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The presidents of the Hungarian Royal Administrative Court (1897–1949)

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Summary

In this paper, I'd like to provide an overview of the presidents of the Hungarian Royal Administrative Court (*Magyar Királyi Közigazgatási Bíróság*) which operated in Budapest between 1897 and 1949. I wish to present the legal status, the political and social prestige and the scholarly background of the presidents of that court. In the opening, however, I will outline the organisation, the scope of authority and the operation of the Administrative Court.

Streszczenie

Przewodniczący Węgierskiego Królewskiego Sądu Administracyjnego (1897–1949)

Niniejsze opracowanie prezentuje sylwetki przewodniczących Węgierskiego Królewskiego Sądu Administracyjnego (*Magyar Királyi Közigazgatási Bíróság*), który mieścił

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się w Budapeszcie w latach 1897–1949. Została w nim także dokonana analiza stanu prawnego oraz tła politycznego i ówczesnych stosunków społecznych, a także uwzględnione aspekty naukowe związane z przewodniczącymi tego sądu. W ramach zagadnień wstępnych w artykule zostały w zarysie przedstawione organizacja, kompetencje i zasady funkcjonowania Sądu Administracyjnego.

I.

In bourgeois Hungary, the most important judicial forum for the protection of rights in public administration was the Administrative Court, whose standing and prestige made it equal to the supreme court called the Royal Curia (*Királyi Kúria*). The Financial Administrative Court, which operated between 1883 and 1897, can be considered the institutional predecessor of the Administrative Court: that body was a forum for the judicial review of administrative rulings levying financial burdens – proportional taxes and contributions². The Administrative Court was established as a single-level special court in 1896. The court was divided into two specialisations, the general administrative department and the financial department. Accordingly, the Financial Administrative Court (*Pénzügyi Közigazgatási Bíróság*), which had previously operated as an independent body, lost its institutional autonomy and merged with the Administrative Court³.

The legislator stipulated the scope of authority of the Administrative Court using positive tasking, i.e. Act XXVI. of 1896 prescribed an itemised list of the types of cases for which judicial review was permitted. Subsequently the scope of authority of the Administrative Court was extended many times during the

² I. Stipta, *A magyar pénzügyi közigazgatási bíróság jellege és hatásköre*. Az 1883. évi LXIII. tc. tartalma és jelentősége, "Publicationes Universitatis Miskolciensis Sectio Juridica et Politica", vol. XXIX/1. ed. S. Pál. Miskolc 2011, pp. 89–116.

G. Schweitzer, *Közigazgatás – igazságszolgáltatás – jogállamiság, avagy a közigazgatási bíráskodás kezdetei Magyarországon*, "Állam – és Jogtudomány" 1996–1997, no. 1–2, pp. 21–34.

³ Ibidem.

following decades⁴. Proceedings before the court could be initiated by all natural and legal persons with an interest in the judicial review of a specific administrative resolution for any reason. There was no possibility of appeal against the rulings of the Administrative Court, sitting as a bench, they became effective upon pronouncement. However, in exceptional cases, there was a possibility of initiating the reopening of the case. So, in effect, the court made material judgments concerning the cases within its jurisdiction, by exercising the right to reverse contested administrative measures.

The scope of authority of the Administrative Court was amended many times. The most significant changes concerned some issues of public law, more precisely, specific issues of constitutional law. As Act LX of 1907, the local authorities of cities and counties could petition the Administrative Court if they believed a decree or resolution of the government or one of its ministers to be unlawful. If the Administrative Court upheld the complaint, the contested decree or resolution was annulled. In that sense, the court had a cassatory, rather than reformatory jurisdiction. The Administrative Court's scope with respect to constitutional law underwent another important extension by Act XXVI of 1925, when the judicial oversight of parliamentary elections was also relegated to the Administrative Court. The reform of public administration regulated by Act XXX of 1929 extended the legislative scope of authority of the Administrative Court even further. If the government dissolved a city or county municipal committee in an unlawful manner, the dissolved municipal committee was permitted to submit a complaint to the Administrative Court according to the regulations of Act XXX of 1929⁵. It was due to those specifically constitutional types of cases within its scope of authority that the Administrative Court was considered a court of constitutional law.

