

# The History of Hungarian Expropriation Law

Imre Andorkó PhD

University of Debrecen (Hungary)

E-mail: andorko@agr.unideb.hu; andorkoip@gmail.com

**In this presentation I will give a short overview of the history of Hungarian expropriation law, from its inception, right up to 2010. I pay particular attention to the characteristics of the regulation in the socialist era between 1948, and the regime change in 1989/1990. Then I expand on how Hungary tried to free itself of the burdensome heritage of the socialist regulation of that law, after the regime change of 1989/1990.**

The history of the Hungarian expropriation law may be divided into four major phases, the boundaries of which are defined by the turning points of the history of the Hungarian state.

## ***1. Early stages of the expropriation law – expropriation before the Reform Era***

From the foundation of the state until as late as 1848, feudal proprietary rights were characteristic of the Hungarian state.<sup>1</sup> In pre-1848 private law, property usually “*meant exclusive – but not absolute – ownership only in terms of chattels and acquired estate.*”<sup>2</sup> Taking the strict boundaries of property rights into consideration, estate and ownership was normally not sharply distinguished.<sup>3</sup> The transition to a civic society, that occurred in Hungary, was delayed in comparison with Western Europe. In the first part of the 19<sup>th</sup> century, during the *Reform Era* (1830-1848), the struggles for the transition to a civic society had become dominant and culminated in the revolution and war of independence of 1848 and 1849. Prior to that, no civil proprietary rights had existed, which had meant no expropriation in its current sense, either. However, even in the pre-Reform Era centuries, we can find examples of expropriation-type acts or early precedents of the institution. Scholars of the issue have not yet come to a consensus as to whether such examples can be considered expropriation.<sup>4</sup>

In the Hungarian feudal law, “*it was the cardinal prerogative of the nobility to have their assets undisturbed even from the monarch in his ordinary power.*”<sup>5</sup> As a result, only on exceptional and extremely rare occasions did it occur to pass an act with “expropriation-like” regulations.

Since Hungary used to be rich in mineral resources, ores, and above all, salt, the need of “expropriation” in pre-19<sup>th</sup> century terms, arose mostly in regard to mining. The central power had

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<sup>1</sup> Csizmadia Andor, ‘A feudális jog (1000-1848)’ [Feudal Law 1000-1848]. In: Csizmadia Andor (ed.) – Kovács Kálmán – Asztalos László: *Magyar állam- és jogtörténet*. [The History of the Hungarian State and Law] Nemzeti Tankönyvkiadó, Budapest, 1998. p. 214

<sup>2</sup> Béli Gábor, ‘Magyar jogtörténet. A tradicionális jog’ [*The History of Hungarian Law. Traditional Law*] Dialóg Campus Kiadó, Budapest – Pécs, 2009. p. 71

<sup>3</sup> Béli Gábor (ed.): Degré Alajos: Magyar alkotmány- és jogtörténet, [*The History of the Hungarian Constitutionalism and Law*] IDResearch Kft. / Publikon Kiadó – Pécsi Tudományegyetem Állam- és Jogtudományi Kar, Pécs, 2010. p. 148

<sup>4</sup> On the elaboration of these questions, see Andorkó Imre: A kisajátítás története(i), a kisajátítás történetének dilemmái [The History/ies of Expropriation and Related Issues], In: Csöndes Mónika – Nemessányi Zoltán (ed.): *Merre tart a magyar civilisztikai jogalkotás a XXI. század idején?* [The 21st Century Directions of Hungarian Civil Lawmaking] 2010. pp. 59-68

<sup>5</sup> Emödy Dániel: A magyar magánjog tankönyve I. kötet, [A Coursebook on Hungarian Private Law, Part I] Sárospatak; 1892. p. 192

always tended to aim to “expropriate”<sup>6</sup> mineral-rich estates, yet this conflicted the prerogatives of the nobility. In periods when the monarch had relatively more power, some “expropriation” acts could be introduced, though these failed to provide for the compensation of the estate owners.<sup>7</sup> “Expropriation”, therefore, had been practised in pre-Reform Era Hungary, yet on a legal level, it had been exclusive to mining activities and erecting fortresses. No law regulated the expropriation of estates required for other investments of public interest (for instance, the construction of canals, roads, bridges, dams or embankment); rather, a single practice characterized these instances: the county or other level legislative power would simply take the land in question without any compensation.<sup>8</sup>

