

University Doctoral (PhD) Dissertation Abstract

***EMERGENCIES AND POSSIBLE RESPONSES OF STATES IN THE
CONSTITUTIONAL DEMOCRACIES***

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1. BACKGROUND AND THE AIMS OF THE DISSERTATION

Emergencies are mostly sudden, and the states in most cases need special measures to deal with them. For this reason constitutional democracies have standing constitutional or special legal powers to derogate human rights for the sake of order. Those democracies that do not have such powers, use impromptu ones.

There are at least two main problems with the responses to emergency. First of all the state must respond to it effectively and therefore shall use measures which are not allowed during normal times. This is the state's responsibility to protect itself and also the nation, but I don't think that this is the main problem. The more serious question is the following: How could a state deal with an emergency effectively and at the same time protect human rights and the constitutional democracy itself?

The most dangerous aftermath of an emergency is the possibility for authoritarian governments to abuse emergency powers in order to stay in power, to derogate human rights and to silence the opposition. Therefore it is essential for a constitutional democracy to have strict limits for the duration, circumstance and scope of emergency powers. Modern democracies often turn swiftly to law in a state of emergency. The ever-present danger is that the executive forces with the emergency powers in their hands might abuse democracy itself.

Subject of the dissertation are the exceptional situations, the emergencies and the possible responses of states to these. The research preferred a theoretical-focused examination therefore I made less attention on the analysis of the details on applicable legislative provisions. I made huge efforts in order to find out the most relevant theoretical questions of state of emergency.

The starting point of the dissertation was that the ever-present problem with emergencies is solely a problem for constitutional democracies so I didn't analyzed the possible responses of anti-democratic regimes in my dissertation.

The subject of the dissertation is always current because there are countless emergencies in the world (civil wars, crimes, terrorist attacks, economic crisis, natural

disasters, industrial accidents etc.) and constitutional democracies must face them with almost the full knowledge to deal with them. The dissertation made it clear that the main focus of the research is the protection of human rights in emergency situations, but I also made my conclusions on basic constitutional values as well. At the same time it is also important to be aware using exceptional measures longer than they are needed. In my dissertation I tried to describe all the advantages and disadvantages of the analyzed state of emergency models bearing in mind constantly these principles.

Research objectives, questions and hypotheses, which were raised at the beginning of the research

In my dissertation I tried to create a unified conceptual framework in order to examine the different constitutional solutions. My main task was to find a scheme which I can use for all constitutional democracies with different and special emergency powers. I will show in details that this task was the most difficult and most complex one.

In the beginning of my dissertation I made the following questions and *hypotheses*:

- Is it possible to deal with an emergency effectively and at the same time preserve constitutional democratic core values?
- Is it possible to use unified scheme for the different constitutional democratic solutions?
- Which are the guarantees in order to avoid the deformation of the constitutional democracy by using emergency powers?
- Preserving constitutional democracy in mind, is it the better option to make the constitution available for emergencies through regulating state of emergency rules previously or in this aspect the “regulated state of emergency” is not as relevant as most people think?
- In relation to this above-mentioned question is there any other constitutional guarantees beside the preliminary regulation?

Geographical aspects

Geographically the research focused on the United States and on Europe. In the European aspect I analyzed the relevant case law of the European Court of Human Rights, because it is the sole real human rights regime with direct effect on the member states of the European Convention on Human Rights. I also analyzed two specific European countries: Germany and Hungary.

The German history of state of emergency is very interesting and on the one hand made it possible to draw attention the jeopardy of uncontrolled emergency powers, on the other hand the twentieth century history of the German state of emergency showed all of my three theoretical models (dichotomy, monist and business as usual¹).

Finally I focused on the modern history of Hungarian state of emergency. I made the choice to start the analysis with constitutional transition in the year of 1989 because in the modern sense of constitutional democracy, Hungary struggled to make democracy before, not to mention the fifty years of dictatorship under the Soviet regime.

