

DOCTORAL THESIS

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ENVIRONMENTAL DEMOCRACY IN HUNGARY **THEORY AND INSTITUTIONALIZATION, PRACTICE, SPECIAL AREA**

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SUMMARY

My dissertation examines the Hungarian environmental and energy democracy from the regime change in 1989 to 2015. The main pillars of environmental democracy (access to information, public participation and access to justice) have been strengthened and the Aarhus's regime has been incorporated to the Hungarian legal system. It has been put in this dissertation that environmental democracy belongs to the normative-empirical theories of democracy. I will elaborate the constitutional and legal bases of environmental democracy and I will argue here that since 2010 several restrictions have been carried out about the environmental democracy by the Hungarian governments. Since the projected extension of the Paks Nuclear Power Plant this situation has increased. Despite of the strong legal foundations, the Hungarian environmental policy and environmental democracy have been in continuous regression and under attack. This paper proposes two main hypothesis. According to the first, the Hungarian environmental democracy has been evolved by the legal constitutionalism, and its restrictions elaborated here are in conjunction with the political constitutionalist era since 2010. My other hypothesis concerning the energy democracy, which means socializing and democratizing the methods of energy production and consumption, without harming or endangering the environment or people. It has been argued that the prevailing of the Aarhus's pillars in the field of energy policy (i.e. energy democracy) has a huge impact on the environmental democracy.

I. INTRODUCTION: THE MAIN THESIS OF MY DISSERTATION

The main thesis of my dissertation can be summarized in the following points:

T.1. Basically the environmental democracy is an anthropocentric democracy theory and type, but because of its highly institutionalized nature we can say that it has a core environmental law oriented side. Furthermore environmental democracy is a new type of democracy and belongs to the normative-empirical (macro) theories of democracy. It has a fundamental relationship with liberal democracy, it has been built on liberal democracy.

T.2. Environmental democracy can be separated from the other core tendency of the green political thought, ecopolitics. Although environmental democracy and ecopolitics share a view about reconceptualization of citizenship: on one side this is environmental citizenship, on the other side this is ecopolitical citizenship.

T.3. From its anthropocentric view environmental democracy would not like to create a new right-based approach towards non-human environment. Environmental democracy is convinced that non-human nature can be protected in our ordinary (liberal and constitutional) legal systems.

T.4. Reconceptualization of our citizenship is a core element of environmental democracy's agenda. It means a well built up civil society, a right- and duty-based approach, and that our private sphere do has an important role in the public life of a community.

T.5. In Hungary environmental democracy has been created and institutionalized in accordance with legal constitutionalism.

T.6. After 2010 the political constitutionalism has a big impact on environmental democracy. Environmental policy and democracy have been restricted in several ways.

T.7. The constitutional environmental rights are ultimate drivers to enhance environmental policy, but without the guarantee of procedural environmental rights this development might be too weak. Constitutional environmental rights, under the concept of environmental democracy, cannot work constitutionally without procedural rights.

T.8. Up to now environmental democracy based on legal constitutionalism. In my point of view the core procedural nature of political constitutionalism can reinforce the crisis of environmental democracy.

T.9. Environmental democracy is applicable to the energy system as a subtype of our society, Energy policy and systems have a huge impact on environmental protection and environmental democracy.

T.10. Threats towards environmental democracy come from the energy system. The extension project of the new Hungarian nuclear power plant means a danger to environmental democracy. In the 21. Century energy policy and energy are fundamental factors of environmentalism and environmental democracy. Without democratic energy systems there is no environmental democracy and without democratic relations in the field of environmental protection there is no (political) democracy.

II. ENVIRONMENTAL DEMOCRACY IN THE CONTEXT OF THEORIES AND TYPES OF DEMOCRACY

It will be argued here that the environmental democracy belongs to the normative-empirical theories of democracy. According to Buchstein and Jörke democracy means collective self-determination, and the main purpose of democracy is to create political decisions according to the will of the citizens.¹ In a simply and very general way, democracy means rule by the people.

