Lídia Balogh* & Tímea Drinóczi**

The missing arc of a backlash? Thirty years of constitutional debate on 'women's equality' in Hungary

Intersections. EEJSP
8(4): 112–131.
https://doi.org/10.17356/ieejsp.v8i4.969
https://intersections.tk.hu

* [balogh.lidia@tk.hu] (Centre for Social Sciences, Budapest)
** [tdrinoczi@direito.ufmg.br, drinoczi.timea@gmail.com] (Faculty of Law, Federal University of Minas Gerais, Brazil)

Abstract

The argumentation in this paper is based on the proposition that constitutions play a key role in defining the approach to women's social status, not just by determining ordinary legislation and public policy, but also through constitutional review. The focus is on Hungary, a country that is not famous in Europe for a high level of equality between men and women, surrounded by a (liberal) international political discourse which asserts a backlash and claims that women's equal rights are being curtailed *even more* during the era of Orbán's illiberal government. Against this discursive backdrop, the paper highlights a counterintuitive phenomenon: since the democratic transition (1989–1990) all the key constitutional disputes related to equality between the sexes have been initiated by men claiming instances of discrimination *against men*, as if women were *too privileged* in Hungary. A relevant contextual feature is that while equal legal standing for the sexes is guaranteed (due partly to the heritage of state socialism, then to efforts related to EU integration), affirmative measures for women are also constitutionally ensured. The Constitutional Court has deployed surprisingly poor-quality reasoning in these disputes, suggesting that it never considered equality between the sexes to be an important issue. This leads us to claim that certain persistent features have characterized this field since the 1990s, not the dynamics of reversal since the 2010s. With our empirical findings, we aim to contribute to the academic discourse in a way that challenges the backlash narrative regarding developments in Hungary from a specific perspective.

Keywords: Hungary; constitution; gender; equal treatment; backlash; constitutional review

1 Introduction

1.1 Our thematic focus

We address an understudied topic – namely, the jurisprudence of the Hungarian Constitutional Court (hereinafter: CC) concerning equality between women and men from the 1990s until the 2020s. Our thematic choice reflects our conviction that legal research may benefit from a gender perspective and marks our ambition to contribute to the broader scholarship on gender and transition in the Central-East European region.

To provide a glimpse into the topic of the paper, we recall here a high-profile anti-discrimination case (Sipos, 2018) about a seemingly petty issue which concluded in a CC decision in 2016.[1] Many features of the context are concentrated in this case, like the 'ocean in a drop'. The story started in 2013 when a young man – an activist from a progressive student organization – turned to the Equal Treatment Authority (hereinafter: ETA) to complain that a bar in Budapest had discriminated against him based on his sex. At the time, men had to pay a moderate price for a drink voucher to be admitted to this bar, while women were offered free entrance. The complainant clarified that he saw the issue as a two-fold problem: on the surface, the policy obviously discriminated against men, but it also sent the controversial message 'that men are supposed to pay in order to get access to those women who have been collected by the bar for them'.[2] The defendant used a dubious defence by claiming that the policy was a positive measure aimed at saving women from the inconvenience of standing in the queue outside the entrance, and from suffering due to the misbehaviour of male guests who were liable to stampede and verbally harass women. The ETA rejected this argumentation and established discrimination based on sex,[3] referring to the Equal Treatment Act and the Fundamental Law (Hungary's constitution from 2011, hereinafter: FL). In a media interview, the complainant explained that although he had argued from the position of a man who had experienced discrimination, his goal was to raise awareness regarding the degrading treatment of women in bars and clubs in Budapest, and more generally, in Hungarian society (Magyarkúti, 2013). While the defendant had suggested that the policy was a positive measure for women, the complainant claimed that it was ultimately rather harmful to them. Indeed, while the CC's decision established discrimination against men, it is far from obvious whether the policy harmed either women or men. As for the CC's role in this case, it virtually repeated the ETA's decision and did not bother to elaborate on its own reasoning.

Through the analysis contained below, we will demonstrate that the features of this case are symptomatic.

1.2 The Hungarian Constitutional Court

The CC in Hungary was established within the framework of the democratic transition: it was formed in November 1989 and started to operate in January 1990. From 2012, under the regime of the FL, the governing Fidesz coalition managed to change both the competence of the CC (by shifting from abstract constitutional reviews of laws to constitutional control

[1] 3001/2016. (I. 15.).

[2] EBH/579/2013.

[3] EBH/545/13/2013. In the same year, another man filed a similar complaint with the ETA against a bar that offered free entrance for women until midnight, while men had to pay a small entrance fee. The bar argued, first, that the policy was a positive measure aimed at counteracting the gender pay gap; second, that it represented a gesture to both sexes considering the societal expectation that men pay for women's drinks in bars; third, that it was a 'business necessity' since women would not come in sufficient numbers if they had to pay an entrance fee, which would demotivate men from visiting the bar. The ETA dismissed this defence and established direct discrimination against men (EBH/579/2013).

of court decisions) and its composition (by increasing the number of seats and filling them with loyal judges). The new judges in this 'packed court' (Drinóczi & Bień-Kacała, 2022) have supported the government's political aims (Szente, 2016).

We may also mention the permanent feature of male dominance during the CC's three-decade-long history. The first female judge was elected only in 1999, ten years after the establishment of the CC; in 2022 there are four women among the fifteen judges. However, we will restrain from making any conclusive remarks regarding this situation: first, we cannot assume that women judges would *per se* be more sensitive to questions related to inequalities; second, it would be misleading to consider the sex ratio among CC judges as a relevant factor in the context of the packing of the court.

1.3 Theoretical framework

Our endeavour of longitudinally analysing Hungarian constitutional jurisprudence concerning the equality of sexes is a timely task since there is an emerging (liberal) international academic and political discourse about the alleged backlash against women's rights in Hungary, which includes the assertion that the legal equality of women has been curtailed since 2010 when the Orbán government started to build a regime of illiberalism. Notably, the term 'backlash' was coined decades earlier and in a different context: in Susan Faludi's book (1991) about antifeminism in the US. Currently, there is a broader backlash narrative that has become prevalent since the 2010s (Grabowska, 2015; Juhász & Pap, 2018) based on the claim that women's hard-won rights are being challenged or restricted in several EU Member States. The European-level backlash narrative became 'official' when the European Parliament issued a resolution 'on experiencing a backlash in women's rights and gender equality in the EU';[4] and this conceptualisation started to appear in the publications of the CoE and the UN (Roggeband & Krizsán, 2020). Importantly, the backlash narrative is part of a broader narrative about an alleged political tendency termed 'anti-genderism' (Korolczuk & Graff, 2018). Key scholars in the field have already suggested moving beyond the backlash narrative (Grzebalska & Kováts, 2018) or have claimed that the latter is misleading due to its conceptual shortcomings and empirical weaknesses (Paternotte, 2020). However, Western promoters of the related academic discourse still often make allegations such as that transnational 'anti-gender activism' opposes 'protection against gender violence' (Johnson, Fábián & Lazda, 2022, p. 349). Indeed, while rejection of the CoE Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) is growing in some countries (Krizsán & Roggebrand, 2021), the 'gender backlash' narrative seems unhelpful for explaining it. Obviously, controversy surrounds the Convention's concept of 'gender', but it is questionable what 'gender' encompasses for the 'anti-gender' movement in different contexts: is it a term used to address issues related to equality between women and men, together with sexual orientation and gender identity issues, or is it 'an umbrella term for the rejection of the (neo)liberal order' (Grzebalska, Kováts & Pető, 2017), including the global economy and

[4] 018/2684(RSP).

supranational institutions? Notably, the word 'gender' has come to be used in many senses even in mainstream discourse: for social roles, for stereotypes about the sexes, for gender identity, and as a (polite) synonym for sex (Stock, 2019).

