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Summary of the 'Protection of Future Generations in Central Europe: Good Practices and Developments at Constitutional Level and Current Challenges in the Legal Order' Conference Organized by the Central European Academy of the University of Miskolc as Part of the Central European Professors' Network 2022

Abstract

On November 24, 2022, the Central European Academy organized a high-profile international conference entitled 'Protection of Future Generations in Central Europe: Good Practices and Developments at Constitutional Level and Current Challenges in the Legal Order' as part of the Central European Professors' Network 2022. The conference was the coronation of the one-year cooperation of several researchers from seven countries of the Central European region (Croatia, the Czech Republic, Hungary, Poland, Serbia, Slovakia and Slovenia), who were conducting research under the guidance of János Ede Szilágyi on the topic of the constitutional framework for the protection of future generations and the environment. The most significant outcomes of the research include a book titled 'Constitutional Protection of the Environment and Future Generations – Legislation and Practice in Certain Central European Countries' to be published in January 2022; several scientific articles and dissemination events; as well as two international conferences, one of them being the present event. The research group for the constitutional framework for the protection of future generations and the environment is one of the five research groups currently working under the aegis of the Central European Professors' Network 2022. This contribution summarizes the presentations at the conference and reflects on the work of the research group.

Keywords: Central European Professors' Network, Central European Academy, future generations, protection of the environment, sustainable development, constitutional rights

Introduction

The international conference entitled 'Protection of Future Generations in Central Europe: Good Practices and Developments at Constitutional Level and Current Challenges in the Legal Order' was organized on November 24, 2022, in the Eperjes Hall of the University of Miskolc. The aim of the conference was to summarize the results of the research group 'Constitutional framework for the protection of future generations and the environment' working within the frames of the Central European Professors' Network 2022. The conference was divided into three panels. The first panel was opened by István Olajos (University of Miskolc). He was followed by Zoltán Varga (University of Miskolc); János Ede Szilágyi (University of Miskolc, Ferenc Mádl Institute of Comparative Law – FMI); Gyula Bándi

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(Ombudsman for Future Generations of Hungary, Péter Pázmány Catholic University); Anikó Raisz (University of Miskolc); and Bartosz Rakoczy (Nicolaus Copernicus University in Torun). Moderated by János Ede Szilágyi, the second panel discussed specific problems of public utilities, such as waste and water in different countries, and administrative aspects of adopting environmental acts. Speakers included Michal Maslen (University of Trnava); Miha Juhart (University of Ljubljana); Bartosz Majchrzak (Cardinal Stefan Wyszyński University in Warsaw); and Michal Radvan (Masaryk University in Brno). Each presentation was followed by coreferent speeches by Judit Pump (Péter Pázmány Catholic University); Károly Benke (Constitutional Court of the Republic of Romania); Zsófia Hornyák (University of Miskolc); and Zoltán Nagy (University of Miskolc, FMI). The third panel was moderated by Gyula Bándi, and discussed private legal, procedural and institutional questions arising from constitutional provisions related to the environment. The presentations were given by Sanja Savčić (University of Novi Sad); Frane Staničić (University of Zagreb); and Enikő Krajnyák (University of Miskolc, Central European Academy). The contributors to the coreferent speeches were Erika Farkas Csamangó (University of Szeged) and Attila Pánovics (University of Pécs).

Panel 1

The first panel of the conference was presided and moderated by István Olajos, Associate Professor at the Department of Labor and Agricultural Law at the host Faculty. After the words of welcome by Zoltán Varga, Vice-Dean of the Faculty, Ede János Szilágyi, the Head of the FMI and Head of the Department of Labor and Agricultural Law at the University of Miskolc, presented the outcomes and results of the Central European Academy (CEA), which provides support for the realization of the Central European Professors' Network, in the frames of which five research groups publish their work in the form of a book and various scientific articles, and organize conferences and dissemination events. The CEA began its work on January 1, 2022, and manages large-scale research and internship projects in Central European countries with the involvement of both senior and junior researchers. The cooperation embraces the active participation of forty-seven researchers from Croatia, the Czech Republic, Hungary, Poland, Serbia, Slovakia and Slovenia. The Professor stressed the high-profile publication activity of the Academy, which includes various book series (Studies of the Central European Professors' Network; Legal Studies on Central Europe; Studies of the Ferenc Mádl Institute; and Legal Heritage) and journals (Central European Journal of Comparative Law; Law, Identity and Values; and Central European Academy Law Review).