There are several types of modern theories of democracy. Buchstein and Jörke distinguish between three simply and useful modes of democratic theory: the empirical, the positive, and the normative type.² The core element of empirical theories of democracy is to try to rank political systems according to a scale of democratic values and institutions. The goal of the empirical theories “*is to construct reliable and standardized scales in order to obtain a yardstick for comparing different political systems that can then be ranked according to their degree of democracy.*”³ Positive theories are focusing on formal models of the democratic process, especially voting behaviour. In the middle of these theories there are axioms “*that are used as a basis for developing the main characteristics of democratic systems.*”⁴ There are two main types of the positive theories: one is rational choice theories; the other is Niklas Luhmann’s systems theory. Normative theories of democracy are dealing convincing justifications of democratic orders. “*The goal of normative approaches is to deliver criteria for praising or criticizing normative and institutional orders.*”⁵ That’s why normative theories do not strive for ethical neutrality and they represent value-based approaches. Normative theories are influenced by political trends and debates.

These three modes of democratic theory can show us, there is no a real consensus on what democracy means. Even though it seems to be, some consensus do exist “*over the various plausible conceptions of this protean term*”⁶. According to Coppedge-Maldonado (2011), in the literature six key models of democracy have been emerged: electoral, liberal, majoritarian, participatory, deliberative, and egalitarian democracy.

¹ Buchstein-Jörke 2011 571. p

² Buchstein-Jörke 2011 574. p

³ Buchstein-Jörke, 2011 574. p

⁴ Buchstein-Jörke, 2011 575. p

⁵ Buchstein-Jörke, 2011 576. p

⁶ Coppedge et al., 2011 253. p

Models of Democracy	Notes
1. Electoral (contestation, competition, elite minimal, realist, or Schumpeterian) Democracy	Democracy is achieved through competition among leadership groups during periodic elections.
2. Liberal (consensus or pluralist) Democracy	Democracy stresses the intrinsic importance of transparency, civil liberty, rule of law, horizontal accountability (effective checks on rulers), and minority rights.
3. Majoritarian Democracy (responsible party government)	The will of the majority should be sovereign.
4. Participatory Democracy	A lineal descendant of the direct model of democracy, distrust about delegating representatives, direct rule by citizens.
5. Deliberative Democracy	This approach focuses on the process and procedures by which decisions are reached in a polity, public reasoning is about the common good.
6. Egalitarian Democracy	The goal is political and social equality (equal participation, representation, protection and resources).
7. Environmental Democracy	Communicate the ecological and social conditions for civic self-determination, as well as individual self-realization.

1. Table Models of Democracy (Source: Coppedge et al., 2011 253-255. pp)

According to Michael Mason (1999), environmental democracy is a new and developing model of democracy, which on one hand based on liberal, participatory and deliberative democracies, and on the other hand this concept of democracy has to be seen as a fundamental critique of the current models of democracy. Mason put it out that “[t]he idea of environmental democracy is to communicate the ecological and social conditions for civic self-determination, as well as individual self-realization. One indicator of that linkage becoming central to our democratic self-understanding is that we no longer accept as ‘democratic’ political systems that deliberately or inadvertently undermine basic social and environmental rights and freedoms.”⁷ So the environmental democracy represents a right-based approach and tries to create a strong relationship between environmental and social side of democracy. Sharp critiques against liberal democracy and its structural asymmetries have been elaborated by environmental democracy: the elderly, the poor, the unemployed, the ill, the future generations and other species are grossly unrepresented in a liberal system which has been captured by strong interest groups.⁸

Nevertheless, environmental democracy is not an ecocentric environmentalist theory, however there are a lot of common starting point between them. The ecocentric environmentalism is convinced that the ecological degradation and the social dislocation go hand in hand and affect everybody, so that we all share a common interest in addressing environmental problems.⁹ Ulrich Beck put it very clearly, in a “world-risk society” even the rich and powerful are not safe from the hazardous side effects of industrial production: “smog is democratic”.¹⁰ The theory of ecological democracy¹¹ “allows rational communicative interaction with the natural world because nonhuman entities, though short of the self-awareness that constitutes human subjectivity, give off ecological signals”¹². Environmental democracy do not take this deep ecological step and says that ecological signals are always

⁷ Mason, 1999 63. p

⁸ Mason, 1999 47. p

⁹ Dobson, 1990 23.