¹ The models will be presented in the fourth chapter of this abstract.

2. STRUCTURE AND THE THEORETICAL GROUNDWORK OF THE DISSERTATION

I divided my dissertation into two main parts, each contains two chapters. In the first part I laid the most important theoretical backgrounds which were the following.

In the first chapter I tried to create a unified conceptual framework in order to examine the different constitutional solutions. Therefore I made a distinction and I used the term "emergency" or "emergency situation" for all situations which result in special state responses. If these responses are "exceptional", independently of the constitution's emergency rules (if the constitution contains such rules) I called this reaction "state of emergency" which also means the inherent processual and judicial guarantees in preserving human rights and the rule of law.

I used the theory of "traditional classification" of emergency situations. According to Subrata Roy Chowdhury, there are three different situations which may arouse the need for state of emergency.² The first could be grave political crises with violence, such as are armed conflicts, terrorist attacks, rebellions and riots. The second category involves natural disasters and the industrial accidents, while the third is economic and financial crisis. These categories may require different actions from the states, for example, a violent crisis may require prompt and definite reaction from the government (or from the legislation), while an economic crisis – mostly – allows for longer response periods.

I also suggested that emergencies usually lead to state responses because responsible authority(ies) in a constitutional democracy should grant the state's and the people's security. In turn, however, these responses in many cases lead to the restriction of human rights. This character of a state of emergency is much more spectacular in violent and political crisis; nevertheless, it would be very dangerous if one underestimates its effect on human rights in time of economic emergency.

² CHOWDHURY, Subrata Roy, *The Rule of Law in a State of Emergency – The Paris Minimum Standards of Human Rights Norms in a State of Emergency*. Printer Publisher, London, 1989, 15-16.

In the second chapter I presented the most relevant theoretical results in order to make the theoretical background for the last two chapters.

First I interpreted the so-called “inside-outside” debate, but I made my own findings. The starting point of this debate is reflected on the relationship with the rule of law and the exception. According to the German theorist Carl Schmitt, “*the sovereign is he who decides on the state of exception.*”³ This definition reflects on the decision and even more on the exception/normality dichotomy. It is also important that this concept of the exception is in relation with the state of emergency on the basis of the political and economic crisis in the 1930's in Germany. Therefore, Schmitt tried to resolve these perils to the state by requiring the suspension of regular law. This approach – which we call decisionist – prefers a sovereign decision against the norm.

Giorgio Agamben calls this exception a “*kind of exclusion*”. Moreover, “*what is excluded in the exception maintains itself in relation to the rule in the form of the rule's suspension.*”⁴ In his later work Agamben tried to specify the nature of state of emergency, which he called “*zone of indifference.*” With this definition Agamben contradicted the inside/outside opposition theories in relation with the state of exception and focused rather on the characteristics of the norm, the judicial order and the suspension. In his view the state of emergency (or state of exception, as he calls it) is “*neither external nor internal to the juridical order ... The suspension of the norm does not mean its abolition, and the zone of anomie that it establishes is not (or at least claims not to be) unrelated to the juridical order.*”⁵

On this decisionist ground, Oren Gross (and Fionnuala Ní Fioláin) also emphasized that it is necessary for the officials to step outside the legal order if a particular case necessitates it.⁶ Gross's concept also contains the assumption that the rule continues to apply in general. Finally, it is up to the people to *ex post* ratify the official's

³ SCHMITT, Carl, *Political Theology: Four Chapters on the Concept of Sovereignty* (George Schwab trans.). MIT Press, Cambridge, 2005, 5.

⁴ AGAMBEN, Giorgio, *Homo Sacer: Sovereign Power and Bare Life*. Stanford University Press, Stanford, 1998, 17-18.

⁵ AGAMBEN, Giorgio, *State of Exception* (Kevin Attell trans.), University of Chicago Press, Chicago-London, 2005, 23.