We acknowledge that the backlash narrative is sometimes formulated in a comprehensive and nuanced way, taking into account diverse phenomena related to 'gender' and 'anti-gender' issues. Some scholars focus on transnational movements (Goetz, 2020) or political rhetoric (Lewin, 2021) instead of legal or policy developments; others consider not just reactive but pre-emptive initiatives (Rubio-Marín, 2021). Being aware of these accounts, we seek to contribute to the scholarship that challenges the empirical validity of the backlash narrative from a specific perspective. We deliberately focus on a single issue related to the alleged backlash: equality between women and men, understood as legal equality or equal treatment. We have chosen this issue because, for a diachronic analysis, we need to examine a 'classic' issue which has explicitly been on the agenda for several decades. We discuss here just one layer of legal material – namely, constitutional jurisprudence, since we presume that constitutions, which are meant to guarantee some continuity and coherence, play a key role in defining the approach to the social status of men and women, not just by determining ordinary legislation and public policy, but also through constitutional review. We are intrigued by the question of whether there is an identifiable arc of backlash regarding the equality of sexes, to the disadvantage of women. We assume that what the mainstream international literature tends to see as an accelerated reversal – a 'backlash' – will be revealed instead as a long-existing feature of the legal culture in Hungary, at least on the level of constitutional jurisprudence, with similar patterns in the liberal and illiberal era.

1.4 Methodology

We take a closer look at the constitutional adjudication in cases that addressed the issue of equality between or equal treatment of women and men since 1990, when Hungary's CC started to operate, by re-reading and re-assessing the relevant decisions.

Case selection was based on a review of the Hungarian academic literature: we discuss the CC decisions that are considered the most important (of the not-so-many relevant decisions) related to equality between women and men. The relevance of our endeavour is underlined by the revelation that the scholarship on this specific topic is limited to a few publications (Kovács 2008; 2012; Sipos, 2018), and the related case law has never been challenged from a systemic critical, gender-sensitive perspective by paying attention to the system and hierarchy of women's and men's expected social roles. However, we assess the decisions within their own conceptual and logical context, and we do not seek to re-write them, unlike contributors to 'feminist judgement projects' (Rackley, 2012).

Brief insight into the context is provided below, including developments related to the issue of equality between women and men (understood as legal equality or equal treatment) in constitutional legislation, ordinary legislation, and public policies. Then, a summary and analyses of the most relevant decisions of the CC are presented, before a discussion of the findings, drawing of conclusions, and evaluation of the significance of our contribution to the scholarship.

2 The Context

2.1 International norms and EU expectations

We start the assessment of the relevant legal framework by considering Hungary's compliance with external standards.

The principle of legal equality between men and women is virtually fully provided for at higher levels of legislation in Hungary, including the constitutional level. This is partly rooted in the heritage of state socialism (the Marxist conceptualization of equality and women's emancipation), and partly in efforts to meet Western European standards to enable Hungary's integration into the EU.

Hungary ratified the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1982. After the political transition, joining the CoE (1990) and the EU (2004) entailed lots of human rights and equal treatment obligations, which Hungary usually observed. However, the non-ratification of CoE's Istanbul Convention by Hungary is considered high-profile defiance in this field (Drinóczi & Balogh, 2021). Moreover, according to the index of the European Institute for Gender Equality (EIGE), an autonomous body of the EU, Hungary has progressed the least among the Member States since 2005 in terms of equality between the sexes; in 2020, Hungary's scores in all domains were lower than the EU average.[5] We provide contextual information below about the relevant aspects while not losing our focus on constitutional jurisprudence.

2.2 The social context in Hungary

There is a vast international scholarship on gender issues in post-socialist societies, to which we offer our contribution. However, we will not assess the general situation of women from 1989-1990, nor consider whether things have changed for better or worse for women since the political transition. With the aim of delineating the background for our focal topic, we address below only one apparently relevant question concerning the social context – namely, the lack of continuity in the development of domestic women's movements.

In the late nineteenth and early twentieth century, Hungarian first-wave feminists (Acsády, 1999) had similar demands and achieved similar successes to their counterparts in Western countries related to women's secondary and tertiary education, the right to have a profession, and voting rights. Even when Hungary found itself among the losers of the Second World War, the country did not lag behind Europe in terms of women's legal situation. Hungarian women were able to participate for the first time in a general election under conditions of full suffrage in November 1945 – only a couple of months after French women and a couple of months before Italian women had the same opportunity. Hungary's communist constitution (1949) provided that women should enjoy equal rights with men, and during the post-war years significant changes happened to enhance women's legal position in various fields of life, including education, employment, and family matters (Schadt, 2005). However,

[5] *Gender Equality Index 2020: Hungary,* https://eige.europa.eu/publications/gender-equality-index-2020-hungary.

economic changes shaped even more powerfully the lives of women. When more workforce was needed for the emerging socialist economy, women were pushed into certain segments of the labour market. Several decades later, when there was a need to reduce the workforce supply, women were provided with the option to take longer periods of maternity leave. While the life of the average woman in state-socialist Hungary was rather unenviable (due to the double burden of work outside and inside the home and insufficient childcare services, etc.), many of the objectives of Western feminists, like the recognition of women as workers or for maternity leave, were irrelevant in this context (Neményi, 1994). According to the official rhetoric, women's emancipation was realized through the implementation of Marxism, and feminism was a decadent bourgeois ideology (Haney, 1994). Nor should we forget that Hungary was under Soviet military occupation between 1945–1991, which dramatically limited space for social movements. Moreover, among the internal dynamics of the underground political opposition movement in Hungary, like in some other state-socialist countries (Snitow, 2020), feminist agendas would have been considered disruptive.

After the democratic change, the establishment of a massive feminist movement in Hungary was prevented, in among other ways, by neo-conservative tendencies in society (Pető, 2010). The post-socialist era involved the phenomenon of 'NGO-isation' typical of the region: a narrow understanding of civil society became prevalent, basically reduced to professionalised advocacy organisations with no ability to engage citizens (Císař, 2020). As for the post-2010 era, a report (Szikra et al., 2020) presents Hungarian civil society as polarized: some organisations that work on women's issues enjoy the generous support of the state, while others experience a rather discouraging environment. The assessment of these developments is outside of the scope of the paper: we aim here only to provide a sketch to contextualise our focal question.

