

ABSTRACTS

PÉTER SMUK

Speakers of the House since the regime change

The study tributes to the Speakers of the Hungarian National Assembly who play a representative role in the 30 years of work of the democratic Hungarian parliament and in the political system. The Speakers are among the most prominent public offices of our democratic system because during the change of regime, the constitutional transition positioned the legislature in accordance with the traditions of Hungarian parliamentarism. The basis of the review is that we deduce the role and perception of the Speakers from the 1989-90 design of the powers and internal rules of the parliament and their transformation through subsequent constitutional and house rule reforms. The study presents the role of the Speaker in the recent Hungarian political history, while introducing their sociological background and leadership profile which reflects the features of the Hungarian political elite too.

Keywords: National Assembly, Speaker, regime change, legislation, parliamentary law

PÉTER SMUK

Professor

University of Public Service Széchenyi István University

smuk.peter@uni-nke.hu

VILMOS TÉREY

Rebirth of accountable government (1989–1990) – Regulatory history review on the occasion of the anniversary

The article looks back at the reform thirty years ago, which led to the rebirth of the parliamentary democracy in Hungary. It recalls the basic legislative steps aimed at establishing the responsible government by reforming the regulations of the time. Since in parliamentary systems ministerial accountability is interpreted as direct responsibility before the parliament, the article describes the process of regime change at the end of which parliament became entitled to replace the government by expressing its lack of confidence. This parliamentary power is decisive for ministerial responsibility, but also for the functioning of the parliamentary system as a whole. It ensures that the government continuously obtains the (majority) support of the deputies and the confidence of the parliament for its operation and mandate. With regard to the institution of the constructive motion of censure, the article points out that it is not necessarily in itself able to concretize a government that has lost its parliamentary base, nor can it ensure absolute stability by neglecting the majority principle. It is not this institution, but party discipline that is actually blocking the enforcement of the basic rule of parliamentary democracy, namely that the loss of parliamentary confidence is accompanied by the inevitable consequence of the fall of the government.

Keywords: system change, parliamentary democracy, responsible government, change of government, the vote of no confidence

VILMOS TÉREY

Law clerk

Constitutional Court of Hungary

terey@mkab.hu

LÁSZLÓ GALAMBOS

Technocratic Government and the Role of Head of State – Creating a New Form of Government or Just a State of Exception?

In this paper I elaborate the role of head of states concerning the creation of technocratic governments. This type of cabinet is a crisis phenomenon and a symptom of temporary crisis for representative democracy and party governance. The role of head of state can be crucial in this respect when need to have consensus between the parties (which are unable to handle the crisis avoiding the blame for governance) constructing a nonpartisan technocratic government. However in partisan representative systems a technocratic cabinet can be arisen as a state of exception and a means of crisis management. Furthermore it should be emphasised that in parliamentary systems the presidential acts are legitimate if parties are unable or unwilling to govern and avoid the blame for governance. Then the presidents realise the party failure and intervene into the processes. Thus it is not a kind of arbitrariness they act properly according to the crisis. Notwithstanding technocratic cabinets sometimes are mentioned as presidential governments in the literature because of proactivity of the presidents. What lessons can be drawn from these experiences? Is it a widening of authority for head of state or a state of exception for parliamentary system? Can technocratic governments be labelled as presidential governments? According to my thesis technocratic cabinets cannot be labelled as presidential governments in parliamentary system. Presidential activism is a result of temporary weakness of the parties and the president intervenes as a crisis manager. However presidential acts need to be approved by the parties and those can also be rejected by them. Therefore the correct label can be presidential technocratic government for this type of cabinet but presidential refers to the technocratic not to the government. In this paper I analyse these issues in comparative perspective by elaborating the presidency of Giorgio Napolitano and Miloš Zeman because Monti and Rusnok cabinets are also labelled as presidential governments. Though Napolitano wanted to sort the crisis out but Zeman deepened it better.

