



<b>Title</b>	<b><u>Judicial review of governmental acts</u></b>
<b>Lecturers:</b>	<b>Dr. János Fazekas</b> associate professor, Department of Administrative Law <a href="mailto:fazekas.janos@ajk.elte.hu">fazekas.janos@ajk.elte.hu</a>
<b>Brief description</b>	The course addresses the main questions of judicial review of governmental acts in modern democracies. It examines the role of the judiciary in holding the government to account, especially in politically sensitive cases within the framework of political question doctrine. The main method of the course is analysis of the case law of the US Supreme Court and the main European judiciaries, with a special focus on Hungary.
<b>Schedule</b>	<ol style="list-style-type: none"><li>1. Introduction. General questions of judicial review 1.</li><li>2. General questions of judicial review 2.</li><li>3. Government on the borderline of politics and law</li><li>4. The political question doctrine in the jurisprudence of the US Supreme Court</li><li>5. The political question doctrine in Europe</li><li>6. Theoretical problems 1.: discretionary powers</li><li>7. Theoretical problems 2.: judicialization</li><li>8. Brexit-related court cases</li><li>9. Political question doctrine in Hungary 1.</li><li>10. Political question doctrine in Hungary 2.</li><li>11. Wrap-up</li><li>12. Exam (open book online written)</li></ol>
<b>Recommended readings</b>	<ol style="list-style-type: none"><li>1. Barabás Gergely: Kormányzati tevékenység: a “political question doctrine” a magyar közigazgatási perjogban. In: Barabás Gergely – F. Rozsnyai Krisztina – Kovács András György (szerk.): Kommentár a közigazgatási perrendtartáshoz. Wolters Kluwer Hungary, Budapest, 2018. 86-90.</li><li>2. Belov, Martin (ed.): Courts, Politics and Constitutional Law. Judicialization of Politics and Politicization of the Judiciary. Routledge, 2019</li><li>3. Beširević, Violeta: Making Sense of the Political Question Doctrine: The Case of Kosovo. Review of Central and East European Law. Volume 46: Issue 1 (2021) 91–130 <a href="https://doi.org/10.1163/15730352-bja10041">https://doi.org/10.1163/15730352-bja10041</a></li><li>4. Blichner, Lars Chr – Molander, Anders: Mapping Juridification. European Law Journal Vol. 14. No. 1, 2008. 36-54.</li><li>5. Bradley, A. – Ewing, K. D.: Constitutional and Administrative Law. 15th edition, Pearson, 2011</li></ol>

6. Butler, Graham: In Search of the Political Question Doctrine in EU Law. *Legal Issues of Economic Integration* 45, no. 4 (2018): 329–354.
7. Fazekas János: A kormányzati tevékenység bírói kontrollja. A politikai kérdések doktrínája. Budapest: ORAC, 2023
8. Fazekas, János: Local Governments and Political Question Doctrine in Hungary. *Lex Localis - Journal of Local Self-Government* Vol. 17, No. 3, pp. 809 - 819, July 2019
9. Fazekas, János: Administrative procedural and litigation aspects of the review of governmental actions. *Institutiones Administrationis – Journal of Administrative Sciences* Vol. 2 (2022) No. 2, 6–22
10. Hague, Rod – Harrop, Martin: *Comparative Government and Politics. An Introduction*. 6th Edition. Palgrave Macmillan, 2004
11. Henkin, Louis: Is There a "Political Question" Doctrine? *The Yale Law Journal*, Vol. 85, No. 5 (Apr., 1976), pp. 597-625.
12. Hirschl, Ran: The Judicialization of Politics. In: Goodin, Robert E. (ed.): *The Oxford Handbook of Political Science*. Oxford University Press, 2013. 253-270. DOI: 10.1093/oxfordhb/9780199604456.013.001  
<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199604456.001.0001/oxfordhb-9780199604456-e-013>
13. Király Miklós: Brexit in Context, *ELTE Law Journal* (1) pp. 39-47.  
<https://edit.elte.hu/xmlui/handle/10831/56116>
14. Mańko, Rafal: Dimensions of the Political in Adjudication: A Case Study. *Folia Iuridica*, 2020. 92, 5-15.  
[https://digijournals.uni.lodz.pl/cgi/viewcontent.cgi?article=1000&context=aul\\_foliaiuridica](https://digijournals.uni.lodz.pl/cgi/viewcontent.cgi?article=1000&context=aul_foliaiuridica)
15. McHarg, Aileen: Administrative Discretion, Administrative Rule-Making and Judicial Review (September 12, 2017). Available at SSRN: <https://ssrn.com/abstract=3044092> or <http://dx.doi.org/10.2139/ssrn.3044092>
16. McHarg, Aileen: The Supreme Court's Prorogation Judgment: Guardian of the Constitution or Architect of the Constitution? *Edinburgh Law Review*, Jan 2020, vo. 24, No. 1. 88-95.
17. Mercescu, Alexandra – Doroga, Sorina: Should the European Court of Justice develop a political question doctrine? *International Comparative Jurisprudence* 2021 Volume 7 Issue 15-30. DOI: <http://dx.doi.org/10.13165/j.icj.2021.06.002>
18. Pozsár-Szentmiklósy, Zoltán: The Hungarian Constitutional Court as a law-maker. In: Monika Florczak-Wator (ed.): *Judicial Law-Making in European Constitutional Courts*. Routledge, London and New York, 2020. 128-144.
19. Pokol Béla: *A jurisztokratikus állam*. Dialóg Campus Kiadó, Budapest, 2017
20. Skoutaris, Nikos: The European courts as political actors in the Cyprus conflict. Paper for the 6th International Workshop for Young Scholars, 2009.  
[https://www.researchgate.net/publication/241856873\\_The\\_European\\_courts\\_as\\_political\\_actors\\_in\\_the\\_Cyprus\\_conflict](https://www.researchgate.net/publication/241856873_The_European_courts_as_political_actors_in_the_Cyprus_conflict)

	<p>21. Sólyom, László – Brunner, Georg: Constitutional judiciary in a new democracy: the Hungarian Constitutional Court. Ann Arbor, Michigan, University of Michigan Press, 2003</p> <p>22. Stone Sweet, Alec: The European Court of Justice and the Judicialization of EU Governance. Yale Law School Legal Scholarship Repository 1-1-2010. 4.  <a href="https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1069&amp;context=fss_papers">https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1069&amp;context=fss_papers</a></p> <p>23. Szente, Zoltán – Gárdos-Orosz, Fruzsina: Judicial deference or political loyalty? The Hungarian Constitutional Court’s role in tackling crisis situations. In: Szente, Zoltán – Gárdos-Orosz, Fruzsina (eds.): New Challenges to Constitutional Adjudication in Europe: A Comparative Perspective. New York (NY), Routledge, 2019. 89-110.</p> <p>24. Tushnet, Mark: Law and Prudence in the Law of Justiciability: The Transformation and Disappearance of the Political Question Doctrine. North Carolina Law Review (80) 2002. 1203-1235.</p>
<b>Assessment/Exam</b>	open book online written exam