

ABSTRACTS

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Organic laws in some European and African constitutions

During the last decades, several countries have entrenched a special subcategory of law, which is adopted by stricter procedural rules, than the requirements of the ordinary legislative process. These laws are enacted by qualified majority, by the consent of the two chambers of the legislation, they are subject to mandatory constitutional review before their promulgation, or additional safeguards are implemented in the ordinary legislative process. In this study, I compare the experiences of six European and twenty-three African legal systems, which provide several different frameworks of qualified law. My aim is to identify the most contested issues from the legal nature and the spread of qualified laws in Europe and Africa. Although the fact, that organic law has been introduced in a huge number of African countries, this field has not been researched in depth, several questions might be raised. The main conclusions of my study might be summarized as follows. Firstly, it shall be noted, that most organic laws of the world are adopted in Africa. Secondly, organic laws fail to fulfil their inherent function in Africa to promote the stability of the constitutional frameworks. Apart from this, it shall be also highlighted, that the scope of African organic laws is generally narrower, than the European ones. It is also worth-contemplating, that in Europe, a clear distinction shall be made between the institutional and the fundamental right protection aspect of qualified law, while the fundamental right aspect has been almost neglected in Africa. Finally, the dogmatic background of organic law in Africa is still to be elaborated.

Keywords: Qualified majority, organic law, legislation, African constitutional law, hierarchy of norms

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Theoretical frameworks for analyzing the parliamentary representation of minorities

The aim of this paper is to examine the question: within which theoretical frameworks is the parliamentary representation of minorities examined in Hungary and in the international scientific literature nowadays? During this process, the most important concepts related to the topic are introduced. Such concepts are the concept of minorities, which is not understood as the same neither in Europe and in America, nor in Western Europe and East and Central Europe. Other concepts to be clarified are representation and nationality spokesperson. After all these, an overview of the most relevant Hungarian and international scientific literature related to the topic is provided as well. We also seek an answer to the question how different approaches are used by legal and political scientists, and we outline the different theoretical backgrounds applied by them. During this process we put a great emphasis on the theories of representation. Furthermore, a light will be shed on the question to what extent are the frameworks used by Hungarian and foreign authors, accordingly in Hungarian and English language journals different. We put a great emphasis on the examination of the question, to what extent are the internationally widely applied frameworks regarding the examination of relation between descriptive and substantive representation applied in Hungary. After we have seen, that this framework is used in Hungarian language literature mostly merely to examine the representation of women, we also outline, within which other theoretical frameworks besides this could be examined the parliamentary representation of minorities living in Hungary.

Keywords: minorities, representation, theories of representation, legislative agenda, state-of-art

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Subsidiarity checks in the Hungarian National Assembly between 2014 and 2018

The entry into force of the Treaty of Lisbon introduced several new procedural opportunities for the EU national parliaments. The paper summarizes the main experiences related to Protocol No 2 on the application of the principles of subsidiarity and proportionality. Subsidiarity check constitutes a special parliamentary procedure as it provides the joint action of the currently 41 parliamentary chambers, however the joint action is limited to a well-defined 8-week period. In addition, the recent years have proved that annually a couple of legislative proposals submitted by the European Commission can be of joint interest for several national parliaments at the early stage of EU decision making procedure. The procedures of the Hungarian National Assembly concerning subsidiarity checks have been settled: on the initiative of the Committee on European Affairs, the plenary decides by derogation to the Rules of Procedure in order to meet the deadlines. The expiry of the 8-week deadline constitutes a limitation period, since reasoned opinion sent to the European Commission following the deadline is tackled as a contribution.

The strong coordination between parliamentary chambers represent a further necessary inherent factor, which was the case between the Visegrád Four parliaments concerning the amendment of the Dublin regulation, but included all the parliaments of the Member States joined in 2004 or later concerning the draft directive on the posting of workers. Nevertheless, this cooperation depends primarily on the subject-matter of the legislative proposal, as it was testified for example by the reasoned opinions adopted in view to certain elements of clean Energy for all Europeans package.

The yellow card procedure set up nearly 10 years ago, hasn't provided the turning point for EU national parliaments regarding their direct involvement to the EU decision making procedure. However, the most sensitive legislative proposals have been identified at the early stage of EU decision making procedure, and the EU issues have been made – more than before – part of the agenda of national Parliaments, including that of the Hungarian National Assembly.

Keywords: Subsidiarity check, Hungarian National Assembly and the European Union, yellow card procedure, reasoned opinion

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The importance of the 2018 parliamentary election in Swedish politics – Traditions and/or stability?