## **2. Expropriation law from the Reform Era to 1948**

By the early 1830s, the need for a comprehensive expropriation law had already been articulated. However, the nobility was unable to reach a consensus on the matter, as the majority still preferred the unregulated, chaotic and unpredictable practice of expropriating land for non-mining purposes, to letting their prerogatives be diminished.

In the second part of the 19<sup>th</sup> century, especially under the Austro-Hungarian Empire (1867-1918), several major and ambitious infrastructural developments<sup>9</sup> were initiated and the use of private estates was often required. The legal environment previously described, was inadequate for the provision of expropriation on such a large scale. This led to the first attempts at introducing consistent and reliable regulation. The first Act concerning regulation, for the purposes of an infrastructure development project, was Act XXV of 1836, created to enable the establishment and development of trade routes in the country, including railroads and canals. Act XXVI of 1836 regulated the building of the first permanent bridge between Buda and Pest on the initiative of Count István Széchenyi. Act XXXVII of 1840 was passed to enable the building of a canal connecting the rivers Danube and Tisza, although this has never been actually realised; Act XL of 1840 was meant to allow for the establishment of a railroad between Vienna and Trieste. Under the absolutistic Habsburg rule, expropriation was regulated in decrees based on the Austrian *Allgemeines Bürgerliches Gesetzbuch* (ABGB) for purposes of railroad, public road and canal constructions.

Listed acts merely regulated *specific* projects, or a very narrow set of claims; the first *comprehensive* regulation was established only after the *Austro-Hungarian Compromise of 1867*, when issues over common law, and political and economic relations between Austria and Hungary were settled. Act LV of 1868 was the first comprehensive expropriation law in Hungary, even though acts to regulate specific projects did follow later.<sup>10</sup> The very first expropriation code already regulated the preparation, plan development, and plan verification processes, as well as compensation, the rights and duties of the owner of the expropriated estate, public costs and expenses, and temporary expropriation and easements.

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<sup>6</sup> Even though “expropriation” is difficult to define on the basis of shared feudal proprietary rights

<sup>7</sup> See for example Act XIII of 1351 or Act XLIX of 1486

<sup>8</sup> As seen in István Borsiczky’s speech at the district meeting of the lower house on 3 November 1835. In: Ruzsoly József, ‘Kisajátítási törvények Magyarországon 1836-1944’ [Expropriation Laws in Hungary 1836-1944] in *Alkotmány és hagyomány* [Constitution and Tradition] 1997, 253-265

<sup>9</sup> Kampis György and Varga József, *Kisajátítás* [Expropriation], (Közigazgatási és Jogi Könyvkiadó, 1970), 17

<sup>10</sup> Act LVI of 1868 included special regulations on the expropriation processes to acquire estates in the area of the unified capitals; Act XIX of 1879 allowed for the rehabilitation of the city of Szeged following the flooding of the River Tisza

However, the 1868 code was insufficient to adapt to the challenges of the economic upsurge that followed the Compromise; as a result, Act XLI of 1881, the second expropriation code was passed.<sup>11</sup> The act defined those of public interest goals, which expropriation was allowed to cover. Compensation was regulated as actual and complete, and the method to verify the compensation for expropriated estate, and the rules of the process, were established. The planning process of expropriation, public costs and expenses, and temporary expropriation were regulated as well. With substantial alterations, and the goals of expropriation processes constantly redefined, the act remained in effect for about 70 years, until as late as 1951. The range of gains by expropriation continued to expand, especially in the areas of monument and environment protection,<sup>12</sup> funding and development of industrial projects by the state,<sup>13</sup> as well as city planning, public development and housing improvement.

### **3. Expropriation law in the socialist era (1948-1989)**

After the Second World War, by 1948, under the influence of the Soviet Union, Hungary had adopted a single-party system, degrading the operation of democratic institutions to little more than formality.