¹⁰ Beck, 1992

¹¹ Dryzek, 1990 and 1995

¹² Mason, 1999 56. p

mediated through human social activity. According to Mason “*rights claims are ‘strong’ moral entitlements attached to those who can be both addressees and authors of autonomy. This means, again, that the strongest moral claims to ecological sustainability are human rights to a healthy, safe and decent environment coupled with environmental participatory rights.*”¹³

Environmental democracy has both a normative and explanatory aspect. From a normative perspective, it describes a radical democratic project which extends and radicalizes existing liberal norms in order to include the ecological and social conditions for civic self-determination. From an explanatory perspective, it accounts for existing tendencies for noncoercive green communication found in various political forms and practices.¹⁴ It has been elaborated by Mason, that environmental democracy has four defining characteristics: prioritizing moral judgements based on long-term generalizable interests; centring environmental democracy on communicative political structures and practices promoting; ecologically rational decision-making; extending and radicalizing existing liberal right.¹⁵

III. THE INSTITUTIONALIZATION OF ENVIRONMENTAL DEMOCRACY

1. Aarhus Convention

The institutionalization of environmental democracy is an emerging phenomenon of our times: the expansion of international environmental regimes (focusing mainly procedural environmental rights) and the growing importance of constitutional environmental rights are crucial points of this procedure. According to this rights-based approach in a narrow sense, environmental democracy means three important procedural environmental rights declared by the Aarhus Convention.

The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on June 25, 1998 as part of the “Environment for Europe” process. The Convention entered into force October 30, 2001, Hungary joined the Aarhus Convention July 3, 2001 (it was promulgated by the Act LXXXI of 2001). As I pointed out (Antal, 2014) The Parties to the Convention are required to make the necessary provisions so that public authorities (on national, regional or local level) will contribute to the three main pillars (these are the so-called Aarhus pillars): (1) access to environmental information (the right of everyone to receive environmental information that is held by public authorities); (2) public participation in environmental decision-making; (3) access to justice (the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general). These are the core elements of environmental democracy: as Mason argued, these Aarhus procedural rights bring corresponding duties on states were Parties to the Convention.¹⁶

2. The EU and environmental democracy

The pillars of Aarhus are legally binding in Hungary, not only because of the fact that the country joined the Convention, but also because of the EU-integration. The Aarhus’s regime has been incorporated to the EU legal system by several legal instruments according to each pillar. In 2003 two Directives were adopted concerning the information and participation pillars. Directive 2003/4/EC of the European Parliament and of the Council of January 28,

¹³ Mason, 1999 62. p

¹⁴ Mason, 1999 9. p

¹⁵ Mason, 1999 48-63. pp

¹⁶ Mason, 2010 10. p

2003 on public access to environmental information, and Directive 2003/35/EC of the European Parliament and of the Council of May 26, 2003 providing for public participation in respect of the drawing up of certain plans and programs relating to the environment⁸. In 2003 the Commission presented the “Aarhus package”, which appropriated two elements: ratifying the Convention and applying the provisions of the Convention to Community institutions and bodies. In the end the latter has been enacted by Regulation (EC) No 1367/2006 of the European Parliament and of the Council.

