**Constitutionalism in Action**

**Lecturers**: dr. Bernadette Somody, dr. Emese Pásztor (Constitutional Law Department)

The course focuses on the protection of fundamental constitutional values (democracy, the rule of law, human rights) from a special perspective. On the one hand, a constitutional system is expected to secure constitutional institutions, such as a constitutional court, ordinary courts and an ombudsman, for the protection of these values. On the other hand, citizens have important possibilities to bring these institutions into operation (e.g. triggering their procedures) and also have fundamental rights, such as freedom of expression or freedom of assembly, to participate in forming public affairs. The possibility of exercising these rights constitute responsibility as well. The course covers the fundamental rights and democratic foundation of the citizens’ possibilities and responsibility as well as the legal mechanisms and instruments by which they can contribute to the protection of constitutionalism.

**The aim of the course**

The participants of the course will get an overall picture about the margin of manoeuvre opened for citizens in the field of the protection of constitutionalism beyond the traditional means of individual rights protection. The impact of the mindset transmitted by the course may contribute to a more active, thoughtful and determinate participation in democracy, and an enhanced level of confidence in public affairs.

**Subject requirements**

The course builds to the active in-class participation and the independent prep-work of students based on printed handouts. The participants elaborate case-studies selected from the Hungarian legal practice, processing the cases with a special emphasis on comparative considerations. Beyond active participation an essay is also required in a related topic freely chosen by the participants.

**Syllabus**

1. Conceptual framework: rights to democratic participation and mechanisms for the protection of the constitution - Hungarian regulation in comparative perspective
2. Citizen’s role in constitutional adjudication

B. Somody - B. Vissy: Citizens role in constitutional adjudication is Hungary: from the actio popularis to the constitutional complaint [<https://www.ajk.elte.hu/file/annales_2012_05_SomodyVissy.pdf>]

1. Ombudsman as the protector of constitutional public interest

## Opinion on Three Legal Questions Arising in the Process of Drafting the New Constitution of Hungary - Adopted by the Venice Commission at its 86th Plenary Session (Venice, 25-26 March 2011) §§ 55-69. [<http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)001-e>]

## Extracts of the Annual Reports of the Commissioner for Fundamental Rights [<http://www.ajbh.hu/en/web/ajbh-en/annual-reports>]

1. Referendum for involving citizens in the decision-making process

Z. Pozsár: Direct democracy in Hungary: from popular sovereignty to popular illusion

[<https://www.academia.edu/28770995/Direct_democracy_in_Hungary_from_popular_sovereignty_to_popular_illusion>]

1. NGOs’ rights and role in a democratic society

Opinion on the Draft Law on the Transparency of Organisations Receiving Support from Abroad - Adopted by the Venice Commission at its 111th Plenary Session (Venice, 16-17 June 2017)

[<http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)015-e>]

1. Systemic constitutional problems - strategic litigation before national courts and European fora

Case of Szabó and Vissy v. Hungary (Application no. [37138/14](https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2237138/14%22%5D%7D))

[<http://hudoc.echr.coe.int/eng?i=001-160020>]

E. Pásztor: Secret intelligence gathering – a low threshold still too high to reach. The gap between the level of privacy protection in Europe and in Hungary after the case of Szabó and Vissy v. Hungary. (Manuscript)

Case of Baka v. Hungary (Application no. [20261/12](https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2220261/12%22%5D%7D))

[<http://hudoc.echr.coe.int/eng?i=001-163113>]

Case C‑288/12 of the Court of Justice of the European Union, 8 April 2014

[<http://curia.europa.eu/juris/document/document.jsf?docid=150641&mode=req&pageIndex=1&dir=&occ=first&part=1&text=&doclang=EN&cid=1132858>]

Case C‑286/12 of the Court of Justice of the European Union, 6 November 2012

[<http://curia.europa.eu/juris/celex.jsf?celex=62012CJ0286&lang1=hu&type=TXT&ancre=>]

1. Freedom of information litigation

Case of Magyar Helsinki Bizottság v. Hungary (Application no. [18030/11](https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2218030/11%22%5D%7D))

1. Civil actions beyond the law? Civil resistance and civil disobedience

**Core Criteria**

* class attendance (a maximum of three absences are permitted)
* active in-class participation
* a written essay (in a related topic freely chosen by the participant)