Regulation of property law was affected by the Soviet model, founded on the effacement of private property and seizing goods. "Criminal" private property, especially the property on producer goods was regarded as the exploitation of the working class. The aim of the state was to eliminate private property.

The basis of the socialist proprietary system was communal property, achieved through *forced, and often violent, collectivisation and socialisation*. Coal mines, power plants, factories, banks, etc. were all acquired by the state, *ex lege*, without compensating their former owners. Agriculture followed. Through blackmail, threat or violence, smallholders were brutally forced into offering their estates to the state, or joining the *sovkhoses* – the peculiarly soviet versions of state-owned farms.

Since the amount of privately owned estates decreased dramatically, no major expropriation processes were required anymore.<sup>14</sup> As the expropriation code of 1881 was only repealed in 1951, lesser "statutes" were still introduced to expand the range of expropriation claims. In the socialist era, expropriation became a "complementary" institution of the absurd collectivisation laws.

In the socialist era three expropriation codes were passed, in 1955, 1965 and 1976. These three codes were the three major stages of socialist regulation of expropriation. All of these codes were passed not as laws but as so-called decree laws. Between 1949 and 1989 decree laws were passed by the Presidential Council of the People's Republic of Hungary, consisting of only 20 members of the Parliament. In terms of legislation hierarchy, these were considered laws, yet they were not passed by the Parliament, a mere formality itself, rendering them uninterpretable under the terms of the rule of law.

#### **3.1. The characteristic of the code 1955**

After the Second World War Hungary became a part of the Soviet "sphere of influence" and was occupied by Soviet troops. Under these circumstances, the socialist dictatorship was built up until 1949 in Hungary. Political opposition was crushed and the indigent population was terrorised with

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<sup>11</sup> Act XLI of 1881

<sup>12</sup> Act XXXIX of 1881, Act IV of 1935

<sup>13</sup> Act XIII of 1890, Act XLIX of 1899, Act III of 1907

<sup>14</sup> Petrik Ferenc: *Kisajátítási jog [Expropriation Law]*. HVG-ORAC Kiadó, Budapest, 2008. p. 16

brutal savageness. In these hard times they passed the preposterous *Decree Law No. 23 of 1955*<sup>15</sup> that I picture with description of a few provisions. The expropriation code introduced personalised compensation: workers and nonworkers would be eligible for different degrees of compensation. The compensation was settled principally in a substitute estate. The compensation could be in cash payment only in that case if substitute estate was not available. The decision of the expropriation authority about compensation could not be remedied by the owner. If the owner could not accept the offered substitute estate, he or she lost his or her eligibility for compensation. In that case the expropriation was passed without compensation.

The decree law defined the goals of public interest, achievable through expropriation, but provided a wide scope for the appreciation of the expropriation authorities, which were operating in a council system. Details of the method and degree of compensation were regulated not by a statutory law but Decree No. 25 of 1957 (VI. 26) of the Minister of Finance. The degree of compensation was not based on market value. Rather, with a primitive method, the authorities determined it,<sup>16</sup> typically below its value.

In 1956 a revolution broke out in Hungary against the socialist dictatorship culminating in a war for independence against the Soviet military occupation of Hungary. This was crushed by Soviet forces and brutal repercussions taken against the people.

### **3.2. The characteristic of the code 1965**

After the bloody revenge against the 1956 revolution, a slow consolidation of the socialist regime began, appearing in the recodification of expropriation law, as well.

The new regulation of expropriation was introduced with *Decree Law No. 15 of 1965*. In retrospective, it can also be considered absurd in many aspects. However, it did have some good points. The discrimination against nonworkers in matters of compensation was abolished, and the degree of compensation they received was raised. Because the small value of previous compensation had really been a kind of sanction.<sup>17</sup> A ministerial decree<sup>18</sup> regulated compensation sums in detail, determining (official) prices using an unrealistic method of calculation. As a result, compensation would normally fall well short of market value. The compensation sums often did not measure up to 60% of market value. It was above all due to the unsustainable nature of these regulations that expropriation needed to be recodified in 1976.

