



Dignity, Democracy, Diversity

29th World Congress of the International Association for Philosophy of Law and Social Philosophy (IVR)
University of Lucerne, 7 -13 July 2019

Special Workshop No. 89

Thursday 11 July, 14.00-18.30, HS 11

The Normative Content of the Principle of Democracy in Central-Europe	
Convenors	<p>Nóra Chronowski, JD, PhD, Habil, National University of Public Service; Eötvös Loránd University (Budapest)</p> <p>Boldizsár Szentgáli-Tóth, JD, LL.M, PhD, Hungarian Academy of Sciences Institute for Legal Studies; Eötvös Loránd University (Budapest)</p>
Outline	<p>The freedom and fairness of elections and the opportunity to dismiss the government by peaceful means (formal or electoral democracy) are substantial in a democratic society. However, it has to be supplemented by the rule of law and the protection of fundamental rights in order to talk about democracy in its entirety. Constitutional democracy, as per the relevant legal literature, means (i) to function in accordance with the constitution, (ii) to be built upon political consent, (iii) to guarantee the completeness and equality of personal involvement in governance, (iv) to distribute the public needs and supply wisely, (v) to limit personal freedom at the minimum, (vi) to ensure the formation and functioning of political parties and other interest groups, and (vii) to promote freedom, equality and solidarity.</p> <p>Democracy is one of the most vulnerable institutions, capable of being distorted easily. Examples are the oligarchy of parties, the manipulation of the people through the press, the political apathy, the resolution of debates through judicial means (the lack of mitigation), the misinterpretation of public interest, the misuse of constitution-making, the setback of constitutional adjudication, freedom of judiciaries, centralization of power, strong hierarchy, the offset of civil groups, the deconstruction of social partnership. Without rule of law, the limitation of power is impossible. The mere logic of majoritarianism leads to egotism, the democracy tends to fall. The formal rule of law is insufficient, constitutional institutions serve autocracy, the constitutional rights lose their value, and these altogether feed hybrid or populist or illiberal regimes.</p> <p>Within these boundaries, this workshop intends to reveal the possibilities of a better protection of democracy, especially on the ground of the current Central-European experience in this regard. Accordingly, the workshop is on the one hand to analyze the case law of constitutional courts of several Central-European countries, as well as the decisions of the European courts. On the other hand, to put legislation under scrutiny and to highlight the attempts to increase democracy in procedural terms.</p> <p>The panelists discuss the challenges of militant democracy, the role of parliamentary autonomy in constitutional review and the comparison of judicial approaches to limiting it; the ECtHR scrutiny of parliamentary procedures; the role of constitutional courts in the protection of democratic principle; the state liability for legislative damages, and the qualified majority in legislative process – all presentations pay special attention to the features of backsliding in Central Europe and the potential normative guarantees to balance them.</p>

Program	
<p>14.00-16.00 Session 1</p> <p>16.00-16.30 Coffee Break</p> <p>16.30-18.30 Session 2</p>	<p>Alexander Balthasar, Professor, JD, PhD, Habil, Andrásy University (Budapest) <i>The suspension of democracy by the Austrian Dollfuß government in 1933/34 – an application of the concept of "militant democracy" avant la lettre</i></p> <p>Monika Kawczyńska, JD, LL.M, PhD, Jagiellonian University (Krakow) <i>The crisis of constitutional democracy in Poland and its impact on relations with the EU</i></p> <p>Nóra Chronowski, JD, PhD, Habil, National University of Public Service, Eötvös Loránd University (Budapest) <i>The crisis of constitutional democracy in Hungary and the role of the Constitutional Court</i></p> <p>Discussion</p> <p>Jan Wintr, JD, PHD, Charles University (Prague) <i>The Role of Parliamentary Autonomy in Constitutional Review</i></p> <p>Boldizsár Szentgáli-Tóth, JD, LL.M, PhD, Hungarian Academy of Sciences Institute for Legal Studies, Eötvös Loránd University (Budapest) <i>Legislation with qualified majority, and the principle of democracy</i></p> <p>Ádám Lukonits, JD, LL.M, Eötvös Loránd University (Budapest) <i>State liability and compensation for legislative damages – possibilities and dilemmas</i></p> <p>Discussion</p>
Keywords	Democracy; rule of law; judicial review; consensual decision-making; comparative analysis