among its own representatives in proportion to the population of Croatia. In 1868 it sent twenty-nine deputies, while there were forty in the early 1880's when the Croatian–Slavonian Military Border Area was connected to Croatia. In common affairs the delegates enjoyed individual voting rights. The delegation supervising Austro–Hungarian common affairs had the same proportionate representation, with four Croat representatives and one member of the Upper House. The Croats were free to use their language in both institutions, according to the Compromise. The daily fees and salaries of the Croatian deputies were paid from the Common Treasury.

2.3. The status of the Croatian deputies in the common parliament

The declaration and voting rights of the Croatian deputies were limited: they were only concerned with the category of "commonly agreed" cases under the terms of the compromise (Section 31). The participation of the Croatian deputies in the activities of the Common parliament, however, were "autonomously and without instructions", they were free to comment and vote (Section 35), even in Croatian (or at least according to Section 59 of the Compromise). According to Section 38 of the Compromise, discussing common issues affecting the Croats will be discussed together and in succession, thus ensuring that

Croatian deputies return home for three months and thus participate in the work of the *Sabor*. When the common affairs are being negotiated, the flag of the united Croatia–Slavonia–Dalmatia should be displayed next to the Hungarian flag on the building of the Common parliament (Section 63).

Based on the Sections 56 and 57 of the Croatian–Hungarian Compromise of 1868[1] throughout the territory of Croatian–Slavonian countries, the language of the legislature, public administration and jurisdiction will be Croatian, and the official language of the common government, is Croatian language. The nationality statute, signed in 1868, did not allow the other nations to use such a wide-ranging language of their mother tongue, but it is important to note that at this time in comparison with other nations of Europe, the national statute was considered one of the most enlightened and liberal in public opinion and the press. The problematic nature of the statute has been shown to contain a loophole in many cases, thus enabling its inappropriate and improper use.

Although the Croatian deputies were not explicitly and legally affected by the nationality statute, representatives of the Common parliament – both Hungarians and other nationalities – have found repeatedly the parallels between the position of Croatians and other ethnicities. It is difficult to explain this reason, but according to the Parliamentary Diaries, Hungarian nationalism, despite the adoption of the Croatian Compromise of 1868, also manifested from time to time between the walls of the honoured House, when a Croatian representative wanted to obtain the provisions of Section 59.

3. The political activity of Croatian deputies in the common parliament

The activities of delegates from the *Sabor* in the parliament of the countries of the Hungarian Crown can be considered as passive in terms of their political activity. There are several reasons for this and its complexity makes it difficult to understand. It has already been mentioned above that according to Section 59 of the Croatian Compromise the Croatian deputies have been empowered by law to use their mother tongue for their speeches and petitions before the Common parliament. However, the Compromise did not include the possibility and the way of translation – a translator *ipso iure* was not assured that

[1] Act 30 of 1868

the representatives of the Croatian deputation would be able to understand and respond to the Hungarian representatives.

The Croatian deputies were elected by the *Sabor*, sent to the Common parliament and they were assigned to departments and boards, as well as the Hungarian representatives. But this did not help the Croatian–Hungarian rapprochement. Several times we find some remarks in the Parliamentary Diaries that Croatian and Hungarian representatives hardly knew each other. In 1893, Ákos Beöthy, a member of the National Party in Kassa, says: "Pain, we Hungarians and Croats are with each other, but we do not know each other. This is true, but one of the main reasons for this is, pain, the respected Croatian deputies appear here in the House of Representatives, but in our deliberations they are participated less frequently."[2]

The House was aware of that the Croatian deputies did not actively participate in parliamentary deliberations because of the language barrier and, on the other hand, even if they can still speak Hungarian, they did not want to speak in Hungarian as an expression of Croatia's autonomy. Beöthy did not want to deprive them of their right to speak Croatian, but "we all want to see, if the Croatian deputies are here – although they have the right to speak Croatian –, speak Hungarian, simply because their speeches to understand and to increase the intellectual capital of the parliament."[3]

