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**Czech and Hungarian Constitutional Order
in the Light of Comparative Analysis
of the Perception of Democracy and its Stagnation**

Keywords: the Czech Republic, Hungary, constitution, democratization, democratic backslide

Słowa kluczowe: Republika Czeska, Węgry, konstytucja, proces demokratyzacji, regres demokracji

Abstract

Contemporary democratization process challenges the trends of regress or stagnation in the world. The Central European Countries face this problem as well, yet they differ in the depth of changes. The article addresses the problems of quality of democracy regarded as a political regime and the values of constitutional order of the Czech Republic and Hungary. As post-communist, the two countries have been regarded as democratic leaders for a long time. But the Czech Republic has the same Constitution from the beginning of democratization process, while Hungary passed the new Constitution in 2011. The Czech constitutional order reflects liberal democratic rules and values both in axiological and institutional dimension. The Hungarian one mirrors conservative and illiberal axiological values. In the institutional dimension both constitutions seem to maintain specific democratic regime, but in Hungary the executive power is dominant. The methods used in the research were: analysis, synthesis, institutional approach and comparative method.

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Streszczenie**Porządek konstytucyjny Czech i Węgier w świetle analizy porównawczej w odniesieniu do procesu demokratyzacji i jego stagnacji**

Współczesny proces demokratyzacji na świecie napotyka od pewnego czasu na przeszkody prowadzące do jego stagnacji, czy nawet regresu. Tendencja ta widoczna jest także w państwach Europy Środkowej. Artykuł podejmuje analizę jakości demokracji rozumianej w sensie substancjalnym i proceduralnym, jaką odzwierciedlają czeska i węgierska konstytucje. Po 1989 roku przez długi okres czasu państwa te były określane mianem liderów demokratyzacji. Obecnie czeski porządek konstytucyjny opiera się na założeniach Konstytucji uchwalonej na początku procesu demokratyzacji (1992 r.), a węgierski porządek reguluje Konstytucja uchwalona po dwóch dekadach od rozpoczęcia tegoż procesu (2011 r.). W wymiarze aksjologicznym czeska Konstytucja opiera się na wartościach demokratycznych i liberalnych, natomiast węgierska na konserwatywnych, tradycyjnych, a nawet nieliberalnych. W wymiarze instytucjonalnym obydwie Konstytucje gwarantują funkcjonowanie reżimu demokratycznego, z tym, że w przypadku węgierskim mamy do czynienia z dominacją egzekutywy rządowej, a w Czechach z modelem parlamentarnym. Metodami stosowanymi w procesie badawczym były: analiza i synteza, podejście instytucjonalne i metoda porównawcza.

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I.

Today, we observe strong backslide of democracy in the world. The first signs of democratic regression were noticed more than a decade ago. Jacques Rupnik noticed then the development of negative attitudes towards liberal democracy which had been coming both from society and political elites². The democratic regression has been accompanied by weakening of support for liberal values connected with universalism and individualism. Yet, from the other side there has been global appreciation for alternative values such as: glorification of state authority, patrimonialism,

² J. Rupnik, *From Democracy Fatigue to Populist Backlash*, "Journal of Democracy" 2007, No. 18 (4), pp. 17–25.

primacy of the majority principle, devaluation of minority rights³. There are three approaches to analyze global democratic changes. The first one underlines that the changes are temporal and will fade sooner or later⁴. The second one clearly states that democracy backslide transforms the regime broader, wider and deeper and leads to a new situation⁵. The third approach is rather careful because does not point neither at deeper democratic changes nor at temporal one⁶.

The trend of democratic backslide takes place in Central Europe. In 2007 Ivan Krastev noticed the end of liberal democratic era in this region⁷. Even though his observation might have seemed then a bit exaggerated, today no one or almost no one has any objections to the truth of thesis of democracy deterioration in Central Europe⁸. Nowadays the independent democracy indexes say that external evaluation of democracy functioning in the region is worsening, no matter if we take a look at more or less democratic consolidated countries. Considering the two Central European countries that are the subject of this analysis, the democratic backslide or at least stagnation is present in both. In the case of Czech Republic in the decade 2009–2018 the democracy score measured by Nations in Transit dropped from 2.18 to 2.29 (which gives deterioration of 1.8%). In

³ R.S. Foa, Y. Mounk, *The Democratic Disconnect*, “Journal of Democracy” 2016, No. 27 (3), pp. 5–17.

