



Rechtsgeschichtliche Vorträge/  
Lectures on Legal History

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First Media Act

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## Snapshots of the path to Hungary's First Media Act

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The history of alternative media in Hungary would probably be very different without the opposition's stirring before the regime change. The samizdats brought new colours to János Kádár<sup>1</sup> and György Aczél's<sup>2</sup> existing unimaginative media palette politically, as did the fanzines<sup>3</sup> in the music scene. In the words of Miklós Sükösd, "newspapers – media – brought liveliness to the self-organising civil society. Media history is therefore an inherent aspect of any analysis of the democratic opposition. Furthermore, we can say that up until the foundation of its formal organization, the Network of Free Initiatives<sup>4</sup>, the opposition's history can be pieced together mostly from the history of press (and media). This effect was especially important and far-reaching in Kádár's soft dictatorship, in the cultural environment determined by Aczél's three T's (*támogatott, türt, tiltott* – supported, tolerated, banned)."<sup>5</sup> In this essay I do not aim to discuss the role of "the second public sphere"<sup>6</sup> born among dictatorial circumstances, although it could be defined as alternative media in several aspects. In my opinion, however, discussion of this issue would be superficial without an analysis of the political situation, therefore I examine the history of third-way media after the change of the regime.

György Simó, one of Tilos Rádió's founders<sup>7</sup> explained much later in an interview: "Alternative meant something better than the existing, not some cultural cliché. I did not deal with alternative stuff just because "small is beautiful" or because I could be myself there. Not that I did not enjoy these things. I wanted to do something of national importance at Tilos – we wanted to spread the model of non-profit, third-way, community radio editing."<sup>8</sup> Péter Cs. Kádár, one of the drivers of community radio broadcasting in '90s Hungary recalled this period as follows: "when the first radio stations like that<sup>9</sup> were first established in Hungary even they did not know what they were. We knew two things we did not want: we did not

<sup>1</sup> <http://global.britannica.com/EBchecked/topic/309432/Janos-Kadar>

<sup>2</sup> <http://global.britannica.com/EBchecked/topic/1091451/Gyorgy-Aczel>

<sup>3</sup> And what marvellous titles these had! *Ordító egér* (Budapest), *Második látás* (Debrecen), *Genyó szívó dísztroly* (Budapest), *Próba: Szekerce* (Szeged), *Magyar Nemzett* (Szolnok), *A búvárok reménykednek* (Nyíregyháza)... Downloading: <http://zinegyujtemeny.blogspot.hu/> Information: <http://fanzine.blog.hu/>

<sup>4</sup> <http://beszelo.c3.hu/cikkek/szabad-kezdemenyezesek-halozata>

<sup>5</sup> Sükösd, Miklós: *Az alternatív nyilvánosság* (Alternative public sphere in Hungary). In: *Mozgó Világ*, Vol. XIX, No. 11, Nov. 1993, pp. 79–90

<sup>6</sup> Haraszti, Miklós on the subject: *Civil kurázsitól civil társadalomig* (From Civil Courage to Civil Society). A magyar samizdat két évtizede (Two Decades of the Hungarian Samizdat). In: *Rubicon*, (15:5–6), 2004, pp. 22–29.

<sup>7</sup> Simó, György: *Mindent szabad, ami nem Tilos?* (Is everything possible which is not Forbidden?) In: *Mozgó Világ*, (19:11), 1993, pp. 91–97.

<sup>8</sup> Csordás, Attila: *Oda kell tennünk a motort* (We Have to Give Them an Engine). Interview with György Simó, the CEO of T-Online. *Magyar Narancs*, 2006. 04. 13., pp. 38–39.