Károly Herich, member of the Delegation of the *Sabor*, admits that "we Croatian deputies from up here are looking at the operation of the Hungarian common parliament as from a bird's-eye view."[4] It also confirms the presumption that Croats and Croatian deputies really fear they do not strictly adhere to section 59 of the Compromise, which means that they can use the Croatian language in the Common parliament and delegations too, and then this right can be neglected. Later, it would be a clear expectation against the Croatian deputies to make their statements only in Hungarian, and Croatia would also have a stronger pressure to use the Hungarian language compulsorily. Herich emphasizes that "the agreement of compromise was concluded on the basis of the principles of loyalty, justice and mutual love"[5], even so between the Croats "prejudice prevails that it wants to

[2] Speech of Ákos Beöthy, 12 January 1893
[3] *Ibid.*
[4] Speech of Károly Herich, 12 January 1893
[5] *Ibid.*

enforce the dominance of the Hungarian part and in particular to promote the Hungarian language at all costs."[6] In the aftermath of later events Herich's concern was not unfounded.

Speeches by Croatian deputies were minimal until the 1900s. András Cieger's Croatian deputies in the Hungarian Parliament (1868–1918) provided a precise summary of the speakers of the Croatian delegation. Only eight of the representatives elected in 1869 took a speech that is only 30 % of Croatian deputies. In 1887, even fewer than six, what is 23 % of the deputies exercised their right under this statute. Exceptive activity is represented by the representatives elected in 1906, since at that time the Parliamentary Diaries have already recorded twenty-three representatives' speeches. An even more exciting picture will emerge if we observe that the twenty-three representatives spoke ninety-five times, and ninety-three times only in Croatian. Then the number of speeches made by the Croatian deputies elected in 1910 is declining significantly, only ten are in Croatian language. The mentioned speeches were added to the Parliamentary Diaries only in Hungarian.[7]

On the other hand, in 1893 Herich confirmed in his speech that "in the Croatia–Slavonia the overwhelming majority of the population is standing beside the Croatian–Hungarian compromise and the union",[8] which allows a better understanding of the situation. In Ákos Beöthy's reaction there is unspoken but perspicuous wish to cooperate, because he believes that "we must protect our rights and our freedoms together (Applause.) Because if we agree, we are strong. (Lively applause.) If we disagree, then we will overcome a third, perhaps absolute power over our struggles."[9] It is clear that after the Compromise the Hungarian representatives did not considered the Croats as a kind of adversary, but on the contrary, they hoped for a partner who could work and cooperate with against Austria's oppressive politics.

[6] *Ibid.*

[7] CIEGER, András: Horvát képviselők a magyar országgyűlésben (1868–1918) [Croatian deputies in the Hungarian Parliament (1868–1918)], In: FODOR, Pál – SOKCSEVITS, Dénes – TURKALJ, Jasna – KARBIĆ, Damir (eds.): A magyar–horvát együttélés fordulópontjai: intézmények, társadalom, gazdaság, kultúra [The turning points of Hungarian–Croatian coexistence: institutions, society, economy, culture], MTA BTK, Budapest, 2015, pp. 420–421.

[8] Speech of Károly Herich, 12 January 1893

[9] Speech of Ákos Beöthy, 12 January 1893

4. Language above all, or for the margins of a Croatian obstruction

According to the Parliamentary Diaries, the most controversial topic of parliamentary debate was the language at all levels. The speeches, interpellations and declarations between Croatian and Hungarian representatives, even the bills on common issues seemed to be different variations on the same theme, namely the subject of language. Of course, it would be a mistake to simplify the stages of the unfolding discussions between Croatian and Hungarian representatives. But it is undisputed that any topic has been discussed, the use of the language has always appeared, explicitly or implicitly. Conflict deepened between the Croatian deputies and Hungarian members of the Common parliament in several ways.

4.1. The eighty most important words

According to Ignác Romsics, an acknowledged Hungarian historian, "the question of the army was the most delicate problem of the dualistic system, the most vulnerable point of it, the source of political conflicts and national grievances."[10] The question of the Croatian–Hungarian relations and the army emerged within the framework of the discussion about the Hungarian language. What is the debate about the military language of the army? It is about deciding in what language the eighty most important command words should be used.