### **3.3. The characteristic of the code 1976**

*Decree Law No. 24 of 1976*<sup>19</sup> was characteristic of the late socialist era, or the “soft dictatorship”, and can be considered a major step ahead as opposed to the previous, often absurd, regulations.<sup>20</sup> This latter code abolished the system of official prices and market value was included among the criteria to determine compensation sums. However, the new statute was careful not to enable the acquisition of wealth without work, through the expropriation compensation.<sup>21</sup> Although the code narrowed the

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<sup>15</sup> Between 20 August 1949 and 22 October 1989, the Presidential Council of the People's Republic of Hungary passed decree laws. In terms of legislation hierarchy, these were considered laws, yet they were not passed by the Parliament, a mere formality itself, rendering them uninterpretable in the terms of the rule of law.

<sup>16</sup> Görgényi Gábor – Ács Imre: A kisajátítási jog. [Expropriation Law] Közgazdasági és Jogi Könyvkiadó, Budapest, 1959.

<sup>17</sup> Kampis György – Varga József: Kisajátítás. [Expropriation Law] Közgazdasági és Jogi Könyvkiadó, Budapest, 1970. p. 30

<sup>18</sup> Decree No. 1 of 1965 (VII. 24) of the Minister of Finance and the Minister of Justice

<sup>19</sup> Hereinafter Decree Law on Expropriation, DLE

<sup>20</sup> Petrik Ferenc: Kisajátítási jog [Expropriation Law]. HVG-ORAC Kiadó, Budapest, 2008. p. 17

<sup>21</sup> Petrik Ferenc: Kisajátítási jog [Expropriation Law]. HVG-ORAC Kiadó, Budapest, 2008. p. 18

range of goals of public interest achievable through expropriation, it remained relatively wide. However, only the state was allowed to gain estates through the institution, as opposed to the previous practice of social organisations and unions expropriating properties. The last expropriation code of socialist era was still inadequate to meet the requirements of the rule of law, yet it can be considered a vast improvement over the codes of the previous period of the socialist era.

#### **4. Expropriation law after the regime change of 1989/1990**

Due to the weakening of the Soviet Union in Hungary the 'regime change' occurred in 1989/90. Hungary wanted to break with the socialist dictatorship and with its cultural and ideological relations and wanted to switch to democratic governance and to market capitalism.

One of the most important episodes of regime change in the demolition of the dictatorship and the building of the democratic state was the comprehensive amendment of the Constitution, of 23<sup>rd</sup> of October 1989. The amendment set out fundamental rights, changed the political system and established new state institutions to protect constitutional order and fundamental rights. The primary institution is the Constitutional Court that started its work on 1 January 1990. The Constitutional Court had power and was instrumental in granting fundamental rights – including the right to property through the Hungarian expropriation law requirements of the new Constitution.

The amendment to the Constitution of 23 October 1989, inserted a very important regulation on expropriation into the document. The Constitution<sup>22</sup> thereafter regulated that “*Expropriation shall only be permitted in exceptional cases, when such action is in the public interest, and only in such cases and in the manner stipulated by law, with provision of full, unconditional and immediate compensation.*”<sup>23</sup> In the 1990's the Hungarian regulation of expropriation law did not meet the criteria of rule of law and of international conventions of human rights.

Hence, the Constitutional Court corrected earlier socialist-era expropriation regulations, which were irreconcilable with the expectations of the rule of law, and based on defunct socialist Constitution. “Correction” would normally mean the nullification of the unconstitutional regulations, with the reasons of the rulings detailing straightforward expectations towards the legislative body. Expropriation law underwent significant changes after 1990, especially due to the rulings of the Constitutional Court on the right to property and expropriation.