⁴ L. Diamond, *Facing up to the Democratic Recession*, [in:] *Democracy in Decline?*, eds. L. Diamond, M.F. Plattner, Baltimore 2015, pp. 98–115; S. Levitsky, L. Way, *The myth of democratic recession*, [in:] *Democracy in Decline?*, eds. L. Diamond, M.F. Plattner, Baltimore 2015, pp. 58–76.

⁵ A. Cooley, *Countering democratic norms*, “Journal of Democracy” 2015, No. 26(3), pp. 49–63.

⁶ S. Berman, *The Pipe dream of undemocratic liberalism*, “Journal of Democracy” 2017, No. 28(3), pp. 29–38; P.C. Schmitter, *Crisis and transition, but not decline*, [in:] *Democracy in Decline?*, eds. L. Diamond, M.F. Plattner, Baltimore 2015, pp. 39–57.

⁷ I. Krastev, *The strange death of liberal consensus*, “Journal of Democracy” 2007, No. 18 (4), pp. 56–63.

⁸ L. Cianetti, J. Dawson, S. Hanley, *Rethinking “Democratic backslide” in Central and Eastern Europe – Looking beyond Hungary and Poland*, “East European Politics” 2018, No. 34 (3), pp. 243–256; I. Krastev, *The Unravelling of the Post-1989 order*, “Journal of Democracy”, No. 27 (4), pp. 5–15; J. Rupnik, *Explaining Eastern Europe. The Crisis of Liberalism*, “Journal of Democracy” 2018, No. 29 (3), pp. 24–38.

Hungary the decrease is very huge as the democracy score dropped from 2.29 to 3.71 (23.7%). The Hungarian example is specific because after 2015 this country fell apart from the group of consolidated into semi-consolidated democracies⁹.

The reason of analyzing Czech and Hungarian examples is based on geographical, historical and contemporary reasons. Geographically, both countries are situated in Central Europe and belong to the Visegrad Group Countries. Historically, the ties between the Czech Republic and Hungary started more than a thousand years ago. The relations were developing both as the countries were independent or belonged to the Habsburg imperium. Contemporary reasons of choosing the Czech Republic and Hungary refer to the impact of socialism collapse in 1989 and the three decades of democratization process aftermath. Yet, there is another and even more important reason of choosing the Czech Republic and Hungary. When we compare the two examples we can clearly see that even though they were the leaders of the democratization process in Central Europe for a long time, today only the Czech Republic stays embedded democracy while the democratic backslide in Hungary leads this country to a regime of defective democracy.

The subject of the analysis is tracing the constitutional pattern regarded as the foundation of democratic frame of state in the Czech Republic and Hungary. As mentioned, nowadays we observe the lack of the belief in the primacy of liberal democratic constitutionalism. In democracy the constitution mirrors the will of sovereign nation transformed by representatives. The thesis of the article assumes that the character of Czech and Hungarian constitutions reflects the view on democracy represented by political elites that were responsible for passing the Constitutions. Regarding the thesis, I ask two questions:

- what conditions accompanied the process of working out and passing the constitutions in the Czech Republic and Hungary?
- what is the specific content, form and position of the Constitutions in two analyzed countries from contemporary perspective in the light of the quality of democracy and its stagnation?

⁹ *Freedom House, Nations in Transit* (2018), <https://freedomhouse.org/report/nations-transit/nations-transit-2018> (October 2, 2019).

II.

In the literature the democratization process is described as multistage and multidimensional. In chronological dimension democratization process starts with the erosion of non-democratic regime, then transition appears and the last stage is democratic consolidation. In dimensional aspect democratization process refers to institutional, political, cultural, social and economic fields¹⁰. Today, as it was mentioned in the first part of the article, we observe the democratic backslide which deteriorates liberal democratic achievements. The concept of the backslide of democracy can be named as de-democratization. According to Matthijs Boghaards de-democratization is a starting point of weakening democracy regime which then becomes a continuous process¹¹. This process can change one or more public spheres. In the Wolfgang Merkel's concept of defective democracy, which is the effect of democratic backslide, there are four types of defective democracy. First, exclusive democracy assumes that electoral law and participation are limited. Second, illiberal democracy suspends civil rights. Third, delegative democracy diminishes horizontal accountability. Fourth, domain democracy allows a government to control other state authorities¹².