In relation to the changes to its scope of authority, the organisational reform of the Administrative Court was also placed on the agenda from time

⁴ E.Í. Horváth, *The History of the Hungarian Administrative Jurisdiction*, [in:] *A hazai és az uniós közigazgatási eljárásjog aktuális kérdései – Current Issues of the National and EU Administrative Procedures (the ReNEUAL Model Rules)*. eds. G. Balázs, L. Berkes, Zs. András. Budapest 2015, pp. 467–468.

⁵ E. Borsos, *Közjogi jelentőségű ügyek*, [in:] *A Magyar Közigazgatási Bíróság 50 éve (1897–1947)*, Magyar Közigazgatási Bíróság, Budapest 1947, pp. 65–87.

to time. As early as the formulation of Act XXVI of 1896, the introduction of two levels of administrative courts in Hungary was already considered, but the solution was not adopted. The organisation of a lower level of administrative courts – usually organised on a territorial basis – was raised later on as well, but without sufficient political support, those ideas were never put into practice.

II.

The Administrative Court was headed by its president, who had a deputy for cases of Administrative Procedural Incapacitation. In addition to them, the Court consisted of a number of senior judges and judges whose number was not specified in Act XXVI of 1896. The president, deputy president and members of the Administrative Court were appointed upon the advice of the prime minister by the head of state – until 1918, the monarch, between the two world wars, the regent (*kormányzó*), and finally, in 1945, by the Presidency of the Temporary National Assembly (*Ideiglenes Nemzetgyűlés Elnöksége*), the body that temporarily exercised the functions of the head of state. The initial number of judges, 24, was increased repeatedly, so during the years of World War II, the number of judges of the Administrative Court was almost 70.

As regards the turnover of case, by 1943, the Administrative Court had received almost 1.4 million petitions: one million of those cases were allocated to the financial department and four hundred thousand to the administrative department. The financial department issued 600,000, the administrative department 200,000 judgments. In the remaining cases, either rulings were issued, or the cases were settled out of court⁶. The workload of the judges of the Administrative Court was increased by the fact that they also worked on the cases of the Jurisdictional Court (*Hatásköri Bíróság*), which existed between 1908 and 1949. Eventually, the office of the president of the Jurisdictional Court alternated every three years between the presi-

⁶ G. Versényi, *Statisztikai adatok a Közigazgatási Bíróság 50 éves működéséről*, [in:] *A Magyar Közigazgatási Bíróság 50 éve (1897–1947)*. Magyar Közigazgatási Bíróság, Budapest 1947, pp. 340–345.

dent of the Curia, which was the supreme court, and the president of the Administrative Court.

What qualifications were required of a person appointed to be a judge of the Administrative Court? Naturally, the applicable regulations took into account the specific scope of tasks and authority of the Administrative Court. Accordingly, half the judges were persons qualified to hold higher judicial offices, while the other half were persons qualified to hold higher public administration offices. That is to say, a part of the judges of the Administrative Court were highly qualified judges, while the rest were highly qualified public servants. Under the regulations applicable to judges, the members of the Administrative Court could retire at the age of 70, unless they were retained in service. Similarly to the president and deputy president of the Curia, while in office, the president and the deputy president of the Administrative Court were also members of the second chamber of the legislature, which was called the House of Lords (*Főrendiház*) until 1918 and the Upper House (*Felsőház*) between 1927 and 1944. All of those provisions indicate that the Administrative Court, and its president and deputy president enjoyed a high level of professional public and social prestige.