⁶ GROSS, Oren – NÍ AOLÁIN, Fionnuala, *Law in Times of Crisis – Emergency powers in theory and practice*. Cambridge University Press, Cambridge, 2006.

extra-legal actions or punish for the illegal conduct. This *ex post* prosecution adds some kind of legality to this “*extra-legal measures model*.”

Others, such as Dicey and Dyzenhaus emphasize the relevance of rule of law even in a time of emergency. According to Dicey, the state of emergency (“*martial law*”) “*means the suspension of ordinary law and the temporary government of a country or parts of it by military tribunals is unknown...*”. He asserted that the “*Declaration of the State of Siege*” is unknown, and from this point of view he offers “*permanent supremacy of law*”⁷ in times of emergency as well.

On this theoretical background David Dyzenhaus questions the decisionist approach – which tries to define who decides on what in a state of emergency, or more precisely: who decides on fundamental issues of legality – with the thesis that the crucial question of legal order is not the location of this above-mentioned power, but rather its quality as a legal order, in which the government exercises its power in accordance with the rule of law or legality. In his interpretation the responses to emergencies should also be governed by the rule of law, and in this relation the rule of law is nothing more than the rule of fundamental constitutional principles which protect individuals from the state's arbitrary action. He accepted, of course, that in a time of emergency democracies have to suspend individual rights in order to preserve themselves, but he also added that in our modern era there are several emergencies (such as terrorism, and here I also add financial and economic crisis) which have no foreseeable end, and therefore they are permanent.⁸ For those who are troubled with the trend that a state of emergency and therefore emergency powers could last for an uncertain period, Dyzenhaus offered the rule of law project, which contains the cooperation of the legislative and the executive power and a significant role of the judges. He also mentioned that the rule of law meant more than formal or procedural principles, which could be regulated in the constitution, and which only protect the rights to the manner of decision-making. I made it clear that this concept of the rule of law, in relation to the state of emergency reflects the moral resource of law or the inner

⁷ DICEY, Albert Venn, *Introduction to the Study of the Law of the Constitution*. Liberty Classics, Indianapolis, 1982, 182-183.

⁸ See generally: DYZENHAUS, David, *The Constitution of Law: Legality in a Time of Emergency*. Cambridge University Press, Cambridge, 2006.

morality of law.⁹ Taking everything into consideration, there is a very important task for judges in maintaining the rule of law.

To summarize the above-mentioned theories – which are the basic elements of the dissertation as a whole – there are two endpoints of the emergency theory. On the one hand, when a state deals with an emergency it might use illegal – or I myself would prefer the term extra-legal – measures, so it is evident that the rule of law does not have full impact on emergency politics. On the other hand, there is the nearly full power of legality, and in this case the rule of law has its effect on the emergency politics, practically due to the effective judicial review. The problem with this standpoint is that with a full judicial review power on the one side, the other side, namely effective state self-defence and security could suffer great sacrifices. Consider, for example, that broad judicial review can also entail belated emergency measures, and in this way the state cannot fight effectively against the emergency.

I must admit that another important aspect might possibly represent the core problem of the first standpoint. If we accept that there is a constitutional authority to use the law itself to suspend law, and in this way we create an exceptional regime near or upon the ordinary legal order, – as Dyzenhaus mentioned this means a legal black hole – then we claim that the responses to an emergency mean a dualist legal order: one which responds to normal situation, and the ”emergency law” which responds to exceptional situations.

In the third chapter I analyzed the relevant regulation, history and case law of the United States, the European Court of Human Rights and Germany.

I opted to choose the United States, because it is a great example on how to handle emergency situations without detailed constitutional rulings. I started with the *Ex parte Milligan* decision of the Supreme Court of the United States which made the basics for emergency law in the country and made it clear that the rule of law must be respected in normal times and in emergency as well.