Keywords: technocratic government, presidential government, parliamentary system, crisis, state of exception

LÁSZLÓ GALAMBOS

PhD Candidate

Corvinus University of Budapest, Doctoral School of Political Science

galamboslaszlo@t-online.hu

ÁRON ÓSZE

Parliament in Brexit: an active actor

The paper examines the British constitutional processes that have developed as a result of the UK's intention to leave the EU. In this context, I describe the characteristics of the country's legal system in short, strangely the parliamentary sovereignty. After the setting in motion of the Brexit-processes, the constitutional conflicts have deepened between the Parliament and the Government. I start my exposition with the June 2016 referendum, and I try to describe the effects of referendum on the principle of parliamentary sovereignty. In connection with these events, I analyse two Supreme Court decisions, along with a short description of the lawsuits that preceded them. It is necessary, because the Supreme Court had to decide in conflict between the Government and the Parliament in both cases. Gina Miller played an important role of both cases, because the judgments of Supreme Court were founded on her claims.

The first (2017) Supreme Court decision was associated with the announcement of the intention to withdraw from the EU. The principal issue in these case is whether such a Notice can, under the UK's constitutional arrangements, lawfully be given by Government ministers without prior authorisation by Parliament. In judgment, the Supreme Court holds that Parliament is required to authorise ministers to give Notice of the decision to withdraw from the EU.

The second (2019) decision is preceded by a proposal from the Prime Minister to the Queen to prorogue Parliament. The Supreme Court determined that the decision to advise Her Majesty was unlawful because it had the effect of preventing the ability of Parliament to perform its constitutional functions without reasonable motivation.

After a short description of all this, my findings: on the one hand, it is very interesting that the British courts decide on issues that have serious political concern and these judgments have political consequences. It is true that all important made by the executive have political relation, but how far can the courts' jurisdictions range in these cases? On the other hand, an important aspect of these processes is the role of the principle of parliamentary sovereignty in Brexit-processes that a legal forum defended against the pursuit of the executive power.

Keywords: Brexit, parliamentary sovereignty, Supreme Court, political question, prorogation

ÁRON ÓSZE
PhD Student

Postgraduate Doctoral School of Law and Political Sciences, Department of Constitutional Law and Political Science Széchenyi István University
aronosze@gmail.com

CSILLA FEDINEC – ISTVÁN CSERNICKÓ

The language issue in the decision-making process of the Parliament and the Constitutional Court in Ukraine, 1997–2019

Language policy is seen as an activity aimed at maintaining the current language situation or, conversely, transforming it. In countries where the goal is to preserve existing conditions and language situation, the need for language laws is much lower, and it is common for languages to be used under customary law, and there is no state language or official language codified in legislation. However, if the aim is to reorganize the existing situation for social, political and / or economic purposes, this activates language policy, and it is common practice to regulate the order of language use. It is no coincidence, then, that when language policy and language laws aim to transform the language situation, it is not uncommon to cause conflicts.

Although Ukraine is a multilingual state, the political courses of Ukraine, which became independent in 1991, take the nation-state model as the purpose. This situation results in conflicts. In our study, we present the legislative steps adopted by the Verkhovna Rada of Ukraine (Ukrainian Parliament) on the language issue, on which decisions of the Constitutional Court were made in the period between 1997 and 2019. These legal documents are the constitution, language laws, film law and some laws dealing with education. It is not uncommon for a group of members of parliament to file a petition with the Constitutional Court against legislation passed by parliament in language matters. Through the creation of the modern Ukrainian nation-state, the Constitutional Court played a significant role in regulating the order of language use in the period under review, as it provided not only legal but also political guidance in interpreting legislation on the order of language use. The Constitutional Court has thus become an active shaper of language policy in Ukraine.

Keywords: Ukraine, Verkhovna Rada, Constitutional Court, state language, minority languages

CSILLA FEDINEC

*Senior Research Fellow, PhD*Centre for Social Sciences, Hungarian Academy
of Sciences Centre of Excellence (Budapest)
fedinec.csilla@tk.mta.hu

ISTVÁN CSERNICKÓ

*Professor*Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education
(Beregove) and University of Pannonia (Veszprém)
csernicko.istvan@kmf.uz.ua

LÁSZLÓ HEKA

The Croatian election system and the 2020 parliamentary elections

In Croatia, the multi-party system was introduced in 1990. Since then, twelve elections have been held. The latest was held on July 5, 2020. For the past thirty years, the government has been formed by the National-Conservative Croatian Democratic Community (Hrvatska demokratska zajednica HDZ) alone, or at the head of coalition governments, except for the two cycles (2000–2003 and 2011–2015) when the Social Democratic Party (SDP) led the governing coalition in the country. The majority system, introduced in 1990, was replaced in 1992 by a combined or mixed system.

The 3% election threshold then set was replaced a year later by the 5% election threshold that has been applied ever since. Mandates are calculated according to the D'Hondt calculation method.