According to the records of the Parliament, the Croats supported the introduction of Hungarian as a guiding language in the Hungarian army instead of the German language. But the Hungarian representative, Géza Polónyi, complained that the Croatian deputies support the Hungarian ruling language in the Hungarian army against the German language, so they could later reach their own goal "to prevail the Croatian language in the Croatian army."[11] According to Polónyi, this is impossible from the public law point of view because, in his opinion, "there is no Croatian state. Where there is no state, there can be no army. We do not know Croatian Army. The Hungarian state has an army, but Croatia has only military additions; there is no Croatian Army."[12] In the heat of the debate, Croatia's autonomy and the compromise were questioned. Polónyi considers "the mistake of the Hungarian

[10] ROMSICS, Ignác: Magyarország története [History of Hungary], Budapest, 2014, Akadémiai Kiadó, p. 671.
[11] Speech of Géza Polónyi, 28 July 1904
[12] *Ibid.*

nation" that, by using the old *terminus technicus* as the "linked part" and the "provincial assembly", "we have grown horns through autonomy for people who have initiated the propagation of the idea of the great South Slavic state and who will start argue with us over that Croatia is a state."[13] Plenty of similar declarations can be found by Hungarian representatives in the parliamentary diaries, although few of them ventured to admit explicitly "Hungary did not want to grant new rights for Croatia because it only wanted to annihilate the existing controversies in Act 30 of 1868",[14] and he did not shy away to qualify the compromise as "a spectacular monster in all respects".

4.2. Behind the scenes of the railway regulation

In the context of the problematic topic of the language could be mentioned the well-known railway regulation of the railway service order, which would introduce the Hungarian as the official language of the railways, on the territory of Croatia too. The railway regulation has given cause for exchange of views between Croatian and Hungarian representatives for many years. From 1904 we can read relevant parliamentary declarations. István Kovácsevics, a Croatian deputy – who had to bear the attacks of the Croatian opposition cause of his Hungarian-friendly feelings – had argued against the new railway regulation. He argued that it is in opposition to the Section 57 of the Compromise, which says: "The Croatian language is also the official language of the common government of Croatia–Slavonia."[15] According to Kovácsevics, Hungary is not entitled to oblige the employees of the rail company to speak in Hungarian on the Croatian side, as the government states that railwaymen are state officials, functionary and as such are covered by Section 57. Polónyi cannot stay away from the debate and wishes to point out the uselessness of the application of Section 57 as he states that railway is a kind of enterprise of the state and according to Section 102 "the Hungarian state is also represented on the territory of Croatia, and the official language of the Hungarian state everywhere – in Croatia as well – is Hungarian"[16], furthermore transport is not merely Croatia's case but a common case. It may seem to be the polemics of Kovácsevics and Polónyi, but their speeches faithfully illustrate the views of Croatian and

[13] *Ibid.*
[14] *Ibid.*
[15] Act 30 of 1868
[16] Speech of Géza Polónyi, 28 July 1904

Hungarian deputies on the matter. The Croatian deputies considered the railway regulation as a kind of violation of the Compromise of 1868, while the Hungarian representatives considered it legitimate to impose the use of the Hungarian language for the employees of the Hungarian railways.

5. The obstruction

The journal Eger Weekly in 1914, looking back at the events of 1907 wrote that the Croatians have "brought some originality to the obstructive procedure (…) and they started an obstruction in Croatian."[17] Which means that the Croatian deputies in the Hungarian–Croatian common parliament spoke only in Croatian and tried to maximize their time provided by the rules of the House. The newspaper reminds us of the events that the parliamentary records of this time are a testament of the "unique patience with which the four-hundred-thirteen Hungarian representatives, who did not understand Croatian, listened to the Croatian-speaking noise for months."[18] The Parliamentary Diaries did not reflect the "unrestrained patience" of the Hungarian representatives; they continuously interrupted the statements of the Croatian deputies, and showed the manner less attitude in many cases.

5.1. Lost in Translation

Apart from the substantial purpose of the Croatian obstruction, we should look at the very interesting situation that has given more emphasis to this. It is clear that in the middle of 1907 – that is, thirty-nine years after the Compromise and the creation of the Common parliament – there was a debate in the House about how to translate Croatian-language speeches into the diaries.