⁹ DWORKIN, Ronald, *Justice for Hedgehogs*. Harvard University Press, Cambridge-Massachusetts-London, 2013, 400-415.

Then after the effects of the attack on Pearl Harbour in the Second World War this basic principle had been overwritten. In the Korematsu decision the Court accepted the arguments of the executive, that because of the fact that the Japanese Empire declared war against the United States, it is constitutional to discriminate the American citizens with Japanese origins.

After the terrorist attacks in 2001 this precedent could have been a very dangerous tool in the hand of George W. Bush to legitimate citizens discrimination by labelling them “enemy combatants” and deprive them from their most important constitutional rights, such as the habeas corpus. As I presented, the Court finally came back the path of rule of law and constitutionality in the decision of the case *Boumediene v. Bush*.

There are human rights regimes, which have to respect the member states duty and responsibility in such cases. This is the situation with European Convention on Human Rights, and the research of the case law of the European Court of Human Rights was a very important element in my dissertation, because with it, I was able to reflect on European human rights standard more accurately than analyzing for example the European Union institutions. I must add that the reason behind I made the choice to focus on solely on the European Court of Human Rights is that I think with the knowledge of its case law it is possible to investigate the European human rights standard as a whole. I already wanted to answer the question: whether a European human rights regime is capable to become the guard of human rights in case of national emergency, or the sovereignty of the states also mean that there is very narrow margin to prove legality above security?

I decided to examine the German state of emergency mainly in the whole twentieth century because in this historical period I was able to show in the one hand multiple solutions on how to deal with emergencies, and on the other hand the danger of the abusive application of emergency powers. Therefore I divided this section into three parts: in the first part I analyzed the fall of the Weimar Constitutional system. In this part I described the political and economic history of this period, and I made a deep analysis of the constitutional debate about the emergency powers and the legal concepts about the interpretation of the constitution’s relevant provision, the Article 48.

According to most legal theorists this was the article which has to be blamed for the possibility that the Nazi regime could be able to acquire unlimited power. In this context I also warned that this was not the sole reason behind the Nazi's takeover, because we have to take into consideration the other economic and social reasons which affected to this course.

In the second part I showed a historical example on how it is possible for a newborn democracy to react emergencies, such as "terrorism" and at the same time try to preserve democratic values as well. In this part I also presented the birth of the German constitution's special state of emergency regulation.

In the third part of the German chapter I didn't follow the above mentioned historical-based linear method, because I wanted to give a complex view on the Federal Constitutional Court's relevant case law. I tried to choose decisions, which are relevant in the context of emergency.

In the fourth chapter I described the regulation aspects of the Hungarian state of emergency regime. I made the choice to describe our constitutional regulation and the relevant case law of the Hungarian Constitutional Court after the fall of the communist regime, because – as I already mentioned – I'm not interested in the models of state of emergency in non-democratic regimes. I also omitted the Hungarian emergency history before the second World War, because I could hardly find relevant case law or legal regulation which is useful for a modern constitutional democracy. In the last quarter-century there were two important era, which defined by the Hungarian constitution-making endeavour.

The first era started after the period of transition (or the end of communist regime) in Hungary, when the newly founded political parties decided to make the foundation of a democratic order. They chose to amend the constitution of the communist regime and in this way, the Hungarian constitution made it possible for a democratic transition without rebellion.

After the institutional groundwork of constitutionality, in the early years (in 1995) the country already faced with an economic emergency. I made the choice to

analyze deeply the handling of this kind of crisis and most importantly the interpretation of the Constitutional Court of Hungary. The Court's decision in this case made it clear that the rule of law is equally important in normal times and crisis as well. In this part I also described the Court's interpretation on the constitution's relevant emergency rules. This first era ended in 2010, when the new government with its two-third majority in the parliament opted to regulate the new Basic Law of Hungary.