From the perspective of process of working out a constitution and its implementation, the transition is a crucial democratization stage. It is in the middle between non-democratic regime erosion and democratic consolidation. Transition lasts only few years and its main aim is to make an institutional pattern for future democracy. Geoffrey Pridham argues that this pattern mostly depends on creation of constitution¹³. Andrzej Antoszewski says that there are two main models of creating a constitution. The first one is the effect of the strategy of consolidation. The old, non-democratic elites are able to agree with the new emerging democratic ones on how to implement rules,

¹⁰ A. Ágh, *Emerging Democracies in East Central Europe and the Balkans*, Cheltenham 1998; G. Pridham, *Dynamics of Democratization. A Comparative Approach*, New York 2000; L. Whitehead, *Democratization. Theory and Experience*, Oxford 2002.

¹¹ M. Bogaards, *De-democratization in Hungary: Diffusely Defective Democracy*, "Democratization" 2018, No. 25 (18), pp. 1481–1499.

¹² W. Merkel, *Embedded and Defective Democracies*, "Democratization" 2005, No. 11 (5), pp. 33–58.

¹³ G. Pridham, *op.cit.*, p. 19.

procedures and values that will serve as the democratic basis regime. The second model is confrontational because there is an open rivalry among different groups of elites which make it impossible to agree on a negotiated form of constitution. In effect, a new constitution cannot be created or can be passed later on when one political party subordinate public life¹⁴.

III.

The major changes in Central and Eastern Europe began in 1989. As Ralf Dahrendorf pointed, the transformation has matched three elements: free elections founding the law-based rule, market economy and civil society¹⁵. The most essential aspect from the state point of view referred to the necessity of establishing institutional pattern (law-based frame). After 1989 all Central and Eastern European countries have decided to choose democratic regime and were responsible for passing new constitutions, yet not all of them were able to trace steps of changes after that. Some of them gave up in the 90. XX century while others faced de-democratization during global recession of democracy in the XXI century.

Tadeusz Mołdawa argues that new constitutions opposed the socialist ones and were based both on Western European solutions and own historical and traditional achievements. The constitutions accepted tripartite division of powers, political pluralism, free market, the rule of law and value of legitimacy. They restored old national and state symbols as well¹⁶.

Czech Republic has a long and rich history of constitutionalism. First modern lessons from learning how to define state structure basing on stable rules were learnt in the Habsburg imperium. After its collapse, great effort of Tomáš Garrigue Masaryk led to create a new state of Czechoslovakia. The First Czechoslovak Republic was founded on democratic regime and the Consti-

¹⁴ A. Antoszewski, *Konstytucja w świetle refleksji politologicznej*, [in:] *Nowa Konstytucja RP. Wartość, jednostka, instytucje*, ed. K.B. Janowski, Toruń 1992, p. 38.

¹⁵ W. Merkel, *op.cit.*, pp. 1481–1499.

¹⁶ T. Mołdawa, *Konstytucjonalizm państw Europy Środkowo-Wschodniej*, [in:] *Zagadnienia konstytucjonalizmu krajów Europy Środkowo-Wschodniej*, ed. T. Mołdawa. Warsaw 2003, pp. 12–13.

tution from February 29, 1920. To 1938 this Constitution enabled to preserve democracy. Czechoslovakia was the only democratic country in Central and Eastern Europe which survived as a democratic one throughout almost entire interwar period. After the Second World War, communist Czechoslovakia had two constitutions: 1948 and 1960. In the end of socialist period, during the non-democratic erosion the political elites initiated works on changing Constitution. Although this fact, they did not reach the aim, yet with cooperation with democratic opposition they passed four constitutional bills in 1989 that reshaped rigid socialist regime¹⁷. On January 9, 1991, Federal Assembly passed the Charter of Fundamental Rights and Basic Freedoms. Later on, in the Czech Republic this act became integral part of constitutional order, but formally was not included to the Czech constitution. Up until the end of Czechoslovakia Federal Assembly did not create a constitution. The works were slow and torn by different Czech and Slovak points of view. After making the final decision on splitting the two nations in 1992, Czechs accelerated the works on constitution. In the regional Czech Council new constitutional commission was formed. All parliamentary organizations and parties worked on new constitution (leftist: Levý blok and ČSSD, liberal LSU, Christian-democratic KDU-ČSL and KDS, regional party HSD-SMS, rightist: ODA and ODS and radical SPR-RSČ). According to Andrzej Antoszewski the Czech model of working out a constitution follows the strategy of consolidation. During the voting on the Constitution in the Czech Council 172 deputies were for, while 16 against and 10 abstained¹⁸. So, it is worth underlying that the contemporary Czech Constitution was made when formally this country did not exist. Regional parliament passed the Constitution on December 16 and the Czech Republic was born on January 1, 1993.