The role of Constitutional Court was not confined simply to the correction of socialist-era regulations. The change of the socialist property system was identified as a necessary precondition to the regime change and to the creation of an economy built on private property. The comprehensive amendment of the Constitution in the course of 1989 and 1990<sup>24</sup> was based on the denial of the then current legal conditions of the right to property.<sup>25</sup> The legal and political aspects of the new proprietary rights were harmonized<sup>26</sup> by the Constitutional Court.<sup>27</sup> Following the amendments of the Constitution and securing the institutional warranties of the rule of law, about *fifty cardinal rulings were passed* by the

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<sup>22</sup> Act XX of 1949 on The Constitution of the Republic of Hungary

<sup>23</sup> Act XX of 1949 on The Constitution of the Republic of Hungary, Article 13 Item (2)

<sup>24</sup> Lenkovics Barnabás, ‘Tulajdonjogi rendszerváltozás’ [Change of System in the Property Law], in Lenkovics Barnabás, Ember és tulajdon [Human and Property] (Dialóg Campus Kiadó, 2013), 158-173

<sup>25</sup> Téglási András, ‘A tulajdonhoz való jog alkotmányos védelme’ [The Constitutional Protection of the Right to Property], PhD dissertation, Budapest, 2009, p. 75

<sup>26</sup> Sólyom László: Az alkotmánybíráskodás kezdetei Magyarországon [The Early Operation of the Constitutional Court in Hungary], Osiris Kiadó, Budapest, 2001. p. 615

<sup>27</sup> Hereinafter CC

Constitutional Court regarding the socialist expropriation code 1976 and statutes regarding expropriation in its *stricter* sense.<sup>28</sup> In short, the socialist era code underwent a slow, meticulously executed process of correction after the party system change<sup>29</sup> and statutes regarding expropriation improved significantly as a result.

Henceforward I will show the role of Constitutional Court in this area with the presentation of some of its cardinal rulings.

The Civil Code of the socialist era included one of the problematic arrangements connected with expropriation. According to the Civil Code in force at the time of the regime change, if the expropriation authority decided to expropriate an estate, the owner could only seek remedy against the amount of the *compensation sum*, not against the decision itself. Consequently, if the authority decided to expropriate for a clearly unethical purpose, even if against the rules, the owner could not appeal the decision. The Constitutional Court, with its Ruling No. 51 of 1991 (X. 19), nullified this glaring loophole in the Civil Code, and granted the owner the possibility of an appeal against the decision and a review of it.

The regulation in 1991 granted two-months for the initiator of the expropriation process to pay compensation to the owner. If the compensation was in substitute estate, the initiator of the expropriation had one month after the expropriation of the estate to put the owner into possession of the substitute estate. The authority had two months to pay the difference between the compensation sum and the value of the substitute estate. Consequently, the owner had to wait further to be fully compensated, after the expropriation of his / her estate. According to the Constitutional Court these arrangements stand in contradiction with the constitutional principle of *immediate compensation*, hence it nullified it, and said that the Constitution “*requires definitely that the initiator of the expropriation process, has until the last day before being put into possession of the expropriated property, to make compensation to the previous owner.*”

The Constitutional Court clarified the arrangements of the Constitution in regard to expropriation especially the relation between the requirements “*in public interest*” and “*in exceptional cases*”.<sup>30</sup> The Constitutional Court declared that “*it is not enough to decide an expropriation on the basis that the confiscation of property is in the public interest. It must satisfy the requirements that it is in the public interest, and, that it is an exceptional case.*” The requirements “*in public interest*” and “*in exceptional case*” are not independent from each other, so they cannot be used as the basis of examining separate categories in process of expropriation. The requirement “*in exceptional case*” can be referenced only if it is clear that the expropriation is “*in public interest*”. “*Exceptional case*” means that “*the public interest*” can only be achieved, through violation of the right to property.

Even though the regulation of expropriation had undergone remarkable modification in the years after 1990, due to the rules of Constitutional Courts, it remained insufficient to fully meet the requirements of the rule of law. Until the middle of 2000’ the modified socialist-era expropriation regulation was in effect.

The Constitutional Court passed a very important ruling in 2005 on expropriation law<sup>31</sup> wherein it expressed in detail its claims against the regulation in force and explained how the expropriation law

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<sup>28</sup> The most important rulings are discussed in the PhD dissertation of the author.

