

ABSTRACTS

CSABA ERDŐS

Basis of the Representatives' Free Mandate and Its Most Important Challenges

The paper depicts the theoretical basis of the principle of free mandate with special regard to Rousseau's people's sovereignty-theory and Sieyes' national sovereignty concept. The article overviews the appearance of the free mandate in European constitutions and it declares that the Hungarian Constitution formulates this principle irregularly because the reference to the public interest as the basis of the free mandate is unique. The history of the constitutional free mandate-clause and the practice of the Constitutional Court are also covered by the paper. The author deals with three important challenges of this principle: the faction discipline, the lobby and the parliamentary representation of nationalities (national minorities). The article analyses the faction or party discipline from the aspect of Weberian politics as vocation, and it delimits the institutions ensuring the independence of representatives and anti-corruption regulations. The paper highlights the ephemeral Hungarian lobby-regulation and the opportunities of avoidance of bills' social discussion. The author concludes that the current method of parliamentary representation of national minorities living in Hungary is incompatible with the principle of free mandate.

Keywords: free mandate, public interest, faction discipline, lobby, parliamentary representation of national minorities

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Added value between application and adoption of an Act: debates and amendment proposals in the Hungarian National Assembly 2006-2016

The study examines the amendment of Act proposals and their journey through the National Assembly with special regards to the amendment proposals submitted by MP's and deliberated in plenary and committee sessions. To achieve its goal the study analyses documents of the National Assembly submitted between 2006 and 2016. The aim of the study is to assess the changes in the Act proposals in front of the National Assembly during this 10-year-period. Through this assessment we can also see the main tendencies of the legislation procedure in the work of the plenary and committee sessions. The Act proposals are in a well prepared status, when they get in front of the Assembly, searching for approval, however the approval is preceded by political debates and amendments. The period between 2006 and 2010 was characterized by reforms followed by crisis. The actual reforms happened between 2010 and 2014, though the legislative overextensions could have been realized only at the expense of quality of the legislation. From 2014 consolidation has been started, and statistics seem to return to similar numbers as before 2010. In 2014 a new and more effective procedure was introduced by the Rules of the National Assembly. The whole procedure became more transparent however the connection between political debates and codification policy is still weak.

Keywords: legislative procedure, quantitative analysis, amendment proposal, parliamentary debate, Hungarian National Assembly

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LÁSZLÓ TÓTH

Some Aspects of the Presidentialization of the Executive Power in the Terms of the Second and Third Orban Cabinets

The presidentialisation of the executive power in parliamentary democracies is a popular field of researches in the international political science. The purpose of this paper is to examine the presidentialisation of the executive power in Hungary since 2010. The theoretical and methodological framework of this analysis based on the important volume edited by Thomas Poguntke and Paul Webb.

We try to apply this framework on new democracies. In the executive part we analyse the relationship between legislative and executive power, the position of the prime minister in the Cabinet, and the development of the institutions, which are in charge of the governmental coordination.

Analysing the party face of the presidentialisation the paper demonstrates the unquestionable role of party chairman Viktor Orbán. Three important processes influenced the party leadership of Viktor Orbán: The generational roots of the party in the early '90-s; the process of integration of dissent groups of former centre-right conservative parties; the organizational development of Fidesz party.

The main conclusion of this paper is that the unquestionable role and power of Viktor Orbán in the party was the requisite of the presidentialization process besides the traditions of the strong executive power in the Hungarian political system.

Keywords: presidentialization; executive power; party leadership; Orbán Cabinets; governance

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LEVENTE NAGY

Proportionality of the Dutch parliamentary elections and its effects on the party system

Free elections, based upon the principle of popular sovereignty, establish a democratic government sustained by the consent of the people. An election is a formal decision-making process, a tool for selecting representatives by the people. Modern representative democracy usually operates with free elections. Elections determine the winning party or parties by transforming votes to seats. In other words, an electoral system is a set of rules that determines the way elections are conducted and its results. The most popular electoral systems are the first-past-the-post system, the majority system and proportional representation. The Dutch electoral system uses a „pure” form of proportional representation, which results in the distribution of seats reflecting the political preferences of the voters.

