RÓBERT ANGELUŞZ - RÓBERT TARDOS
ELECTORAL PARTICIPATION IN HUNGARY 1990–1994

The study is based on two kinds of empirical data sources. On one hand, it has utilized survey findings from representative samples of the adult population covering the period of the two multi-party parliamentary elections having taken place since the change of system. On the other, an ecological data-base has been developed by means of electoral and other (socio-demographic, economic, cultural, etc) statistics covering the 3000-odd settlements of Hungary. These two types of data have facilitated the implementation of a kind of multi-level analysis on the participation behavior of Hungarian electors.

As a starting point, the study raises the question of the explanations of the relatively low voter turnout by the background of an international comparison. On the basis of survey findings at the individual level, it emphasises the unequal distribution of socio-economic and cultural resources, out of which recently income differences have come especially to the foreground. At the ecological level some other factors have been revealed as well. While in 1990, on the occasion of the first pluralistic election the population of regions formerly favored by the socialist regime (like those in the heavy-industry areas) were significantly underrepresented among the electorate, by 1994 they remerged at the political arena to help the victory of the Socialist Party. This fact contributed to the mobilization of a specific segment of the population and a slight increase of the voter turnout by the second parliamentary election.

ANDRÁS KŐRÖSÉNYI
DEMOCRACY AND PATRONAGE
The Relationship of Politicians and Civil Servants

From the turn of the 1980s and 1990s such a general view, penetrating even into works of professional standard, has spread, according to which modern democracy and the state based on the rule of law are characterised by the total separation of party politics from public
administration: while politics is the world of party and group interests, the politically neutral and autonomous public administration is the world of common interest and common good. This professional and general view can be summarised as follows:

1. Politics can only govern public administration via the legal subject: civil servants may advance in their career only on the basis of their expertise and output in public administration. 2. The politicians, obtaining public offices by election, have no, or only a limited authority to appoint for jobs in the civil service: thus the political summit of executive power, that is government is separated from administration, from the entire institutional and personal apparatus of public administration. 3. A divergence from these requirements – thus political patronage wrongly referred to as a system of clients – is such a deviance which does not suit the norms of democratic politics and the state based on the rule of law and its Western practice.

It is the thesis of the present writing that the above mentioned view on the relationship of (party) politics and public administration as evolved in Hungary is a lopsided one, which does not meet the normative principles of democratic public administration, nor the actual practice of politics and public administration as it has developed in democracy. On the one hand in the normative dimension the autonomy and political neutrality of public administration there is an opposing (and not subordinated) norm, counterbalancing it, namely the democratic, or political control of public administration. On the other hand the Hungarian political image of Western democracies does not correspond to the actual practice of democracy. In fact there is the principle of responsibility of public administration towards the political leadership, and the broad interrelationship of politics and public administration as a result of the evolution of the modern party systems, and political patronage is at work in a series of fields. Therefore democracy and patronage are not opposing, but interrelated concepts. In the modern democracies government is based on a smaller or larger extent of political patronage. As contrasted to the tendency of growing bureaucracy in the modern age, the elected politicians constantly strive to politicise civil servants (or at least their topmost bracket), to maintain, or expand political patronage. In fact patronage is the most important means of political control over public administration and of the realisation of the governmental programme, and of giving awards to their political followers and supporters.

Thus politics and public administration are significantly interlinked. Public administration is not simply a means of political leadership and not simply the executive: but it possesses autonomous power, it is an institution of dominance, that is bureaucracy. As a result the separation of the roles of politicians and civil servants is not so marked either.

The upper stratum of civil servants is an important agent of “policy making”, or of shaping “public policy”, and it is also a part of the political process (politics). This is the world of political public
administration. If the types of activity in public administration are functionally differentiated, then we may differentiate political public administration in addition to the traditional classification of the administration of “law and order”, servicing, organisation and economics. Political public administration is defined by its ‘closeness to politics’; the function of political public administration is to serve the political leadership. It is led by political considerations and it primarily differs from political leadership by its responsibility and not by its relationship with the legal order. Its sphere of mobility is big, its association with law is not any closer than that of the politicians. Political public administration constitutes a part of the political leadership in the broader sense of the term. The public administration of ministries, which is classified under the heading of administration by the classical teaching, is a typical institution of this political public administration.

TAMÁS GYŐRFI

THE POLITICAL ROLE OF THE CONSTITUTIONAL COURT
Notes on the usefulness of the term of judicial activism

The Constitutional Court is often charged with political activity and judicial activism. The aim of the study is to assess how far and in what sense these propositions are true. The first section of the study defines the meaning of political activity (as the power to make value-judgements of social importance), the second one identifies the circumstances under which judges have to make value-judgements. For this purpose the concept of hard cases is introduced, and different types of hard cases are exemplified. In this context the term activism means that the judge is willing to decide hard cases. The third section is concerned with the question how hard cases should be decided. To answer this question the study applies three models of the judicial role (The Consensus Model, The Coherence Model and The Deputy Legislator Model) which represent different attitudes and approaches to judicial law-making. In this context the use of the term activism is fruitless, because there are more than two plausible models and these cannot be ranked on a single scale as more or less political. The fourth section deals with the problem which hard cases should be decided by the Court, and concludes that there is no principled answer available to this question. The last section is devoted to the consequences of judicial decisions. The Constitution imposes limitations on the law-creating power of the legislature. Since these limitations are themselves the product of constitutional interpretation, the borderlines of legislative competence are drawn by the Constitutional Court. In this context the term activism makes sense: the narrower the area of legislative competence is drawn by the judge, the more activist he is. The final conclusion of the study is that the relation of the different uses of activism is not necessary, but contingent.