<sup>29</sup> Salát Orsolya and Sonnevend Pál, ‘A tulajdonhoz való jog’ [The Right to Property] in Jakab András (ed), *Az Alkotmány kommentárja I.* [A Commentary on the Constitution I], (Századvég Kiadó, 2009), 453

<sup>30</sup> No. 479/B of 1993

<sup>31</sup> No. 35 of 2005 (IX. 29)

regulation should meet the requirements of the rule of law. Due to this ruling, the Parliament passed a new expropriation code in 2007<sup>32</sup> in accordance with the expectations of Constitutional Court.

The Constitutional Court set the following requirements for the new expropriation code to meet:

- According to regulation in 2005 only the state and local government were entitled to initiate an expropriation process. According to the Constitutional Court, the nature of public interest has fundamentally changed<sup>33</sup> after the regime change of 1989/1990; therefore, *the range of actors allowed to initiate expropriation cannot be narrowed to the state and local governments*.<sup>34</sup>
- The Constitutional Court noted that significant rules of expropriation were still outside the scope of statutory regulations in 2005 and they were defined in the executive decree<sup>35</sup> issued for the Expropriation Code. The Constitutional Court also noted that the warrants of full, unconditional and immediate compensation were not included in a statutory law.
- The goals of public interest, for which an expropriation process could be initiated, have always been among the most sensitive questions of the expropriation law.<sup>36</sup> The CC ruled in 2006 that the definition of these goals were not meeting Constitutional requirements and that due to the loose restriction on the expropriation authorities, granted by the expropriation code, the unconstitutional limiting of estate owners' right to property, was being allowed.

In response to the call of the Constitutional Court, in its ruling, the Parliament passed the current expropriation code, Act CXXIII of 2007 on Expropriation,<sup>37</sup> which meets the essential requirements of the rule of law. It regulates the goals and conditions of expropriation in detail, as well as the method to assess the estate to be expropriated, the rights of any third parties as regards the estate, the fate of realities registered on the estate, the method of calculating compensation, the bearing of incidental expenses, the expropriation process, preparation works and the rules of preparatory proceedings and taxability. By 2008 the Hungarian regulation of expropriation more or less met the requirements of the Constitution and of international conventions on human rights. The standard of the regulation by and large reached the level, which is characteristic of modern democratic states.

## **5. The current situation of expropriation in Hungary**

The biggest change in the practice of Hungarian constitutional defence of property after 1989/90 was introduced in 2010 when the FIDESZ-KDNP parties won 2/3 of all seats in Parliament, and they could sit in Parliament as a legislative force on constitution. Since 2010, the Parliament has modified the Constitution of 1949 on several occasions. It passed the new Fundamental Law of Hungary on 18 April 2011. Through the amendments and other legislative processes, the competence of the

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<sup>32</sup> Act CXXIII of 2007

<sup>33</sup> Harmathy Attila, 'A tulajdonjog korlátozásáról' [*On the Limits of the Right to Property*], In: Szabó Imre (ed.): *Tanulmányok Dr. Bessenyei Lajos egyetemi tanár 70. születésnapjára* [Essays in Honour of Prof. Dr Lajos Bessenyei on the Occasion of His Seventieth Birthday], Szeged, 2007. p. 240

<sup>34</sup> Petrik Ferenc, 'Kisajátítási jog' [Expropriation Law]. *ibid.* p. 36

<sup>35</sup> Decree No. 33 of 1976 (IX. 5) of the Council of Ministers

<sup>36</sup> Körtvélyessy Zsolt: A kisajátítás mint a tulajdonhoz való jog korlátozása közérdekre való hivatkozással, [Expropriation as a Means of Limiting the Right to Property in the Name of Public Interest] In: Szamel Katalin (ed.) *Közérdek és közigazgatás*, [Public Interest and Civil Service] MTA Jogtudományi Intézet, Budapest, 2008. pp. 183-216