In order to compare the solutions of post-communist constitutional democracies on economic emergency, I brought an example in two very similar case, happened in Lithuania. In the case law of the Lithuanian Constitutional Court, the economic crisis as an emergency situation, firstly appeared in the Judgment of 25 November of 2002. The Court finally stated that the regulation was unfairly discriminatory and therefore anti-constitutional. In this case the court did not recognize the situation as economic emergency and therefore did not accepted the governmental measure as a state of emergency measure, but admitted that there is a possibility to use state of emergency measures if the economic situation necessitate it.

In the second case nearly a decade later the Court examined again the constitutionality of the government's reaction to an economic crisis. The decision recalled that, on the one hand, the reduction of salaries and pensions is constitutional in an economic state of emergency, but, on the other hand, the government and the Parliament should examine the necessity of the emergency measures every year when they are planning and adopting the state budget. I admitted that the reason behind the constitutional court attitude, which prefers legality against efficiency may be the totalitarian past, and the overall aim to preserve democracy.

The Basic Law of Hungary created a sui generis state of emergency chapter, called the special legal order, which contains the state of national crisis and emergency, state of preventive defence, state of danger and unforeseen intrusion. The Article 54 of the Basic Law also represents the common rules relating to special legal order such as the possibility to suspend or restrict fundamental rights beyond the extent of ordinary law standards. This article also contains special guarantees such as the prohibition of suspension of the Basic Law. It also contains other temporal restrictions.

Although the Basic Law has a visibly unified emergency power system I also indicated, that the prelude of Hungary's new constitution had connection with political and economic crisis as well. At this point I already indicated that the constitution has its "crisis-constitution" nature. Not to mention that the Hungarian parliament also used ordinary legislation, which contains extra-legal measures in order to deal with so-called emergencies. Therefore I made a lengthy analysis about the newly founded "mass migration crisis" which is unknown to the Basic Law's relevant rules. My research didn't finish at this point, because the sixth amendment of the Basic Law made a new category, the emergency response to terrorism which – as I evinced – is totally causeless and unnecessary in Hungary's system of emergency powers.

In my dissertation also analyzed the relevant case law of the Hungarian Constitutional Court in this new constitutional era, and I pointed out that at least the backgrounds show great similarity with the Lithuanian one. Although the background was nearly similar, the reasoning of the Hungarian court differed from the Lithuanian. The Hungarian Constitutional Court acknowledged that after the global economic crisis the rules of constitutionality and the system of human rights protection had changed. The judicial body also added that the economic crisis effected the whole society, therefore it is possible to reconsider our principles of legal certainty. With reference to the economic crisis in relation with the Fundamental Law Article M paragraph 2¹⁰, now it could be possible to restrain fundamental constitutional principles such as prohibition of retroactive legislation, legal certainty, fair trial and several procedural safeguards and also some economic, social and cultural rights.

By using this new proportionality test, it is possible for the legislator to use emergency powers in the legal order, without officially announce it. I admitted that after the relevant decisions, now it is possible that the government will use the "economic emergency blank cheque" in order to use extra-legal measures regardless whether a real emergency occur or not.

At this point I would like draw attention to the fact that the Hungarian literature (and the international as well) is not unified in the question of whether it is possible to

¹⁰„Hungary shall ensure the conditions of fair economic competition, act against the abuse of a dominant economic position and protect the rights of consumers.”

use emergency powers while a state is dealing with economic crisis or it is the sole problem of ordinary legislation. After the worldwide economic and financial crisis this question became a very important chapter.

The background of the problem can be found in the emergency typology itself. As I already mentioned, emergencies usually lead to state responses because responsible authority(ies) in a constitutional democracy, should grant the state's and the people's security. In turn, however, these responses in many cases lead to the restriction of human rights. This character of a state of emergency is much more spectacular in violent and political crisis; nevertheless, it would be very dangerous if one underestimates its effect on human rights in time of economic emergency.

