

FOREWORD

**There is no rule of law and equality before the law
without the independence of the judiciary**



“Liberty, equality, fraternity” – we have heard and read plenty of times the motto of the French Revolution that put an end to the era of feudalism. The term “equality” of the tripartite motto, however, has been often misinterpreted. In the 19th and 20th century, many ideologists thought of it as the cornerstone of a utopian society based on the equal distribution of wealth, while it was rather intended to refer to the citizens’ equality before the law, a requirement that arose from the principle of social justice. The communistic ideologies and the ways they have been put into practice led to serious distortions in the development of Hungarian law. We should not forget our country’s historical background, as European democratisation and the blossoming of civil society have been due to the implementation of the genuine version of the term “equality”, *i.e.* legal equality and the rule of law principle in the past two centuries. Equality before the law has become the basis of the modern, western European approach on the rule of law and the basis of democratic governance. But there is no rule of law and legal equality without judicial independence.

In the second half of the 20th century, Hungary followed an unfortunate path in history during the burdensome decades of Soviet influence. The systemic dysfunction of the socialist administration of justice was the result of not only political constraints limiting the judges’ independence, but of the fact that the operators of the political institutions of the Party State had not been legally barred from enforcing their delusional ideas on legality under the concept of class war to the detriment of social justice.

Irreconcilable contradictions were inherent in the socialist legal system. The Party State sought to completely change the country’s constitutional regime by any means and to create the notions of “socialist legality” and “socialist administration of justice” in order to discredit traditional civic values and systematically shatter the original, several decades old judicial structures. The transformation of the Curia in 1949 was an inevitable part of that process.

The 1990 democratic change of regime and independent general elections opened a new chapter in the history of the Hungarian judicial system. In the past few decades, the

judiciary's institutional framework has been modernised and renewed and the continuity of the development of law in Hungary has been gradually restored due to a number of comprehensive judicial reforms. The process of reinstitution symbolically ended with the "reestablishment" of the Curia.

However, we have to bear in mind that time and history are not like a torn coat that can be taken off or mended at the wearer's leisure. The restoration of the continuity of the development of law has to be carried out with the acknowledgement of the existence of the discontinuous decades. The past lives with us. It is good that we can learn from the mistakes of our past and build our future on a different foundation.

The redefinition of the Curia's tasks at the beginning of the 21st century is a step towards the future. A step that represents a gesture of restoration and aims at further strengthening the institutional framework of our democratic State and ensuring full satisfaction of the requirement of the rule of law on the pillars of legality and justice. In the first year of its operation, the re-established supreme judicial body and its employees had plenty of work to do. Thanks to the present Yearbook, the reader is given an insight into the Curia's documents, considered important from the point of view of legal history at the beginning of a new era.

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