<sup>9</sup> The quote refers to community radios.

want to fill our shows with advertisements, and we did not want to broadcast for grandmothers. Numerous ideologies could be contrived, Fiksz Rádió's was to become a forum for private opinions and statements. At commercial radio stations the content is primarily advertisement, the so-called public service or state radios try to distribute to the public information seen as important by those in power. For us it was important to talk about our world, or the world of those who willingly aired their problems in our shows. We imagined ourselves as a Hyde Park sort of radio channel where everybody could say what they wanted."<sup>10</sup>

Before the regime change,<sup>11</sup> Kádár's dictatorship had a monopoly on media as well, realized through the autocracy of public service television and radio, and through mandatory licences for founding newspapers. Major decisions related to press and information distribution were made exclusively by the ruling Hungarian Socialist Workers' Party (MSZMP). Any search for media or press legislation from this period would be fruitless: the most important decisions were made in the background, hidden from the public eye.<sup>12</sup> Although a press act<sup>13</sup> was formally created in 1986, it could not escape its time: it declared a few of the democratic liberties in terms of principle, but the practice was significantly different. The preamble of this act was the following: "The Constitution of the Republic of Hungary protects the freedom of the press. Everyone has the right to the free declaration of his views and opinions by the press, in so far as these do not offend the constitutional order of the Republic of Hungary." This right, however, the right to found newspapers did not extend to private individuals,<sup>14</sup> and the creation of any news product was subject to a licence issued by the Information Bureau of the Council of Ministers (Miniszttertanács Tájékoztatási Hivatala).<sup>15</sup> This was not resolved until June 15<sup>th</sup> 1989 when a decree by the Németh administration<sup>16</sup> ended state licensing for newspapers, and replaced it with mandatory notification to the state.<sup>17</sup> It also abolished the limitation so that anybody, private individuals, foundations or associations could also found newspapers, thus opening the road to a free, democratic press market.<sup>18</sup> As a precedent we can mention a study published a little earlier, in 1988 with the title "Proposal for the Reform of Press Publicity",<sup>19</sup> related to the Publicity Club (Nyilvánosság Klub) founded in 1987. The authors<sup>20</sup> analysed and criticised the media policy of the Kádár era, and outlined a modern, democratic model ease transition and

facilitate moving forward. One of the main suggestions of this essay was "to start a widespread debate involving members of the profession and the public on the reform of the current publicity structure and mass communication system. It is hard to imagine something more absurd than a discussion on the reform of publicity behind closed doors."

It is very telling of the period's legislation and the elite's opinion of media that on July 3<sup>rd</sup> 1989, at the demand of the opposition, the Németh administration issued a moratorium on radio and television frequency allocation until the creation of the new, democratic media act. The opposition was afraid (probably with good reason) of the possibility that the government would distribute frequencies to its supporters before the free elections, and enforcing the moratorium seemed to be the most certain way to prevent that. Thus, even though the opposition could not get legal broadcasting opportunities, at least the elite of the old regime could not preserve its power in this field before the elections.

The second round of the free elections of 1990 revealed that the Hungarian Democratic Forum (MDF) received the most votes, and the inaugural meeting of the new, democratic Parliament would be held on the 2<sup>nd</sup> of May. The so-called MDF-SZDSZ or Antall-Tölgyessy pact, signed on April 29<sup>th</sup> is worth mentioning from the media market's perspective. The objective of the pact was to strengthen the democratic institutions and ensure the functionality of the government, and it contained agreements on the person of the republic's president as well as on the media. This document decided the next twenty years of media regulation: the leaders of the two parties agreed to maintain the frequency moratorium, and to require a two-third majority for approving select sections of the press and information acts, thus article 61 of the Constitution was amended with the provision: "A majority of two-thirds of the votes of the Members of Parliament present is required to pass the law on the supervision of public radio, television and the public news agency, as well as the appointment of the directors thereof, on the licensing of commercial radio and television, and on the prevention of monopolies in the media sector." Based on this agreement, on July 25<sup>th</sup>, 1990 the Parliament approved the maintenance of the frequency moratorium with 219 votes for, 2 against, and 10 abstention votes.

