

ABSTRACTS

ISTVÁN KUKORELLI

The status of nationalities in the years of the change of regime – attempts to regulate their parliamentary representation

The study follows changes in the constitutional rights of nationalities in the years of the change of regime, up to the Fundamental Law of 2011.

The author notes that the years of the regime change produced many unusual solutions in the history of nationality law, especially for parliamentary representation of national minorities, but initially for their local governments as well.

While questions concerning political representation and institutions for the protection of minorities have largely been resolved, parliamentary representation and electoral law still pose many problems today.

The author's conclusion is that instead of the national advocate, the problem could be solved by the introduction of a second chamber.

Keywords: the concept of nationality, their constitutional rights, local governments of nationalities, parliamentary representation of nationalities, protective institutions of nationalities

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Supermajority in Parliamentary Systems – A Concept of Substantive Legislative Supermajority: Lessons from Hungary

The paper focuses on the theoretical grounds of supermajority, its special relevance in parliamentary systems and the related experiences from Central and Eastern Europe, especially from Hungary.

In parliamentary systems, the support of the parliamentary majority is a necessary and sufficient condition for governance – there is no need for supermajoritarian decision-making in issues of daily politics. Qualified majority has a different function: – as an internal institutional limit of the legislative power – protecting the minority interests against the unilateral decisions of the majority in the most important issues of the political community.

The Hungarian experience from the period between 2010–2015 demonstrates that in cases where the supermajority represents a one-party opinion, minorities cannot influence the decisions. Moreover, decisions of the supermajority can block future modifications of the future parliamentary majority as well. In this paper I will argue that only a substantive approach to supermajority can support its basic function.

Keywords: parliamentary systems, legislative supermajority, limits of the majoritarian power, protection of minorities, substantive approach

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Policy changes reflected in the Speeches of Prime Ministers and in the Legislation

This paper examines how the prime ministers' parliamentary speeches effect the legislative processes in Hungary. According to our hypotheses, the changes of the policy content of parliamentary speeches have significant effects on the quantity of laws and decrees as well.

In our current research, we investigate the relations between the Hungarian executive parliamentary speeches, laws and decrees. The constantly expanding frame of laws provides a great opportunity for the government to shape the regulations of the policy areas by the main executive interests.

The Hungarian political arena provides an ideal ground for our analysis. After the regime change, the strengthened role of the government has highlighted the importance of the dynamics of executive agenda. However, the investigation of parliamentary speeches is not enough to examine the efficiency of the government. In their speeches, prime ministers determine the main lines and purposes of the government work, which can be incorporated to the political arena for a long term by regulating them in laws and decrees.

We investigated our hypotheses by using three datasets of Hungarian Comparative Agendas Project, called „Executive Speeches (1990–2015)”, „Decrees (1990–2015)” and „Laws (1990–2015)”.

In our analysis we selected three policy issues – macroeconomics, foreign policy and government operation – to examine the relations between the policy content of parliamentary speeches, laws and decrees. According to our results, we found correlations between the tendencies of the investigated indicators. Emphasized policy issues of the speeches can generate the increase of the number of laws and decrees in the examined policy areas. The effects of parliamentary speeches are confirmed by analysing the time component as well. During the investigated period, the main changes of the policy topics have occurred first in the speeches, followed by shifts of the decrees and laws. Based on our results, the policy content of parliamentary speeches has significant effects on the number of decrees and laws in Hungary.

Keywords: parliamentary speech, legislation, diversity, government, public policy

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The role of the Catalanian Parliament in determining Spanish political processes from medieval ages to nowadays

Politics in the Autonomous Community of Catalonia are being polarized alongside the question of independence from Spain. One of the central scenes for related events and debates is the Parliament of Catalonia, which has taken the role of expressing Catalanian (national? sub-national?) identity upon itself, not for the first time during its history. The aim of this paper is to give an overview of the evolution of this role. The first part presents the institutional history of legislation in Catalonia during the past millennium. The second part places the Parliament of Catalonia inside the current constitutional environment of Spain, highlighting the Parliament's competences as established in the 1979 and 2006 Statutes of Autonomy. Several parts of the latter, particularly those important for the Catalan national imagery, were ruled unconstitutional by the Constitutional Court of Spain in a polemical judgment delivered in 2010. The third part deals with the consequences of this ruling, specifically with the evolution of parliamentary politics in Catalonia in the context of the growing strive for independence. To sum up the paper tries to deliver some remarks that are hoped to be of some relevance for the evaluation of possible future scenarios related to the independence question in Catalonia.