Gyula Bándi, Professor at the Péter Pázmány Catholic University and Ombudsman for Future Generations of Hungary, gave an overview of the *'Current Challenges in the Environmental Legal Order'*, pointing out the recent developments on the elaboration of the human right to a clean, healthy and sustainable environment at the UN level,¹ and the challenges that economic crises pose to the protection of the natural

¹ On the issue of recognition of the right to a healthy environment in international law, see: Marinkás 2020.

environment. He pointed out that the recently adopted UN General Assembly Resolution² recognizes the right to a clean, healthy and sustainable environment as a human right, but – apart from the non-binding nature of the resolution – further questions shall be answered in connection with this right. Defining what is clean exactly, and how it could be measured, the understanding of 'healthy' – healthy for humans or the flora and fauna – and its measurement, as well as 'sustainability' are questions to be answered in the near future, in order to implement this right in practice. Furthermore, the Professor drew attention to the importance of long-term and comprehensive thinking in making environmental decisions but also highlighted that crises were often used as an excuse to avoid addressing environmental problems.

Anikó Raisz, Head of the Department of International and Comparative Law at the host Faculty, presented the general directions, objectives and measures already taken and to be taken in the field of sustainability, the consistency between economic growth and environmental protection, as well as the comprehensive environmental goals of the Hungarian government in her speech entitled '*Government directions in the field of sustainability and environmental protection*'. The Professor highlighted the importance of the protection of the environment in Hungarian policy-making on the example of the ambitious goal of becoming one of the five EU Member States by 2030 where it is the best to live and work. To this end, Hungary adopted its Climate and Nature Protection Action Plan and its National Sustainable Development Strategy.

In the following presentation '*Good practices and 'de lege ferenda' proposals concerning constitutional protection of future generations*', Ede János Szilágyi summarized the results of the research group. The specific subjects of the comparative research were grouped around definitions (the definition of the environment, natural resources, future generations, sustainable development), the role of given actors (constitutional courts, ombudsmen, heads of state), the fundamental rights framework (the right to a healthy environment, the right to water, and public participation) and other selected issues (such as the question of liability for environmental damage, financial sustainability, added values deriving from the constitutional protection of Christian heritage). The Professor also pointed out certain potential future research directions, of which the role of the ombudsmen was underpinned by several researchers, especially the question of the establishment of a sui generis green ombudsman and its competencies towards private sector actors.

The greatest achievement of the research group was the creation and publication of the book entitled '*Constitutional Protection of the Environment and Future Generations – Legislation and Practice in Certain Central European Countries*', which was introduced by Bartosz Rakoczy, Head of the Department of Environmental and Public Economic Law at the Nicolaus Copernicus University in Torun. The book contains country-specific studies on the constitutional framework for the protection of future generations and the environment on the seven members of the Professors' Network program and Romania, as well as theoretical chapters on sustainable development and the moral and legal implications on the responsibility towards future generations; and the international legal background for the protection of the environment in human rights law through selected judgments of the ECtHR. The Professor highlighted the importance of scientific

² UN GA A/76/L.75 (July 26, 2022).

discussion about future generations and the uniqueness of this cooperation of Central European scientific communities. Professor Rakoczy spoke appreciatively about the book and pointed out that it was a valuable contribution to academia and would serve as a reference point for future research in the field of environmental law.

Panel 2

The second panel of the conference was opened by János Ede Szilágyi, who introduced the authors of the book and the members of the research group. The presentations of the authors were based on their scientific articles written in the framework of the Professors' Network and focused on country-specific issues within the constitutional protection of future generations and the environment. The presentations were followed by so-called coreferent speeches by renowned Hungarian experts, in which the speakers reflected on the broader topic and context of the presentation and its embeddedness in the research field. The first presenter of the second panel was Michal Maslen, Head of the Department of Administrative, Environmental and Financial Law at the University of Trnava, who gave his thoughts on *Waste management and its possible development in the Slovak Republic*. The Professor analyzed the climate impacts of individual waste management activities within the waste management hierarchy and pointed out its potential to be utilized in the energy sector through waste-to-energy plants, which has particular importance in light of the recent pandemic crisis. The coreferator of the presentation, Judit Pump, Lecturer of the Péter Pázmány Catholic University explained the impact of sustainability in regulating waste management and gave a short overview of the Hungarian waste management model.