The Budapest-based Tilos Rádió began its broadcast on August 28<sup>th</sup>, 1991 completely illegally,<sup>21</sup> and the police pursued it for a while (with more or less enthusiasm). The radio station received the Civil Courage (Civil kurázs) award in the same year, founded by the aforementioned Publicity Club, for "daring to risk formal infringement to conduct civil disobedience against an anti-constitutional situation".<sup>22</sup> A few months later, in its decision number 37/1992 (June 10) "the Constitutional Court establishes that the Parliament failed to observe its task as a legislator stipulated in section (4) of Article 61 of the Constitution. Therefore the Constitutional Court calls upon the Parliament to pass the act or acts on the supervision of public service radio and television, on the licensing of commercial radio and television, and on the prevention of monopolies in the media sector by November 30<sup>th</sup>, 1992".<sup>23</sup> Several drafts were created for the media act in connection to this, but the different political sides could not reach agreement in fundamental issues. They could not agree on the supervision of public service media, nor on the system of financial subsidies, thus, despite numerous occasions when a compromise appeared to have been reached, there were always new amendment proposals submitted that derailed the negotiations. The administration wanted a supervisory body without the opposition, whereas the opposition envisioned a curatorial board like in Germany, with social control and civil delegates.

<sup>21</sup> Press material on Tilos Rádió (1991): [http://tilos.hu/index.php?page\\_id=kronika\\_sajto1991](http://tilos.hu/index.php?page_id=kronika_sajto1991)

<sup>22</sup> <http://www.nyilvanossagklub.hu/civil.shtml>

<sup>23</sup> Published in issue 59 of 1992 of the Hungarian Gazette (Magyar Közlöny), [http://www.mediajogfigyelo.hu/uploads/files/7\\_37\\_1992.pdf](http://www.mediajogfigyelo.hu/uploads/files/7_37_1992.pdf)

<sup>10</sup> Cs. Kádár, Péter – Giczey, Péter – Péterfi, Ferenc – Thuróczy, Gergely – Weyer, Balázs: Szabadon. A szabad, közösségi rádiózás lehetőségei Magyarországon (Freely. The Possibilities of Free Community Radio Broadcasting in Hungary). Szabad Rádiók Magyarországi Szervezete, Budapest, 1999

<sup>11</sup> Bajomi-Lázár, Péter (ed.): Magyar médiatörténet a késő Kádár-kortól az ezredfordulóig (Hungarian media history from the late Kádár-period until the 2000s). Akadémiai Kiadó, Budapest, 2005

<sup>12</sup> Lázár, Guy: A szocialista nyilvánosság történetének alapvonala (The basic of the history of the socialist public sphere). In: Médiakutató, 2006 tavasz, pp. 23–34.

<sup>13</sup> Act II of 1986 on the Press

<sup>14</sup> Article 7 Section (1): Periodical news products can be founded by state bodies, economic operators, social organisations and associations.

<sup>15</sup> Decree 12/1986 (April 22) of the Council of Ministers (MT) on the enforcement of Act II of 1986 on the Press, Article 4

<sup>16</sup> Decree 58/1989 (June 15) of the Council of Ministers (MT) on the amendment of Decree 12/1986 (April 22) of the Council of Ministers (MT) on the enforcement of Act II of 1986 on the Press

<sup>17</sup> Article 4/A Section (1) The production and publication of periodical news products are subject to mandatory notification. Domestic periodical news products are taken into the registry by the Office of the Council of Ministers based on the notification.

<sup>18</sup> In the remaining six months of 1989 alone, 1118 new titles were registered, so the Hungarian press landscape did evolve quickly.

<sup>19</sup> Gálik, Mihály – Halmi, Gábor – Hirschler, Richárd – Lázár, Guy: Javaslat a sajtónyilvánosság reformjára (Proposal for the Reform of Press Publicity). In: Kritika, (1988:10), 1988, pp. 23–30.

<sup>20</sup> The document was authored by almost forty people, but the four main minds behind it were Mihály Gálik, Gábor Halmi, Richárd Hirschler and Guy Lázár.



