



**ANDRÁSSY
UNIVERSITÄT
BUDAPEST**



**The Faculty of Law and Political Sciences of the
Pázmány Péter Catholic University and**

**the Centre for Democracy Studies of the
Andrassy University Budapest**

would like to invite you to the

INTERNATIONAL CONFERENCE

on

„POPULAR SOVEREIGNTY VS. RULE OF LAW: PROCEDURES, JUDICIAL CONTROL, AND THE BORDERS OF POLITICAL LEGITIMACY“

PLACE: Pázmány Péter Catholic University
Faculty of Law and Political Sciences
Dean's Councils Room
1088 Budapest, Szentkirályi u. 28-30.

Andrassy University Budapest
Andrassy Saal (Andrassy Hall)
1088 Budapest, Pollack Mihály tér 3.

TIME: **FRIDAY, 21 October 2016**
09:20-20.00

We would be very pleased to welcome you!

[RSVP online till 20 October 2016.](#)

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POPULAR SOVEREIGNTY VS RULE OF LAW PROCEDURES, JUDICIAL CONTROL, AND THE BORDERS OF POLITICAL LEGITIMACY

International Conference

Budapest, 21 October 2016

Conference Topic

The principles of popular sovereignty and rule of law are both fundamental ideas of modern constitutionalism. The idea of popular sovereignty recognizes the people as the highest power and the final source of the state's authority, it expresses further that governments are sustained by the consent of the governed. The principle of the rule of law – even if in formulations different from the genuine English idea such as the French constitutionalism or the German "Rechtsstaat" – embodies the requirement that every state authority shall act in accordance with law and respect the fundamental rights and freedoms of the people.

Notwithstanding, it is also historically evident that these two principles may come into conflict with each other (democratic paradox). Democratic decisions did not naturally observe legal constraints in the past and elected power-holders could not always resist the temptation to refer or have recourse to popular support in order to legitimize illegal measures. The legality and the legitimacy of a particular political regime or decision may therefore differ from one another. Thus, most modern political systems aim at a reconciliation of the two principles and tend to set constitutional bounds to the exercise of popular sovereignty. This endeavour faces special problems in case of direct democratic decision-making processes: on the one hand it is desirable to assert the positive potentials of bottom-up initiatives but on the other hand it is also important to prevent the destructive effects of direct democratic decisions like the violation of fundamental rights of citizens and minorities. Direct democratic mechanisms are therefore often subject to a previous or a subsequent judicial control which concentrates on the legality of the question put to referendum and on the compliance with the procedural requirements set out by law. But judicial control is not in place in every political system that has direct democratic procedures. In this case "legitimacy test" is trusted upon the political process.

The aim of the conference is to treat this complex issue both from a theoretical and an empirical point of view. As regards the theoretical aspect, papers shall focus on the diverse dilemmas resulting from the two principles and should make an attempt at defining the normatively and practically possible scope of direct democratic decisions. Empirical studies may present concrete solutions by means of which different legal systems try to find a reasonable middle course between popular sovereignty and the rule of law. Comparative presentations are also welcome.

Budapest, 22 September 2016

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PROGRAMME

Pázmány Péter Catholic University (Dean's Councils Room)

09.20-09.30 **WELCOME ADDRESS**

09.30-12.30 **PANEL 1: THEORETICAL FOUNDATIONS**

09.30-09.50 **Siegfried F. Franke (Andrássy German-Speaking University Budapest):**
"Drawing the Lots instead of Voting – The only way to Restore Democracy?"

09.50-10.10 **Maté Szabó (Eötvös Loránd University):**
"Ombudsman as a Mediator of Popular Demands to Constitutional Court? Tribuns Populi/Volkstribun and Defender of Rule of Law/Rechtstaat at the same Time"

10.10-10.30 **Lóránt Csink (Pázmány Péter Catholic University):**
"Constitutional Adjudication vs. Parliamentary Supremacy – Different Approaches of Europe and America"

10.30-10.50 Discussion

COFFEE BREAK

11.10-11.40 **Hajnalka Szarvas (National University of Public Service)**
"A New Approach of Sovereignty – Breaking 'The Spell of the Monarchy'"

11.40-12.00 **Szilárd Tattay (Pázmány Péter Catholic University):**
"Representation of the Interests of Future Generations as Part of Popular Sovereignty vs. Rule of Law"

12.00-12.20 Discussion

Andrássy University Budapest Andrásy Saal (Andrássy Hall)

14.00-14.20 **PANEL 1 (continued): Theoretical Foundations**

14.00-14.20 **Christoph Frei (University of St. Gallen):**
"Rousseau"

14.20-18.00 **PANEL 2: Practical Aspects/Case Studies**

14.20-14.40 **Matt Qvortrup (Coventry University):**
"The Brexit Referendum: What Just Happened?"

14.40-15.00 **Zoltán Tibor Pállinger (Andrássy German-Speaking University Budapest):**
"Prince and Citizens: Sovereignty, Democracy and Rule of Law in Liechtenstein's Mixed Constitution"

15.00-15.30 Discussion

COFFEE BREAK

16.00-16.20 **Daniel Möckli (University of Zurich):**
"The Legal Limits of Popular Initiatives in Switzerland"

16.20-16.40 **László Komáromi (Pázmány Péter Catholic University):**
"Mechanisms of Direct Democracy in Hungary: Legal and Other Impediments"

16.40-17.00 **Csaba Madarász:**
"Social Reform through Referendum"

17.00-17.20 **Bruno Kaufmann (Swiss Democracy Foundation):**
"Transnational Popular Sovereignty and the Rule of Law - Four Years of Experience with the European Citizens Initiative"

17.20-18.00 Discussion, short summary

Andrássy University Budapest Andrásy Saal (Mirror Hall)

19.00 CARL-LUTZ LECTURE

Hans-Urs Wili:

Souveränität, Demokratie, Mehrheit – Schlagworte für autokratische Absichten? Über Zuständigkeiten, Gewaltenteilung, Recht und Ethik

(THE PUBLIC LECTURE WILL BE HELD IN GERMAN)

After the Lecture a Standing Reception will be offered