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SUMMA

UNION CITIZENSHIP IN THE CONTEXT OF NATIONAL LEGAL ORDERS

Laura Gyeney

Studies on the relationship between EU citizenship and Member State legal orders speak either of the loss of control over national sovereignty or, on the contrary, the judicial deconstruction of Union citizenship. These firm positions on how EU citizenship should be perceived fit well with the two markedly different mindsets represented in legal literature: while representatives of the federalist view envision a politically integrated, supranational community behind the treaty provisions on EU citizenship, sovereignists oppose the extension of EU powers via judicial interpretation tooth and nail. This study aims to find an answer to the question whether the CJEU, in its latest judgments on EU citizenship issues, has succeeded in consolidating the constitutional basis of EU citizenship in a way that is reassuring for Member States, i.e. by respecting the principle of conferral.

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LEGAL APPROXIMATION IN THE EU AS CONTINUOUS BANCHMARKING – EVALUATION – ACCOMODATION AT MEMBER STATE LEVEL: METHODOLOGICAL ASSESSMENT

Mónika Józon

The paper discusses the methodology of the multi-layer process of legal approximation within the EU. Section I starts with conceptual clarifications by presenting the various forms, levels and instruments of harmonisation, while fine-tuning conceptually the differences and identifying the actors framing the processes. Section II comments on how the EU actually exercises its competence under Article 114 TFEU in the light of statistical data on infringement procedures and preliminary references. Section III identifies the major systemic causes of the implementation and enforcement difficulties at Member State level of the harmonized national legislation, while Section IV discusses the methodological particularities of assessing the 'hybrid law' that is the outcome of legal approximation against the policy aims of EU integration

and highlights the methodological mismatches of the harmonized laws based multi-layer governance. The paper concludes by pointing out the constitutional consequences at Member States level of the methodology pursued by the EU institutions within the process of legal approximation.

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THE REGULATION OF CAR-SHARING AND ITS CONTRIBUTION TO ENVIROMENTAL PROTECTION

Martin Milán Csirszki

Environmental protection is one of the most important issues of our world. In all aspects of life we have to find innovative and environmentally sound tools to fight against the dangers of environmental harms. Transportation and with regard to this CO_2-emission is a crucial factor that causes many problems for climate and environment. That is why people have to recognise the dangers caused by internal combustion engines and have to shift to eco-friendly transportation solutions, such as electric vehicles. In the article the author analyses the frame of e-mobility and one of its parts, the topic of car sharing. The author scrutinises the legal regulation of car sharing through the example of Germany, where there is a forward-looking act in connection with the issue. After the analysis he tries to suggest some proposals that may be applicable in the Hungarian legal system.

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THE ARTICLES OF ASSOCIATION IN THE POINT OF VIEW OF CONTRACT LAW

Zoltán Fazakas

The rules of civil law are adopted to provide legal framework for the legal relationships of natural persons and legal entities, which seek to achieve certain goals. The means of achieving these goals in economic life are classically enforced through contracts. According to a basic principle of civil law – namely the autonomy of the parties – contracting parties can be both natural and legal persons. In economic life, however it is mostly companies – pursuing certain economic activities –, which conclude contracts. The advantage of being incorporated as a company, in particular is the insular personalities, responsibilities and assets of the company and its members. In order to create a company, the Hungarian law requires the creation of articles of association, which displays special characteristics of contract law. That means that under the law, business organisations have two contractual faces, once as a subject, twice as a party of a contract. The economic reality, these requirements and legal institutions justify

the execution comparative analysis of the general institutions of contract law and the articles of association.

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DEVELOPMENT OF THE EXCEPTIONAL POWER SYSTEM OF THE USA IN THE LONG 19TH CENTURY

Roland Kelemen

In his study, the author introduces the exceptional powers established in the country's specific constitutional structure after the War of Independence of the United States. In the detailed description of the martial law-type exceptional rules based on English traditions that means the basis of these systems, the author covers the legislative and presidential powers, examines them form a contextualist perspective. After that he reviews the development of law between the constitution and the Civil War, during which the American practice of martial law has been completely transformed, and that brings us from the exclusive power of Congress to the presidential ordination and exercise of rights approved by the Supreme Court. The Civil War I a significant milestone in the History of the American exceptional power thinking, as this is when the typical American model emerges. This required the Civil War practice of Lincoln, which actually filled the so-called institution of the president of war.

