

SUMMA

FORMALISM AND THE CASE LAW
OF THE DATA PROTECTION OMBUDSMAN

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The paper *Formalism and the case law of the Data Protection Ombudsman* tries to anchor the academic discourse at the border between constitutional law and legal theory, in that it seeks to place the case law of the Data Protection Ombudsman (DPO), a legal institution that ceased to exist ten years ago, between law-based positivism (formalism in the argument of the paper) and informal fundamentalism in the defense of fundamental rights. In the paper's argument, the DPO's jurisprudence is informal. However, the paper claims more than that. According to this paper, legal formalism itself raises empirical analytical issues in constitutional decision-making. Several of the findings of the study challenge legal formalism. The paper does not, however, challenge the normativity of legal formalism, but argues that these normative assertions cannot be verified by descriptive methods. At the same time, the study's rich case-law analysis could be a valuable resource for other subsequent research.

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THE ANALYSIS OF LEGAL DEBATES IN ARISTOTLE'S
RHETORIC: TRADITION AND INNOVATION

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Already in antiquity, Aristotle's *Rhetoric* was mentioned among the possible sources of Hellenistic *stasis* theories, and modern scholarship has also seen attempts at describing this influence. The lack of sources makes such an endeavour unlikely to be successful, however. It is nevertheless a valid question to what extent the *Rhetoric* can help us understand the development of *stasis* theories, in terms of parallels rather than origins. The first part of the paper compares the analysis of legal disputes in the *Rhetoric* with that of the *Rhetorica ad Alexandrum*, since the latter

is usually considered as being closer to earlier rhetorical tradition. The second half then deals a more specific question, the sub-issues of the *stasis* of ‘quality’ (*poiotēs*), the Hermagorean description of which is considered problematic by both Cicero and Quintilian. The Hermagorean distinction, however, seems quite similar to Aristotle’s discussion of the various aspects of wrongdoing.

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THE GUARDIAN OF THE DEMOCRATIC FUNCTIONING OF THE STATE

Head of State in state of emergency

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The ninth amendment to the Fundamental Law has significantly changed the special legal order (SLO), including the regulation of state of emergency. As a result, the Government is now entitled to take emergency measures not the President of Republic as earlier. According to international trends and the development of information technology, the revision of the legislation was necessary. At the same time, it is worth considering how the amendment relates to the status of the Head of State. In my study, I review the relevant elements of the existing legislation on the status of the head of state. In this context, I define his role in the Hungarian state organisation and examine the past and present rules on the state of emergency. On the basis of these, I conclude whether the new system is suitable to deal with all possible crisis situations, whether it is sufficiently effective and whether it is in line with the rules governing the institution of the Head of State.

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BASIC ISSUES OF LAND PRICES IN HUNGARY

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In this study, the authors present and analyse the practice of land pricing in Hungary in the light of recent legislative changes, regarding the possibilities of the Hungarian Chamber of Agriculture and agricultural administrative body, as well as the relevant judicial practice. Starting from the relevant constitutional and statutory provisions, the study describes, through pragmatic examples, the old-new problems related to the determination of land prices. The study concludes that the opinions of forensic experts continue to play a decisive role in the determination of land prices and their dispro-

portionality, and that the courts take them into account in all cases when making their decisions. In addition, *several other questions 'have not yet been answered'* by a court decision, such as the question of the bearing of the costs of the lawyer's fees or (forensic) expert's opinion included in the contract.

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WHISTLEBLOWING AS COMMUNICATION

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In this paper, we attempt to interpret the phenomenon of whistleblowing in relation to freedom of expression. The paper is divided into three main structural elements. First, the concept of whistleblowing is introduced, illustrating the difficulties and challenges in conceptualising the phenomenon. This is followed by an attempt to provide a theoretical foundation for the fundamental rights approach to whistleblowing, which provides the theoretical basis for the third and final section, an analysis of whistleblowing cases in the light of the case law of the European Court of Human Rights. The methodology of the paper is based on secondary analysis (desk research) and legal case studies. The aim of the study is twofold. On the one hand, we want to provide an in-depth picture for the legal analysis and interpretation of whistleblowing, and on the other hand, we want to show the legal tests and yardsticks by which whistleblowing is practised in relation to freedom of expression and how these tests have changed in recent years.