3. Developing Institutional Bases of Environmental Democracy in Hungary

After the regime change in 1989-1990, the Hungarian environmental democracy has been based by the new Constitution (adopted and come into force in 1989) and the Constitutional Court. As I summarized (Antal, 2014), under the Constitution the environmental related constitutional provisions were the Article 18¹⁷ and Article 70/D Sections (1)-(2)¹⁸. As May and Daly pointed out “*courts in postcommunist countries in Eastern Europe have also implemented newly minted constitutional environmental rights provisions so as to protect the environment*”.¹⁹ The Hungarian Constitutional Court was one of the firsts in Central and Eastern Europe to evolve this type of judicature. The constitutional environmental right’s pillar of environmental democracy has been developed by the Constitutional Court. The landmark decision of the Court was the Decision 28/1994., where the Court tied the right to a healthy environment to third generation rights. The Court stated that it is the state’s duty to preserve the status quo in the area of environmental protection. The remarkable reasoning stressed the right to a healthy environment laid down in Article 18 “*encompasses the duty of the Republic of Hungary to ensure that the state may not lower the level of environmental protection provided through legal regulations, unless it is unavoidable in the interest of asserting another fundamental right or constitutional principle*”. The judges argued that even if the latter case applies, the degree of lowering the level of environmental protection may not be disproportional relative to other constitutional rights and principles. This concept, called the prohibition of the degradation of the environmental protection’s level. The judges held the violation of environmental rights ran into conflict of the Constitution’s “rights to life”. Furthermore the Court construed the right to a healthy environment as an “*independent and autonomous institutional protection*”.

Besides the constitutional pillars of environmental democracy, a comprehensive and extensive legal basis has been built concerning environmental protection and democracy. At least eleven legal and policy areas ensure and protect environmental democracy in Hungary at below the constitutional level.

¹⁷ “*The Republic of Hungary recognizes and shall implement the individual’s right to a healthy environment.*”

¹⁸ “*Everyone living on the territory of the Republic of Hungary has the right to the highest possible level of physical and mental health. The Republic of Hungary shall implement this right... through the protection of the urban and natural environment.*”

¹⁹ May-Daly, 2013 607. p

Areas	Laws	Importance
1. Implementation of Aarhus Convention	Act LXXXI of 2001 on Convention on Access to Information, Public Participation, in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark, on 25 June 1998	Incorporation of procedural environmental rights.
2. Direct Democracy Toolbar	Act CCXXXVIII of 2013 on Initiation of Referendum, European Citizen' Initiative, Procedure of Referendum	Fundamental rules of referendum, which is a core institution of direct democracy.
3. Civil Law	Act V of 2013 on the Civil Code	Regulation of trade secret, which is a key barrier of access to information (Section 2:47.).
4. Right to Information	Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information	Fundamental rules of access to information (requesting public data, responsibilities of public authorities), especially guaranties of access to justice.
	Act XC of 2005 on Electronic Right if Information	
5. Rules of Association and Assembly	Act CLXXV of 2011 on Right to Association, Operation and Support of Civil Organizations	This regulation is concerning important factors of environmental democracy: NGOs (their constitution, operations, financial management) and rules of assembly.
	Act III of 1989 on Right of Assembly	
6. Public Participation about Law	Act CXXX of 2010 on Law-Making Procedure	General rules of public participation.
	Act CXXXI of 2010 Public Participation in Preparation of Legislature	
7. Parliamentary Commissioner for Future Generations (FGO)	Act CXI of 2011 on Commissioner for Fundamental Rights	Regulations about the Deputy Commissioner for Fundamental Rights responsible for the protection of the interests of future generations (Sections 1-3.).
8. Public Property	Act CVI of 2007 on State Property	These acts impose obligation on public authorities and state own companies about access to information.
	Act of CXCVI of 2011 on National Property	
9. Environmental Law	Act LIII of 1995 on General Rules of Environmental Protection	We can say that the entire environmental protection regulation can be seen as a guarantee of environmental democracy, especially the following rules: public participation in environmental issues (Act LIII of 1995 Section 97.), rights of environmental NGOs (Act LIII of 1995 Sections 98-100.).
	Government Regulation 14/2005. (XII. 25.) on Environmental Impact Assessment and Integrated Environmental Permit Procedures	
	Government Regulation 311/2005. (XII. 25.) on Public Access to Information about Environmental Protection	
10. Administrative Procedures	Act CXL of 2004 General Rules of Public Administration Procedure and Service	These procedural rules create the possibility that citizens and NGOs can participate in administrative procedures: negotiation and public hearings (Sections 62-63.).
11. Criminal Law	Act C of 2012 on the Criminal Code	The ultimate guarantee of criminal law prevails on one hand about the regulations of environmental crimes (Offences against the environment and nature, Chapter XXIII.), on the other hand about the prevention of illegal access to information (Abuse with public data, Section 220.).