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„SU MAJESTAD CESÁREA, NO SE VA A METER EN LOS ASUNTOS DE HUNGRÍA NUNCA MÁS"

Zoltán Attila Liktor

El reinado de Rodolfo de Habsburgo (1576-1608) en Hungría fue marcado por la violación permanente a la constitución, la persecución ilegal a los líderes politicos protestantes, y una serie de abusos de los derechos de la nobleza húngara. La tentativa fracasada de liberar al resto de Hungría de la ocupación turca durante la guerra de los Quince Años (1591-1606) conllevaba muchos sacrificios. Las arcas públicas se vaciaron durante la guerra, y la administración Habsburgo quería resolver los problemas financieros por la confiscación de bienes de la aristocracia húngara. La furia y el disgusto aumentaba cada día, y finalmente condujó a la rebelión húngara líderada por Esteban Bocskay (1604-1606). La nobleza quería que el rey emperador (Rodolfo fue emperador del Sacro Imperio Romano Germánico) tarminara la guerra con los turcos y que restaurara el orden constitucional dentro del país. Finalmente lograron su objetivo, en 1606 el hermano menor de Rodolfo, el archiduque Matías firmó el tratado con la nobleza húngara en Viena (se llama, pacificatioViennensis) y después con los turcos

en Zsitvatorok. Pero el alcohólico, melancólico Rodolfo no quería cumplir ninguno de los dos tratados, al contrario quería iniciar una nueva guerra sin dinero, sin apoyo político-militar del parte de la nobleza, lo cual corría con gran riesgo para el Imperio Habsburgo. El archiduque Matías hizo esfuerzos para que convenciera al emperador que respetara los dos tratados, sin exito. Finalmente, Matías con el apoyo de toda la Casa de Habsburgo (incluso del rey espa**ñol** Felipe III de Habsburgo) el frente de los hungaros y los austriacos logró que Rodolfo renunciara del trono húngaro y de los territorios austriacos a su favor en 1608.

Después en la Dieta de Pozsony (1608) los tres órdenes y estamentos (el clero, la nobleza y los representantes de las ciudades libres) votaron dos codigos, los cuales fueron promulgados por el nuevo rey Matías. Restauraron el orden constitucional, reestablecieron la libertad de culto para todos (en medio de las guerras religiosas en Europa esto fue un exito verdadero) y garantizaron los derechos y privilegios de la nobleza. Restauraron el poder y la jurisdicción del palatino (la figura más importante del poder público) y del ban de Croacia. Reiteraron la antigua demanda que los asuntos hungaros fuesen tratados por los hungaros y no por extranjeros. Exigieron al rey que llevara la Sacra Corona húngara (desde Praga) al castillo de Pozsony y que no la llevara fuera del territorio húngaro nunca más.

A finales del reinado de Matías a cambio de la elección del archiduque Fernando como próximo rey de Hungría en la Dieta de Pozsony (1618) forzaron al archiduque que firmara una carta de garantía (*diploma inaugurale*) en la cual prometió que respetaría las leyes de 1608 y 1609 especialmente los derechos, costumbres, libertades y privilegios de la nobleza, la libertad de culto, la elección del palatino, que defendería el territorio húngaro, y haría todo para que reconquistara todos los territorios hungaros actualmente ocupados por los turcos. Además, prometió que promulgaría esa carta cuando él ascienda al trono. Esa carta se convirtió en la base de las cartas de garantía del siglo XVII. Todos los reyes la promulgaron antés de su coronación hasta el último rey beato Carlos IV de Habsburgo de Hungría (1916).