Keywords: Spain, Catalonia, Generalitat, independence, independence movements, referendum, parliament

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NOÉMI SEBŐK

The Parliamentary Assembly of the Council of Europe – Similarities and differences in comparison with national parliaments

Besides the Committee of Ministers, the Parliamentary Assembly is the most important body of the Council of Europe. While decision-making power is granted only for the former, the Assembly primarily functions as a consultative body in the Council. Although the Assembly does not possess law-making power, which is considered the most significant power of the parliaments, in many aspects it has parliamentary characteristics. Examining its organizational and procedural rules, great similarity can be observed with national parliaments; as during the creation of the Assembly's functional rules, the regulation and practice of the member states' parliaments served as a model. The aim of this paper is to present the differences deriving from the particularity of the Assembly's operation comparing it to national parliaments, through the review of the Parliamentary Assembly's function, organizational structure and procedure, furthermore to reveal that the Assembly is not only a parliamentary body in its name, but also has numerous characteristics of the national parliaments.

Keywords: Parliamentary Assembly, national parliaments, function, organization, procedure

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DÓRA FREY

The German elections in 2017 and the difficulties in the formation of the government – a challenge of the constitutional system of Bonn?

The purpose of the paper is the analysis of the antecedents, results and consequences of the German federal elections in 2017. One of the basics of the German constitutional system is the initiation of a stable government and a mixed-member proportional representation. In the German election system, every voter has two votes, one in an electoral district with one mandate based on relative majority, and a second vote for a fixed regional electoral list of the parties. This scheme precisely represents the will of the voters, but it faces criticism because of its highly complex nature. Due to the proportional representation, the party system in Germany is highly fractured and the governments are invariably based on coalitions. As a result, the chancellor is the key position in the government, elected by the German parliament, the Bundestag. The German political and constitutional system is the prime example for chancellor-democracy.

The elections in 2017 were won by the conservative party-alliance CDU-CSU led by chancellor Angela Merkel. In the former legislation period, the CDU/CSU alliance had built a grand coalition with the Social Democratic Party of Germany (SPD). After the elections, there was neither willingness to continue the grand coalition, nor was the third strongest party the right-populist Alternative für Deutschland (AfD) considered as a coalition partner by any of the other parties, therefore the CDU/CSU, the liberal FDP and the Green Party started negotiations. The failure of the negotiations resulted in a deadlock situation because the required majority for the chancellor-election could only be reached by a grand coalition or by a coalition of the three parties. However, the formation of a minority government, a theoretical possibility in this situation, has no traditions in Germany. Furthermore, the dissolution of the Bundestag and a snap election is reserved for exceptional cases within the German constitutional system. Finally, the formerly rejected grand coalition was formed, and Angela Merkel was elected chancellor once again as the head of a coalition formed by the CDU/CSU and the SPD. Consequently, the events did not seriously challenge the limits of the constitutional system. Even though the government majority is not really strong, and there are serious differences between the parties, a stable government was formed.

The paper presents the antecedents and the consequences of the elections together with the process of the government formation with its background in the constitutional law. Finally, I briefly reflect on the results of the elections in Austria also held in the autumn of 2017.

Keywords: German elections 2017, electoral system, coalition, coalition negotiations, formation of government

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Ratification procedure of international treaties in the Hungarian National Assembly

In October 2017 parliamentary elections were held for the seventh time in the history of the independent Czech Republic. The historic and superior victory of ANO was followed by unsuccessful coalition negotiations, and Babiš's minority government, which was born out of need, failed the vote of confidence in January 2018. Upon submission of this manuscript, it was still uncertain who and which parties would govern the country. Firstly, I briefly summarize the history of the Czech party system, then I outline the political background of the elections, highlighting the factors that led to ANO's victory. The third section is devoted to the electoral system, paying special attention to its impact on the results of the parties. The outcome of the election is investigated in the fourth section. While assessing the results, I analyze the aftermath of the election in the context of the quarter century history of the Czech party system, pointing out that the character of the Czech political system, which showed remarkable signs of stability by the mid-1990s, has significantly changed since the 2010 elections. As the outcome of the 2013, and even more of the 2017 elections proves, the current Czech party system is rather fluid and its internal logic is less predictable. By the decline of the „old” parties, the various populist forces have become relevant factors. Finally, I deal with the problems of government formation, noting that the current political situation could be challenging even from the aspect of constitutional law.