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THEORETICAL AND PRACTICAL ISSUES CONCERNING THE OBLIGATION OF THE HOLDER OF THE HUNTING RIGHT TO PREVENT WILDLIFE DAMAGE

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The holder of the hunting right has an absolute obligation to compensate for wildlife damage, so in order to claim compensation for wildlife damage, the land user does not have to prove that the holder of the hunting right has failed to fulfil his obligation to prevent wildlife damage, and the holder of the hunting right cannot escape the obligation to compensate by proving that he has fulfilled his obligation to prevent wildlife damage in a manner that could normally be expected in the circumstances. Notwithstanding that, a breach of the multifaceted obligation to prevent wildlife damage by the holder of the hunting right may have legal consequences in the private law relationship

between the holder of the hunting right and the land user arising from the wildlife damage. To demonstrate this, the study first examines the content of the wildlife damage prevention obligation incumbent on the holder of the hunting right and the question of the bearing of the costs incurred in connection with the prevention of wildlife damage, then analyses, in the light of this, the legal consequences that may result from a breach of the wildlife damage prevention obligation incumbent on the holder of the hunting right.

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NO ONE LEFT BEHIND? THE PLACE OF NON-COMBATANT EVACUATION OPERATIONS IN INTERNATIONAL LAW

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States often have to arrange for the evacuation of their citizens endangered abroad. For example, Hungary has been involved in such operations to, carrying out five evacuations in the last few years. Despite this, the subject has received minimal attention in the Hungarian literature.

In this study, a subtype of evacuation operations, the non-combatant evacuation operation (NEO), was analysed in detail. These operations, although unknown in the Hungarian literature, are receiving increasing attention abroad. Nevertheless, no exhaustive attempt has yet been made to define them and to place them in international law. Thus, the two main objectives of this study were to define NEOs and to explore the relationship of these operations with international law.

In the first part of the study, after a detailed analysis of the known state and literature definitions, a working definition is established, describing the basic characteristics of the non-combatant evacuation operations and providing a way to distinguish them from other concepts (e.g. humanitarian intervention). The second part of the paper explores the place of NEOs in international law through a dogmatic analysis. To this end, the main legal issues of the protection of nationals abroad are presented and answered. The main conclusion of the study is that NEOs do not constitute a separate legal institution. They are a type of operation, in relation to which several legally relevant issues can be identified.

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THE LIABILITY TO PAY THE TAX IN GERMAN TAX LAW – MODEL TO FOLLOW OR A PATH TO BE ABANDONED?

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The aim of the present study is to find foreign “good practice” on domestic legal interpretation issues in the field of the liability to pay the tax. The German regulatory environment and jurisprudence are suitable for this. In my study, I first deal with the characteristics and structure of the German Tax Act (*Abgabenordnung*). Secondly, I shall refer to the general characteristics of the legal institution of the liability to pay the tax. Thirdly, I will explain in detail the substantive side of the legal institution, the provisions concerning the person liable to pay the tax. Fourthly, I present the essential provisions of the procedural side and the practical application of the liability to pay the tax. Finally, I summarize the functioning of the German system and define its most important features. As a conclusion, it can be stated that it represents a model to be followed for the Hungarian regulation. This is particularly valid with regard to the legal statuses and scope of legal remedies. But the picture is shaded, because there are areas, such as the question of the effectiveness of the legal institution, which cannot be followed uncritically.

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THE DIFFICULTIES OF COMBATting TAX AVOIDANCE PRACTICES OF MULTINATIONALS BY MEANS OF LEGISLATION AT EUROPEAN AND INTERNATIONAL LEVEL

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Nowadays, the various tax avoidance techniques used by multinational companies pose a serious challenge to states, as they lose significant budget revenues. It is no coincidence that after the global economic crisis of 2008-2009, ideas came to the forefront that seek to solve this problem through legislation both at EU and international level. In this respect, however, although there is agreement in principle between countries, in practice there are several factors that prevent legislative action. In this paper, we will examine these factors. Overall, we will see that pressure from the media and NGOs – although it was rather an obstacle initially – can gradually break the resistance of states. The culmination of this process is the adoption of a global minimum tax on the international stage and its subsequent implementation in the EU.