During the 52 years of operation of the Administrative Court, it had five presidents and eight deputy presidents. Iván Rakovszky headed the Administrative Court for the shortest period, three and a half years, while Gyula Wlassics served as president for the longest time, 26 and a half years. The youngest presidents of the Administrative Court, Sándor Wekerle and János Csorba, assumed the office at the age of 48, while the oldest, Endre Puky, was 62 at the time of his appointment. Two of the presidents retired from office: Gyula Wlassics retired at 81, while Endre Puky retired at 70. Two earlier presidents, Sándor Wekerle and Iván Rakovszky, left the office due to appointments to the positions of prime minister and minister of religion education, respectively. János Csorba's appointment was terminated when the Administrative Court itself was dissolved in 1949 by the initiative of the legislation. None of the presidents had previously worked as a judge of the Administrative Court, indeed, none of them were qualified or had any experience as judges at all. They all came to the position from the world of politics, some directly, some by a more roundabout route. Only two of them, Sándor Wekerle and Gyula Wlassics had scholarly backgrounds.

The first president of the Administrative Court, Sándor Wekerle (1848–1921, period in office: 1896–1906) began his career in administration in the Ministry of Finance. At the same time, in 1877, at the age of 29, he qualified as a privat-docent of financial law. He taught at the Faculty of Law and Political Sciences of the Budapest University for several years. In relation to our narrower topic we should also mention that Sándor Wekerle developed the draft rules of procedure of the Financial Administrative Court⁷. He was appointed to his first government position, as Minister of Finance in 1889. For a little more than two years, between November 1892 and January 1895, he was the prime minister of Hungary while also retaining his position as the minister of finance. He is credited with restoring the country's financial balance, the preparation for the transition to a gold-backed currency and the adoption of liberal so-called religious policy laws – compulsory civil marriage, compulsory civil registration of births and marriages. Sándor Wekerle spent a decade at the head of the Administrative Court. His monographer didn't devote much attention to that period⁸. At any rate, during his presidency, the organisation of the Administrative Court was stabilised, and his indisputable personal authority also laid the foundation for the authority of the Administrative Court. The learned journals of the time accepted with resignation when he replaced the judge's pulpit with the prime minister's armchair.

The appointment of Gyula Wlassics (1852–1937, period in office: 1906–1933) to the position of president of the Administrative Court was greeted with great enthusiasm by the press. “The right man in the right place” was the phrase printed originally in English in one of the journals of jurisprudence on the occasion of his appointment⁹. Although Gyula Wlassics indirectly came from the direction of politics and central administration, he had a significant scholarly background. As a liberal politician he was a member of parliament for several terms, then he was Minister of Religion and Education between 1895 and 1903. In the field of the legal regulation of reli-

⁷ I. Stipta, *Adalékok a Pénzügyi Közigazgatási Bíróság működéséhez (1884–1885)*, “Acta Juridica et Politica” vol. LVII, fasc. 9. Acta Universitatis Szegediensis de József Attila Nominatae, Szeged 1999, p. 5.

⁸ Géza Andreas von Geyr: *Sándor Wekerle 1848–1921. Die politische Biographie eines ungarischen Staatsmannes der Donaumonarchie*. München 1993, pp. 188–190.

⁹ A kir. közigazgatási bíróság elnöke. Jogtudományi Közlöny, 1906. április 27. p. 139.