The history of Hungarian constitutional acts, although not called constitutions, is as long as the Hungarian statehood and begins in 1222 with the Aranybulla¹⁹. In more contemporary times, in the erosion of non-democratic regime, the socialist elites wanted to prepare new and more modern con-

¹⁷ M. Bankowicz, *Transformacje konstytucyjnych systemów władzy państwowej w Europie Środkowej*, Cracov 2010, p. 78.

¹⁸ K. Skotnicki, *System konstytucyjny Czech*, Warsaw 2000, p. 14, 20.

¹⁹ D. Héjj, *Konstytucja Węgier jako manifest polityczny parlamentarnej większości*, „Przegląd Prawa Konstytucyjnego” 2018, No. 1 (41), p. 68.

stitution replacing the one from 1949. The work was initiated in the end of 1988²⁰. Yet, the dynamic situation made impossible to accomplish the work. The democratic opposition became stronger and socialist elites decided to negotiate the upcoming changes. The talks started on June 13, 1989 and finished on September 18, 1989. The final act which was to finish the talks was not accepted by all negotiating organizations. Although socialist elites and most of oppositional parties agreed, but oppositional Fidesz and SzDSz did not. Summarizing, only minimal consensus was reached on the future changes. In the effect the constitution of 1949 was amended on October 18, 1989 by old socialist parliament²¹. 70 out of 78 paragraphs were changed and then till 2011 the constitution was amended 24 times²². According to *András Körösényi, the constitutional pattern from 1989 implemented tripartite power division, parliamentary model, guarantees of human rights, free market economy*²³.

In 1990 the constitution order was amended by newly elected democratic parliament introducing democratic regime as a state base, and then in the following years new changes were introduced confirming the rule of democratic state of law²⁴. In 1995, MSzP (heir of communist party) initiated works on new constitution. This party had more than a half seats in the parliament, yet wanted the new constitution to be a common act of all parliamentary parties which implicated whole society support. That is why MSzP passed the law that enabled to change the constitution only if 4/5 of parliamentary deputies agree. As it may be supposed it was never reached.

As a consequence, the 1989 constitutional order was permanently challenged. After 1998 the most oppositional party towards that order was Fidesz. In 2007 István Stumpf, who was a Fidesz government member between 1998–

²⁰ Z. Ripp, *The Hungarian Socialist Worker's Party. Towards the Multiparty System (June 1987-February 1989)*, http://polhist.hu/wp-content/uploads/2017/11/8_ripp_regimes.pdf (October 4, 2019).

²¹ I. Halász, R. Grabowski, *Hungarian Understanding of the Division of Powers*, "Przeгляд Prawa Konstytucyjnego" 2016, No. 6 (34), pp. 62–63.

²² J. Kis, *Introduction: From the 1989 Constitution to the 2010 Fundamental Law*, [in:] *Constitution for a Disunited Nation. On Hungary's 2011 Fundamental Law*, ed. G.A. Tóth, Budapest 2011, p. 9.

²³ A. Körösényi, *Government and Politics in Hungary*, Budapest 1999, pp. 162–167.

²⁴ J. Bayer, *The Process of Political System Change in Hungary*, "Begegnungen: Schriftenreihe des Europa Institutes", Budapest 2003, p. 172.

2002, announced the necessity of constitutional order change. So, in 2010 when this party got 2/3 seats in the parliament it was obvious that pre-election promises of changing constitutional order would fulfill. Following the Fidesz electoral success in 2010, this party replaced the paragraph stating that only 4/5 of deputies can change constitution with 2/3. The parliament passed the Declaration of National Cooperation that announced the new constitutional order. Then Fidesz decided to create National Consultation Committee outside the parliament to prepare a draft of constitution. Simultaneously, a parliamentary commission was made to work on a new constitution. 30 out of 45 commission members belonged to Fidesz. But in the end of December 2010, all oppositional deputies withdrew from it. To get social support for the Fidesz draft of constitution National Consultation Committee sent questionnaires to 8 million Hungarians and received 900 thousand questionnaires back. March 14, 2010 National Consultation Committee presented the project of new constitution in the parliament. On April 18, 2011 262 out of 386 deputies agreed on the text of constitution. MSzP and LMP boycotted voting while Jobbik was against. April 25, 2011 president Pál Schmitt promulgated the highest law act²⁵. The model of making and passing 2011 Hungarian Constitution was confrontational.

IV.

