

ABSTRACTS

GÁBOR HAMZA

Constitutional development in the United States of America with particular regard to the separation of powers

The Constitution of the United States of America promulgated in 1787 has been in effect ever since with almost no modification, if we disregard, for instance, the system of the direct election of Senators. We can conclude that the US Constitution is closely interwoven with the life of the nation in an exceptional way. The balance of powers is guaranteed by means of the the system of "checks and balances" laid down in the Fundamental Law of the Union. Despite the coordinate branches, the question arises to what extent the traditional state structure of the USA is able to serve as the legal basis for a superpower. The president of the US has undoubtedly more power than it was originally conceived in the text of the Constitution. However, we cannot claim that the expansion of the presidential power has taken place in an unlawful way, in violation of the Constitution during the past two hundred years. The author of this paper emphasises that the US Constitution considers social consent as the basis of political legitimacy. This principle, formulated by Thomas Jefferson and Alexander Hamilton, constitutes the cornerstone of the constitutional order of the USA providing the country with unique stability.

Key words: Constitutional Convention, federal state structure, Declaration of Independence, Articles of Confederation, natural law

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CSABA ERDŐS

Parliamentary immunity

The aim of the paper is to raise dogmatic questions concerning the non-liability of MPs and to answer them by working out *de lege ferenda* proposals. After presenting the basics of the immunity of MPs, the study focuses on the material, personal and temporal aspects of non-liability. The most essential parts of the paper concentrate on the interpretation of immunity in light of parliamentary disciplinary law, emphasising a functional theory; on suggestions regarding the re-codification of the immunity of MP candidates and the modification of the rules defining the beginning of parliamentary immunity.

Key words: immunity, parliamentary privilege, legal status of MPs, legal status of MP candidates

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HERBERT KÜPPER – ZSOLT SZABÓ

The constitutional framework of legislation in Central and Eastern Europe

The socialist legal system was based on the unity of state power, the delegated, non-democratic and non-public legislation, and an instrumental view of law. This resulted in voluntary legislation and frequently changed laws passed on a lower level. After the democratic changes of the 1990s, the countries of the region made significant steps towards the rule of law, but some backlogs can

still be found: legislation in Central and Eastern Europe is quite frequently still excessive and unstable. This paper looks into the reasons and, in doing so, analyses the constitutional and institutional framework of the introduction of legal measures in the former socialist countries. It focusses on the system of hierarchy of legal measures (the role and adoption of the constitution and the statutes), the legislative activity of parliaments (legislative initiatives and procedures), and the subsequent steps of legislation (political veto, promulgation). The paper also looks at the normative role of the executive (including delegated legislative powers), and the function of constitutional courts, too. Despite the significant similarities, the group of countries is not homogeneous. Similarities and major differences of legislation can equally be found in the countries that were analysed: some are already members of international legal regimes (EU), some are still unable to tackle internal structural problems.

Key words: legislation, comparative legislative studies, Eastern Europe, legislative procedure, judicial review

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ROLAND KELEMEN

The parliamentary dispute and press coverage of Act LXIII of 1912 on emergency measures in time of war

The changes of the 19th century posed new challenges (related to geopolitics, economy, social and fundamental rights as well as tactics and defence) for the state that could not be solved, especially on the grounds of the establishment of the constitutional state, so there was a need to make the state more efficient and effective within the constitutional bounds. There had already been sporadic mandates of this nature before this Act was passed in Austria-Hungary, but all of them were confined to a single aspect of the state, and none of them

reinforced the fundamental rights properly, nor did the parliament ensure proper barriers for the executive power. As a result, the situation became so dire that the first “darabont” government unconstitutionally coerced the municipalities, and in 1909 restricted the freedom of the press without authorisation alluding to military interests. The codification was initiated by the joint ministry of war, and after long debates it got before the house of representatives in 1912. However, there was no chance of a real debate on the issue, because the opposition was excluded from the work of the house of representatives on account of constant obstructionism. Therefore, after a very short debate and with an accelerated procedure the bill was passed. The press sharply criticised it, envisioning the end of Hungarian constitutionality and seeing a new reign of absolutism in the bill.

