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Introduction

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The First Hungarian–Italian Comparative Law Workshop (Budapest, 11 June 2012)

1. Bilateral academic cooperation has a long-lasting tradition in the Institute for Legal Studies of the Hungarian Academy of Sciences. The Institute has already taken part in the organization of many successful events bringing together Hungarian and foreign scholars in the last fifty years.[1] These conferences, legal meetings (*rancontres juridiques*), or round table discussions held either in Budapest or abroad always provided a good opportunity for the exchange of ideas and academic discussions. Moreover, they made it possible to establish well-functioning personal networks being indispensable for any foreign academic activity. Thus, smaller-scale, discussion-oriented academic events have played an important role in the work of the Institute.

In 2012, the Institute made an attempt to revitalize this tradition. In the cooperation of the Institute and the Law Faculty of Florence a comparative law workshop was held on 11 June. This workshop was aimed at bringing together young Italian and Hungarian researchers in order to provide them a proper forum of academic discussion. The Hungarian participants came from the Institute and various law faculties, while the Italian ones were doctoral students or post-doctoral fellows of the Comparative and Criminal Law Department (*Dipartimento di diritto comparato e penale*) of the Law Faculty of Florence. The workshop was dedicated to topics having an apparent comparative nature in order to facilitate the discussion and common understanding.

2. In this number of the *Acta Juridica Hungarica* the reader can find seven of the papers presented and discussed at the workshop in June. The Italian participants wrote four of them. Stefano Biondi gives an account of the status quo of English and Italian law on the complex issue of the legal status of human biological materials, with particular reference to the regulation of organ transplantations. He argues that a proprietary framework for bodily parts is not, as some maintain, necessarily incompatible with the respect of human dignity. He describes how the law "escapes" this hard issue by separately addressing specific

[1] See, for example: Nagy, J.: VII. Ungarisch – Tschechoslowakie Konferenz. *Acta Juridica Academiae Scientiarium Hungaricae*, (1966) 1–2, 191–200; Lesage, M.: I^{er} rencontre juridique franco-hongroise (Budapest, 1966. 12–14 octobre). *Revue internationale de droit comparé*, (1967) 3, 703–706; Ch. K.: Deuxième rencontre juridique franco-hongroise (Paris 1–5 Juin). *Revue internationale de droit comparé*, (1970) 3, 557–568; Vörös, I.: Die dritte ungarisch-sowjetische Juristentagung in Moskau. *Acta Juridica Academiae Scientiarium Hungaricae*, (1971) 1–2, 225–228; III^{e} rencontre juridique franco-hongorise (Budapest, 5–9 juin 1972). *Acta Juridica Academiae Scientiarium Hungaricae*, (1973) 1–2, 1–103; Lamm, V.: Les quatrièmes Journées juridiques Franco-Hongroises (Paris, 3–7 novembre 1975). *Acta Juridica Academiae Scientiarium Hungaricae*, (1973) 1–2, 473–479.

questions rather than using a comprehensive approach, and concludes by describing how comparative law can be useful to deconstruct existing legal categories and forge new ones. Camilla Cordelli analyses an issue that has not received massive attention by legal scholars: the practice of judicial appointments to the Court of Justice of the European Union. She investigates what can be behind the norms contained in the treaties governing the European Union's judicial institutions. Such topic assumes great importance considering the vital impact of the rulings of the Court of Justice and the widespread demand for independent and impartial judiciaries. Cordelli takes into consideration the current rules for judicial appointments set out in the treaties, the newly created panel in charge with the evaluation of the suitability of the appointees to the Court of Justice of the European Union and the need to comply with the requirements set out in the European Convention on Human Rights, in light of the future accession of the European Union to it. Caterina Mugelli is a comparative law scholar specialised in Chinese law. In her paper she aims to give a definition of the judicial independence principle in the People's Republic of China. To this end, she describes the general understanding of the principle within the Western legal tradition, stressing the importance of different guarantees embraced within given societies. After a historical introduction this understanding is used as a yardstick to gauge the Chinese system. Mugelli argues that the Chinese judiciary cannot be yet considered independent, notwithstanding the undeniable progress made in the last decade. The subsequent explanation of the achievements of the Chinese judicial reforms are therefore instrumental in explaining that, in the Chinese context, it would be more appropriate to refer to judicial impartiality than to judicial independence. She concludes that even if it is still not possible to use the term 'judicial independence', as understood in the West, judges' professionalism appears to be a suitable tool for achieving a more reliable and impartial judiciary. Finally, Lucrezia Palandri in her analytical paper on legal pluralism and global constitutionalism tries to reconcile these two concepts in an alternative model of plural constitutionalism. She argues that a new conceptual scheme is needed because the complex process of globalization have dissolved the traditional concept of state sovereignty and neutralized the clear distinction between national and international law. She also raises the question, from a constitutional but open point of view, whether it is really worth continuing to adopt a constitutional prospect. Alternative models (the GAL approach, for instance) may provide more suitable solutions for the complexity of the global legal world. In her opinion, a multiple model that reconciles different approaches, in correspondence to the multiplicity of the current global society, could be the best option.

Besides the four Italian authors, the papers of three of the Hungarian participants are also published in this number. Katalin Kelemen discusses the different models of appointment applied for constitutional judges in Europe, taking into consideration also the appointment procedure of the two European regional courts. She offers an account and a comparative analysis of the three appointment models: the split, the collaborative and the parliamentary model, discussing their practical application and shortcomings. She concludes with a proposal for the Hungarian Constitutional Court, arguing that the split model is the one that ensures better that the composition of the Court expresses a balance between the branches of government. András Koltay deals with the right of reply in a comparative perspective. He tries to find an answer to the question whether the right of reply constitutes a limitation to the freedom of the press or if it is to be understood as a means of exercising freedom of opinion (or both, perhaps). He also attempts to identify the common foundations of the regulation of the right of reply and its general, or at least, most common, manifestations in Europe. He concludes that the right of reply is a legal instrument serving

both the person whose (personality) rights have been violated (the applicant in the legal procedure) and the public wishing to access a wide variety of information via the media, and that the Hungarian regulations almost fully conform to these criteria. Finally, Zoltán Navratyil in his paper explores the legal aspects of human reproductive cloning. He analyses the legal regulation in Hungary, Germany, England and the United States, and argues that the statutory prohibition of reproductive cloning often does not correspond to the biological facts, and this terminological ambiguity may lead to legal obscurity. Navratyil also examines the factual and moral arguments against human reproductive cloning and the well-debated questions relating to reproductive rights, and finally, he attempts to search answers to what justifies the intervention and the rigid statutory ban on this field.

3. The daylong lively and successful discussion proved various things at the same time. First of all, it justified that the best environment for the academic work is certainly the open discussion. The comments and critiques highlighted the complexity of legal problems and helped the participants to refine their research projects. Secondly, it also demonstrated that the comparative method has still been one of the best means for the critical understanding and analysis. The comparison of legal dilemmas having various cultural background opened up new perspectives for further studies as well as contributed to a better mutual comprehension. Thirdly, it also indicated that small-scale academic events may sometimes be more successful than huge conferences with numerous panels since they offer better possibilities for direct, face-to-face communication. Lastly, due to the friendly environment, some could discover certain common academic interests shared with others, and this may become a starting point for the future cooperation.