At that time, we can read in the Parliamentary Diaries that Lajos Návay, the Speaker of the National Assembly, announces that with regard to the bills to be discussed, Croatian speeches will also be heard. That's why he took care of the presence of a Croatian stenographer and Rajic Dusán, a Serbian representative in the common parliament, who will

[17] A horvát kérdés [The Croatian question], In: Egri Hetilap, 7 February 1914
[18] *Ibid.*

attend the meeting as an interpreter next to the Speaker. He also suggested that "in the diary, the speeches of the Croatian deputies should be included in an authentic translation as an attachment."[19]

According to Zoltán Lengyel, a Hungarian independent representative, "the translation of the speeches should be included in the diary, (...) the Hungarian translation should be included in the diary immediately after the Croatian speech, not as a speech, but as a consequence of the decision of the House."[20] Why not as an attachment? Lengyel thought that the right of Hungarian language to be included in the attachment would have been degraded.

Ferencz Nagy, a Hungarian constitutional party member, supported the speaker's proposal, that is, "the diary is an authentic certification of what is happening in this house"[21] and maintains the possibility that despite the greatest effort the translation would not convey the authentic text "we would be at risk that this diary would include authentic, partly inauthentic speeches."[22] Finally, they decided that after the official declarations the Hungarian translations of the Croatian speeches as an attachment will be added. Among the Deputies' Letters, there is a report published by the Economic Committee in June 1907 on the application of Croatian stenographers, typists and interpreters, which authorizes the Speaker of the National Assembly to apply them temporarily for charge per day at the expense of the House.[23]

5.2. "XY spoke in Croatian"

The attempt to break Croatian obstruction did not wait long for. In March 1908, polemics unfolded to change the regulations of the House. Géza Polónyi noted that in the previous session a decision was adopted according to which "an interpreter is applied in Croatian speeches"[24]. Furthermore, he adds that "this rule will be applied for the first time in a new session."[25] There is no misunderstanding. With a quick overview of the Parliamentary

[19] Speech of Lajos Návay, 5 June 1907
[20] Speech of Zoltán Lengyel, 5 June 1907
[21] Speech of Ferencz Nagy, 5 June 1907
[22] *Ibid.*
[23] Képviselőházi irományok [Documents of the House of Representatives], 1906, vol. XXIII, p. 785–820.
[24] Speech of Géza Polónyi, 6 March 1908
[25] *Ibid.*

Diaries, we can also assure ourselves that probably the Parliament hasn't been so far *ipso iure* required to use an interpreter during the Croatian speeches permanently.

However, the lack of interpretation was not a coincidence. Polónyi's speech faithfully reflects the views of Hungarian representatives on this issue. He is convinced that the Section 59 of the Compromise "the concession that Croatians can use the Croatian language is a given concession – but only as a *ius dormiens*."[26] In other words the Croatian deputies used to speak in Croatian in a parliamentary session for a short period of time, but it never happened that Croatian language as a language of deliberations could have come into the Hungarian parliament. The 59th section of the Compromise has led to misunderstandings. He emphasizes that a kind of "tacit agreement" of the compromise has become a practice in the Hungarian Parliament for the use of foreign languages and has only exceptionally been used by the Croatian language. This is what the 39 years old tradition and practices itself best justifies.

He doesn't even understand why it is necessary to use interpreters, as this "exceptional concession was applied in the way that Croatian deputies spoke in Croatian, but no interpreter was used or the speeches were not entered in the diaries, only the note 'XY spoke in Croatian' was used clearly in the diary."[27] The Hungarian representatives also expressed their conviction several times that when a Croatian representative who speaks excellent Hungarian language is still spoken in Croatian, they can interpret it as a kind of rebellion and provocation. They totally disregarded the use of the interpreter, being afraid of creation a practice that would depreciate the official and exclusive Hungarian language.