2.3 Constitutional legislation

Since the democratic change, Hungary has employed two different constitutions, a liberal and an illiberal one.

The political system transformed into a democratic one in 1989–1990; during this process, the communist constitution from 1949 was dismembered to create a liberal one (hereinafter: Constitution) that focused on the protection of the individual vis-à-vis the more powerful and was committed to state neutrality in certain significant fields; for example, in private life.

In the 2010 elections, the Fidesz party, together with the Christian Democrats as a junior coalition partner, achieved a two-thirds majority and adopted, in a non-inclusive process, a partisan, paternalistic constitution: the FL, with a value orientation (increasingly entrenched through subsequent amendments) focused on Christianity and traditional gender and family roles, including heteronormativity (Pap, 2015).

The Constitution included equality, non-discrimination, and affirmative action clauses referring explicitly to equality between the sexes and the prohibition of sex-based discrimination and specified distinct obligations for men and women if the country should need to be defended. The FL implies all these features; while the wording of these provisions is slightly different at some points, it does not impact the content. However, the FL deviates considerably from the Constitution, with the potential to bring about changes in ordinary legislation

and public policy. For instance, the Constitution included the principle of equal pay, the mandate to punish discrimination, and the state obligation to protect mothers before and after childbirth, while the FL does not include any of these provisions.

As for affirmative action, the Constitution provided that separate regulations 'shall establish the responsibilities of the State regarding the situation and protection of the family and youth,'[6] while the FL provides that 'Hungary shall protect families, children, women, the elderly and those living with disabilities' by means of separate measures.[7] Both conceptualisations are based on a Dworkinian understanding of the 'equality of resources' (Kovács, 2012), in accordance with EU standards. In the context of employment, the Constitution provided for separate regulations to protect 'women and youth'[8] while the FL provides that 'young people and parents' shall be protected by special measures.[9]

With regard to social rights, while the Constitution prescribed that citizens 'of old age, living with sickness or disability, widows, orphans and those who are unemployed through no fault of their own' are entitled to support,[10] the FL stipulates that citizens are entitled to social assistance 'in the event of maternity, illness, invalidity, disability, widowhood, orphanage and unemployment for reasons outside of their control'.[11] Moreover, while the Constitution used to provide the 'right to social security', in this context the FL determines only that the state 'strives to provide social security'. Notably, the right to social security was conceptualized by the CC in a decision from 1998[12] such that citizens should be provided with a certain degree of minimum subsistence. However, the CC was able to exploit the potential of this approach in practice until 2011 when the FL adopted a new approach. It returned to the CC jurisprudence of the early 1990s (Drinóczi & Juhász, 2016) when the constitutional provision on social rights was interpreted as a form of goal-setting for the state, rather than as establishing a subjective right.

The Constitution facilitated the establishment of a legislative framework and a system of public policies that furthered Hungary's compliance with EU standards with regard to equality. Then came the FL with a general equality clause, which is derived from the CC's jurisprudence and is formulated adequately, but narrows the scope of application (with regard to affirmative action) and reduces the (potential) level of protection in the field of social rights. Obviously, the constitutional provisions related to equality and women's rights should be operationalized by adequate legislation, which should be implemented by administrative authorities and applied by the judicial branch (including the CC, during constitutional review). The actual impact of these constitutional arrangements thus depends on the interpretation of the relevant actors. Considering this, we review below how ordinary legislation and public policy have been affected by the systemic changes in Hungary since 2010 and which developments have been labelled in the academic literature with various terms such as the 'creation of illiberal constitutionalism' (Drinóczi & Bień Kacała, 2022) and the 'emergence of populist constitutionalism' (Gárdos-Orosz, 2020).

---

6 Article 67(3).
7 Article XV(5).
8 Article 66(3).
9 Article XVIII (2).
10 Article 70/E (1).
11 Article XIX(1).
12 32/1998. (VI. 25.).

2.4 Ordinary legislation and public policies

With regard to the legal and policy developments related to the issue of equality between women and men, the key role of the EU is obvious. The country's EU membership has entailed lots of equal treatment obligations, which Hungary has by and large observed, just like other CEE countries which also acceded (Spehar, 2021). Hungary's accession to the EU (2004) was preceded by the adoption of comprehensive anti-discrimination legislation,[13] with a much wider spectrum of prohibited grounds than required by the EU acquis communautaire. However, according to critics, specific gender equality legislation could have paid more focus and attention to the issue of equality between women and men (Krizsán & Pap, 2005, p. 13). In 2005, the ETA, a specialized equal treatment body was launched, responsible for dealing with sex-based discrimination complaints, among others. The ETA represented a low-threshold forum for discrimination victims; and while its measures were not always effective and dissuasive, it at least imposed severe fines when pregnant women were dismissed from employment during their probation period, for example (the latter is a stubborn practice of many employers). From 2021, the ETA's tasks and competences were transferred to the Commissioner for Fundamental Rights, which, for many, indicates the low level of importance accorded by the government to equality issues and indicates the phenomenon of the centralization of state power; a robust endeavour of the Orbán regime (Kornai, 2012).

The other key pieces of the (ordinary-level) legislation on equality between the sexes are the Civil Code, which addresses the issue of discrimination in the context of the 'protection of rights relating to personality',[14] and the Labour Code, which includes a provision on equal pay.[15]

In the field of maternity/parental leave and family allowance, Hungary has a very complex system of legislation and policies that is rooted in state-socialist times. Notably, among the current Visegrád countries, Hungary had the most generous support system for working mothers before the fall of state socialism, and this tradition influenced later developments (Szelewa, 2021). The Hungarian childcare system has become highly diversified over the last decade. Most types of leave and allowances are available for parents of both sexes (although fathers are not 'pressured' by special measures to take their share of childcare). With regard to the duration of maternity/parental leave, national legislation significantly exceeds EU standards. In 2019, the government announced a robust 'Family Protection Action Plan' that includes diverse measures: preferential housing loans, housing benefits, mortgage loan relief, and a car purchase program for families; childcare allowance for working grandparents; improvement of the day-care system for young children, and a lifelong personal income tax exemption for mothers of four or more (biological or adopted) children. A remarkable policy development from 2021 is that the allowance provided to women during maternity leave (for 24 weeks) is significantly higher than the previous take-home salary due to tax relief.[16]

---

[13] Act CXXV of 2003.
[14] Act V of 2013, Section 2:42(1).
[15] Act I of 2012, Article 12(1).
[16] Act LXXXIII of 1997, Article 42.

