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# ABSTRACTS

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SCHMIDT, PÉTER

ON THE CURRENT ISSUES OF THE DIVISION  
OF THE BRANCHES OF POWER

The author tries to face the scientific challenges of the present age directed against the classical principle of the division of the branches of state power with special regard to the fact, that nowadays the question of the backwardness of the division of the branches of state power is discussed in the Hungarian literature on political science and also in the entire scientific world in a broader sense with increasing frequency.

Referring to István Bibó, the author attempts to prove with the help of many-sided argumentation that the theory and the practical validity of the division of power, which was historically born together with the set-up of the bourgeois state, could not be overcome as yet.

As contrasted to the major argument against it, according to which the division of the branches of state power was relevant in a given historical period only, and not any more, the author expounds that these principles of the structure of the state organisation could be explained by certain causes at the time of its historical evolution, but later on it has become such a basic structural principle, which continues to be one of the indispensable and basic elements of the constitutional and democratic functioning of the state.

SZIGETI, PÉTER

FOUR YEARS OF THE RULINGS OF OUR CONSTITUTIONAL  
COURT: 1990-1993.

The paper consists of four parts. In the first part the author processes his experiences which have accumulated during the four years of the work of the Constitutional Court. He analyses the work load of the Constitutional Court by statistical methods in the process of systemic change. The second part studies the political content of the work of the Constitutional Court. The author analyses the problems of the relationship between law and politics by comparing solutions of case

law and solutions characteristic of the family of continental law in the mirror of international literature so that afterwards he may be able to draw relevant conclusions about the Hungarian practice. The third part surveys issues related to the location of the rulings of the Constitutional Court in the system of the division of power and argues against different standpoints. According to the author's view, the Hungarian Constitutional Court is an autonomous factor in the division of power which exercises control of constitutionality above all the other branches of power within the limitations of its competency and rules of procedure. In the fourth part of the paper the author, analysing the stand of the Constitutional Court occupied in different issues from the angle of basic juridical practice, considers it an ultimate measure of legal propriety if the rulings enhance the degree of the consistency of the legal order in their tendency.

According to the author constitutionality is a problem which is necessarily reproduced and the Constitutional Court has a monopoly of interpretation in the interest of its solution within the framework of the given legal order.

SILVIA MIHALIKOVA

DEMOCRATIC POLITICAL CULTURE - DREAM OR REALITY?  
(THE CASE OF SLOVAKIA AFTER 1989)

Some observers are now differentiating post-communist European states on the basis of democratic development. Can that be done? How? Is it accurate/reasonable to do so?

One of the crucial pre-conditions for such a division is the quality of democracy already achieved in every country or group of countries.

What does it mean, "quality of democracy"?

Who can provide decisive judgements about the state of art and assign one or other country to be at the top or at the bottom of new hierarchy.

Included the apriori positive attitude toward Western democracy and uncertainty in transaction 2 is the often repeated conviction that East-Central Europe societies are standing before a choice between "reaching a real democracy or being imprisoned in some form of distorted half-democracy".<sup>3</sup> The case of Slovakia is used on the one hand to show that it is possible to peacefully manage a complicated event like dividing a country and on the other hand as an example of negative factors and typically post-communist issues, like nationalism, xenophobia and renewal of authoritarianism. Are there indeed all these elements ingrained in our past and recent political culture? And if so, how do we understand contemporary developments in Slovakia?

Democracy and market economy, in their many variants, are the ultimate goals for a majority of the dominant political actors. The crisis and conflicts need not mean the fatal end of democracy, as it professed

by “democratic prophets of doom”. I convinced that developments in Slovakia will confirm these conclusions and that its citizens will not become mourning survivors, wailing over the grave of democracy.

FÁBIÁN, GYÖRGY-KOVÁCS, LÁSZLÓ

DIMENSIONS OF PROPORTIONATENESS. A COMPARATIVE ANALYSIS OF THE RESULTS OF THE HUNGARIAN PARLIAMENTARY ELECTIONS OF 1990 AND 1994.

The paper compares the experiences of the Hungarian parliamentary elections of 1990 and 1994. It is important because actions different in their character are involved: the ones of 1990 were founding elections, whereas those of 1994 were more of free elections. The expression “founding elections” was used by O’Donnell and Schmitter to indicate the specific nature of the first elections laying down the foundations of the democratic transformation of some Latin American and south European countries and creating the framework of the new political system. The concept was used for the first time by Bogdanor in respect of the Central European transition. Whereas free elections rather mean a choice between alternatives within the new set-up.

According to the method of calculation regarded to be the most realistic one by the authors, in 1990 the representation of the five parliamentary parties may be considered proportionate if the over-representation of the Hungarian Democratic Forum (MDF) is disregarded. Thus the victor got into a strongly over-represented position to the detriment of parties which could not get into Parliament. In 1994 the indices of the parties of the middle, such as the SZDSZ and the MDF, remained below those of the smaller ones. The latter ones are just as proportionately represented as they were in 1990. Consequently it appears that the mechanisms of compensation inside the system were able to secure the near-proportionate representation of the parties at the second to the sixth places in 1990, but they were unable to do so in 1994.

The conclusion can be risked that a decisive role was played in the growth of disproportionateness by changes in the structure of supporters of the parties, including the growth of the proportion of votes for the victorious party of 1994 (MSZP) and the given territorial distribution of its supporters.



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