There are scholars who are of the opinion that economic or financial crises are not relevant „emergency” categories. They are suggesting that these events should be managed by the conventional measures of law (according to the principle of the rule of law) because it may turn to be very dangerous to identify these viewpoints as an emergency ending in a state of emergency. In the background of this standpoint is the fear from the governmental abuse, which finally could lead to the end of democracy itself. So it might be possible that a given government tries to use economic emergency or even the rhetoric of economic emergency for strengthening its power. This point of view raises the argument that the only solution in challenging these events shall be inside the legal order, therefore it is unacceptable to use extra-legal measures when the state faces economic or financial crisis.

3. THE METHOD OF RESEARCH

During the exploration I used analytical, historical, teleological and last but not least comparative methods. Because the analyzed question or problem, nearly unprocessed in the Hungarian scientific literature (there aren't any monograph related to the the question of state of emergency or responses to emergencies in Hungary) I tried to apply basically a comparative method which was really useful in creating a scheme related to state of emergency models.

I used Library's research, which was unavoidable during the examination of the relevant domestic and international literature as well. At the same time research on the subject of my dissertation was helped by downloadable online sources, which publications were very useful. These publications were valuable especially to reflect the European Court of Human Rights, the Supreme Court of the United States and the Bundesfervassungsgericht (The Federal Constitutional Court of Germany) relevant case law. According to the case law of the European Court of Human Rights, I used the Hudoc database (<http://hudoc.echr.coe.int/>). I also bought several books, because it was unable to find a lot of relevant literature in Hungarian libraries particularly the Anglo-Saxon literature, which was very important for my dissertation. I also downloaded several judgments and reports from various national and international organization's official websites.

I also lived with method of legislative and case law analysis. Because of the topic it was necessary to examine constitutional law's and administrative law's regulatory issues as well.

Mainly in the first two chapter I preferred descriptive and analytical methods in order to present the relevant theoretical backgrounds of the topic. I also preferred deductive and inductive reasoning as well in the dissertation.

To summarize, my research was primarily based on studies and the review of the relevant Hungarian and international literature. The main feature of the research is to explore new knowledge, identify new problems and formulate new hypothesis which

were previously not been studied sufficiently. In order to make my hypothesis and to draw my conclusions I had to analyze a large scale of judicial decisions, therefore I preferred inductive methods.

4. NEW SCIENTIFIC RESULTS OF THE DISSERTATION AND THE POSSIBLE UTILIZATION OF THE RESEARCH

As I mentioned before, the topic of my dissertation is lacking in the broad-scale literature in Hungary, especially if we take into consideration the legal problem of emergency measures. My aim was to create a scheme in order to make possible the research in all constitutional democracies regardless the nature of state of emergency in a given country.

With the above-mentioned theories in mind, which I briefly presented in section 2. of this abstract, I finally tried to interpret these very important conclusions into a scheme, which I can use for all constitutional democracies with different emergency powers. I made a conclusion that emergencies can be handled with two state of emergency models and naturally with normal constitutional rules. I therefore accepted that states has the possibility to handle emergencies with/in the ordinary legal system, but I must add that this model isn't a state of emergency one.

So I argued that when a state faces with an emergency it has two choices: use the one of the two state of emergency models or use the existing legal order. The later I call "*business as usual*" model¹¹, which I think is not a state of emergency model. Although I used the same term as the referred author but I also differ from him in a very important aspect. Gross says that the business as usual model is a state of emergency model, which means a standalone emergency regime that doesn't distinguish between the norm and exception, but uses normal legal order to deal with emergencies. I argued this viewpoint because if a state doesn't use special measures to deal with an emergency we simply can't identify it as a state of emergency model.

The difference between the state of emergency models and the business as usual model can be answered with the following question: whether there is a reaction from the

¹¹ Oren Gross also used this terminology but as a special state of emergency model: GROSS, Oren: *Chaos and Rules: Should Responses to Violent Crisis Always Be Constitutional?*, The Yale Law Journal, Vol. 11, No. 5.

state, which is exceptional? In this shape the “exceptional” means that a measure – used commonly by the executive – is not or hardly compliant with the rule of law.

