*Constitutional responsibility of the Executive and the current challenges of the Judiciary of the 21st century*

**Conference**

**Place**: Andrássy University Budapest, Spiegelsaal

**Date**: September, 2018

**Organizers**: Ministry of Justice, European Public Law Organisation

**Synopsis**

In every democracy the independence of the judges and the judiciary has to be guaranteed and safeguarded from the influence of other branches of power and state institutions. The different regions of Europe, the specific history of the countries in Europe, the unique features of their law system have resulted in different kinds of systems for judiciary.

All powers have responsibilities in the field of justice. The constitutional power and the legislative power are responsible for the framework and applied law of the courts. Judges have no power of legislation, no law-making power, only the power of jurisdiction – both powers have their rightful place in a constitutional democracy. The executive power however shall respect the independence of the courts. In some countries the minister of justice has certain responsibilities regarding the functioning of the administration of justice. The ministers may not only have a role regarding the budget of the courts, but also in a lot of cases it is his responsibility to ensure the efficiency and proper functioning of the administration of justice and safeguard the public trust in the court system. The duties of the minister of justice however can never affect the independence of the judiciary.

The goal of the conference is to present the different types of administration of justice in Europe, structural models of jurisdiction, court administration and the guarantees of judicial independence. The second panel of the conference will be focused on administrative jurisdiction in Europe.

The conference is organized by the Ministry of Justice of Hungary. Decades ago the ministerial administration model was the general model applied in many countries. Since then, – as the Venice Commission pointed out – in the 20th century the self-governance bodies, judiciary councils gained a greater role and significant value. Nevertheless, there are differences between countries operating under a self-government model as well. In many cases there is a certain development, progress, looking for new ways in the field of judicial administration. The functioning of the courts is changing, the work of the courts affects the life and work of the citizens, the corporations, societal actors – their opinion has to be heard as well. In this dynamically developing environment, there is a need in every country to evaluate the situation in light of recent developments.

There are more aspects relating to these new phenomena, only one of them is the administration of courts. Hungary reforms the structure of its administration of justice and introduces administrative courts as specialized courts parallel to the ordinary courts – the court system will be divided into two structures, similarly to the French system. This means that a separate and specialized administrative jurisdiction will be introduced into the structure of the Hungarian court system, as an independent specialized branch. It is evident that the courts, as institutions of the state, cannot withdraw into an ivory-tower, disregarding society and the people. Judges and courts are actively parts of our societies; therefore they need to actively interact with the people. New phenomena, like investments in a global world, the free movement of capital within the European Union and new social trends require increased public trust in the courts’ daily operations.

The new phenomena are also indicated by the fact that the European Commission releases annual justice scoreboards to assess the performance of the courts in the EU Member States. The nation states of the EU conduct their own assessment as well. This comes with debate – but the question is, who can participate in such a debate? Can the ministers of justice share their opinions, based on hard facts and experience, about the challenges of managing the administration of justice? Does the minister of justice have a responsibility derived from the constitution to assess the operation of the judicial system and take measures to safeguard its continued efficiency? The executive power and jurisdiction have to work together along with the academic community to identify the new answers to the progress of the judiciary.

In the 21stcentury there is need for constitutional dialogue and for academic debates, furthering the development of the judiciary systems. Debates about the independence of the judiciary are consistently on the agenda. The goal of the conference is to share the best practices of the executive and judicial competences in the field of self-governance, and to invite the academic community to share their theoretical knowledge of this topic. International practices, academic research and personal experiences have to be assessed together to reach consensus – recognizing constitutional traditions of other countries as well.

The first panel of the conference will be about judicial administration. The speakers in the first panel will be experts of the legal systems of Central-European countries and former ministers of justice, sharing their own practical experience and theoretical knowledge on the administration of the judiciary and other responsibilities regarding the third branch of power.

The second panel involves a round-table discussion with judges and experts of the field about the need for a separate administrative court system in a constitutional democracy, respecting the rule of law. There are different models of administrative court systems in the European Union. Is there an added value in terms of rule of law in having administrative courts as independent, specified courts? In what way is the administrative court system different from other areas? What is the mission of a separately organized administrative jurisdiction in the 21st century?

The challenges to rule of law and judicial independence can only be solved by proper dialogue and analyzing several perspectives, models, countries and practical experiences at the same time. Without independent judges and justice systems, there is no democracy.

As Andrew Jackson stated in his letter to Andrew Jackson Donelson in 1822: *„All the rights secured to the citizens under the Constitution are worth nothing, and a mere bubble, except guaranteed to them by an independent and virtuous Judiciary.”*