Now let us try to analyze the two constitutions referring to their special form, special contents and the highest position in the hierarchy of acts in a law system.

Regarding special form of the Constitution of the Czech Republic it consists of the following chapters: fundamental provisions, legislative power, executive power, judicial power, Supreme Control Office, Czech National Bank, territorial self-government, transitional and final provisions. The Constitution expresses liberal and democratic values that construct the frame of the law state. The changes and amendments can be made only through implementation of constitutional bills. The possibility of passing a new constitution

²⁵ S. Kubas, *Węgierski parlamentaryzm: od narodzin do stanu obecnego z uwzględnieniem konstytucji z 2011 roku*, „Przegląd Sejmowy” 2012, No. 5 (112), pp. 208–209.

would be possible if 2/3 of deputies and 2/3 of senators agreed. Up to 2019 the Constitution was amended 9 times.

In the Hungarian case the beginning of the analysis must underline the formal name of Constitution which is the Fundamental Law. Axiologically the Fundamental Law supports conservative values²⁶ while in the organizational aspect of state it confirms a democratic regime. There are five chapters in this act: preamble, foundation, freedom and responsibility, the state (e.g. the National Assembly, National Referendums, President, Government, the Constitutional Court, Courts, Local Governments), closing and miscellaneous provisions. Yet the internal division of chapters is made differently. 2/3 of deputies can amend or change the Fundamental Law.

V.

The aspect of special contents is as follow. All citizens living in the Czech Republic are the subject of power which means that the sovereignty and independence of people is included in the contents of Constitution²⁷. The Constitution bans the possibility of changing democratic regime. People can decide directly and indirectly on policy. The nation is the sovereign of power in Hungary that implicates ethnic factor plays more important role than the concept of citizenship. So, all Hungarians including those living in the neighboring and other foreign countries are the sovereign of power. This concept can open the problem of the revisionism of borders²⁸.

There is no direct reference to the type of economy both in the Czech Constitution and Hungarian Fundamental Law. Yet in the latter there are more provisions of limiting the budgetary expenses in order to avoid deficit.

²⁶ I. Halász, *Święta Korona w węgierskiej Ustawie Zasadniczej z 2011 r.*, "Przeгляд Prawa Konstytucyjnego" 2018, No. 1 (41), p. 54.

²⁷ A. Albi, *EU Enlargement and the Constitutions of Central and Eastern Europe*, Cambridge 2005.

²⁸ M. Gnizadowski, A. Sadecki, *Konstytucja nowych Węgier – implikacje krajowe i regionalne*. Ośrodek Studiów Wschodnich. Komentarz nr 60. <https://www.osw.waw.pl/pl/publikacje/komentarze-osw/2011-07-29/konstytucja-nowych-wegier-implikacje-krajowe-i-regionalne> (29.09.2019).

The Czech Constitution includes a specific solution connected with human rights and freedoms. When Constitution was passed in 1992, the deputies decided to include the Charter of Fundamental Rights and Basic Freedoms from 1991 as an inherent constitutional act. Krzysztof Skotnicki argues this is a very rare situation in the world²⁹. This act consists of 44 articles and covers human rights and fundamental freedoms, political rights, rights of national and ethnic minorities, economic, social and cultural rights and rights to judicial and other legal protection. Marek Bankowicz states the Charter guarantees all rights and freedoms that characterize modern democratic state of law³⁰. The concept of human rights and freedoms in the Hungarian Fundamental Law goes backwards comparing the 1989 Constitutional Order. Some rights are conditioned by the fact of individual subordination to the Hungarian society. Moreover, state is responsible for guaranteeing natural rights while the natural rights should have more superior and general guarantees. If an individual contributes his work to the wealth of social community, then Hungarian state guarantees the social and economic rights. There is ambiguity concerning the freedom of thought, conscience and religion. The Fundamental Law guarantees such freedoms, yet in the preamble there is strong stress on traditional, Christian values that frame the Hungarian state.

Both countries are unitary. In the Czech Constitution there are such rules as: pluralism, majoritarian rule with the acceptance of minority rights, republicanism and tripartite power division. Regarding the last one, legislative power belongs to parliament which consists of two chambers: Chamber of Deputies and Senate. 200 members of the Chamber of Deputies are elected every four years by citizens. This chamber initiates the legislative process and passes bills. 1/3 of 81 senators is elected every three years for six years' term of office. Government and president belong to executive power. Government is elected by the Chamber of Deputies after president's proposal. President is elected directly by citizens for five years' term of office. The same person can be elected only for two terms of office. The highest institution of the judici-

²⁹ K. Skotnicki, *op.cit.*, p. 28.