Key words: emergency act, parliament, house of representatives, parliamentary dispute, press coverage

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IVÁN HALÁSZ

General elections in Slovakia in 2016. Trends, surprises and dilemmas

The electoral system in Slovakia is characterised by proportional representation, which has not changed significantly since 1990. However, the rules of preferential voting were modified, influencing the way political parties function: a new kind of party has emerged, with only few members, focussing mainly on the elections. Loosely connected political alliances also came into being, which made it possible for independent candidates and social activists to win seats in the parliament without being members of any of the big parties. The general elections of 2016 had several surprises in store: few of the old parties managed to keep their position in the parliament; the extremist and protest parties gained ground; party leaders came to the fore. The high number of parties represented in the parliament (8) is another novelty. In spite of the initial difficulties, the new coalition government, which might as

well be called an alliance of left-wing and right-wing parties, was formed surprisingly swiftly.

Key words: constitution, parliament, party, Slovakia, elections

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ATTILA VARGA

The Romanian bicameral parliament

This study presents the current Romanian parliament and its peculiarities due to its bicameral nature. First and foremost, we will describe the place and role of the parliament in the constitutional system, as determined by the provisions of the constitution and as it appears in practice. We will also present the changes of constitutional regulations regarding the bicameral parliament, with particular emphasis on the constitutional amendment of 2003. While the bicameral structure of the parliament was widely accepted at first, in the last couple of years more and more political and professional debates have arisen concerning the many similarities and the few differences between the two chambers. The demand of switching over to a unicameral system arose which resulted in a referendum and an attempt to amend the constitution. Eventually, both proved to be unsuccessful and the bicameral system has remained but there is no doubt that certain changes and modifications, which would make this essential institution more effective, are necessary.

Key words: democracy, referendum, constitutional amendment, parliament, bicameralism, constitution

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ZSÓKA MAGYAR

Beyond the Rules of Procedure

The Directorate for Legislation of the Office of the National Assembly organised a series of lectures spanning four semesters on parliamentary law under the title Beyond the Rules of Procedures. The paper gives an overview of the purpose of the event and of the motives of the organisers behind the series of lectures. We show how it is different from more traditional scientific conferences and we also sum up the important remarks and suggestions made by the presenters in connection with the two lectures that have already taken place.

The lectures will be held monthly between February 2016 and February 2018 and would like to focus the attention on parliamentary law, a sub-field of public law that receives less attention, highlighting the organisational and institutional changes that have taken place following the modifications of statutes in the past few years. Among the presenters who will put forth their views we find István Kukorelli, Zoltán Szente, István Stumpf, Gergely Gulyás, József Petrétei, Péter Smuk and Csaba Erdős.

The success of the event so far shows that there is a new kind of intellectual workshop forming in the National Assembly, and the representatives of science are glad to share their knowledge within the walls of the parliament.

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ZSOLT SZABÓ

What makes a parliament a legislative body?

In addition to raising some pertinent questions, a one-sided approach, focussing only on the speed of legislation, prevailed at the conference on legislation organised by Policy Solutions on 17th December 2015 in Budapest. The event was made relevant by the launch of the site www.torvenygyartok.hu, which

was designed to make the steps of the legislative process more transparent. The site is suitable for measuring the speed of parliamentary legislation, but it is only one component of the quality of legislation. The conference did not analyse the practical experience of normalising the legislative process by the new rules of procedure introduced in 2014. The opposition *debate forum* versus "*law factory*" cannot be described only by the speed and the legislative burden of the parliament, which undoubtedly increased after the new government was formed in 2010. Other issues regarding the way the parliament functions, like the separation of debates and voting, the lack of a direct link between parliamentary debates and legislative paperwork, the way of determining the parliamentary agenda (majority decision instead of consensus) need to be examined as well. These symptoms have been part of the way the parliament has been functioning over the past decades, yet the conference did not deal with them.

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