Within the current framework of ordinary legislation and public policies, which has obvious flaws but seemingly ambitious features as well, women still suffer disadvantages in numerous fields of life. Women's participation in political decision-making is notoriously low (Ilonszki & Vajda, 2019). The gender pay gap persists, mainly for structural reasons, including the phenomenon of the glass ceiling (Adamecz-Völgyi, 2019), which stubbornly remains at the national level. According to estimations, at the current pace the gender pay gap will not be closed until 2102 (Simonovits & Szeitl, 2018, p. 171). Policies aimed at countering demographic decline put women at the 'crossroads of employment and family policies' (Hungler & Kende, 2019) and mothers of young children are especially vulnerable to rights violations by their employers.[17] Care work in the family is mainly undertaken by women, and state policies tend to maintain this *status quo* (Fodor, 2022). The gender gap grew, at least temporarily, during the national lockdown due to COVID-19 in 2020; highly educated urban women were most strongly hit by this phenomenon (Fodor et al., 2021).

In this paper we will not provide a more detailed assessment of the relevant legal and policy framework; with the overview above we only aim to give a glimpse into the latter to make the issues at the centre of constitutional disputes more tangible.

3 Equality between men and women

There is a vast and fast-growing literature on the jurisprudence of the Hungarian CC from different perspectives, including studies that appraise the general characteristics of constitutional reasoning in the pre- and post-2010 periods (Jakab & Fröhlich, 2017), focusing on the landmark cases of the past thirty years (Gárdos-Orosz & Zakariás, eds. 2021; 2022), or discussing changes detrimental to the CC (Halmai, 2019, Drinóczi & Bień Kacała, 2021). However, few authors have addressed the issue of equality between women and men as part of the broader framework of equality-related CC jurisprudence (for an exception, see Kovács 2008; 2012) or subjected the relevant decisions to a critical gender-sensitive analysis.

3.1 Constitutional jurisprudence

Landmark decisions concerning the issue of equality between women and men include cases related to pensions (widows' pension, 1990; retirement age, 1997, 1998, 2000; early retirement option, 2015), the duty to defend the country (1994), the rights of military personnel (2000, 2004), and marital names (2001). These cases will be discussed below chronologically, followed by an analysis.

The first relevant decision was issued in April 1990.[18] The petitioner, a man, challenged certain provisions of the Social Security Act (1975),[19] amended by the Pension Reform Act

[17] Amnesty International (2020). *No Working Around It: Gender-Based Discrimination in Hungarian Workplaces*, https://www.amnesty.hu/wp-content/uploads/2020/09/Amnesty-International_Hungary_No-working-around-it.pdf

[18] 10/1990 (IV. 27.).

[19] Act II of 1975.

(1984).[20] According to the Explanatory Memorandum of the latter, the new provisions were intended to adjust the position of men to that of women regarding the provision of a widowhood pension, but the eligibility criteria were narrower: for instance, the role of raising a dependent child was recognized differently in cases of surviving husbands and wives). The male petitioner claimed that women were thus unfairly privileged. The CC agreed that the challenged provisions were unconstitutional based on provisions concerning the equal legal standing of men and women, non-discrimination, and social security.[21] The CC used rights-based arguments and insisted on formal equality. The representative of the Ministry for Social Affairs and Health who was invited to submit an *amicus brief* noted that the social security position of men and women is viewed differently in Hungary, just like in foreign countries, due to the differences in the 'life functions' of women and men; however, providing equal access to a widowhood pension in this context could be still justified. In this case, by stipulating equal protection for groups in unequal situations, the CC disregarded the social reality of women and men.

In 1994,[22] the CC rejected a petition that challenged the constitutionality of the National Defence Act,[23] which required compulsory military service only from those women who pursue certain professions and for a shorter period (between the ages of 18 and 45) than for men in general (from 17 to 50 years old). The CC held that the differentiation was constitutional based on the provisions on non-discrimination and home defence.[24] The Explanatory Memorandum attached to the challenged act did not explain the difference in treatment; it only asserted that military service by women was to be considered exceptional. The CC argued that military service is only one of the defence-related duties; all other duties were to be undertaken by both sexes, if necessary. Therefore, the lack of military service duty for females was not to be considered *per se* unconstitutional sex-based discrimination: when deciding on the distribution of obligations the legislative body was permitted to 'consider the characteristics of the female sex' and the tradition that warfare was for the 'representatives of the male sex'. The CC reiterated that women were not exempt from homeland defence duty in general; the special provision on military service was to be considered an affirmative measure in line with the constitutional rule concerning the equal legal standing of men and women. In this decision, the CC used a biology-based argument and affirmed pre-existing gender roles in society.

A decision of the CC from 1997[25] addressed two elements of the Pension Reform Act:[26] the lower retirement age defined for women with regard to the provision of the standard old age pension and the favourable conditions for women with regard to the option of early retirement. As for the rationale of these provisions, the Explanatory Memorandum attached to the challenged piece of legislation did not mention the role of women and men in society or the family but claimed that the amendments were necessary because Hungarian society is ageing, and with regard to the ongoing equalisation of the retirement age for women and

[20] Act XLVII of 1989.
[21] Articles 66(1), 70/A, 70/E (1).
[22] 46/1994 (X. 21.).
[23] Act I of 1976.
[24] Article 70/H.
[25] 32/1997 (V. 16.).
[26] Act LIX of 1996.

men. The CC gave due consideration to the reasoning that society's aging created a burdensome situation that should be addressed by reform attentive to labour market conditions. The CC found that the lower retirement age defined for women was not unconstitutional, considering the anti-discrimination clause, the provision on the equal legal standing of women and men, and the affirmative action provision, because this arrangement was related to the 'characteristics of the female sex' (here the CC cited its decision from 1994 on compulsory military service). The CC concluded that the gradual equalisation of the retirement age would in any case abolish the advantaged position of women and that it was legitimate to provide women with some temporary privileges in this regard. However, the CC held it unconstitutional that men were eligible to retire earlier only if they had been single parents. According to the CC's reasoning, 'when it comes to raising children, men and women enjoy equal rights and are burdened by equal duties', thus rights and duties connected to parenthood 'cannot be regulated in a way that is discriminatory towards men.' Accordingly, with regard to the early retirement option the CC favoured men by using the formal equality argument that provided for an unequal or even unfair redistribution of resources.

A CC decision from 1998[27] also concerned the issue of early retirement. The male petitioner, who had worked in a weaving mill, challenged the constitutionality of a government decree implementing the State Pension Act[28] because of perceived bias in the early retirement option for male and female workers who undertake hazardous jobs: women were entitled to retire earlier than men. The CC claimed that the constitutional mandate to adopt affirmative measures for women was 'obviously based on the recognition of differences between the natural, biological and physical features of men and women. Due to the biological characteristics of women, particularly the biological and psychological dimensions of motherhood, and due to less physical strength, women face sooner and on a more severe level the consequences of certain environmental harms. The same activity that does not do any damage to the health of the male can harm the health of the female'. However, the CC considered the particularity of the issue (namely, that the challenged provision concerned hazardous jobs), and concluded that 'the impacts of the increased use of the body or certain health damages affect men as well'. Consequently, the CC annulled the challenged provision as unconstitutional based on the Constitution's rule on the equal legal standing of women and men and the anti-discrimination clause. In this decision, the CC ultimately neglected its previously used biology-based argument (as employed in the military service decision) and the constitutional rule that ensured special protection for women in the workplace. Instead, the CC turned to a formal equality approach, with all the implications of this arrangement regarding the redistribution system.