Members of the Parliament commenced general debate on the draft law number 5575 on the Radio and the Television on May 13<sup>th</sup>, 1992. Tamás Isépy (KDNP) secretary of the Ministry of Justice said the following in his exposé<sup>24</sup>: "Before the draft law was submitted, several professional organisations discussed the various versions of the text – there were six versions in the course of the preparation." He emphasised that the draft "aims to prevent the development of radio and television monopolies, and stops economic interest groups from monopolising information and thus stifling the diverse broadcasts that satisfy various interests and needs." Tibor Balázs from MDF, chairman of the cultural, scientific, educational, television, radio and press committee<sup>25</sup> described the difference between the viewpoints of different political powers fittingly: "I think the MP of the Alliance of Young Democrats (Fidesz) is absolutely right in saying about our last debate that after a while we stopped looking for a consensus and sought compromise instead. After a few negotiation sessions it was revealed that the MPs working in our subcommittee<sup>26</sup> have far too different views on the function and social role of mass communication instruments. Instead of finding consensus of the principles we restricted ourselves to find pragmatic compromises. The differences could be described as follows, in a somewhat simplified manner of course. One side finds that the Hungarian media act should be about less state control, making media outlets independent. The other side views public service media outlets as the instruments of creating and distributing values, and as such they are ultimately not independent from the community seeking their service, the state, its Members of Parliament and its government, at most they can be politically impartial."

Changes in the membership of the radio, television and press subcommittee <sup>27</sup>			
Member of Parliament	Position	Member from	Member until
Balázs, Tibor (MDF)	Chairman	1990/05/03	1994/06/27
Bánffy, György (MDF)	Member	1990/05/03	1994/06/27
Csegey, Dénes (MDF)	Member	1990/05/02	1991/04/08
Csurka, István (MDF)	Member	1990/05/03	1993/06/07
Dr. Debreczeni, József (MDF)	Member	1990/11/07	1993/06/07
Bretter, Zoltán (SZDSZ)	Member	1990/05/02	1992/10/20
Hága, Antónia (SZDSZ)	Member	1990/05/03	1991/03/20
Dr. Molnár, Péter (FIDESZ)	Member	1990/05/03	1993/06/30

<sup>24</sup> <http://www.mkogy.hu/naplo34/201/201tart.html>

<sup>25</sup> Cultural, scientific, educational, television, radio and press committee (1990/05/03–1994/06/27)

<sup>26</sup> Radio, television and press subcommittee (1992/10/13–1994/06/27)

<sup>27</sup> [http://www.mkogy.hu/internet/plsql/ogy\\_biz\\_biz\\_adat\\_uj?p\\_ckt=34&p\\_biz=A094&p\\_ules=&p\\_munkatars=&p\\_tagi=&p\\_honl\\_rend=&p\\_tag=1#biz\\_tag](http://www.mkogy.hu/internet/plsql/ogy_biz_biz_adat_uj?p_ckt=34&p_biz=A094&p_ules=&p_munkatars=&p_tagi=&p_honl_rend=&p_tag=1#biz_tag)

Miklós Haraszti, the press spokesman of the SZDSZ faction emphasised: "we must build a two-pillar system, the duality of public service media and private media could replace the current, one-sided state supply". So in the 1992 debate community media was not mentioned as a separate, third-way actor. However, the reason for the draft law's failure was not this but the above doctrinal differences. The factions stated during the general debate already that it would be nearly impossible for them to agree. As combining the different viewpoints always resulted in a complex, overcomplicated system, it was easy to ruin the compromise with a well-placed 'strike'. Ultimately, on December 30<sup>th</sup>, 1992 the opposition voted down the sections of the submitted draft media act that required a two-thirds majority, therefore at the final vote the remaining part, requiring a 50% vote, did not get a single 'yes' vote.<sup>28</sup> Despite the lack of votes in favour and the professional quality of the document, we must note that it was the first draft legislation that endeavoured to regulate the Hungarian media market in a complex, long-term way in its entirety, surpassing the existing *ex lex* conditions.

Not long after the failed vote, on April 22<sup>nd</sup>, 1993 the government issued the non-publishable decree 3158/1993<sup>29</sup> on the licensing of the foundation of independent local radio and television studios. This decree enabled the launching of local, 'non-commercial' radio stations using one of the ambiguous provisions of the press act. A few days later, on April 27<sup>th</sup>, 1993 the Parliament approved the act on frequency management.<sup>30</sup> The first local frequency tender was eventually announced in May 1993, and it was assessed in the initial round on the basis of government decree 110/1993<sup>31</sup> issued in accordance with the authorization in section (3) of article 21 of the press act, and soon numerous new stations could be launched on many new frequencies.<sup>32</sup> Obviously not all of them were 'non-commercial' as some used every possible loophole, but it was nevertheless a significant milestone for Hungarian alternative media. Although no media act had been passed, there was at least the formal option of free, not profit-oriented community broadcasting. In accordance with the government decree "applications are assessed by the committee formed by the minister of culture and public education".<sup>33</sup> The prime minister, the minister of culture and public education, the minister of transport, communications and water management and the minister for internal affairs could delegate members to this interdepartmental committee. The chairman of the committee was the deputy secretary of the Ministry of Culture and Public Education (MKM), György Fekete, because his ministry was authorized to decide the fate of applications after the committee's assessment. Based on section (1) of article 7 of the government decree, applications could be favourably treated if the applicant volunteered to regularly broadcast programs in longer segments dealing with:

