

# ABSTRACTS

## ESSAY

In this column, we publish the Hungarian translation of an article from *Lawrence Lessig*. In his essay, Lessig is writing about how speech can be regulated, which the most effective, but at the same time constitutional ways of regulating speech are in the cyberspace. The author familiarises the readers with the two alternatives to protect children from indecent and offensive communications: filtering and a new version of the Communications Decency Act. The aim of the author in his essay is to demonstrate the danger in “private” blocking and to show that the only constitutional strategy that Congress can follow for regulating “indecency” on the Net is a strategy very much like the Communications Decency Act. CDA 2.0 - as the author calls this version of CDA - should consist of three parts. First, it should ban the knowing distribution of the so-called Ginsberg-speech to children. Second, it should ban the distribution of Ginsberg-speech, unless the distributor verifies the age of the recipient. And third, it should establish, in the Commerce Department, a certificate authority, from which individuals can pseudonymously obtain a digital certificate verifying that they are above a certain age, and where sites can verify the validity of those certificates.

## INTERVIEW

Gábor Attila Tóth interviews *Katalin Gönczöl*, the ombudsperson for civil rights and *Péter Polt*, the general deputy of the ombudsperson. The ombudsperson and its deputy outlines their sphere of authority and the allocation of duties, describes the examinations initiated ex officio or in consequence of complaints. They also talk about inspections held in closed institutions (prison, police, psychiatric clinic). The interview gives a picture of the ombudsperson’s relation to the Parliament and the role of their comments in legislation.

## DOCUMENT AND COMMENTARY

The column contains the second decision of the Constitutional Court on abortion and three commentaries. *Albert Takács* examines from a legal theoretical point of view the extent the Constitutional Court has abandoned the wording of the Constitution in its moral interpretation of the right to life. Besides the general review of the Court’s decision *Gábor Attila Tóth* analyses the arguments of the judges on the anti-constitutional nature of the provisions regarding serious crisis. *Judit Fridli* argues that the compulsory nature of the advice service system would infringe the rights of expectant women and would conflict the professional rules of crisis intervention.

## FORUM

What is your relation to the Constitution? Whose duty is to interpret and apply the Constitution directly? These questions were asked from well-known representatives of Hungarian legal practice. This issue includes the answers of *Péter Szigeti*, professor of legal philosophy, *Péter Polt*, deputy ombudsman for civil rights, *Endre Bócz*, public prosecutor of Budapest, and *György Ádám* and *János Bánáti*, lawyers. The column also contains the comments of *György Geréby* and *András Grád* on the interview with *András Sajó* published in issue 1998/3 of *Fundamentum*.

## PRIOR TO DECISION

The Constitutional Court is soon deciding on the petitions filed to question the constitutionality nature of the 1996 amendment of the Act on lustration. Besides the Parliament is ready to extend the effect of the Act to journalists and plans to introduce the C-type security screening of judges. The column Prior to decision deals with the issue of lustration in a wider sense. The comprehensive essay of *Árpád Tyekvicska* analyses the provisions of the above Act disputable with a view to human rights, with special regards to the fact that 'involvement' applies only to former III/III agents. *István Balsai* and *György Sándorfi* details the first decision of the Constitutional Court and the following amendment of the Act with regards to personality rights, and the constitutionalism of narrowing the effect of the Act in particular. *Sára Trócsányi* writes about her experiences she gained in the German Gauck Office. The constitutional conformity of extending the power of the Act on lustration to journalist is questioned by *Gábor Halmai*. *László Varga* analyses the contradictory nature of the political screening of judges by the Government.

## AFTER DECISION

Decisions of international forums relating to the main topic of the present issue are published in this column. The decision passed by the Constitutional Court of the United States in the Reno-case is in connection with the essay on Internet. The decision of the Court of München in the CompuServe-case commented by Professor Ulrich Sieber is also relevant to this topic. *Tamás Bán* reviews two decisions of the international courts regarding the freedom of opinion. One of the procedures was initiated by a French professor of history condemned on grounds of denying the Holocaust, the other decision was passed in the case of a society intending to justify the deeds of marshal Petain.

## PROTECTORS OF RIGHTS

Two organizations are introduced in this column. The *Hungarian Civil Liberties Union* was established in 1994 and deals with the rights of drug users, the protection of personal data and the measures of authorities restricting freedom.

*The Global Internet Liberty Campaign* (GILC) was formed in June 1996 by non-profit organizations independent from the governments. The present goal of this union of more than fifty groups protecting human rights and consumers' rights is to protect the rights of the citizens of the online society.

## REVIEW

The present issue includes three detailed book reviews. Kriszta Kovács introduces an American volume titled *Censorship and Silencing* edited by Robert C. Post. Renáta Uitz writes about *The Law of Religious Identity: Models for Post-Communism*, an English language volume of studies. Gábor Kardos reviews *The Clash of Civilizations and the Remaking of World Order* by Samuel P. Huntington, recently published in Hungarian as well.

A volume titled *Openness After the Transition* and a book by Esther Dyson entitiled *Release 2.0: A Design for Living in the Digital Age* are introduced in short. Two books, written by Zoltán Szente and Márta Dezső have been published recently on parliamentary law. In addition the volume of essays by Júlia Szalai is also worthy of attention.