In a decision from 2000,[29] the CC considered the constitutionality of various legal provisions from the perspective of equality between women and men. After reviewing Hungary's relevant international obligations and the caselaw of the ECJ, the CC held that the concept of 'discrimination has a different content and sense in the economic sphere (competition) and in the area of human rights; nevertheless, there are certain connections', and concluded that the issue at stake in the examined cases was 'whether the differentiation between women

[27] 7/1998 (III. 18.).
[28] Governmental Decree 168/1997. (X. 6.).
[29] 28/2000 (IX. 8.).

and men on biological grounds was based on reasonable and objective reasons, or whether it amounted to discrimination based on sex. This issue arises particularly when the legislator distinguishes not within the scope of actual equality (equality of opportunities), but within the scope of formal equality on the ground of sex.'

First, the CC had to consider the constitutionality of the National Defence Act,[30] the Armed Forces Act,[31] and certain related governmental decrees. The petitioner challenged the rules differentiating between men and women with regard to compulsory military service, but the CC considered this issue as *res iudicata*, referring to its own decision from 1994. The petitioner also challenged a rule regarding civilian (non-military) service; namely, the different age limits for the sexes (from the age of 16 to 60 for males, and 18 to 55 for females). The CC rejected this claim, referring to the Constitution's affirmative action provision which is 'obviously based on the recognition of differences between the natural, biological and physical features of men and women.'

Notably, this argument had already been used by the CC in the case of early retirement (1998). However, this very argument, as we will see, was then disregarded in the same decision when the CC considered several provisions of the State Pension Act[32] and the related governmental decrees regarding the retirement conditions defined for men and women. The challenged measures provided women with more favourable retirement conditions in terms of the age threshold. The CC here referred to its previous decision from 1997 regarding pension reform and argued similarly by claiming that the equalisation of the retirement age, which was justified by social tendencies, would inevitably lead to the abolition of the advantaged position of women. Thus, it was reasonable to apply temporary measures to make this process gradual for women.

Third, the CC considered the regulation of a special type of annuity[33] that was available as a form of compensation for those persons or their relatives who were unlawfully deprived of their life or liberty for political reasons during the Holocaust or the communist/socialist era. According to the challenged rule, women would be provided for 15 years with this annuity, while men only for 12 years, although with a higher monthly payment. The CC argued that the expected lifespan of women is longer, and this was 'not just statistical probability but statistical fact'. The CC concluded that the challenged arrangement (the smaller monthly annuity provided to women) was not unconstitutional because the anti-discrimination clause allowed space for differentiation unless it violated the right to human dignity. In this decision, the CC failed to address the overall effect of the rule and did not even acknowledge that the longer lifespan of women contributes to material inequality between the sexes.

In a decision from 2001,[34] the CC addressed various questions related in some way to the issue of names. In this case, some of the petitioners challenged the Marriage and Family Law Act[35] because it did not allow a husband to take his wife's name but allowed a wife to take her husband's name. The Explanatory Memorandum attached to the challenged legislation (adopted in 1952) considered this provision as progressive (for its time) because a wife

30 46/1994 (X. 21.).
31 Act XLIII of 1996.
32 Act LXXXI of 1997.
33 Act XXXII of 1992.
34 58/2001 (III. 7.).
35 Act IV of 1952.

was previously *obliged* to take her husband's name in marriage. The Memorandum opposed the bourgeoise concept of marriage whereby husbands have outstanding power in family matters and praised the socialist ethos which considered women and men as equal parties in marriage. The Memorandum claimed that this emancipatory approach was reflected in the provision because it abolished a privilege of men (previously, Hungarian women were required to take their husbands' full name with the affix '*-né*', equivalent to the 'Mrs John Smith' arrangement) and provided women with the option to keep their maiden name or to combine it with their husband's name (with the mentioned affix). However, almost fifty years later, the CC found that the fact that husbands were not allowed to take the name of their wife amounted to unconstitutional omission on the part of the legislative power on the basis of the rule on the equal legal standing of women and men. By this decision, the CC derived a new fundamental right, namely the 'right to name', from the concept of human dignity, based on the perspective of personal identity. The CC declared this right to be inalienable, while certain components of it, such as changing one's name or choosing one's name, might be limited.

In 2004, a decision of the CC[36] addressed the Armed Forces Act:[37] parents in the army with children under 16 years of age were entitled to extra days of vacation, but only mothers and single fathers. The Explanatory Memorandum to the Act claimed that the rationale for this rule was to provide the parent who is more involved in the upbringing of the child(ren) with more paid leave. The CC panel referred to its own decision from 1997 on retirement age regarding the role of fathers – namely, that the rights and duties connected to parenthood could not be regulated in a way that discriminated against men. Conclusively, the CC deemed the challenged provision unconstitutional and annulled it, referring to the rule on the equal legal standing of women and men and the anti-discrimination clause. Here again, the CC based its decision on its earlier practice, addressing the question on the level of formal equality without considering the social reality, thus ultimately favouring the perspective of men.

In January 2012, Hungary's new constitution, the FL, came into force and became the basis of the CC's jurisdiction.

In a decision from 2015,[38] the CC had to decide about the so-called 'Women 40' retirement program: according to this scheme, women can retire after 40 years of service if they have spent time on childcare. This early retirement option is not available for men. An initiative emerged for a plebiscite on whether this opportunity should be open to men (fathers) as well. The plebiscite question was rejected by the National Electoral Commission; then the Supreme Court decided that a plebiscite could be organized regarding the issue; this decision was challenged again; and eventually the case was brought before the CC. The CC considered the FL's non-discrimination provision,[39] the general provision on affirmative measures (for families, children, women, the elderly, and those living with disabilities),[40] and the special rule that women may be provided 'with stronger protection' in terms of the 'condi-

[36] 8/2004 (III. 25.).
[37] Act XLIII of 1996.
[38] 28/2015 (IX. 24.).
[39] Article XV(2).
[40] Article XV(5).

tions for entitlement to state pension'.[41] The wording of the latter provision is conditional, thus (in textual terms) it is only an option for the legislator to define preferential rules for women with regard to the state pension. However, according to the CC's argumentation, if the results of a referendum supported the equalisation of the retirement conditions for women and men, this would pre-empt the affirmative action provisions of the FL, in essence. The CC eventually annulled the Supreme Court's decision: this implies that the issue of women's potential early retirement can never be addressed by referendum. In this case, unlike in its previous pension-related rulings, the CC did not apply the formal equality approach. However, the CC failed to consider that the measure was potentially harmful to women (financially and career-wise) and that it was discriminatory to men who had opted to take parental leave. As for the latter, the CC was, apparently, insensitive to the changing reality of men and women in society.

3.2 Analysis

This review of the CC's landmark cases regarding the issue of equality between women and men reveals a curiously consistent approach. We have identified four remarkable patterns associated with the decisions concerning i) the origin of the cases; ii) the main claim of the cases; iii) the contextualization; and, iv) the quality of the reasonings.