2. Table *Legal Basis of Environmental Protection and Democracy in Hungary*

4. Legal and Political Constitutionalism

According to my hypothesis, the Hungarian environmental democracy has been evolved by the legal constitutionalism, and its restrictions elaborated here are in conjunction with the political constitutionalist era since 2010. This approach can help to deep understand the nature of Hungarian environmental democracy and the fundamental changes, restrictions have been made in the past 5 years.

From 1989 the legal constitutionalism was the main paradigm of the Hungarian legal and political thinking. The Constitution of 1989 and the jurisdiction of the Hungarian Constitutional Court based on this concept. The activism in the field of the Court's environmental jurisdiction, elaborated beforehand, can be explained and characterized by the legal constitutionalism.

The idea of constitutional rights and the rule of law are in the centre of legal constitutionalism. According to this, the constitutions secure the rights central to a democratic society. *"This approach defines a constitution as a written document, superior to ordinary legislation and entrenched against legislative change, justiciable and constitutive of the legal and political system."* – argues Richard Bellamy.²⁰ The judicial review and of course the strong Constitutional Court are essentials for democracy. According to Bellamy, the legal constitutionalism based on two pillars: *"The first is that we can come to a rational consensus on the substantive outcomes that a society committed to the democratic ideals of equality of concern and respect should achieve. These outcomes are best expressed in terms of human rights and should form the fundamental law of a democratic society. The second is that the judicial process is more reliable than the democratic process at identifying these outcomes."*²¹ So the courts, especially the Constitution Court, can overrule the people's will incorporated in parliament decision. Under the concept of legal constitutionalism very strong liberal democratic institutions have been created and the procedural legitimacy of the constitutional system was relatively strong, unfortunately at the same time the political elite did not pay attention to the trust in democracy. The environmental democracy has been built on legal constitutionalist bases, which starting point is a "basic law" that enshrines certain rights or norms as above the realm of political disagreement and law-making.²²

In 2010 in Hungary the political right gained supermajority in the Parliament and Viktor Orbán's Government has totally redesigned the constitutional system and legal constitutionalism has collapsed. The new Hungarian Constitution (Fundamental Law) based on the political constitutionalism. The foundational premise of political constitutionalism is that a constitution can only exist in the context of *"the circumstances of politics... where we disagree about both the right and the good, yet nonetheless require a collective decision on these matters"*.²³ Bellamy argues that legal constitutionalism attempts to take certain fundamental constitutional principles outside of politics, viewing them as preconditions for the political system. This is depolitization and it creates apolitical politics, by the way this is very similar to Carl Schmitt's theory. Hence politics and politization allow for much broader participation in determining core political debates via *"party competition and majority rule on the basis of one person one vote"*.²⁴ According to this concept the democracy need to be defended against judicial review. Bellamy summarizes: *"The judicial constraint of democracy weakens its constitutional attributes, putting inferior mechanisms in their place. That is not to say that actually existing democracy is perfect and decisions made by judicial review*

²⁰ Bellamy, 2007 1. p

²¹ Bellamy, 2007 4. p

²² Glencross, 2014 1165. p

²³ Bellamy, 2007 5. p

²⁴ Bellamy, 2007 viii

necessarily imperfect, merely that the imperfections of the first cannot be perfected by the second."²⁵

Political constitutionalism based “*on a normative claim, namely that only political methods for resolving disagreements can be conducted in a way that respects political equality*”.²⁶

What are the main elements of the current Hungarian political constitutionalism?

