



Title	<u>Judicial review of governmental acts</u>
Lecturers:	Dr. János Fazekas associate professor, Department of Administrative Law fazekas.janos@ajk.elte.hu
Brief description	The course addresses the main questions of judicial review of governmental acts in modern democracies. It examines the role of the judiciary in holding the government to account, especially in politically sensitive cases within the framework of political question doctrine. The main method of the course is analysis of the case law of the US Supreme Court and the main European judiciaries, with a special focus on Hungary.
Schedule	1. Introduction 2. General questions of judicial review 3. Government on the borderline of politics and law 4. Theoretical problems: discretionary powers, judicialization 5. The political question doctrine in the jurisprudence of the US Supreme Court 6. The political question doctrine in Europe 7. Brexit-related court cases 8. Political question doctrine in Hungary 9. Wrap-up 10. Exam (open book, online)
Recommended readings	1. Barabás Gergely: Kormányzati tevékenység: a “political question doctrine” a magyar közigazgatási perjogban. In: Barabás Gergely – F. Rozsnyai Krisztina – Kovács András György (szerk.): <i>Kommentár a közigazgatási perrendtartáshoz</i>. Wolters Kluwer Hungary, Budapest, 2018. 86-90. 2. Belov, Martin (ed.): <i>Courts, Politics and Constitutional Law. Judicialization of Politics and Politicization of the Judiciary</i>. Routledge, 2019 3. Beširević, Violeta: Making Sense of the Political Question Doctrine: The Case of Kosovo. <i>Review of Central and East European Law</i>. Volume 46: Issue 1 (2021) 91–130 https://doi.org/10.1163/15730352-bja10041 4. Blichner, Lars Chr – Molander, Anders: Mapping Juridification. <i>European Law Journal</i> Vol. 14. No. 1, 2008. 36-54. https://doi.org/10.1111/j.1468-0386.2007.00405.x 5. Butler, Graham: In Search of the Political Question Doctrine in EU Law. <i>Legal Issues of Economic Integration</i> 45, no. 4 (2018): 329–354. https://doi.org/10.54648/leie2018020

6. Fazekas János: *A kormányzati tevékenység bírói kontrollja. A politikai kérdések doktrínája*. Budapest: ORAC, 2023
<https://doi.org/10.21862/ELTEJKT64>
7. Fazekas, János: Local Governments and Political Question Doctrine in Hungary. *Lex Localis - Journal of Local Self-Government* Vol. 17, No. 3, pp. 809 - 819, July 2019 [https://doi.org/10.4335/17.3.809-819\(2019\)](https://doi.org/10.4335/17.3.809-819(2019))
8. Fazekas, János: Administrative procedural and litigation aspects of the review of governmental actions. *Institutiones Administrationis – Journal of Administrative Sciences* Vol. 2 (2022) No. 2, 6–22
<https://doi.org/10.54201/iajas.v2i2.52>
9. Fazekas, János: The European Court of Justice as political actor in intergovernmental coordination. *Journal of Comparative Politics* vol. 17 no. 1 (2024) <https://www.jofcp.org/assets/jcp/Articles-2024/JCPJanuary24-1.pdf>
10. Fazekas, János: Political question doctrine in Hungary and Europe. An overview. *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös Nominatae - Sectio Iuridica*, 62(1), 2023. 235–240.
<http://doi.org/10.56749/Annales.elteajk.2023.lxii.13.235>
11. Hague, Rod – Harrop, Martin: *Comparative Government and Politics. An Introduction*. 6th Edition. Palgrave Macmillan, 2004
12. Henkin, Louis: Is There a "Political Question" Doctrine? *The Yale Law Journal*, Vol. 85, No. 5 (Apr., 1976), 597-625.
<https://doi.org/10.2307/795454>
13. Hirschl, Ran: The Judicialization of Politics. In: Goodin, Robert E. (ed.): *The Oxford Handbook of Political Science*. Oxford University Press, 2013. 253-270. DOI: 10.1093/oxfordhb/9780199604456.013.001
<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199604456.001.0001/oxfordhb-9780199604456-e-013>
14. Király Miklós: Brexit in Context, *ELTE Law Journal* (1) pp. 39-47.
<https://edit.elte.hu/xmlui/handle/10831/56116>
15. Mańko, Rafal: Dimensions of the Political in Adjudication: A Case Study. *Folia Iuridica*, 2020. 92, 5-15.
https://digijournals.uni.lodz.pl/cgi/viewcontent.cgi?article=1000&context=aul_foliaiuridica
16. McHarg, Aileen: *Administrative Discretion, Administrative Rule-Making and Judicial Review* (September 12, 2017).
<https://ssrn.com/abstract=3044092>
<http://dx.doi.org/10.2139/ssrn.3044092>
17. McHarg, Aileen: The Supreme Court's Prorogation Judgment: Guardian of the Constitution or Architect of the Constitution? *Edinburgh Law Review*, Jan 2020, vo. 24, No. 1. 88-95.
<https://doi.org/10.3366/elr.2020.0603>
18. Mercescu, Alexandra – Doroga, Sorina: Should the European Court of Justice develop a political question doctrine? *International Comparative Jurisprudence* 2021 Volume 7 Issue 15-30. DOI: <http://dx.doi.org/10.13165/j.icj.2021.06.002>
19. Pozsár-Szentmiklósy, Zoltán: The Hungarian Constitutional Court as a law-maker. In: Monika Florczak-Wator (ed.): *Judicial Law-Making*

	in <i>European Constitutional Courts</i>. Routledge, London and New York, 2020. 128-144. 20. Pokol Béla: <i>A jurisztokratikus állam</i>. Dialóg Campus Kiadó, Budapest, 2017 21. Skoutaris, Nikos: <i>The European courts as political actors in the Cyprus conflict</i>. Paper for the 6th International Workshop for Young Scholars, 2009. https://www.researchgate.net/publication/241856873_The_European_courts_as_political_actors_in_the_Cyprus_conflict 22. Sólyom, László – Brunner, Georg: <i>Constitutional judiciary in a new democracy: the Hungarian Constitutional Court</i>. Ann Arbor, Michigan, University of Michigan Press, 2003 23. Stone Sweet, Alec: The European Court of Justice and the Judicialization of EU Governance. <i>Yale Law School Legal Scholarship Repository</i> 1-1-2010. 4. https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1069&context=fss_papers 24. Szente, Zoltán – Gárdos-Orosz, Fruzsina: Judicial deference or political loyalty? The Hungarian Constitutional Court's role in tackling crisis situations. In: Szente, Zoltán – Gárdos-Orosz, Fruzsina (eds.): <i>New Challenges to Constitutional Adjudication in Europe: A Comparative Perspective</i>. New York (NY), Routledge, 2019. 89-110. 25. Tushnet, Mark: Law and Prudence in the Law of Justiciability: The Transformation and Disappearance of the Political Question Doctrine. <i>North Carolina Law Review</i> (80) 2002. 1203-1235.
Assessment/Exam	open book online written exam