- a) national culture and traditions;
- b) local events;
- c) education;

<sup>28</sup> An interesting fact about the vote: According to the minutes, the MPs submitted 269 amendment proposals and 30 related proposals, therefore it was hard to even follow what the current vote was about. Participants authorized to vote eventually gave 0 votes in favour, 122 votes against, and 170 abstentions at the final vote. The Parliamentary Log (Országgyűlési Napló) recalls this as follows: "Mátyás Szűrös speaker: I declare the decision: with no votes in favour, 122 votes against and 170 abstentions, the Parliament did not pass the draft law. (Scattered applause.)", <http://www.parlament.hu/naplo34/263/2631491.html>

<sup>29</sup> <http://archivum.hvg.hu/article/199322Fekvenciaoratorium.aspx>

<sup>30</sup> Act 62 of 1993 on Frequency Management

<sup>31</sup> Government decree 110/1993 (July 30) on the Licensing of the Foundation of Studios Producing and Broadcasting Programs for Non-Commercial Local Radio and Television Channels

<sup>32</sup> The formerly illegal or pirate community media outlets thus reached their goal, and they suspended their pirate broadcasts to wait for the legal launching.

<sup>33</sup> Government decree 110/1993 (July 30) Article 4

- d) local communities, churches, national and ethnical minorities;
- e) social situation or environment protection; or
- f) programs produced by the broadcaster.

Applicants for a licence to found a studio had to fill in a form in accordance with MTH decree 2/1986 (September 1) on studios producing local, independent radio and television programs amended by MKM decree 8/1993 (July 30).<sup>34</sup> An interesting detail is section 14 of Annex no. 1 where the applicant had to declare whether it wanted to use public funds for the operational costs of the station. If it did, the length of advertisements and promotions broadcast in the program could not exceed 10% of the program's length. If it did not require public funds this figure was 20%.

The new government, formed following the second free parliamentary elections after the regime change, amended decree 110/1993, and issued government decree 142/1994 (November 10)<sup>35</sup> that – among other things – modified the composition of the committee assessing the requests in the initial round. In accordance with the new rules “applications are assessed by a committee of eight members, formed by the minister of culture and public education. The factions of coalition and opposition parties as well as radio and television broadcasting advocacy organisations (hereinafter: expert organisations) each delegate two members with expert knowledge in radio and television broadcasting to the committee.”<sup>36</sup> The final decision remained at the MKM's discretion. As it happened, the opposition parties did not delegate members to the committee because they found maintaining the situation of frequencies to be problematic and unlawful, and they put faith in the creation of the media act that would resolve the situation in a legally more appropriate way. At least that was what they communicated to the public...

It should be noted that the list of priorities for assessment got longer as article 6 stipulated favourable treatment to applicants who were willing to regularly broadcast programs in longer segments dealing with:

- a) national *and universal* culture and traditions;
- b) local events;
- c) education *as well as children's and youth issues*;
- d) local communities, churches, national and ethnical, *and other* minorities;
- e) social *and healthcare* conditions and environment protection; or
- f) programs produced by the broadcaster.<sup>37</sup>

Such committee assessments and ministerial licenses led to the beginning of the five-year cohabitation ('shared frequency') of Tilos Rádió, Civil Rádió and Fiksz Rádió on the 98 MHz frequency from the 1<sup>st</sup> of September, 1995 under the studio licence number 120.573/1994, the same date Szóla Rádió in Debrecen and Szóköz Rádió in Szombathely were launched among others<sup>38</sup>. In want of a media act the regulation was far from perfect, thus due to the

shortcomings – however strange it may sound – even the Communications Authority<sup>39</sup> did not know the exact number of radio licences issued.

