

The project examines the systemic changes in Poland and Hungary.

Hungary, since 2010, and Poland, since 2015, have faced rapid and hasty transformation of the constitutional system. Taking this into account, the investigators explore how constitutions may be 'captured' and 'used' by political decision-makers to fulfil their political agendas. These states have been transformed from being (liberal) constitutional democracies into something else – often described as authoritarian, semi-authoritarian regimes, lands in-between democracy and authoritarianism, and democracies in crisis. More importantly, the newly established system can be described as 'illiberal'. This term is used directly in relation to Hungary by Hungarian Prime Minister. Therefore, the term, in the field of constitutional law and theory, should not be set aside. Of course, such adjective in relation to democracy can be doubtful and not welcome. However, it is commonly used by politicians, political scientist and comparative constitutional lawyers. Consequently, the concept of illiberal democracy and illiberal constitutionalism is justified to be theorized.

The main objective of the project is to study how the constitutional mechanisms have been abused in different ways by Hungary and Poland, and yet how different methods have led to the same effect - shaping illiberal constitutionalism. In researchers' view, both the Hungarian and the Polish constitutions and constitutionalism have been captured by the leading political parties. An illiberal democracy is thus formed by a populist political majority which lacks self-restraint and which could capture the constitution and constitutionalism in a legal way, with formal and informal constitutional change, and by first paralyzing, then packing the constitutional courts.

The investigators consider an illiberal democracy not as the opposite of a liberal democracy but instead as a state in which the political power relativizes the rule of law, democracy and human rights in politically sensitive cases, and constitutionalizes populist nationalism and identity politics. Consequently, constitutional democracy still exists but its formal implementation outweighs its substantial realization. That serves, in turn, to fulfil the populist agenda.

It is presumed that both Hungary and Poland feature an illiberal democracy, the dismantling of which does not seem likely. The researchers' hypothesis is that public law measures, such as: militant democracy including civil resistance; the EU measures (art. 7 TEU); constitutional review employed by common courts and the doctrine of unconstitutional constitutional amendment, have failed. Consequently, a peaceful and legal retransformation is highly doubtful. The established illiberal system is stable, the 2018 general election result in Hungary support this assertion. The stability of the new regime in Poland will be proved by general election results in 2019. Therefore, it can be expected that the Hungarian and Polish example could be a formula used by future builders of illiberal democracies.

Research will make an extensive use of comparative approach and research results of narrative psychology. The researchers are planning to examine whether the unique form of the system could be accommodated in other Visegrad countries (Czech and Slovak Republics). Furthermore, the possibility of retransformation will also be addressed by using the East African (Kenya and Tanzania) examples.