Regarding the first pattern, we observe that in every case when the identity of the petitioner was known, it involved a man claiming that certain rights were unequally distributed among the sexes to the disadvantage of men. In the early years of the CC, the published versions of the decisions included the petitioners' names. Later, due to data protection rules, personal information was no longer accessible in the publicly available documents of the CC. The Hungarian language is genderless; thus, it may be impossible to identify the petitioner's sex from the phrasing. However, in some cases, the identity or at least the sex of the petitioner was revealed in public announcements or media communications.

We identified as a second pattern the fact that the cases typically revolved around the rights of men and financial matters. This is what Kovács highlighted even in 2012 with regard to the pre-FL era: 'there were surprisingly numerous decisions brought in cases whe[n] the petitioner was concerned about certain affirmative measures benefiting women and challenged those measures by asserting equal rights for men' (Kovács, 2012, p. 78). These cases were typically aimed at challenging laws that allegedly allocated more rights and opportunities to women.

The third pattern is that the decisions featured a purely formalistic approach to equality without contextualization and lacked a palpable, concise theoretical framework, which is a concern of quality – and here we arrive at the fourth pattern. Below, we discuss these patterns jointly.

It is particularly striking that most of these cases concerned the role of men in the family and emphasized men's role as fathers, while in reality, according to the given framework of ordinary legislation and policies, men have never been incentivized to undertake a larger share of childcare (or unpaid family work in general), and only some of them would be

[41] Article XIX(4).

willing to do so – according to statistics on the beneficiaries of childcare allowance, and according to social science research (Fodor et al., 2021). Judges recognised the importance and relevance of affirmative measures in certain situations, yet they tended to opt for formal equality to be ensured for men. An approach of formal equality was also applied in financial matters, thus cementing the weaker economic position of women compared to men.

As for the lack of contextualisation and the poor quality of reasoning, we recall relevant examples below.

The decision from 1990 about the widows' pension included a citation from the *amicus brief* of the Ministry for Social Affairs and Health referring to the practice of 'foreign countries' without even naming the countries, or at least specifying whether these were Western countries. With regard to women's labour market situation, it is important to stress that during the second half of the twentieth century there was significant divergence between Western countries and state-socialist countries: while the Western family model was rather based on the male breadwinner, and women's part-time employment was prevalent, the socialist family model was based on dual-earner couples and women often had full-time jobs. Thus, simple reference to the practice of foreign countries hardly helps with understanding the issue in the Hungarian context.

The decision from 2000 about the regulation of the annuity may also be mentioned here, in relation to which the difference in treatment between women and men was threefold: i) women were provided with the annuity for a longer period, but ii) were provided with a smaller monthly payment, and iii) the total sum of money provided throughout the years for women was slightly less (although the difference was minor). Moreover, we note an implicit (incidental) factor: the regulation provided for fixed monthly payments, thus the real value of compensation paid to women would be liable to erode more over time due to inflation. Given the phenomena of the gender pension gap and the tendency that elderly women are at increased risk of poverty, the impact of this arrangement was ultimately detrimental to women. However, the CC failed to contextualize the matter.

The CC, in its decision from 2015 regarding the 'Women 40' early retirement scheme (which was already based on the FL), failed to consider women's social situation, just like in the previous pension-related rulings (based on the Constitution). However, this decision differed somewhat from the previous ones – but not for the better. It does not promote the approach of incentivising men to take a more involved and active role as fathers, and it discriminates against men who take parental leave. At the same time, it is doubtful whether the early retirement option is beneficial for women. Although it is not mandatory for eligible women to leave the labour market after 40 years, they might be pressured by their families or by their employees/colleagues to retire earlier, and thus settle for a smaller pension than if they retired a few years later under the general pension regime.

The reasonings of the CC decisions analysed here are remarkably poorly elaborated, vague, and even blurred; they lack concrete reference to facts and analyses and are not based on clear or clarified concepts. Notably, the reasoning of the CC did not extend beyond the arguments and positions that we have presented above. Meanwhile, especially during the earlier years of its operation, the same CC delivered thorough reasonings in other decisions, such as one on the death penalty in 1990.[42]

[42] 23/1990. (X. 31.).

4 Conclusion

We put the phrase 'women's equality' between quotation marks in the title of this paper. We did this for a reason. Although the literature sporadically indicated it, we were still surprised by what we found in the analysis of the flagship constitutional court cases related to the issue of equality between men and women (understood as legal equality or equal treatment): the fact that the CC, over many years (in many different cases), tended to advance the formal equality of men instead of the substantive equality of women.

When we chose to focus on the level of constitutional review, we were aware of the epistemological limits of the study: namely, that the CC could decide only about those cases which were brought before it. However, it was counterintuitive to see that virtually all the petitioners were men and that virtually all the cases over the last thirty years (since the establishment of the CC) involved alleged instances of discrimination against men. We may ask what the social reason for this phenomenon is: do men have more resources than women (in terms of time, energy, and assertiveness) to take their legal claims to the highest levels? Is the phenomenon more strongly related to the features of constitutional adjudication in Hungary? Or is it connected to the mere fact that the constitutions have always provided space for affirmative measures for women, thus men were more likely to turn to the CC claiming that women were actually 'too privileged' in Hungary? Also, one should note that the typical source of women's hardships is not discriminative legislation but the discriminative behaviour of certain actors (which is to be remedied by ordinary courts); either that or structural features that cannot be framed as discrimination based on sex. These are questions that we did not aim to answer in this article, but which could be the subject of future research. This could also contribute to our understanding of various obstacles to ensuring constitutional justice.

Turning back to our analysis: some of the cases, considering the complexity of the social reality, were not black and white. The petitioner in the high-profile case from 2013 (mentioned in the introductory section) explicitly claimed that he was not overly concerned about the moderate entrance fee to be paid by men; he was rather worried about the objectification of women conveyed by this policy. From this point of view, it served the best interest of women that the CC applied the formal equality approach and established discrimination against men; without, however, elaborating its own reasoning and merely repeating the arguments of the ETA. The other outstandingly controversial case concerned the 'Women 40' early retirement scheme, which may be criticised because it does not encourage men to take on a larger share of childcare obligations, but also because it contributes to the gender pension gap, to the disadvantage of women. This case remarkably displays the attitudes of an already politically packed and illiberalized constitutional court (Drinóczi, 2022) that has been eager to assist the government in politics. It transformed the possibility to legislate on a concrete issue into the establishment of the pseudo-fundamental right of women to state protection within a constitutional framework which is designed without conceptualizing the right to social security, and which applies an obviously paternalistic approach towards women.