Sweden is a great example of social democratic welfare and political stability. For many decades some political institutions and elements of political culture (e.g. negative parliamentarism, neocorporatism, consensus seeking) made it possible for – usually minority, yet stable – governments to govern proactively. Although the foundations of the Swedish model were supported by all political actors, the economic crisis and the challenges presented by globalization led the governments to introduce changes to the welfare state. The converging policies of consecutive governments of the Social Democrats and their main rival Alliance contributed to the success of Swedish crisis management, while opened the door to the Sweden Democrats (SD), an anti-elitist and anti-immigration party, which portrays itself as the only credible opposition party.

As a result of the 2018 election the moderating SD was reinforced in its position as kingmaker. On the other hand, the election also resulted in a new situation, in which the prime ministerial candidates, presented by the speaker of the parliament, were voted down by the majority of the MPs. The Sweden Democrats not only broke the bipolar competition in the party system, but also stabilized its position as the third largest party and the third pole of the political spectrum. The moderate parties have rejected all forms of cooperation with the SD, but the increasing support of the radicals and the weakening position of the traditional party blocks have undermined political stability. In the current political situation the well-respected institutions of parliamentarism and proportional electoral system present obstacles to government stability. The moderate parties arrived at a crossroad after the election: 1) they may change to institutional framework of political competition to facilitate governability; 2) or lift the quarantine that isolated the SD, and thus legitimize their number one challenger; 3) or sustain the quarantine, while working in coalition over the blocks and risking to lose their identity; 4) or they do not cooperate and head towards political instability. Paradoxically, they may opt any of those, the most likely political beneficiary of their choice will be the Swedish Democrats.

Keywords: Sweden Democrats, welfare state, negative parliamentarism, immigration policy, government stability

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The Slovenian Early Parliamentary Elections of 2018

Based on the past 28 year's experiences and election returns one can state that the values of the Slovenian society basically are leftist and left liberal. Regarding both the electoral system and the parliament, it is true that it has two phases of its history. The first lasted from 1990 to 1992 and the second from 1992 until now. In the second stage, there is a system of two chambers in which the second chamber (Council of State) has only a controlling and proposing function, the legislature is the task of Parliament. As a result of the strongly proportional electoral system, there were always more than six parties in the Parliament. In the June 2018 elections, nine parties won mandates. Three liberal, one left, one extreme left, one social liberal, two right-wing, one extreme-right. Although the right-wing SDS won in the elections, he could not form a government in absence of sufficient partners. The new left-liberal minority government elected in August 2018 is supported by the oppositionist left-wing Levica. This government is torn between two millstones. On the one hand there are tensions within the government coalition. On the other hand its policy will be attacked both by the left and right opposition parties. For the government, Levica is the most dangerous. This is to prevent the right parties to gain power, supports the survival of the minority government from outside, at the same time for some of the government's fundamental questions, he turns out to be a ruthless opponent. Levica namely is against NATO membership, and raising the defense budget, but the coalition is unwilling to give up on these at this time. So basically two scenarios are possible. According the first one, while Levica is striking the government, it supports the government in all important legislative issues, in order to keep the left-wing government can survive. On the other hand, in matters where Levica refuses to cooperate, the government can enter into a deal with one of the right-wing parties.

Keywords: Slovenia, parties, election, governmental dilemmas

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The inaugural sessions of the Hungarian National Assembly between 1990 and 2018

Relevant published literature has not dealt with Inaugural session of the National Assembly yet. This study aims to present the functions, rules and practice of the inaugural session. The paper offers a detailed description of the discussions between party fractions, and about the agreements which as a result of the discussions. These discussions have an important role in preparing the inaugural session and offer pattern to the multiparty negotiations in the National Assembly. Making inaugural sessions more solemn was a common intention over parliamentary cycles, which intention seems to disrupt since 2010. The inaugural session tends to be gradually politicized.

Keywords: rules of procedure, political agreement, solemn session, inaugural session

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Instruments of the Parliamentary Scrutiny Processes

Nearly thirty years, and seven closed parliamentary cycles since the establishment of the democratic Hungarian parliament after the regime change, offer the possibility to conclusions regarding the National Assembly's scrutiny instruments.

Since the democratic parliament was established, during parliamentary cycles all of the parliament's scrutiny instruments have been regularly used by the opposition. The Constitution, the Act on Parliament, and the new Standing Orders have clarified several aspects of the regulation compared to the first Standing Orders, besides the commission's resolutions became written law, which also helped the law enforcement.

The aim of this essay is to examine the relationship between the sitting hours and the application of the scrutiny processes. It also considers the effectiveness of the scrutiny instruments by linking the possibilities for the initiative and the guarantee rules for its fulfilment. Based on this, it draws attention to a reorganization according to which the scene of the depth-type control moved from the scrutiny committee to the political debates within the parliament. Examining the entire opposition palette, a tendency towards using other alternative tools (media, information rights) has been observed.

Keywords: Parliamentary scrutiny, opposition rights, interpellation, question, Standing Orders

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