Following the elections of 1994, on June 27<sup>th</sup>, 1995 the newly formed Parliament began debating the draft media law introduced by the government, and quickly shelved it.<sup>40</sup> Due to the heated arguments surrounding it, instead of submitting to the guaranteed failure they continued six-party background negotiations until October 21<sup>st</sup>, when the (media) representatives of all six parties undersigned the approved text.<sup>41</sup> This text was then resubmitted to the Parliament in November. This is how, after lengthy (political) battles and, to quote Miklós Haraszti, a 'media war',<sup>42</sup> the Parliament approved the first Hungarian media act<sup>43</sup> on December 21<sup>st</sup>, 1995 (with 264 votes in favour, 31 against, and 2 abstentions). 68% of all Members of Parliament, 89% of MPs present voted yes.<sup>44</sup> Although the act was praised and criticised by many for various reasons at the time,<sup>45</sup> it should be acknowledged that it finally allowed the birth of a tripartite media palette<sup>46</sup> in Hungary. But this is the beginning of another story...

<sup>39</sup> The Communications Authority (HíF) was established in 1993 by merging the Postal and Telecommunications Supervision (PTF) and the Institute of Frequency Management (FGI).

<sup>40</sup> Mihály T. Révész wrote an excellent analysis on the media legislation processes of the 15 years after the regime change titled “Creating legal grounds for a dual media system in Hungary” (A duális médiarendszer jogi megalapozása Magyarországon). In: Jogtörténeti Szemle, (7:2), 2005, pp. 27–40.

<sup>41</sup> Molnár, Péter: Telefonúzenet kis kockás papíron. Bevezetés a médiatörvény születésének történetébe (Message on a sheet of paper. Introduction to the birth of the Media Act). In: Beszélő, (3:4), 1998, pp. 16–21.

<sup>42</sup> Sándor Révész wrote an informed analysis on the media war(s) in Kritika: Révész, Sándor: Media War 1989–2011, Part I (1989–1992), In: Kritika, (40:5), 2011, pp. 2–5., Révész, Sándor: Media War 1989–2011, Part II (1993–1998), In: Kritika, (40:6), 2011, pp. 5–7., Révész, Sándor: Media War 1989–2011, Part III (1998–2006), In: Kritika, (40:7–8), 2011, pp. 13–16., Révész, Sándor: Media War 1989–2011, Part IV (2006–2011), In: Kritika, (40:9–10), 2011, pp. 10–13.

<sup>43</sup> Act I of 1996 on Radio and Television Broadcasting (Media Act)

<sup>44</sup> The act was signed by the president of the republic on January 10, 1996, and it came into effect on February 1 of the same year.

<sup>45</sup> Gálík, Mihály: Médiapolitika Magyarországon a rendszerváltozás után. In: Infokommunikáció és Jog, (50), 2012, pp. 108–118.

<sup>46</sup> In his parliamentary address on May 5<sup>th</sup>, 1997 the first chairman of the National Radio and Television Board (ORTT), Mihály T. Révész said the following: “Since the first days of its operation, the National Radio and Television Board has regarded the establishment of a dual, later a tripartite – public service, non-profit and commercial – media system as its central task.” <http://www.mkog.hu/naplo35/266/2660068.htm>

<sup>34</sup> Decree 8/1993 (July 30) of the Ministry of Culture and Public Education (MKM) on the use of a form

<sup>35</sup> Government decree 142/1994 (November 10) on Amending Government decree 110/1993 (July 30) on the Licensing of the Foundation of Studios Producing and Broadcasting Programs for Non-Commercial Local Radio and Television Channels

<sup>36</sup> Government decree 142/1994 (November 10) Article 4

<sup>37</sup> New items are in italic letters in this section.

<sup>38</sup> Gosztonyi, Gergely: Past, Present and Future of the Hungarian Community Radio Movement. In: Howley, Kevin (ed.): Understanding community media. Sage Publications Ltd., London, 2009, pp. 297–308.

# Rechtsgeschichtliche Vorträge/ Lectures on Legal History

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