

Hungarian Academy of Sciences

Centre for Social Sciences, Institute for Legal Studies

H-1014 Budapest, Országház street 30., 1250 Budapest, P.O.B. 20.

Tel.: +36 (1) 355 73 84, Fax: +36 (1) 375 78 58

E-mail: jakab.andras@tk.mta.hu, Website: www.tk.mta.hu

I. Main duties of the research unit in 2012

It shall be highlighted that the Centre for Social Sciences of the Hungarian Academy of Sciences was established on 1 January 2012, according to the resolution adopted by the general assembly of the Hungarian Academy of Sciences (December 2011). The Centre (as a publicly financed institution) is based on the integration of four previously separate research units, namely the Institute for Legal Studies, the Institute for Minority Studies, the Institute for Political Studies and the Institute for Sociology.

The Centre started its work on 1 January 2012, therefore the institute carries out its scientific researches under the aegis of the newly-created Centre (however, with scientific and professional autonomy); besides, it is worth mentioning that the existing conditions are ideal in order to promote the qualitative development of the institutional researches.

The main public task of the Institute for Legal Studies of the Hungarian Academy of Sciences is to carry out basic research work in legal sciences and to assist state organs in their legislative and law enforcement activities.

Beyond the aforementioned activities (with special regard to the institutional changes), the Statute of the Centre enumerates and declares the main duties of the Institute. Thus, the basic tasks are the following: carrying out researches within the broad field of legal studies, especially on constitutional law, criminal studies, private law, human rights, EU-law, legal theory, administrative law as well as public and private international law. Moreover, the institute shall focus on certain actual problems of legal studies emerging from scientific and technical progress; it shall contribute to the solution of legislation tasks nationally and within the international scope. The institute shall follow the national and international legal practice as well as the influential impacts of the authorities and NGOs basically concentrating on legal protection.

The research unit shall analyse and interpret the tendencies of the domains enumerated above; it shall publish comprehensive and summary works (encyclopaedia, national legal bibliography, etc.), and it shall co-operate in the education of legal professionals and professional legal aid, in summing up expert evidences, promoting the consciousness of law of the public as well as disseminating the knowledge to the public.

The results of the basic research activities of the members of the institute have been published in more than 200 articles and books.

II. Outstanding research and other results in 2011

a) Outstanding research and other results

Department for Constitutional Law, International Law and Legal Theory

In constitutional law, the department conducted research and published on the horizontal effect of fundamental rights and on the reformed competences of the Constitutional Court, especially on the new forms of constitutional complaint. This year, the theory of antidiscrimination and equal opportunity regulations as well as their implementation was also in focus. In addition, projects on ethnic data collection, on the Hungarian minority policy model, and Roma policy had to be emphasized. Several scholarly pieces examined discrimination within the criminal justice system. The research included recent changes in the functions of police, the expansion of competences of public order authorities, including security measures newly introduced particularly in the context of combating terrorism, illegal immigration and drug trafficking. Special attention focused on the assessment of the efficacy of these measures.

Significant works on the discrimination of ethnic groups in criminal procedures were disseminated, with special regard to the issue of „ethnic profiling”. Furthermore, several researchers dealt with identifying the victims of discrimination as well as the peculiarities of surveillance societies, as these are of outstanding importance in mapping the relationship between disadvantaged social groups and community-oriented policing. Two monographs were published on these issues. Besides, the department continued research on the right to a healthy environment, resulting in three books for use in education and a monograph.

As to international law, two doctoral dissertations were completed this year, which are soon to be published, one on citizenship, another on international environmental law, more precisely on responsibility and liability for environmental damage. Important projects investigated international (criminal) legal aspects of genocide, and the new clause in the Fundamental Law of Hungary on the relationship between international law and domestic law.

Departmental colleagues wrote 12 articles for the human rights encyclopaedia under preparation this year, and participated as editors in the work of ten domestic legal journals. The researchers gave lectures at numerous domestic and international conferences and, some participated at the activities of the National Focal Point of the EU Fundamental Rights Agency (FRA). Several colleagues took part in collaborative a research project on combating racism and xenophobia with the Italian CNR International Law Institute, in the auspices of which several studies were published and a conference organized.