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THE PRIORITY ROLE OF UNIVERSAL PRINCIPLES OF ENERGY LAW

Melinda Perecsenyi

Nowadays energy law belongs to one of the most dynamically evolving branches of law, while it cannot be decoupled from climate and environmental law. Defining the conceptual background of energy law has particular importance, considering the fact that the international, European and national regulatory framework is still in the state of continuous development. The elaboration of coherent energy law principles currently is in its infancy, therefore developing them belongs to the challenges of today's legal science. This study firstly ensures a brief definition about the notion of energy law and

legal principles in general, secondly outlines the most important principles of energy law that must be considered in the course of designing and implementing the regulatory environment. The study scrutinises the international, EU and national legislation in order to provide examples for the emergence of energy law principles at the different regulatory levels.

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THE INTERNATIONAL LAW COMMISSION AND THE PROTECTION OF THE ENVIRONMENT IN TIME OF ARMED CONFLICTS

Franciska Regős

Armed conflicts have always meant a serious threat to our natural environment. We saw how massive destruction can warfare cause. After Vietnam and the Gulf War, the international community came to a realization. We need to take action, to strengthen the protection of our environment related to armed conflicts. The International Law Commission, answering this need, decided to include the topic „Protection of the environment in relation to armed conflicts" in its program of work. In 2019 the Commission provisionally adopted 28 draft principles on first reading. So the question has arisen: what are the achievements so far? How did the International law Commission enhance environmental protection? What kind of law development happened? This study is trying to present the International Law commission's work on the protection of the environment related to armed conflicts, while also trying to find answers to these questions.

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THE ROLE OF DIGITAL LITERACY AND ONLINE INTERMEDIARIES IN TACKLING CYBERCRIME

Kinga Sorbán

Cybercrime is a contemporary threat to the proper functioning of modern societies. It is tough to measure the exact scale of criminal activity of cyberspace, mainly due to the anonymity that the online sphere provides. Yet the damage caused by illegal activities can be very well measured and reach billions of Euros each year. Prevention is vital when it comes to the effective tackling of the threats coming from the Internet. To prevent cybercrime, the involvement of the users – possible victims – is of paramount importance as they are the ones who can install antivirus software, detect when something on their device is wrong, and make complaints when they stumble into illegal content. The role of states is therefore to act in the public interest and take measures to develop the digital

literacy of its citizens. This exercise can only be effective if the countries have a clear view of the existing levels of digital literacy so that they can identify the gaps and areas that are to be developed. The Institute of Information Society at the National University of Public Service has conducted representative research in Hungary during 2019 on trust and awareness in the information society. The research paper summarizing the main findings of the research aims to give an overview of the existing digital literacy skills and maps the areas where state intervention might be necessary.

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POLISH RETAIL TAX AND THE FUTURE OF PROGRESSIVE TAXATION

Tamás Zoltán Wágner

Nowadays, EU law extended its scope to various fields which were deemed to be part of the member states' sovereignty such as trade policy, consumer protection, environment protection. On the contrary, taxation was retained by the member states: tax sovereignty is still the main principle in this field. All these mean that only one member state can hinder law-making if the given proposal is considered to be detrimental to its tax system. Despite this fact, the European Commission continuously seeks to undermine the veto power of the member states in order to overcome obstacles before tax avoidance.

In this regard, state aid law seems to be an effective device because the Body does not have to initiate a lengthy infringement procedure – which can last for years –, instead, it can act within months. Besides, it enables the Commission to avoid the veto power of the member states. As a consequence, it launched several investigations against tax regulations. In this respect, the question of progressive taxation deserves special attention. Since, according to the newest jurisprudence of the Commission, only those met state aid criteria where particular purpose or negative externalities justified the regulation concerned.

In the light of these, it was not an accident that the Commission scrutinized the Polish retail tax which served a redistributive aim. In addition, the Body was in a favourable situation at that time: none of its former resolutions were abolished by Union courts. But a further defeat would seriously restrict the room of the member state and would force them to abandon this type of taxation. Therefore, the final outcome of the case was vital to the future of progressive taxation.

The following study firstly explains the legal and political-economic background of the case. After addressing procedural questions, we judge the consequences of the case. Could the member states retain their power regarding taxation?