The present paper first examines the Dutch party system, followed by the Dutch general elections held in 2017, emphasizing the highly proportional feature of the Dutch electoral system by using four indexes measuring the disproportionality of the system. Then, it tries to show that in The Netherlands as well as in Belgium, the highly proportional system does not favour multipartism as Duverger’s second law holds, but it does not have significant effects on the party system (as Sartori holds), as far as the number of parties are concerned. It turns out, that some social and political events have much more effects on the number of parties than the electoral system does in both countries. The final conclusion of this paper is that there is a complex and strong interdependency between the electoral systems, the party systems and some of the social and political (including constitutional) changes in both countries.

Keywords: Pillars, Proportionality, Loosmore-Hanby index, Effective number of parties, Duverger’s Laws

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Parliamentary elections in Kosovo and Albania

After the successful parliamentary elections in both Kosovo and Albania in May of 2017, the parliaments and governments could be formed despite minor difficulties. It is of the utmost importance, because having looked into the events occurring prior to the elections I assume they could have easily led to the inevitability of the declaration of another round of elections. Eventually, both states have opened the door to assign their future policy schemes to their number one strategic objectives, namely the EU accession and the related obligations. In case of Albania we may foresee a more predictable 4-year period, while in Kosovo the bare majority of the government and the forthcoming prosecution of the Hague based Special Prosecutor Office and the proceedings of the Hague based Special Tribunal in the near future may cause less expected and unwelcome surprises.

Keywords: Western Balkans, elections, parliament, government, European Union

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Increasing the effectiveness of the Romanian parliamentary committees of inquiry by the case-law of the Romanian Constitutional Court

The parliamentary committees of inquiry have a dominant role in the practice of the monitoring function of the Parliament. According to the Romanian practice of the last two decades and a recent case the effectiveness of these committees can be questioned. The procedural rules in force make the practice of these committees impossible. In the light of this revelation the Parliament amended the procedural rules of the Parliament and the Act about the status of MP's and senators. This amendment is in front of the Constitutional Court, which offered views and conceptual opinions in its three decisions to achieve clarification. The above mentioned facts can increase the importance and effective practice of the inquiry committees. The aim of this very study is to introduce some conceptual views expressed in the decisions of the Constitutional Court.

Keywords: parliamentary committees of inquiry, parliament of Romania, constitutional adjudication, constitutional dialogue

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PIOTR CZARNY

Disputes about the Polish Constitutional Court, 2015-2016

The article discusses constitutional aspects of the conflict between the Polish Constitutional Court and other supreme state authorities, which took place in 2015-2016. At the beginning the author outlines shortly the situation created after the presidential and parliamentary elections in 2015. The next section presents the dispute over the election of judges of the Constitutional Court in the autumn of 2015. The remainder of the article presents the quarrel about the organization and rules of activity of the Constitutional Court, which have been changed twice by the legislature. The Court found them to be unconstitutional. The Court's decision has not been recognized by the legislature and the executive as a legally binding judgment. The executive said that the judgment is invalid because it was issued in the wrong composition and violation of procedural norms. Another brief remarks concerned the doubts about the appointment of the President of the Constitutional Court in December 2016. In conclusion, the author stated that the development of the situation in Poland showed that the conflict between the Constitutional Court and other supreme state authorities has been solved through political, not a judicial settlement, what does not correspond to the rule of law. The author also pointed out some disadvantages of the Polish constitution. The conflict has also led to a reduction in the role of the Constitutional Court in political System, the probable changes in its case-law and continued difficulties in the effective functioning of the constitutional judiciary in Poland.

Keywords: constitutional adjudication, constitutional dialogue, Polish parliament, constitutional review

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ISTVÁN SOLTÉSZ

The history of the Office of the Hungarian National Assembly: from office to professional administration

The study describes the foundation of the Office of the Hungarian National Assembly as well as its nearly three decades old development. Also deals with the changes in the scope of its activities and administrative structure. In the era of the socialist one party system the Hungarian National Assembly was served by an office with limited staff. However the establishment of a regularly working democratic parliamentary Office was essential after the changing of the political system. The last three decades was characterized by constant growing, and professionalism. The tasks have been becoming more complex, IT solutions and parliamentary publicity appeared. The main goal of the Office is the support of the legislation of the Hungarian National Assembly and giving aid to the Members of the Parliament.

Keywords: parliamentary administration, administrative structure, parliamentary practice, Hungarian National Assembly

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EDINA PÁLFI

Parliaments in Europe: Common Language, Different Practices.