Keywords: Czech Republic, elections, 2017, parties, party system

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Negotiation of international treaties in front of the National assembly

This study offers an overview about the ratification of international treaties with focus on the procedure of the National Assembly. First of all there is a short description of the connection between national and international law, then the paper introduces the main participants and acts of the procedure regarding the rules of Act L of 2005 on procedure in connection with international treaties. Furthermore the study describes the development of the procedure from Law-decree No. 27 of 1982 until nowadays. There were not any special rules regarding the negotiations of international treaties until 8th of October 1994, when the Rules of the National Assembly entered into force. In those days it was a two-level procedure, where, following the rules of the above mentioned Law-decree, the decision about notification and promulgation of the Act proposal were divided. The above mentioned Act on international treaties ceased this dualism and according to the Act the confirmation and ratification became a one-level procedure.

The study also introduces the main elements of an Act proposal dealing with international treaty with special regards of the questions about entry into force and the prohibition of modification the rules of the international treaty. In connection with the latter the paper gives a detailed overview on clarification and adjustment. Also highlights the importance of interpretation of the provisions which should be consistent with international law.

To sum up the study describes the scope of the Constitutional Court in connection international treaties.

Keywords: Constitutional law, International treaties, Act L of 2005 on the procedure for international treaties, special transformation of international law, the procedure of the National Assembly

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KATALIN ADÉL RADICS

Ratification procedure of international treaties in the Hungarian National Assembly

The Department of the Constitutional Law and Political Science of Széchenyi István University started a special series of sittings in the spring of 2017. The aim is to provide a possibility for the experts of referendums to set forth the past, present and future of this legal institution from different perspectives. The paper gives an overview of the main points of the first two meetings (the first was held on April 20th, the second was held on November 30th, 2017). The guests of the first sitting were András Patyi, current chairman of the National Election Commission, Péter Szigeti and István Kukorelli, former chairmen of the National Election Commission. On the second meeting Georgina Naszladi, assistant clerk of the Labour Department of the Hungarian Curia shared her experiences with the audience. During the lecture both the affairs from the past and the challenges of the future were brought up. The guests touched on many subjects, such as the challenges they faced during the procedure of decision-making or the effect of their decisions on the legal practice. The lecturers also shared their conceptions about the modification of the law regarding the referendum in the future.

Keywords: referendum, constitutional law, National Election Commission, Curia of Hungary

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Report on the General Assembly of the Hungarian Constitutional Lawyers Association in 2017

Following the greetings of the chairman István Kukorelli – as part of the scientific meeting of the Assembly – two professional lectures had been listened by those present in honor of the of Human Rights Day.

1. Zoltán Pozsár-Szentmiklósy: *Our Political Rights after 69 years since the adoption of the UDHR: is there any reason to be pleased?*

The opinion of the lecturer is that there is no reason to be pleased because in many aspects we must be more modest compared to the previous situation.

2. Attila Láposy: *Our children own the present: for what is good the Convention on the Rights of the Child and how can the constitutional protection of children's rights respond to today's challenges?*

The lecturer opinion is that the Convention is still able to respond adequately to the challenges of children's rights generated by the 21st century's technological and social issues. Meanwhile, we still have to remember that there are still plenty of problems left from the 20th century: it depends, of course, where we are in the world; in many countries, children basic needs are not secured, children's life and health are in serious danger.

The Annual General Meeting elected the members of the Hungarian Constitutional Lawyers Association Presidency (chair: Péter Smuk, Managing Director: Lóránt Csink, secretary: Csaba Erdős) and members of the Professional Advisory Board (Balázs Schanda, Zoltán Pozsár-Szentmiklósy, Anita Paulovics, Péter Sólyom, Károly Tóth, Fruzsina Gárdos-Orosz, Gergely G. Karácsony and Szilvia Köbel).

Keywords: Hungarian Constitutional Lawyers Association, General Assembly, Universal Declaration of Human Rights, political rights, Convention on the Rights of the Child

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