³⁰ M. Bankowicz, *Systemy władzy państwowej Czechosłowacji i Czech. Studium instytucjonalno-polityczne*, Cracov 1998, p. 137.

ary system is the Supreme Court³¹. Summarizing, the model of main state organs is parliamentarism.

In Hungary the National Assembly is a one-chamber legislative body. There are 199 deputies elected every four years. Every five years the National Assembly chooses a president. One person can be elected on the post of president only twice. The National Assembly chooses a government with the prime minister. The Fundamental Law states that the position of prime minister is privileged which implicates the chancellor's model of the relations of the state organs. The highest court in the Hungarian judiciary system is called Curia³².

The axiological basis of both constitutions is different and implicates the understanding of the character of law and public life order. The Preamble of Czech Constitution declares the primacy of old, good state tradition coming both from Czech and Czechoslovak sources. The state is secular, there are no religious references. In the Charter of Fundamental Rights and Basic Freedoms there is an appreciation for democratic values and the ban of dominance of any other ideology³³. The creators of the Hungarian Fundamental Law referred to Christian, traditional and conservative values which continue the idea of Hungarian statehood from the Middle Age until today. The idea of medieval Holy Crown embodies this continuity. The Fundamental Law does not recognize the period from 1944 to 1990 because it led to moral decay³⁴. Both constitutions are the highest acts in their countries and enumerate other acts that are included in the constitutional order.

³¹ *The Constitution of the Czech Republic*. <https://www.hrad.cz/en/czech-republic/constitution-of-the-cr> (29.09.2019).

³² *The Fundamental Law of Hungary*. https://www.kormany.hu/download/f/3e/61000/TheFundamentalLawofHungary_20180629_FIN.pdf (29.09.2019).

³³ *The Constitution of the Czech Republic*. <https://www.hrad.cz/en/czech-republic/constitution-of-the-cr> (29.09.2019).

³⁴ *The Fundamental Law of Hungary*. https://www.kormany.hu/download/f/3e/61000/TheFundamentalLawofHungary_20180629_FIN.pdf (29.09.2019).

VI.

Referring to the thesis of the article it should be concluded that the character of Czech and Hungarian constitutions does reflect the view on democracy represented by political elites that were responsible for passing the Constitutions. The foundation of the 1992 Czech Constitution mirrors a deep democratic idea derived from the 1920 Constitution, interwar democratic tradition and transformation attitude towards reception of liberal democratic regime. While historically 2011 Hungarian Fundamental Law cannot refer to any democratic period before 1989 because there was never a longer period of democracy in this country before the transformation. So, the first democratic experiences come from the 1989–2010. The political elites preferred conservative, Christian, communitarian and illiberal values rather than liberal ones.

In the beginning of the article I asked about the conditions which accompanied the process of working on and passing the constitutions in the Czech Republic and Hungary. The Czech Constitution was prepared and passed just before the emergence of the Czech Republic during the process of Czechoslovakia splitting. In the term of theory of democratization, it was in the transition stage. All Czech parliamentary parties worked on the Constitution and impacted the contents of it. There was a broad public and political consensus on the idea of democratic Constitution. Finally, the Constitution was accepted just three years after the collapse of socialism. The Hungarian Constitutional order was established on the ground of 1949 Constitution and was accepted by the agreement between socialist elite and opposition in 1989. Fidesz did not recognize it. But for 20 years the 1989 Constitution has served as a guideline for state and citizens. In 2011 Fidesz decided to change constitutional order and did it without the acceptance of all oppositional parties and groups.

The second question referred to the specific content, form and position of Czech and Hungarian Constitutions countries regarded from contemporary perspective in the light of the quality of democracy and its stagnation. In the Czech Republic the name of the highest act is Constitution while in Hungary the creators of such act wanted to underline own specific background calling this act the Fundamental Act. The Czech Constitutional order includes

the Charter of Fundamental Rights and Basic Freedoms from 1991 and the Constitution from 1992. Each act is divided in chapters and paragraphs. The Hungarian Fundamental Act has five different chapters and each of them is divided in differently named parts. From axiological point of view the Czech Constitution bases on liberal democratic ground, while the Hungarian one mirrors illiberal and conservative values. From institutional perspective both constitutions guarantee democratic regime, but in Hungarian case the position of government is stronger³⁵.

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³⁵ I. Halász, R. Grabowski, op.cit., p. 64.

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