gions, he is credited with the codification of the ‘accepted’ status of the Jewish denomination (Act LXIII of 1895), and the Act on religious freedom (Act XLII of 1895). As a liberal policy-maker on education, he opened the gates of the Medical School and the Faculty of Humanities to women wishing to study. As a scholar, he specialised in criminal law. The Hungarian Academy of Science conferred membership upon him in recognition of his scientific achievements in 1886. He taught as a professor at the Faculty of Law and Political Sciences of the Budapest University for years (1890–1895, 1903–1906). He was an active professor of criminal law in 1906 when he was appointed to the presidency of the Administrative Court. As the president of the Administrative Court, he consistently advocated for extending the scope of authority of the Administrative Court and for the establishment of lower level administrative courts¹⁰. His endeavours to extend the Administrative Court’s scope of authority were successful, but failed to achieve the organisational reform of administrative judicature. During that period, his scholarly interests naturally turned towards the theoretical and practical issues of constitutional law, in particular administrative and jurisdictional judicature. As one of his contemporary devotees noted, his quarter of a century as its president transformed the Administrative Court “into a veritable court of constitutional law”¹¹. His commitment to public life is attested by his appointment to the position of chairman of the Upper House in 1918. And when, after a hiatus of many years, the second chamber of the legislature began operation again in 1927, at that time with the name Upper House, Gyula Wlassics, who was then 75 years old, was once again elected its chairman. His international recognition is indicated by his election to be a member of the Permanent Court of Arbitration at the Hague in 1923. As time passed, the press published rumours that Gyula Wlassics would resign his presidency of the Administrative Court, not only on account of his age but also due to his position in the Upper House. The press even speculated about possible successors, favouring various persons at various times. Eventually, Gyula Wlassics retired from his position at the head of the Administrative Court at the age of 81, in January 1933. He spent two more years at the head of the Upper House. The real authority of the Administrative Court was established dur-

¹⁰ I. Egyed, *Wlassics és a Közigazgatási Bíróság*, “Jogállam” 1933, no. 1, p. 52.

¹¹ I. Egyed, *Wlassics Gyula*, “Jogállam” 1932, no. 3–4, p. 90.

ing his presidency extending over a quarter of a century. His authority was reinforced by the fact that he retained his liberal convictions all along. Even during an age which, prior to World War I, became openly hostile towards the principles of political liberalism.

Gyula Wlassics's successor as the head of the Administrative Court was Endre Puky (1871–1941, period in office: 1933–1941). His appointment may have been a surprise as his name had not been mentioned at all as a potential appointee. The law journals were a bit disappointed, they had hoped that an expert with qualities on par with Gyula Wlassics would be appointed rather than a party politician. As a brief anonymous article of the reputable law journal, *Jogtudományi Közlöny*, stated it can't be justified that instead of experts of administrative and financial law party politicians are going to be the presidents and vice-presidents of the Administrative Court¹². Nevertheless, Endre Puky had several decades of experience working in public administration at the county level: he had started his career as a junior clerk and finished it as a county lord-lieutenant. Later, as a government MP, he served as a vice-chairman of the house of representatives for a while. For a very short period, between October 1932 and January 1933, he was Hungary's foreign minister. According to the reminiscences of secretary of state, István Antal, Prime Minister Gyula Gömbös characterised Endre Puky as a "jovial, likeable gentleman", whose political horizons, in his view, did not extend beyond the windows of the county hall¹³. Endre Puky's appointment as president of the Administrative Court was a consolation prize, obviously. His only notable success was that during his term in office the Administrative Court's number of judges was increased.

It's important to mention that the so-called Country Council (*Ország-tanács*) was also established during his mandate, by Act of XIX 1937. In case the country had no head of state, the Country Council performed the functions of the head of state until a new one was sworn in. The president of the Administrative Court was one of the seven members of the Country Council.

In an article published in 1940, Endre Puky stated with contentment that the Administrative Court "is not only a balance and a dispenser of justice –

¹² *Jogtudományi Közlöny*, 1933, január 14, p. 12.

¹³ Gömbös Gyula hatalomra kerülése és kormányása 1932–1936. Antal István sajtófőnök emlékiratai, ed. G. Jenő, Budapest 2004, p. 118.

but, indirectly, also the promoter and controller of its development"¹⁴. The following year, as he turned 70, Endre Puky resigned his position. In the last years of his presidency, many victims of the anti-jewish laws enacted after 1938 petitioned the Administrative Court due to injuries to their constitutional rights¹⁵.