5.3. In the interests of the House

Gábor Ugron, representative of the Szilágy County, joined the debate, too, and proposed the use of the interpreter. "Croatian deputies should also be able to speak Hungarian, but they also have the right to use the Croatian language. But the Croatian deputies gentlemen can't speak Hungarian (Exclamation on the left: None!) (...) there may be forty people here, who do not know what we are talking about, and there are about forty of those allowed to speak but we do not know what they are talking about because they

[26] *Ibid.*
[27] *Ibid.*

can't speak Hungarian."[28] His support for the use of the interpreter was in fact also a kind of control of the Croatian deputies. He cited the fact that the Croatian deputies could discuss even to break up, the destruction Hungary, or even to crush the Hungarian constitution in the Hungarian Parliament, while the Hungarian representatives do not understand anything about it.

The Speaker of the National Assembly, Gyula Justh, also joined the debate because the new regulation of the House also affected his previous work. He did not agree with Polónyi's manifestation, but he did not even want to ignore the fact that the Croatian deputies didn't want to adapt. He also pointed out that Polónyi wrongly stated that the speeches of Croatian deputies would not be included in the Parliamentary Diaries. According to the Speaker of the House "in the old times the stenographer didn't subscribe anything, but simply when the Croatian deputy told his speech, he handed the Croatian speech to the stenograph and the speech of the Croatian deputy, as the Croatian deputy handed over to them, have been included in the diaries."[29]

The Speaker of the House would have been in full agreement with this new regulation of the procedure, but in the House a debate was generated, what prevented the further measures. Justh firmly draws the attention of the Hungarian representatives, who express their dissatisfaction, to the fact that "it is a mistake to believe that the interpreter will be applied in the interests of Croatian deputies. (...) The application of the interpreter is in the interests of the house, because the regulations of the house impose duties on the Speaker (...) the regulation of the House prescribes the duty of the Speaker to guard the regulations of the House and lead the deliberations."[30] Without the interpreter the Speaker of the House would not know that the Croatian representative keeps the regulations of the House or not, in his speech he keeps the subject or not. According to Justh, the law grants Croatian deputies to speak in Hungarian or Croatian, as the "also" clause included in the law provides them an opportunity of this.

Pál Blaho, a member of the Slovakian parliamentary opposition, joined the debate of the Prime Minister Sándor Wekerle and Croatian deputy, Supiló Ferencz about the scandalous revision of the house's regulations. For a long time, the Hungarian

[28] Speech of Gábor Ugron, 6 March 1908
[29] Speech of Gyula Justh, 6 March 1908
[30] *Ibid.*

representatives have declared vaguely about the necessity and the real purpose of the revision of the house's regulations. However, it became apparent as Blaho notes "this revision is necessary against obstruction, to eliminate the resistance of Croats and other nationalities, to ensure and strengthen the hegemony of the Hungarians."[31] In his speech he reminded the Hungarian representatives that they also preferred to use the tool of obstruction, and drew attention to the real meaning of the obstruction: "obstruction is not necessary in parliamentary life to prevent the normal process of discussions, deliberations and perhaps the adoption of certain laws. Obstruction is necessary to inspect the majority, which as a government party, (...) and guard on freedoms and constitutional rights. (...) Obstruction is nothing more than a stronger expression of powerful opposition criticism; nothing more than a constitutional veto."[32]

6. The regulation of the muteness

But all the efforts of the opposition and the representatives of the nationalities proved to be in vain. The government parties broke the obstruction of Croatian deputies in the spring of 1908 with a quick change of regulation of the house. "The Croatian-language speeches were no longer subscribed by the stenographers, in the case of regulations and in occasion of negotiations of security the use of Croatian language was prohibited, the proposals written in Croatian were rejected."[33] In 1907, the government adopted two laws, which were sensitive to the nationalities, including the Croats. The railway regulation, the following Croatian obstruction, and the modification of the regulations of the House aimed to break the obstruction had an extreme impact on the brittle Croatian–Hungarian relations. The lack of mistrust and respect for each other affected the Hungarian and the Croatian Parliament too. However, from a certain perspective, the Croatians did not wish themselves anything other than what the Hungarians had achieved against the Austrian Empire. When József Miskátovics, a Croatian representative, was told that the great Croatia is only a dream and utopia, he answered: this is true, but it is also certain that all Croatian dreams. An unstoppable and irreversible process has begun.

[31] Speech of Pál Blaho, 7 March 1908
[32] *Ibid.*
[33] CIEGER , *op. cit.*, p. 420–421.