Number of contributing researchers: 12

Department of Private Law and European Law

With respect to research in civil law, research papers related to the part – according to the Bill: the book – of the new Civil Code that deals with legal persons can be mentioned as a priority task of the relevant year. The material amounting to one volume has been delivered both to the Codification Committee and the Ministry of Public Administration and Justice.

Research in bankruptcy law should be highlighted: owing to its timeliness, this subject area continues to be on the agenda as part of examinations concerning the dynamics of business organisations.

Researches commenced earlier continued in the research of the law of intellectual property. As part of that research focused on (i) the history of the development of Hungarian copyright law and (ii) the protection of architectural works (a special segment of the field of intellectual works that might affect aspects of both copyright and industrial right protection, owing to the special forms of realisation and complexity of the object of protection). In the subject area of copyright and industrial right protection, six studies were published and three international conference lectures were held and an encyclopaedia entry being published has been completed.

In the subject area of the history of early medieval state and law, it is worth highlighting the monograph entitled "Law and Society in Lex Baiuvariorum" published under the OTKA (Hungarian Scientific Research Fund) research entitled "Lex Baiuvariorum – law interpretation and social view in the early Middle Ages" and the volume of studies entitled "Studia Iuridico-philologica II. Studies in Classical and Medieval Philology and Legal History". In the subject area of early medieval legal history, ten studies were published abroad and inland and 3 conference lectures were held.

In the subject area of Roman law and the antique theory of the state, it was primarily the theory of the state and legal history aspects of Cicero's rhetorical works that constituted the subject of the research. In this subject area four studies were published and three international conference lectures were held.

Researches were carried out and studies were published and conference lectures were held on the appurtenance appearing in hypothecary law as well as on contract of guaranty, consumer credit agreements and bank loan agreements.

Researches in medical law continued: several studies were published and three conference lectures were held in this subject area. Of them it is necessary to highlight the monographs entitled "Comparative health law" and "Services related to injury to health", which set the aim to analyse legal issues of health with the jurist's eyes.

Researches in consumer protection continued; they dwelt on the following topics: liability for other persons of consumers contracting with Internet service providers, the provisions of the new Civil Code relevant in terms of consumer protection, European consumer protection rules related to electronic trade, contracts entered into between absentees. Several papers were published on this subject area.

In the subject area of arbitration the researches started already continued and were set in three volumes of studies since owing to the needs of globalisation and "big business" the reversal of specific arbitral awards based on public order is considered a significant problem in settlement of commercial disputes. The research highlighted primarily the comparison of law nature of the topic, in search for the answer to the question whether it is possible to speak about a general, transnational concept of international public order.

Labour law researches examined the new Labour Code entered into force in 2012 and the special Act enacting it. The research focused on the analysis of the new legal regulation.

Within the framework of researches covering European law, the relation between European law and Hungarian law was of prior importance: addressing the question how, based on what legal/constitutional law grounds the former appears in Hungarian law-making and application

of law. The research surveys the practice of the Constitutional Court and examines the impact produced by legal development on Hungarian legal practice in some highlighted areas of European law and then makes an attempt at the taxonomic division of European law. Under the research it is worth highlighting the minor monograph entitled "Tableau with Laokoon. Struggle of the Hungarian Legal System and of the Constitutional Courts with EU Law" and the volume entitled "Directions of the development of European Union law after the Treaty of Lisbon". Several studies were published and several conference lectures were held on this subject area.

The research of the environmental protection conflicts of international and EU commercial law addressed the general issues of international commercial law and environmental protection: a preliminary study was made as part of that. The research extended to the analysis of the relation between the principle of sustainable development and the EU common commercial policy, a study was made and a conference lecture was held on this topic.

Within the framework of research in European law, academic papers were made on the applicability of the EU contract law, more specifically on the aspects of the relation between Rome I and other legal sources.

Number of contributing researchers: 13

Department of Public Administration and Criminal Sciences

In co-operation with the Friedrich Ebert Foundation, a conference entitled „The transformation of the system of local government in Hungary in a European context” was held within the mainstream research project called „Significant systems of public administration”. The lectures were and are going to be published in the periodical called „New Hungarian Public Administration”.

Significant papers were published on the overview of the European systems of public service and on the transformation of the Hungarian public administration in the context of European and global trends. The department has also managed basic researches on the collective fundamental right for local governance in the scope of the new Hungarian regulation on local government.