The two main state of emergency category can be distinguished by the relevant constitutional regulation. On the one hand if the constitution has a standalone state of emergency regime incorporated and also distinguished from the ordinary constitutional rules – therefore the constitution to a certain point knows the norm/exception dichotomy – I call this model the “*dichotomy*” one. On the other hand if the constitution don’t have such rules or this rules can be hardly distinguished from the ordinary ones, I refer this model the “*monist*” one, which means that for a researcher it is hard to figure out the relevant “law for emergency”. But I must add that the monist state of emergency model could even so effective as the dichotomy one, when the state struggle with an emergency. I must admit that the monist model also means a *sui generis* scheme, in which we can find a special “checks and balances” system, where the courts have an important role in balancing between security and the protection of human rights.

As I already mentioned, a state of emergency model – the dichotomy and the monist as well – in constitutional democracies have to meet one more premise. It is not enough to deal with an emergency effectively but the model in a long term ought to protect the constitutional democracy itself and naturally the basic elements of constitutionality (rule of law, human rights, checks and balances etc...). In order to fulfil this claim both state of emergency model must have institutionalized guarantees. The dichotomy model mostly use the regulation for this task as well, while the monist model – without relevant codified emergency rules in the constitution – apply a broad-scale judicial review on the emergency actions of the executive.

If the state of emergency model fulfil the requirement of constitutionality and contribute the preserving of democracy, I call this version of the state of emergency model the “*democratic*” one. Therefore if I experienced that the model can’t stand the test of constitutionality, which means that with the exceptional tools the executive could become the possessor of supreme power, I call the model “*pre-authoritarian*.”

My dissertation is possibly the first monograph in the Hungarian jurisprudential literature, which deals with the problem of emergency situations and the possible

responses of the constitutional democracies to these. I also offered the categorization of the business as usual model, and the monist or dichotomy emergency models, which reflects the constitutional democracies possible responses to emergencies. I made it clear that for a constitutional democracy not only the emergency situation is dangerous, but also the abusive use of emergency powers or when the citation to “emergency” become a tool in those hands who want to use extra-legality only for their own interest. With these mentioned and other related jeopardy in mind I also “labelled” the models with the democratic or the pre-authoritarian attributive.

I made the conclusion that the regulation of state of emergency is not solely the most important guarantee against the abusive use of emergency powers. The effective judicial review is also very important in a democratic state of emergency regime. I added that it is very dangerous when the aim to regulate emergency rules become the main policy of a government.

I already made it clear that a constitutional democracy can handle emergency situations without making huge sacrifices in the rule of law. Therefore I pointed out that a monist model could be as effective as the dichotomy one, and simultaneously could be effective against the abusive application of emergency powers.

In sum my dissertation could be helpful for newborn and living democracies as well, in responding the always actual question: how is it possible to struggle efficiently when an emergency arise and at the same time preserving democratic values and constitutional democracy itself as well? Finally, I made it clear that in a long period the ineffective protection of human rights and constitutional democratic institutions is more dangerous for democracies than the “emergency” itself.



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List of publications related to the dissertation

Articles, studies (9)

1. **Mészáros, G.:** A "szabályozatlan" kivételes állapot amerikai modellje: tévút vagy követendő példa?
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Level of HAS Committee on Legal and Political Sciences: A





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Level of HAS Committee on Legal and Political Sciences: B

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By the directives of HAS Committee on Legal and Political Sciences:

Publications in periodicals level „A”: 21, related to the dissertation: 6.

Publications in periodicals level „B”: 1, related to the dissertation: 1.

The Candidate's publication data submitted to the IDEa Tudóstér have been validated by DEENK on the basis of Web of Science, Scopus and Journal Citation Report (Impact Factor) databases.

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