- Restriction of the Constitutional Court’s power, who was the main counterweight institution of the Government.
- Reinforce of the Government’s power.
- The Government has a stabile majority in the Parliament and at the same time the members of the parliament have lost their autonomy and they have been controlled by the Government.
- The Government can overrule the decisions of the Constitutional Court, this raises the dilemma of the unconstitutional constitution.
- Instead of separations of powers the concentration of powers is the ruling principle.

IV. RESTRICTION OF ENVIRONMENTAL DEMOCRACY

The current status of the environmental democracy is very controversial. On one hand, as it has been elaborated, up to now the legal basis of environmental protection and democracy in Hungary have been built. Even under the political constitutional era (after 2010), the environmental democracy has very strong pillars. On the other hand, a process has been started, which aims to restrict the reached quality of environmental democracy. After 2010 there are at least seven areas, where the governing parties (with the supermajority in the Parliament) has carried out several restrictions about the environmental democracy.

Area	Laws	Restriction of Environmental Democracy
1. Restrictions of Direct Democracy’s institutions	Fundamental Law Act CCXXXVIII of 2013 on Initiation of Referendum, European Citizen’ Initiative, Procedure of Referendum	Direct democracy has been damaged: since it is more difficult to organize a valid referendum and the popular initiative has been abolished.
2. Liquidation Parliamentary Commissioner for Future Generations (FGO)	Fundamental Law Act CXI of 2011 on Commissioner for Fundamental Rights	The position of Parliamentary Commissioner for Future Generations has been abolished and there is a new Deputy Commissioner for Fundamental Rights responsible for the protection of the interests of future generations. This could be unconstitutional, because of lowering the level of environmental protection.
3. Liquidation of Parliamentary Commissioner of Data Protection	Fundamental Law Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information	One of the most important guarantee of access to information, Parliamentary Commissioner of Data Protection has been abolished by the Fundamental Law. The new authority (called National Authority for Data Protection and Freedom of Information) does not have such independence as the former ombudsman.

²⁵ Bellamy, 2007 261. p

²⁶ Glencross, 2014 1165. p

Area	Laws	Restriction of Environmental Democracy
4. Restriction of Constitutional Court	Fundamental Law Act CLI of 2011 on Constitutional Court	The Hungarian Constitutional Court has lost its autonomy concerning the interpretation of the Fundamental Law and its other powers has been diminished as well.
5. Restrictions of Access to Information and its Attempts	Act XC of 2010 on Adoption and Amendment of Certain Economic and Financial Acts	The legislator tries to prohibit that state own companies are to be considered as a public bodies (in this case these companies could refuse to fulfil the public date request).
	Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information	The legislator diminished the access to information without adequate constitutional grounds.
	Act VII of 2015 on Investment Related to the Maintenance of the Paks Nuclear Power Plant's Capacity and Amendment of Concerning Acts	In the case of extension of Paks Nuclear Power Plant, legislator excludes the public. This is against the European Law and the Aarhus Convention.
6. Problems about Social Participation	Act CXXXI of 2010 Public Participation in Preparation of Legislature	Instead of broad social participation declared by the government, political selected "opinion leaders" can dominate the legislative process.
	Act XXXV of 2012 on Amendment of Act LIII of 2006 on Speeding up and Simplifying the Realization of Important Investment According to National Perspective	In the cases of important investments according to national perspective, the legislator prefers the business and political interests instead of environmental protection.
	Act VIII of 2005 on Amendment of Certain Laws about Transformation of Regional State Administration Bodies	
7. Attempts to Restriction Access to Justice	Bill of T/1492 (Submitted: 29 October 2010)	The legislator tried to restrict the NGO's access to justice in administrative procedures.

3. Table Restriction of Environmental Democracy in Hungary since 2010

V. THE CONCEPT OF ENERGY DEMOCRACY

Energy policy has a huge impact on environmental protection and environmental democracy. Originally, the concept of energy democracy arose out of the climate justice movements²⁷ and means socializing and democratizing the methods of energy production and consumption, without harming or endangering the environment or people. Before I elaborate the Hungarian case, I characterize energy democracy in Germany, in the USA and I investigate its relationship with trade unions.