Professor Miha Juhart from the University of Ljubljana analyzed a unique provision of the Slovenian Constitution in his presentation entitled *The right to safe drinking water in international law and in Slovenia's legal framework and implementation*. The Professor highlighted that the declaration of the right to drinking water as a fundamental right was important on a symbolic level but its practical implementation needed further legislative measures.³ The fact that water resources are public goods and thus they shall not be a market commodity, raised several practical questions in Slovenia the last years – the conflict between ensuring drinking water to the population and maintaining ecological balance, or the issue of suspension of drinking water supply due to non-payment – as pointed out by the Professor. Károly Benke, Assistant Magistrate-in-Chief of the Romanian Constitutional Court, gave a coreference to the presentation and discussed the challenges of regulating the right to drinking water in international law, focusing on its interrelation with other human rights and the substantive and procedural aspect of this fundamental right.

The presentation entitled *Constitutional framework for planning acts as legal forms of administration's activity in environmental protection – on the example of Poland* was given by Bartosz Majchrzak, Head of the Department of Administrative and Environmental Law at the Cardinal Stefan Wyszyński University in Warsaw. The Professor emphasized that

³ For an extensive overview on water law, see: Szilágyi 2018. The current issues of the right to water were analyzed in Raisz 2012. The right to water from a social perspective was also analyzed in Jakab & Mélypataki 2019.

'planning acts' constituted an important instrument for conducting environmental protection policies in Poland, for which also the Polish Constitution provided a detailed normative framework.⁴ The Constitution allocates the powers to issue planning acts between the Council of Ministers and local governments, which shall be combined with cooperation between public powers in the event of overlapping competencies. Apart from systemic determinants, the Constitution also provides substantive and procedural criteria, which encompass the principle of proportionality and sustainable development, as well as public participation in the decision-making process. The coreference was given by Zsófia Hornyák, Lecturer at the Department of Labor and Agricultural Law at the host university, who presented the planning of environmental acts in Hungary through the example of the adoption of the National Environmental Protection Program.⁵ The Program is a comprehensive national strategic plan of the environmental sector, which serves as a framework for all environmental strategies, programs and plans, including the National Strategy for Biodiversity Conservation, the National Water Strategy, the National Waste Management Plan, the River Basin Management Plan of Hungary, the National Environmental Remediation Program, the National Air Pollution Reduction Program, and the National Nature Conservation Fund Program.

Michal Radvan, Vice-Dean for Foreign and External Affairs at the Faculty of Law of the Masaryk University in Brno delivered his presentation on the topic of *'New Charges on Communal Waste in the Czech Republic'*. The Professor described and compared the old and new methods of communal waste charging, given that the regulation had significantly changed in 2022, which had introduced the charge for the disposal of municipal waste from immovable property, which, according to the Presenter, shall be preferred and considered a good practice. Charges on communal waste are embedded in the broader category of environmental taxes and charges. Therefore, the coreferator, Zoltán Nagy, Professor at the Department of Financial Law at the host Faculty and Head of the Department of Public Law at the FMI, reflected on the general problems and benefits of environmental taxes.⁶ The Professor emphasized that taxes could provide incentives for the application of new technologies which may lead to the reduction of pollution. On the other hand, one shall take into account that environmental taxes do not directly guarantee positive effects and the impact of these taxes could often be unforeseen. Nevertheless, exchanging ideas about already existing measures and good practices was certainly useful for environmental legal experts.

Panel 3

During the third panel, moderated by Gyula Bándi, private law issues and participatory rights were discussed, as well as the institutional protection of future generations. Sanja Savčić, Associate Professor at the Department of Civil Law at the University of Novi Sad, focused on the potential of private law rights to contribute to

⁴ For an analysis on the constitutionalisation of environmental protection in Poland, see: Rakoczy 2021.

⁵ Available at: <https://kornyezetvedelem.hu/nemzeti-kornyezetvedelmi-program> (Accessed: 4 December 2022).

⁶ For an introduction to environmental taxes by the Professor, see: Nagy 2013.

environmental protection and improvement in her presentation entitled *'Private Law Aspects of Environmental Protection and Sustainable Development – Where Is the Line Between Public and Private Interests?'*. The Professor pointed out several direct and indirect links to environmental protection in the Serbian regulation, with a special focus on intellectual property law, namely on the patent regulation of environmentally sustainable technologies, and indications of geographical origin. The Presenter concluded that cooperation between scientific research institutions and the industry is a crucial factor in channeling environmental aspects in the private legal sector.⁷ As a coreferator of the presentation, Erika Farkas Csamangó, Lecturer at the Institute of Business Law at the University of Szeged shared her thoughts on green innovation and sustainability in the European and Hungarian law. The Coreferator drew attention to the topicality of the issue analyzed by the Professor and emphasized the significance of the regulation of eco-innovation for the sustainable use of natural resources and the protection of the interests of future generations.

