

Introduction to the thematic section ‘current Hungarian memory policies in a broader context’

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INTRODUCTION

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On 18 November 2021, Boldizsár Szentgáli-Tóth, representing the Centre for Social Sciences, Institute for Legal Studies, and Marina Bán, representing the Centre of Excellence in International Courts, Faculty of Law of the University of Copenhagen co-organized a conference titled *History, Constitution and Identity in Hungary*. This conference formed part of Marina Bán’s postdoctoral research within the broader framework of the *European Constitutional Imaginaries: Ideologies, Utopias and the Other (IMAGINE)* Project, led by Professor Jan Komárek, and funded by an ERC Starting Grant. The project delves into the idea of constitutional imaginaries, defined as ‘sets of ideas and beliefs that help to motivate and at the same time justify the practice of government and collective self-rule.’ These imaginaries are necessary legal fictions used to support political rule. The project analyses European constitutional imaginaries, in the footsteps of Eric Stein and Joseph Weiler with the methodology of comparison and contrast between the European Union and case studies on the national constitutional imaginaries in Central and Eastern Europe. The above conference, described in detail below, is a part of the Hungarian case study, where distinguished Hungarian experts on the intersection of history, law, politics and constitutionalism discussed the national model of constitutionalizing historical traditions within the European legal space.

The aim of the conference was twofold. On the one hand, it asked the question of why historical narratives remain relevant and prevalent in the Hungarian constitutional discourse. On the other hand, the conference inquired into the role of unique national attitudes towards constitutional history as an important factor in shaping the relationship between Hungary and the European Union. Its framework moved beyond a strictly legal doctrinal setting in its methodology, as its approach considered the constitutionalization of historical traditions and its impact on all fields in the public discourse, including law and politics.

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The conference explored these issues by mapping the roots of political and legal thinking about historical narratives. These origins include, first, the continuous discussion and fleshing out the concept of Hungary's historical constitution during the 18th and 19th centuries. Second, the conference reflected on the shocking conflicts during the development of constitutional discourse in first half of the 20th century, including the two world wars. Third, it examined the context of the communist dictatorship and its consequences regarding the use of historical narratives in political and legal thinking. Finally, the experts reflected on the impact and implications of the democratic transition and the adoption of the Fundamental Law, which invigorated the academic and political contests around the unique role of history in constitutional traditions.

The conference resulted in the clarification of several reasons why historical references remain influential in Hungarian constitutional interpretation, including the reoccurring relevance of the concept of the historical constitution and the development of constitutionally protected historical narratives. Presentations outlined how this has led to the most recent attempts of the constitutional court at conceptualizing the doctrine of constitutional identity and how this issue sparks intense scholarly debate.

Thus, the conference provided a national constitutional perspective that has remained quite neglected in research on current developments in Hungary. Such analysis of the gradual buildup of historical references in Hungarian constitutional law contributes to the debate surrounding the role of Hungary in the EU constitutional order, and the country's growing opposition towards some European values. Themes emerging, such as the regular glorification of the dualist period and the exclusion of alternative narratives of Hungarian history, can be rationalized with the concept of the historical constitution, providing the justification and basis for a certain level of continuity and exceptionalism. As the conference concluded, opposition to the EU's unifying efforts and the challenges to the primacy of EU law may have their roots in the difference of historical interpretation on the constitutional level. Therefore, recent doctrines in the constitutional court's case law, such as the achievements of the historical constitution can become tools to define the independence of Hungary and reject ideas perceived as originating from imperialist or oppressive supranational powers.

The three academic contributions published in this thematic section are based on three presentations of the aforementioned conference and will demonstrate the main goals of the discourse as well as the latest research findings on the Hungarian model of constitutionalizing memory policies. The contribution of Marina Bán serves as an overview on the one hand, focusing on the development of the constitutionalization of memory policies through memory laws. On the other hand, the article delves into the specificities of the Hungarian model. The contribution of Anna Gera and Boldizsár Szentgáli-Tóth departs from the legal perspective and examine the role of the Parliament in the shaping of Hungarian memory policies, the Parliament's relationship with the constitutional discourse and the case law of the constitutional court around the issue of historical narratives. Finally, the contribution of Mónika Ganczer deals with the specific area of citizenship, demonstrating the deeply ingrained historical influences on and roots of Hungarian citizenship provisions, as well as the consequences of these regulations. These articles provide an evaluation of the current Hungarian model, as part of an on-going interdisciplinary scientific discussion on the intersection of law, history and politics.