Based on the arguments in the relevant decisions, we understand that the CC's approach towards women's status in society has always been rather traditionalist, paternalistic, or even patriarchal, instead of involving a proactive-interpretative role in the conceptualization of equality between men and women (unlike some courts in other countries – e.g. the US Supreme Court or the German Constitutional Court), and this tendency was perceivable even before the era of the Fidesz-government (Kovács, 2009, pp. 35–36). The Hungarian

CC has never considered whether certain elements of women's or men's roles were socially constructed, or whether the law perpetuated stereotypes about women and men, thus further cementing hierarchical conditions. There was an overwhelming use of arguments that referred to 'biology', which, together with the lack of contextualization, pushed the CC to adopt positions that either supported formal equality, favouring men's rights, and/or reinforced women's subordinate social position. When the cases were about advancing men's rights to achieve formal equality, the CC considered the concept of 'social roles' and equality provisions. In contrast, when the CC decided on cases from the perspective of women's rights, it prioritized affirmative action provisions but failed to use these tools to challenge the social structure and to promote a less limited set of roles for both sexes.

We also found that when the disputes reached the level of constitutional debate, the quality of reasoning was so poor that it gave us the impression that the CC has never treated gender equality seriously. Moreover, we observe that there has been little difference in this regard regardless of the presence of a liberal vs. illiberal constitutional setting (Drinóczi & Bień-Kacała, 2022).

This review and analysis of landmark decisions allowed us to draw attention to some of the underlying attitudes of the CC that have apparently prevailed during the thirty years of its existence. It leads us to conclude that the relevant case law of the Hungarian CC poses a challenge to the backlash narrative regarding the developments in Hungary in this field – suggesting that there is no meaningful baseline for a backlash. We claim that the CC has never elaborated and operationalised an advanced understanding of equality between the sexes. Looking honestly at the relevant CC decisions, we cannot identify the arc of the backlash with regard to the conceptualization and the promotion of women's equality, because women have always been sidelined by the CC.

References

Acsády, J. (1999). Remarks on the History of Hungarian Feminism. *Hungarian Studies Review, 26*(1–2), 59–64.

Adamecz-Völgyi, A. (2019). Is there a glass ceiling in Hungary? Gender wage gap by educational attainment. In K. Fazekas & Á. Szabó-Morvai (Eds.), *The Hungarian Labour Market 2018* (pp. 63–65). Budapest: Institute of Economics, Centre for Economic and Regional Studies, Hungarian Academy of Sciences. https://kti.krtk.hu/wp-content/uploads/2019/07/Contents.pdf

Císař, O. (2020). Social Movement Diffusion in Eastern Europe. In C. Flesher Fominaya & R. A. Feenstra (Eds.), *Routledge Handbook of Contemporary European Social Movements: Protest in Turbulent Times* (pp. 237–250). Routledge. https://doi.org/10.4324/9781351025188-18

Drinóczi, T. (2021, July 21). How we can detect illiberal constitutional courts and why we should be alarmed – Hungarian and Polish examples. *I·CONnect: Blog of the International Journal of Constitutional Law*. http://www.iconnectblog.com/2021/2007/how-we-can-detect-illiberal-constitutional-courts-and-why-we-should-be-alarmed-hungarian-and-polish-examples/

Drinóczi, T. & Balogh, L. (2021, February 9). The (Non)-Ratification of the Istanbul Convention: Specialities of the Related Political Discourse in Hungary. *IACL-AIDC Blog*. https://blog-iacl-aidc.org/gender/2021/2022/2029/the-non-ratification-of-the-istanbul-convention-specialities-of-the-related-political-discourse-in-hungary

Drinóczi, T. & Bień-Kacała, A. (2022). *Illiberal Constitutionalism in Poland and Hungary. The Deterioration of Democracy, Misuse of Human Rights and Abuse of the Rule of Law.* Routledge.

Drinóczi, T. & Juhász, G. (2016). Social rights in Hungary. In K. Wojtyczek (Ed.), *Social rights as fundamental rights: XIXth International Congress of Comparative Law / Le XIXe Congrès international de droit compare* (pp. 171–206). Eleven International.

Faludi, S. (1991). *Backlash: The Undeclared War Against American Women.* Crown Publishing Group.

Fodor, E. (2022). A Carefare Regime. In *The Gender Regime of Anti-Liberal Hungary* (pp. 29–64). Springer. https://doi.org/10.1007/978-3-030-85312-9_2

Fodor, É., Gregor, A., Koltai, J. & Kováts, E. (2021). The impact of COVID-19 on the gender division of childcare work in Hungary. *European Societies,* 23 (sup1), S95–S110. https://doi.org/10.1080/14616696.2020.1817522

Gárdos-Orosz, F. (2020). The reference to constitutional traditions in populist constitutionalism – The case of Hungary. *Hungarian Journal of Legal Studies, 61*(1), 23–51. https://doi.org/10.1556/2052.2021.00298

Gárdos-Orosz, F. & Zakariás, K. (Eds.) (2022). *The main lines of the jurisprudence of the Hungarian Constitutional Court: 30 case studies from the 30 years of the Constitutional Court (1990–2020).* Nomos. https://doi.org/10.5771/9783748929826

Grabowska, M. (2015). Cultural war or business as usual? Recent instances, and the historical origins of a "backlash" against women's and sexual rights in Poland. In *Anti-Gender Movements on the Rise? Strategising for Gender Equality in Central and Eastern Europe* (pp. 54–64). Heinrich-Böll-Stiftung.

Grzebalska, W. & Kováts, E. (2018, December 18). Beyond the anti-women backlash: How we can understand women's support for the right in Poland and Hungary. *IPS-Journal.* https://www.ips-journal.eu/regions/europe/beyond-the-anti-women-backlash-3160

Grzebalska, W., Kováts, E. & Pető, A. (2017, January 13). Gender as symbolic glue: how 'gender' became an umbrella term for the rejection of the (neo)liberal order. *Political Critique.* https://politicalcritique.org/long-read/2017/gender-as-symbolic-glue-how-gender-became-an-umbrella-term-for-the-rejection-of-the-neoliberal-order

Goetz, A. M. (2020). The New Competition in Multilateral Norm-Setting: Transnational Feminists & the Illiberal Backlash. *Dædalus, 149*(1), 160–179. https://doi.org/10.1162/DAED_a_01780

Halmai, G. (2019). Dismantling constitutional review in Hungary. *Rivista di Diritti Comparati,* (1), 31–47.