The Centre for Parliamentary Research commemorated for the second time the constituent session of the first free elected parliament (2nd May, 1990) with a scientific symposium. The event was organized and moderated by Zsolt Szabó. The working language of the conference was English, with simultaneous translation into Hungarian.

The opening remarks were delivered by Gergely Gulyás MP, chair of the Legislative Committee, vice-president of the National Assembly of Hungary. Mr Gulyás praised the initiative which remembers to the Hungarian parliamentary traditions with a yearly academic event.

In the panel, three outstanding practitioners shared their knowledge and experience about rules and practice of legislative procedure of their parliaments, from both “old” and “new” democracies of Europe. Three parliaments were presented: the UK parliament by Paul Evans, principal clerk, House of Commons, the German Bundestag by Andrea Eriksson, legal advisor, Parliamentary Law Division, and the Portuguese Parliament by Ana Paula Bernardo, head of the Plenary Support Division. They talked about procedural rules, timeframe and other aspects of the parliamentary legislative process of their parliament, and their speaks included topics like transparency, ‘fast-tracking’ and ex-ante scrutiny of legislation. They also answered questions from the audience composed of students, practitioners and scholars.

In his concluding remarks, Péter Smuk associate professor highlighted the common European parliamentary language: he stated, that procedures may differ, but the main values of parliament are the same.

The event was supported by the Konrad Adenauer Foundation.

Keywords: United Kingdom, Germany, Portugal, models of legislation, comparative constitutional law

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MÁRTON NÉMETH

Beyond Parliamentary Law – From the Budget to the Treaties

The purpose of the review is to summarize the main findings of the third semester of the conference series „Beyond the Rules of Procedure” organized by the Directorate of Legislation of the Office of the National Assembly.

The first speaker Richárd Adorján (Assistant Secretary for Budget, Ministry of National Economy) aimed to evaluate the new budgetary procedure in the Hungarian parliament. The lecturer pointed out that the new Rules of Procedure made the process more efficient, without restricting the rights of the representatives of the opposition disproportionately.

The next session was held by Pál Sonnevend, vice-dean of Eötvös Loránd University who talked about the treaty making process of the Hungarian Parliament. He praised the new Fundamental Law of Hungary as one of the most international law friendly constitution in Europe.

Transparency and lobbying in the parliamentary procedures were the topics of the next session held by two professors of Eötvös Loránd University, Eszter Bodnár and Zoltán Simon. In terms of media coverage at the House of the Hungarian National Assembly Eszter Bodnár emphasized that the new restrictions could violate the European Convention on Human Rights. Zoltán Simon drew lessons from the history of lobbying regulations of the European Parliament for the Hungarian lawmakers.

Disciplinary and penal law is an essential element of all legislative bodies. Sándor Pesti, Director of the Institute of Political Sciences of Eötvös Loránd University praised the new Rules of Procedure as a modern regulation that meets the European standards.

Since 2014 Hungarian minorities are represented by Nationality Advocates in the National Assembly. Sándor Móré, professor of Károli Gáspár University of the Reformed Church analyzed the new institution and stated that despite of all its problems, it could help minorities to stand out for their interests.

The last session of the semester was held by Anikó Unger, lecturer at Pázmány Péter Catholic University. She demonstrated the significance of parliamentary etiquette as a means to strengthen the culture of cooperation within a legislative body.

Keywords: parliamentary law, treaties, budget, transparency in the parliamentary law, disciplinary and penal law

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Parliament and Parliamentarism: Origin and Challenges

The event was the 15th congress of the Spanish Constitutional Lawyer's Association, which became an international conference with almost 230 participants from all around the world (like Canada, Brasil and Hungary). The congress was held on the 30-31 March 2017 in Leon and its location was expressive: the first Spanish „parliament“ – the assembly called „Cortes“ – was formed in this city in 1188. The venue of the conference's opening session was the basilic „San Isidoro“ where the 1188 Leon parliament seated. The conference had three sections and a closing panel discussion. The sections dealt with the „parliament and representation“, „the parliamentarism in global perspective“ and „the parliamentary functions“. The participants of the closing discussion talked about the principles of sovereignty and subsidiarity in the light of the dichotomy of the multi-level governance and national legislation. The organizer of the congress was the Department of Constitutional Law of University of Leon.

Keywords: parliamentarism, multi-level governance, subsidiarity, legislation, Spain

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