The researchers of the department had published several papers on the constitutional transformation of the Central European countries after the transition period. The concept of a project entitled „Hungarian Legal Bibliography 1867-1950” started in 2013. The preliminary works had been taken place, such as the sources to be analysed had been designated.

Some researchers take part in the project dealing with the judicature of constitutional courts in the Central European countries. The projects are coordinated by the Czech Academy of Sciences in collaboration with the institutes for legal studies of the Visegrad Countries. More researchers participated in a survey on the theoretical and empirical analysis of the legal consciousness of the Hungarian population sponsored by the Hungarian Scientific Research Fund (OTKA).

The researches within the field of criminal law focused on the new Criminal Code (chiefly on advisory issues) and its impacts on the Hungarian legal system. The scientific approaches paid

deep attention to the new forms and methods of financial crimes, organized crimes, the finance of terrorism as well as the Hungarian implementation of the means against human trafficking. A comprehensive article had been completed on the subject of terrorism and its interrelated concerns with criminal law, especially on the theoretical and practical experiences of its codification.

A three-year long project had been completed in the year under review (under the aegis of and supported by the Bolyai János Scholarship). In this research, the corruption offences (with special regard to the public procurement issues) were dealt with in the light of the democratic transition, the free market-based approaches and the constitutional requirements of the *Rule of law*. The aim of the research was to establish whether the fundamental economic, social, political and legal (constitutional) metamorphosis of Hungary in the last two decades necessitates a drastic reform of corruption offences. As a result of the project a detailed policy paper and a legislative proposal was elaborated to ensure that corruption offences in the private sector (and in public procurement procedures) are regulated to suit the requirements of democracy, market economy and constitutional protection methods.

The young researchers carried out researches within the broad fields of hate crimes (and its regulation and judicial practice) as well as the IT crimes (cybercrimes, computer-related crimes).

Number of contributing researchers: 11

b) Relationship between science and society

Researchers of the institute contributed to address issues in the focus of public attention and disseminated scientific knowledge in various fields.

The society showed profound interest in several objectives and products of domestic law-making, as well. For instance, the preparation of the new Civil Code and also the new Criminal Code prompted the analysis and assessment of different substantive and procedural legal issues.

The dialogue between science and society assumed different forms. As primary means of public information, numerous interviews and articles appeared in the printed, audio-visual or electronic media. The dissemination of legal knowledge was supplemented by “Jogi Iránytű” (“Legal Compass”) – an internet-based periodical of the institute, which discusses topical legal questions and problems in an easily accessible and comprehensible manner.

The institute took part in the prestigious series of events entitled „Researchers’ night”, aiming to bring the non-professional public in the scientific discourse and to spread the scientific results achieved by the experts to the broad society. This method of dissemination shall be executed by means of informative official events. Under the aegis of this programme, 5 researchers of the institute delivered lectures in 2012; and the feedback shows that the continuation of this series will be supported and demanded by the non-professional participants.

III. A presentation of national and international relations

During the year under review, the majority of researchers participated in professional activities as members of various national and international professional associations and of editorial boards of scientific journals. The researchers contributed to the work of thirty-five national and nineteen international professional associations and of four Hungarian branches of international professional associations.

They served as chairmen of three national associations, as honorary chairman of one and as deputy chairman of two international associations and as a secretary-general of the Hungarian branch of an international association. Besides, the researchers worked as members of editorial boards of thirty-three national and nine international scientific journals, and served as editors-in-chief or executive editors of four national scientific journals.

The majority of research fellows were involved in teaching in bachelor, master and doctoral programmes of several institutions, such as the Budapest College of Management, Corvinus University of Budapest, Budapest University of Technology and Economics, University of Debrecen, Eötvös Loránd University of Sciences, Károli Gáspár University of the Reformed Church, Central European University, University of Miskolc, University of West Hungary, Pázmány Péter Catholic University, University of Pécs, Sapientia Hungarian University of Transylvania, Semmelweis Ignác University of Medicine, Széchenyi István University and National University of Public Service.

In the year under review, researchers taught 106 theoretical courses and fifty seminars, and supported the work of students in the completion of 126 theses, which proves the high-level quality of their teaching skills.