<sup>37</sup> Hereinafter Act on Expropriation, AoE

Constitutional Court has been significantly decreased,<sup>38</sup> and the constitutional protection of the right to property weakened. Between 1990 and 2010, the constitutional system, to protect the right to property had constantly been made stricter and more consistent. After 2010, this tendency seems to have altered. While expropriation *in its narrower sense* has not raised major constitutional concerns since that year, it still remains to be seen if the Constitutional Court remains capable of effectively protecting the right to property<sup>39</sup> in the new legal environment. Certain cases related to the constitutional protection of the right to property, not directly linked to expropriation in its narrower sense, reveal major flaws in the implementation of the system.<sup>40</sup> The post-1990 development of the expropriation law had been driven by the Constitutional Court until 2010 but its leading role appears to be diminishing and the Parliament is not taking steps to enhance further, the guarantees of the regulation. The reform of the constitutional system after 2010 has, therefore produced serious ambiguities concerning the constitutional protection of the right to property.

According to the main idea of the regime change of 1989/90, progress and economic growth can only be achieved by respecting the right to property, since property represents things both financial and material, and is the basis of freedom and prosperity.

Since 2010 there has been a notable change of emphasis. The attitudes and opinions of the people in power has shifted, in respect to people's property, and fundamental rights. They believe the economic crisis of 2008, and Hungary's heavy economic and political problems, partly originated from the relatively high level of defence of fundamental rights that narrowed the scope of government and gave opportunity for abuse. They think the limitation of government's power made things worse in the country. Since 2010 it seems that the relatively high level of defence of property is interpreted by legislators and constituents as a luxurious item that can be provided to entitled citizens if some kind of economic stability has been achieved. Actually, we do not have enough data to evaluate matters after 2010.

## 6. Summary

You have had an overview of the history of Hungarian expropriation law from the beginning until 2010. In accordance with that I would like to share some thoughts with you.

The regulation of expropriation law is indicative of the sound of rule of law. It shows how the state treats vulnerable groups, and people adversely affected by expropriation.

According to *Ralph Dahrendorf* the structure of a country's political power can be changed in six months, an economic system, in six years. However the change of the structure of a society needs sixteen years. Fortunately the socialist era in Hungary lasted only 40 years, but it was enough to damage the society. The wounds are still fresh. The absurd nature of socialism was reflected in the regulation of expropriation law.

I showed that the consolidation of regulation of expropriation law after the end of socialism lasted almost two decades. The legislation regarding expropriation was primarily, if not exclusively, managed by the Constitutional Court in Hungary between 1990 and 2010. It is, therefore the fruition

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<sup>38</sup> Tóth Gábor Attila: Macht statt Recht. Deformation des Verfassungssystems in Ungarn, *Osteuropa*, 63, 4 (2013) pp. 21-28. Reprinted in Eurozine, <http://www.eurozine.com/articles/2013-06-05-totha-de.html>

<sup>39</sup> Tóth Gábor Attila: Irány Strasbourg? [*Off to Strasbourg?*] In: Tóth Gábor Attila: Életfogytig szabadláb... [*Sentenced to freedom...*] *ibid.* pp. 271-273

<sup>40</sup> See, for instance, the constitutionality concerns regarding the introduction of the "98% special tax" or the pension funds reform of 2010



of the activity of the Constitutional Court, consisting of aware and dedicated judges. Without the brave confrontational involvement of Constitutional Court, the reform of the regulation of expropriation law would have taken place more slowly.

The economic crisis starting in 2008, and the other economic and social problems of Hungary all led<sup>41</sup> to the landslide victory of the FIDESZ-KDNP coalition in 2010. They are currently in power. The attitude of the political mainstream had changed significantly by the election of 2010. Since 2010, the approach to the fundamental rights of the Hungarian people, by the people in power, has changed dramatically, particularly in respect of the regulations concerning the right to property and expropriation. The constitutional protection of property and any fundamental rights has been significantly weakened. In the area of expropriation law *in its narrower sense* we cannot find fundamental problems yet, but because of the significantly reduced areas of competence of Constitutional Court the Hungarian expropriation law can move in another direction.

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<sup>41</sup> See also Trócsányi László, 'Alaptanok' [Fundamental Doctrines] in Trócsányi László and Schanda Balázs (eds), *Bevezetés az alkotmányjogba* [An Introduction to Constitutional Law], (HVG-ORAC Kiadó, 2012), 51-56