Haney, L. (1994). From Proud Worker to Good Mother: Women, the State, and Regime Change in Hungary. *Frontiers: A Journal of Women Studies, 14*(3), 113–150. https://doi.org/10.2307/3346683

Hungler, S. & Kende, Á. (2019). Nők a család- és foglalkoztatáspolitika keresztútján [Women at the crossroads of family policies and employment policies]. *Pro Futuro, 9*(2), 100–117. https://doi.org/10.26521/Profuturo/1/2019/3881

Ilonszki, G. & Vajda, A. (2019). Women's Substantive Representation in Decline: The Case of Democratic Failure in Hungary. *Politics & Gender, 15*(2), 240–261. https://doi.org/10.1017/S1743923X19000072

Jakab, A. & Fröhlich, J. (2017), The Constitutional Court of Hungary. In A. Jakab, A. Dyevre, & G. Itzcovich (Eds.), *Comparative constitutional reasoning* (pp. 394–437). Cambridge University Press. https://doi.org/10.1017/9781316084281.013

Johnson, J. E., Fábián, K. & Lazda, M. (2022). The Gendered Ambiguity of the Postcommunist Transitions. *The Russian Review, 81*(2), 344–353. https://doi.org/10.1111/russ.12364

Juhász, B. & Pap, E. (2018). *Backlash in gender equality and women's and girls' rights.* European Parliament. https://doi.org/10.2861/866870

Kornai, J. (2012). Centralisation and the capitalist market economy. *Economics of Transition and Institutional Change, 20*(4), 569–591. https://doi.org/10.1111/j.1468-0351.2012.00443.x

Korolczuk, E. & Graff, A. (2018). Gender as "Ebola from Brussels": The Anticolonial Frame and the Rise of Illiberal Populism. *Signs: Journal of Women in Culture and Society, 43*(4), 797–821. https://doi.org/10.1086/696691

Kovács, K. (2008). Think Positive. Preferential treatment in Hungary. *Fundamentum, 12*(5), 46–62. https://epa.oszk.hu/02300/02334/00034/pdf/EPA02334_Fundamentum_2008_05_046-062.pdf

Kovács, K. (2009). Erős elv, gyenge jogvédelem. Az antidiszkriminációs gyakorlat kezdetei Magyarországon [Strong principle, weak protection. The beginnings of the jurisprudence on anti-discrimination in Hungary]. *Fundamentum, 13*(4), 29–48. https://epa.oszk.hu/02300/02334/00038/pdf/EPA02334_Fundamentum_2009_04_029-048.pdf

Kovács, K. (2012). *Az egyenlőség felé. A hátrányos megkülönböztetés tilalma* és *a támogató intézkedések* [Towards equality: Prohibition of unequal treatment and positive measures]. L'Harmattan.

Krizsán, A. & Pap, E. (2005). *Equal Opportunities for Women and Men: Monitoring law and practice in Hungary.* Open Society Institute.

Krizsán, A. & Roggeband, C. (2021). *Politicizing Gender and Democracy in the Context of the Istanbul Convention.* Palgrave Pivot. https://doi.org/10.1007/978-3-030-79069-1

Lewin, T. (2021). Nothing is as it seems: 'discourse capture' and backlash politics. *Gender & Development, 29*(2–3), 253–268. https://doi.org/10.1080/13552074.2021.1977047

Magyarkúti, B. (2013, November 21). Vége a nők ingyenbulijának [No more free partying for women]. *Index.hu.* https://index.hu/belfold/2013/11/21/diszkriminativ_a_nok_ingyenbulija/

Nemenyi, M. (1994). Miért nincs Magyarországon nőmozgalom? [Why there is no women's movement in Hungary?]. In M. Hadas (Ed.), *Férfiuralom: Írások nőkről, férfiakról, feminizmusról [Men's Rule: Writings about women, men, feminism]* (pp. 235–245). Replika Kör.

Pap, A. L. (2015). 'Intimate citizenship' a Nemzeti Együttműködés Rendszerében: Az Alaptörvény preferenciái feminista nézőpontból [Intimate citizenship in the System of National Cooperation: the preferences of the Fundamental Law from a feminist perspective]. *TNTeF, 5*(2), 83–101. https://ojs.bibl.u-szeged.hu/index.php/tntef/article/view/33766/32838

Paternotte, D. (2020, March 30). Backlash: A misleading narrative. *Engenderings.* https://blogs.lse.ac.uk/gender/2020/2003/2030/backlash-a-misleading-narrative

Pető, A. (2010). Anti-Modernist Political Thoughts on Motherhood in Europe in a Historical Perspective. In H. Kahlert & W. Ernst (Eds.), *Reframing Demographic Change in Europe: Perspectives on Gender and Welfare State Transformations* (pp. 189–200). Lit Verlag.

Rackley, E. (2012). Why Feminist Legal Scholars Should Write Judgments: Reflections on the Feminist Judgments Project in England and Wales. *Canadian Journal of Women and the Law, 24*(2), 389–413. https://doi.org/10.3138/cjwl.24.2.389

Roggeband, C. & Krizsán, A. (2020). Democratic backsliding and the backlash against women's rights: Understanding the current challenges for feminist politics. Background paper prepared for the Expert Group Meeting on the 25th anniversary of the Beijing Platform for Action, to inform the 64th Session of the Commission on the status of women. *UN Women discussion paper series* (No. 35). https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Discussion-paper-Democratic-backsliding-and-the-backlash-against-womens-rights-en.pdf

Rubio-Marín, R. (2021). On Constitutionalism and Women's Citizenship. *Current Legal Problems, 74*(1), 361–402. https://doi.org/10.1093/clp/cuab013

Schadt, M. (2005). Ellentmondásos szerepelvárások, nők az államszocializmusban [Controversial Role Expectations, Women in State Socialism]. *Acta Sociologica* – Pécsi Szociológiai Szemle, *1*(1), 61–75. https://doi.org.10.15170/AS.2005.1.1.5

Simonovits, B., & Szeitl, B. (2018). Nők és férfiak helyzete – nemzetközi összehasonlításban [The situation of women and men – in international comparison]. In T. Kolosi & I. G. Tóth (Eds.), *Társadalmi Riport 2018* (pp. 166–183). TÁRKI.

Sipos, A. (2018). Eladónőt keresünk! Az Egyenlő Bánásmód Hatóság nemi sztereotípiákkal kapcsolatos döntései [We are hiring saleswomen! The Equal Treatment Authority's decisions regarding gender stereotypes]. *Fundamentum, 22*(1), 73–86. https://fundamentum.hu/sites/default/files/fundamentum-18-1-06.pdf

Snitow, A. (2020). *Visitors: An American Feminist in East Central Europe*. New Village Press.

Spehar, A. (2021). Europeanization and the challenge of gender equality. In K. Fábián, J. E. Johnson & M. Lazda (Eds.), *The Routledge Handbook of Gender in Central-Eastern Europe and Eurasia* (pp. 379–386). Routledge. https://doi.org/10.4324/9781138347762-63

Stock, K. (2019). Can You Change Your Gender? *The Philosopher, 107*(3), 19–23.

Szelewa, D. (2021). Social welfare and family policies in Central-Eastern European countries. In K. Fábián, J. E. Johnson & M. Lazda (Eds.), *The Routledge Handbook of Gender in Central-Eastern Europe and Eurasia* (pp. 514–522). Routledge. https://doi.org/10.4324/9781138347762-84

Szente, Z. (2016). The political orientation of the members of the Hungarian Constitutional Court between 2010 and 2014. *Constitutional Studies, 1*(1), 123–149. https://constitutionalstudies.wisc.edu/index.php/cs/article/view/8/6

Szikra, D., Fejős, A., Neményi, M. & Vajda, R. (2020). *Civil society activism related to women and families since 2010 in Hungary. Deepening cleavages and new strategies*. Friedrich-Ebert-Stiftung. https://library.fes.de/pdf-files/bueros/budapest/17382.pdf