In 2000, the proportional system came into force, which is perhaps more representative of the political stratification within a given society than the Anglo-Saxon majority system.

After the elections held in 2000, the House of Counties was abolished, so the parliament called "Sabor" became a unicameral parliament again. It is characterized by the fact that the number of members of parliament is not determined by the constitution but by the electoral law.

Since 2011, 140 MP-s of the 151-member representative body have been elected by voters in ten constituencies. Another eight members are elected by national minorities in a separate constituency, and finally Croatians outside the border are entitled to elect three representatives. The representation of national minorities and Croatians abroad has been the subject of a legal and political debate for three decades. The right-wing opposition would reduce the number of minority representatives and limit their rights to discuss minority issues only, but it would not allow them to be a balancing force in the formation of a government. Left-wing parties and liberals want to ban cross-border representation, and even their right to vote.

However, the status quo is beneficial for the ruling party, the HDZ, because based on the current constellation, it can hold on to power together with the minorities and representatives of Croatians abroad.

The results of the 2020 election are also evidence for this fact.

Keywords: Sabor, Croatian elections, Croatian parliamentarism, HDZ, SDP, national minority representatives, cross-border representative

LÁSZLÓ HEKA

*Associate Professor*Faculty of Law and Political Sciences Szeged
Institute for Comparative Law and Legal Theory
heka@juris.u-szeged.hu

ISTVÁN SOLTÉSZ

Officials of the Hungarian National Assembly (1990–2020)

The study deals with the issue of the officials of the Hungarian National Assembly, which has so far been neglected in the academic literature. It reviews in detail how the duties and powers of the officials, above all, of the Speaker of the House, expanded after the change of regime, and how the political weight changed in parallel with the growing role of the Parliament. For the first time, the article makes an attempt to summarize the “programs” of the house speakers, the goals and aspirations that they wanted to achieve in addition to their legal tasks. In addition to taking stock of the responsibilities of other officers of the Parliament, the vice-presidents, the clerks and the housekeeper, the study also presents the practice of their operation.

Keywords: speaker, clerk, parliamentary officials, parliamentary practice

ISTVÁN SOLTÉSZ
previous secretary-general of the Hungarian National Assembly
dr.istvansoltesz@gmail.com

MARGIT KERÉKES – RÉKA ANDRÁSI

Youth Programmes of the Hungarian National Assembly concerning legislative modelling

The text provides an overview of the Hungarian National Assembly's youth programmes aimed at familiarising students with legislative work since the early 2000s. The majority of these programmes, based on active participation and the method of learning-by-doing, presents a model about the National Assembly's practices in a way that, as a result of role playing, high school and university students can experience first-hand the peculiarities of being a representative. During the events, they follow through the process of lawmaking in a shortened, one-day form. In the meantime, they become acquainted with the key players in parliament, can try themselves at rhetoric and argumentation and get to know their peers' opinions. Throughout these programmes, participants take part in plenary sessions, meetings of committees and parliamentary groups. Besides, they make a decision and cast a vote about previously discussed proposals and amendments. The day closes with a press conference based on the work achieved.

In the first chapter, the precedings of developing these programmes are discussed. Afterwards, the authors present an overview about similar programmes abroad – based on the practices of other countries known and visited by them. Shorter parts are also selected from the ECPRD (European Centre for Parliamentary Research and Documentation) relevant summarising document. Primarily, the third chapter examines the development of events such as the so called 'Game of Democracy' and 'Model Parliament' and the details of these programmes. In addition to determining primary and secondary objectives, this chapter reveals hidden success criteria also. The last two chapters are dedicated to how these programmes progress over time, what conclusions can be made and what future plans are.

In addition to summarising the observations of events and presenting relevant statistics, the study offers an overview about the participants and touches upon the topics and legislative proposals discussed by the 16-25 age group. A further curiosity may be the eloquent party names chosen by participants which can even be regarded as primary sources. Besides, a collection compiled from participant feedback may also be of interest.

Keywords: Role Play Game, Legislation, Modelling, Participation, Learning

MARGIT KERÉKES

Chief researcher, founder of the youth programmes

Office of the Hungarian National Assembly

kerekes.margit@parlament.hu

RÉKA ANDRÁSI

cultural PR specialist responsible for youth programmes

Museum of the Hungarian Parliament

andrasi.reka@parlament.hu