1. Energy Democracy in Germany

According to Gegenstrom²⁸ (which is a climate-activist Berlin-based group), energy democracy a concept capable of integrating energy and climate struggles, and “[i]t is grounded on the basic understanding that »the decisions that shape our lives should be established jointly and without regard to the principle of profit«”.²⁹ The Klimaallianz Osnabrück³⁰ movement argues that the participatory form of decision-making, “de-centralisation and independence from corporations, distribution grid use rights and control over municipal energy suppliers”³¹ are core elements of energy democracy. A compact definition has been created by the 2012 Lausitz Climate Camp: “Energy democracy means that everybody is ensured access to sufficient energy. Energy production must thereby neither pollute the environment nor harm people. More concretely, this means that fossil fuel resources must be left in the ground, the means of production need to be socialised and democratised, and that we must rethink our overall attitude towards energy consumption”³². Kunze and Becker put it very clearly and confirm by strong examples and best practices³³, that energy democracy has four main pillars: democratisation and participation (as much people get involved initiatives and decision-making procedures as possible); property (new forms of municipal or semi-state ownership, and collective private ownership); surplus value production (employment in green energy sector); ecology and sufficiency (concept of post-growth, consume less and value self-sufficiency).³⁴

2. Energy Democracy in the USA

In the USA the Center for Social Inclusion (CSI)³⁵ works to identify and support policy strategies to transform structural inequity and exclusion into structural fairness and inclusion. CSI has a project relating to environmental democracy, which means in the context of this organization “that community residents are innovators, planners, and decision-makers on how to use and create energy that is local and renewable. By making our energy solutions more democratic, we can make places environmentally healthier, reduce mounting energy costs so that families can take better care of their needs, and help stem the tide of climate change.”³⁶ According to the CSI’s study, there are several social injustices in the US energy sector: the Afro-American, Latino, migrant and low-income people are suffering more from

²⁷ Kunze-Becker, 2014 8. p

²⁸ Source: <http://www.gegenstromberlin.net/>

²⁹ Kunze-Becker, 2014 8. p

³⁰ Source: <http://www.osnabruecker-klimaallianz.de/>

³¹ Kunze-Becker, 2014 8. p

³² Source: <http://www.energie-demokratie.de/>

³³ They investigate 12 examples and best practices concerning environmental democracy around Europe (Kunze-Becker, 2014 14-45. pp).

³⁴ Kunze-Becker, 2014 9-11. pp

³⁵ Source: <http://www.centerforsocialinclusion.org/>

³⁶ Source: <http://www.centerforsocialinclusion.org/ideas/energy-democracy/>

the impacts of climate change, natural disasters than White and rich citizens.³⁷ The CSI's method is very similar to Kunze and Becker, they present case studies concerning the community, sustainable and neighbourhood energy solutions. CSI has also created a map about energy democracy examples around the USA, called *Energy Democracy for All*.³⁸

3. Energy Democracy and Trade Unions

Trade Unions for Energy Democracy (TUED) is a global, multi-sector, worker initiative. It aims to advance democratic direction and control of energy in a way that promotes solutions to the climate crisis, energy poverty, the degradation of both land and people, and responds to the attacks on workers' rights and protections.³⁹ TUED is really convinced that we are facing an energy and climate emergency, and because of the power of fossil fuel corporations it is nearly impossible to protect the health and safety of workers and communities. The only solution could be the energy democracy: *"the transition to an equitable, sustainable energy system can only occur if there is decisive shift in power towards workers, communities and the public."*⁴⁰ TUED organized the Energy Emergency: Developing Trade Union Strategies for a Global Transition trade union roundtable which took place on October 10-12, 2012 at New York. The roundtable's discussion document prepared by Sean Sweeney, who pointed out the significance of environmental democracy: *"An energy transition can only occur if there is a decisive shift in power towards workers, communities and the public-energy democracy. A transfer of resources, capital and infrastructure from private hands to a democratically controlled public sector will need to occur in order to ensure that a truly sustainable energy system is developed in the decades ahead."*⁴¹