During the year under review a researcher served in the capacity of the head of a doctoral school, sixteen researchers were involved in teaching in doctoral schools, and seven research fellows participated as core members in certain doctoral schools. Research fellows of the institute assisted as consultants in the preparation of altogether twenty-one PhD theses during the year under review.

The agreements between the Hungarian Academy of Sciences and other academies of sciences or research centres provided a good basis for maintaining international relations and for joint research programmes.

Research fellows of the institute carried out joint research with the National Research Council (CNR) of Italy on intervention against racism and xenophobia. Within the scope of this research, several studies were published in English.

During the year under review, the co-operation continued with the Institute of State and Law of the Czech Republic.

In addition, more researchers took part in the work of the EU Fundamental Rights' Agency (research unit for fundamental rights).

IV. Brief summary of national and international research proposals, winning in 2012

The project entitled **OTKA T/76488 (1 April 2009 – 30 April 2012) „The Impacts of the Lisbon Treaty on Hungarian Legal System”** had been completed in the year under review, the most important result of our four-year research was a monograph on the relationship between EU law and Hungarian Law (Vörös Imre: Csoportkép Laokoóonnal. A magyar jog és az alkotmánybíráskodás vívódása az európai joggal. [Tableau with Laokoon. Struggle of the Hungarian Legal System and of the Constitutional Courts with EU Law], MTA TK JTI, 2012.), and a collection of essays (Az európai uniós jogfejlődés irányai a Lisszaboni Szerződés után [Tendencies of the European Legal Development after the Treaty of Lisbon], Eds.: Vörös Imre - Horváthy Balázs, MTA TK JTI, 2012.). Besides several articles, essays were published during the research; we held three workshops and an international conference within the project framework. The main aim of the project was a comprehensive analysis of the impacts stemming from the Treaty of Lisbon. The research put the emphasis on three principle areas. Within the first subject (horizontal impacts of the Treaty) analyses were carried out on the relationship between EU law and Hungarian Law; the new competence structure of the EU; the status of the fundamental rights in the EU legal order; as well as current institutional questions of EU law, like as the new leadership model of the EU and the EU presidency. The second aspect of our research (new prospects and possible tasks in the field of legal unification and the approximation of laws) focused first of all on the fragmentation of private international law, and the chances of a possible unification of the numerous EU provisions. The third topic (policies of EU) attached high importance to the aims, principles, and values of the EU external policies, the reform of the common commercial policy, as well as the current issues of the fiscal and monetary policy of the European Union.

OTKA K/78537 (1 June 2009 – 31 May 2012) „Lex Baiuvariorum – Conception of Law and Idea of the Society in the Early Medieval Period”; the outcome of the scientific results had been published in a monograph with 410 pages (*Jog és társadalom a Lex Baiuvariorumban [Law and Society in the Lex Baiuvariorum]*. Szeged, Lectum, 2012. p. 410) and a proceedings consisting of 210 pages (*Studia Iuridico-philologica II. Studies in Classical and Medieval Philology and Legal History*. Szeged, Lectum, 2012. p. 210). The monograph focuses on the issues of legal history (public and private law, as well), political history and semantic history, while the proceedings concentrates on the previous scientific results published before the year under review.

OTKA K/105552 (2012-2015) „Legal Culture in Hungary - Theory and Empirical Research” started, during the year under review the researchers analysed the relevant legal literature and the previous Hungarian antecedents of the subject; furthermore, the theoretical framework of the research had been elaborated.

A three-year project supported by a **Bolyai János Scholarship (2009-2012)** had been finished in September of 2012. The aim of the research was to establish whether the fundamental economic, social, political and legal (constitutional) metamorphosis of Hungary in the last two decades necessitates a drastic reform of corruption offences. As a result of the project a detailed policy paper and a legislative proposal was elaborated to ensure that corruption offences in the private sector (and in public procurement procedures) are regulated to suit the requirements of democracy, market economy and constitutional protection methods.

The project entitled **RED Network Combating Racism, Xenophobia and Intolerance (2011–2013)** established and managed a complex, up-to-date and online database on the subjects of racism, xenophobia and intolerance.

One researcher provided expertise to the **International Expert Group on Nuclear Liability (INLEX)** and the **European Commission** within the field of nuclear liability, meanwhile another researcher took part in the work and expertise of the **Scientific Council of Health** (Committee on Science and Research Ethics).