After the resignation of Endre Puky, Iván Rakovszky (1885–1960, period in office: 1941–1944) was appointed to the position of president of the Administrative Court. Iván Rakovszky, who had experience in county administration, was appointed minister of the interior between 1922 and 1926. His failed plans of public administration reform included the transformation of administrative judicature into a two-tier system. Although he had no scholarly background, he published a number of articles on public administration reform and administrative judicature based on his practical experience¹⁶. He resigned the position at the very end of August 1944, when the government headed by General Géza Lakatos, who aimed to orchestrate Hungary's breaking away from the Central Powers, appointed him minister of education. The mid-October attempt was an abject failure, and Hungary's most fanatical supporters of the Nazis, the Arrow Cross Party (*Nyilaskeresztes Párt*) took power. The Arrow Cross Party government didn't appoint a new president to the Administrative Court. The president's functions were performed for several month by the deputy president of the court, Kornél Balás (1878–1962, period in office as a deputy president: 1940–1944).

After World War II, the presidential mandate of the Administrative Court was filled once again in the summer of 1945 with the appointment of János Csorba (1897–1985, period in office: 1945–1949). Prior to Hungary's liberation in 1945, János Csorba, originally a lawyer in a small town in Hungary, had been a member of parliament for the opposition Independent Small Landholders' Party (*Független Kisgazda Párt*), while after the liberation of

¹⁴ E. Puky, *A jogérzet válsága és a közigazgatási bíráskodás*, "Magyar Szemle" 1940, február, p. 116.

¹⁵ G. Schweitzer, *Anti-Jewish Laws in the Judicature Practice of the Administrative Court*, [in:] *The Holocaust in Hungary. A European Perspective*, ed. J. Molnár, Budapest 2005, pp. 167–179.

¹⁶ I. Rakovszky, *A magyar közigazgatási bíráskodás reformja*, [in:] *Fejezetek a közjog és a közigazgatási jog köréből. Némethy Károly születésének 70. évfordulója és a "Magyar Közigazgatás" félévszázados fennállása alkalmából*, ed. K. Mártonffy, Budapest 1932, pp. 118–119.

the country, he worked as the mayor of Budapest for almost six months. He could only spend a few years at the head of the Administrative Court, which was destined to wither away as, during the period of establishment of the socialist legal system, Act II of 1949 dissolved the Administrative Court as an organisation that could not be integrated into the new system of judiciary¹⁷. Nevertheless the Hungarian society – claimed János Csorba still in 1947 – had embraced the Administrative Court to its heart, “where it shall always retain its place”¹⁸. Well, two years later, as it was mentioned, this specialist court of administration, which also operated as a court of constitutional law, was dissolved with a single stroke of a pen.

III.

Before summing up, let’s say a few words about the deputy presidents of the Administrative Court, too. During the lifetime of the Administrative Court, the Court had eight deputy presidents, of whom five had been judges of the Court previously. Of the remaining three deputy presidents, one had worked in the judiciary as a judge before. Only two of those functionaries were appointed to be deputy presidents as complete outsiders. Among the deputy presidents of the Court, Sándor Benedek (1854–1936, period in office: 1914–1933), who previously served as a judge of the Administrative Court for almost fifteen years, was highly respected because of his outstanding theoretical and practical knowledge.

In conclusion we can state that while the presidents supplied a political background and in some cases a very significant scholarly and social prestige for the Administrative Court, the deputy presidents assisted the work of the Court with specialist expertise and practical experience. Although the operation of the Administrative Court only spanned half a century, it made its mark in the history of Hungarian jurisdiction by laying the foundation of the protection of administrative rights and constitutional judicature.

¹⁷ F. Sík, *A közigazgatási bíróság alkonya 1945–1949*, “Jogtudományi Közlöny” 1984, augusztus, pp. 453–458.

¹⁸ J. Csorba, *A hegyoldalról*, [in:] *A Magyar Közigazgatási Bíróság 50 éve (1897–1947)*, Magyar Közigazgatási Bíróság, Budapest 1947, p. 4.

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