VI. HOW DOES ENERGY DEMOCRACY AFFECT THE QUALITY OF ENVIRONMENTAL DEMOCRACY?

After all, the relationship between environmental and energy democracy has been examined here. According to my second hypothesis the prevailing of the Aarhus's pillars in the field of energy policy (i.e. energy democracy) has a huge impact on the environmental democracy. In my point of view, energy democracy is not a sub-type of democracy theories. As I pointed out, environmental democracy belongs to the normative-empirical theories of democracy and I am convinced, that in the 21. Century energy policy and energy democracy (as it has been described here) are fundamental factors of environmentalism and environmental democracy. I take a chance, without democratic energy systems there is no environmental democracy and without democratic relations in the field of environmental protection there is no (political) democracy. I am trying to prove this a Hungarian example concerning nuclear energy.

As I pointed out (Antal, 2014), according to the extension of Paks Nuclear Power Plant (NPP) the former socialist-liberals and from 2010 the Orbán's Governments have been planning an international tender procedure. At least the requested preparatory documents indicated this plan. In January 2014, as a result of secret negotiations between the Hungarian and Russian parties, the Hungarian Government agreed to take out a EUR 10 billion state loan with Russia. There are two international agreements between the two countries: the first elaborates the nuclear power plant construction project (Act II of 2014) and the second concerns the terms of state loan (Act XXIV of 2014). The decisions were taken without any social participation. The situation is serious because the Hungarian Government imposes a

³⁷ Center for Social Inclusion, 2013 3. p

³⁸ Source: <http://energydemocracy.centerforsocialinclusion.org/>

³⁹ Source: <http://unionsforenergydemocracy.org/>

⁴⁰ Source: <http://unionsforenergydemocracy.org/about/about-the-initiative/>

⁴¹ Sweeney, 2013 ii. p

huge financial, social and environmental burden not only on the present society, but also the future generations. According to the agreements, the repayment will be borne by the central budget and this is unconstitutional, because, as we can see, the Fundamental Law states that the Parliament may not pass an act on the central budget in consequence of which the government debt would exceed half of the gross domestic product [Article 36 Section (4)]. We can say that the extension project of Paks is a total breakdown of not only the procedural environmental rights declared by the Aarhus Convention, but also constitutional environmental rights enacted by the new Fundamental Law.

It has been analysed that with the toolbar of political constitutionalism the Hungarian governing parties restrict the environmental democracy. The main cause of this restriction is the extension of Paks Nuclear Power Plant: the Government aims eliminate every legal and political obstacles. We can say that Paks NPP has become a political “black hole”, which seems to absorb (environmental) democracy. The Hungarian MPs are deliberately making laws, which on one hand facilitate the nuclear investment, on the other hand threat seriously the environment.

Laws	Restriction of Environmental Democracy
Act CCXXVII of 2013 on Amendment of Certain Acts in the Field of Energy	The investor himself got an opportunity to decide how big the impact area and who can take part in the authorization procedure. The investor affects the procedural environmental rights.
Act VII of 2015 on The Investment of Maintaining the Paks Nuclear Power Plant’s Capacity, Amendment Relating Acts	Data relating to the investment procedure cannot be recognized as public data for 30 years. This regulation damage very seriously the information pillar of Aarhus Convention.
Government Regulation 71/2015. (III. 30.) on The Designation of Environmental Protection and Natural Conservation Authorities	According to this act the environmental protection and natural conservation authorities have lost their independence and they have been integrated to the regional government offices.
Act CXXIX of 2015 on Amendment of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information	Up to now this was the most important restriction of access to information. By this law state authorities practically could refuse or prevent to fulfil the data requests. The public service bodies can argues without restrictions that the requested data are part of decision-making process and the disclosure of information underlying a decision.

4. Table Influence of Energy Democracy on Environmental Democracy

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