One researcher published reports, opinions (annual and national reports, thematic articles, etc.) as the expert of the Hungarian working group of the **Racism and Xenophobia European Network (RAXEN)** and the member of the **European Union Agency for Fundamental Rights (FRALEX)** on the legal concerns of racism, xenophobia and human rights in general.

V. List of important publications in 2012

1. Balázs István: Eastern Europe in transition, the case of Hungary. The readjustment of public administration, programs and aspects of the transformation of public administration in Hungary between 1990–2012. *Acta Juridica Hungarica* 53:(2) 115–132 (2012)
2. Dósa Ágnes: Összehasonlító egészségügyi jog. Budapest, Complex, 244 (2012)
3. Gajdushek György: Átpolitizált közzszolgálat. A személyzeti hatáskörök telepítése a magyar közzszolgálat jogi szabályozásában. *Állam- és Jogtudomány* 53:(1) 3-27 (2012)
4. Ganczer Mónika: International Law and Dual Nationality of Hungarians Living Outside the Borders. *Acta Juridica Hungarica* 53:(4) pp. 316-333 (2012)
5. Gárdos-Orosz Fruzsina: The Hungarian constitutional court in transition: from actio popularis to constitutional complaint. *Acta Juridica Hungarica* 53:(4) 302-315 (2012)
6. Fekete Balázs: The Dream of the Western Law. Legal Layers in Solzhenitsyn's Gulag Archipelago. *Acta Juridica Hungarica* 53:(1) 72-82 (2012)
7. Halász, Ivan (szerző): Medzinárodná migrácia, krajania a volebné právo. Praha, ÚSP AVČR, 1–330 (2012)
8. Hollán Miklós: Emberkereskedelem. A kizsákmányolás büntetendő esetei és a büntetőjogi szabályozás határai. Budapest, HVG – ORAC (2012).
9. Horváthy Balázs–Vörös Imre (ed.): Az európai uniós jogfejlődés irányai a Lisszaboni szerződés után. MTA TK JTI, Budapest, 192 (2012)
10. Lamm Vanda: A nemzetközi jog és a büntetőjog határterülete. In: Barabás A Tünde (ed.). *Tanulmányok Irk Ferenc professzor 70. születésnapjára*. Budapest, Országos Kriminológiai Intézet, 173–189 (2012)
11. Majtényi Balázs, Majtényi György: Cigánykérdés Magyarországon 1945-től 2010-ig. Budapest, Libri Kiadó, 224 (2012)
12. Nótári Tamás: Remarks on the Decreta of the First Hungarian King, Stephen I. *Fundamina – A Journal of Legal History* 18:(2) 108–118 (2012)
13. Pap András László: A megfigyelés társadalmának proliferációjától az etnikai profilalkotáson át az állami felelősség kiszervezéséig: Alkotmányjogi és rendészettudományi megközelítések az emberi méltóság, a társadalmi biztonság és az adatvédelem értelmezésekor. Budapest, L'Harmattan, 311 (2012)
14. Schweitzer Gábor: Historizující prvky v Základním zákoně Maďarska In: Helena Jermanová, František Cvrček (ed.) *Quo vadis, střední Evropa?: Metamorfózy práva III*. Praha: Ústav státu a práva, 67–75 (2012)
15. Sulyok Gábor: A nemzetközi jog és a belső jog viszonyának alaptörvényi szabályozása. *Jog Állam Politika: Jog- és Politikatudományi Folyóirat* IV (1) 17–60 (2012)

16. Tóth Mihály: Az elítéléshez kapcsolódó hátrányos jogkövetkezmények és a mentesítés. In: Belovics Ervin – Gellér Balázs – Nagy Ferenc – Tóth Mihály – Busch Béla (ed.) Büntetőjog I. Általános Rész: A 2012. évi C. törvény alapján, Budapest, HVG-ORAC, 520–533. (2012)
17. Varga Csaba (ed.): Horváth Sándor: A természetjogról (Budapest, Szent István Társulat 2012) vi + 332
18. Vörös Imre: Csoportkép Laokoóonnal. A magyar jogrendszer és az alkotmánybíráskodás vívódása az európai joggal. HVG-ORAC, Budapest, 127 (2012)