The topic of *'Public participation and access to justice in environmental matters in Croatia'* was introduced by Frane Staničić, Professor at the Department of Administrative Law at the University of Zagreb. The Professor pointed out that the duty to protect the environment that derived from the constitutional right to a healthy life was often achieved through participation in administrative procedures.⁸ Apart from the general rules of administrative procedure, public participation is also regulated specifically in environmental matters by the Aarhus Convention, which is in force in Croatia as well. The Convention defines the notion of the 'public' and the 'public concerned', which certainly extends the scope of subjects in administrative environmental procedures. Furthermore, the Presenter explained the regulation and implementation of public participation through the example of spatial planning, which also encompasses the legal obligation to inform the public about the making of spatial plans and enable a public debate. However, the Professor also mentioned that the practical impact of public participation was rather limited, as the carrier of the spatial plan was not obliged to take these objections into account. Attila Pánovics, Lecturer at the Department of International and European Law at the University of Pécs shared his thoughts as a coreferator on the importance of the implementation of the Aarhus Convention and the involvement of civil society in environmental decisions through procedural rights. The Coreferator also mentioned a practical example, namely that a non-governmental organization of which He is a member, recently won an environment-related case before the court, and thus pointed out that the public shall raise its voice in order to protect the environment and future generations.

The last presenter of the panel, Enikő Krajnyák, Researcher at the Central European Academy, introduced the office of the Hungarian Ombudsman for Future Generations in her presentation titled *'The role and activity of the Deputy Commissioner for Fundamental Rights Ombudsman for Future Generations in shaping environmental protection in Hungary'*. As mentioned before by János Ede Szilágyi, several authors of the book considered the work of a green ombudsman a good practice, which is a unique solution

⁷ For an overview on how sustainable development could influence other private regulations, namely human resources, see: Jakab 2016.

⁸ On the Croatian constitutional approach to environmental protection, see: Ofak 2021.

not only among the countries examined in the volume but also all over the world: the Presenter pointed out that there were only a few institutions worldwide that explicitly advocated for the interests of future generations. The importance of the institutional representation of future generations cannot be emphasized enough, as numerous international documents declare the moral responsibility of preserving natural resources for the benefit of future generations, but the practical implementation of such declarations faces difficulties in practice, mainly for the reason that they cannot represent themselves under the current legislative framework.⁹ The Hungarian Ombudsman has a wide range of competencies through which he can influence environmental regulation in the country. The Presenter mentioned several key Constitutional Court decisions and legislative proposals which had had a significant impact on the protection of the environment in the dogmatics and in practice as well. As the author concluded, the Hungarian institution could serve as a role model for similar institutions to be established in the future, and emphasized that despite the difficulties of implementation, endeavors to include a future-generations perspective in decision-making shall not be hindered at any level. The panel and the conference were concluded with some remarks from Gyula Bándi, the incumbent Ombudsman for Future Generations.

Summary

The international conference *'Protection of Future Generations in Central Europe: Good Practices and Developments at Constitutional Level and Current Challenges in the Legal Order'* was organized as part of the Central European Professors' Network 2022. The event aimed to bring together the members of the research group working on the topic of *'Constitutional framework for the protection of future generations and the environment'*, in order to discuss the most topical issues of the given countries in connection with the protection of the environment or future generations.

The first panel of the conference granted space for the introduction of the research and the general framework for environmental protection as well as the presentation of the achievements of the research group. The preparation of the book entitled *'Constitutional Protection of the Environment and Future Generations – Legislation and Practice in Certain Central European Countries'* was certainly the most significant contribution from the researchers. The second and third panels provided an opportunity for the contributors to present their individual research results in the form of short presentations, which were reflected by acknowledged Hungarian experts and scholars on the given topic. The problems of waste management in Slovakia were presented by Michal Maslen; the Slovenian legal framework and the implementation of the constitutional provision on the right to drinking water were discussed by Miha Juhart; the constitutional regulation of planning acts with regard to environmental protection was analyzed by Bartosz Majchrzak; and the new regulation on communal waste in the Czech Republic was introduced by Michal Radvan. In the third panel, further topics were explored, namely the private law aspects of sustainable development in Serbia by Sanja Savčić; public participation and access to information in environmental matters in Croatia by Frane

⁹ The responsibility towards future generations and its embeddedness in the Hungarian constitutional framework is analyzed in Bándi 2020, Szilágyi 2021a and Szilágyi 2021b.

Staničić; and the institutional protection of future generations in Hungary by Enikő Krajnyák. The conference provided a precious opportunity for outstanding researchers of the Central European region to exchange best regulatory practices that could be used for the benefit of present and future generations.

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