

# PŘÍSPĚVKY ZE ZAHRANIČÍ

## The Hungarian Parliament 1990-2010

### Functions and development trends

Péter Smuk\*

The screen-play for the new, democratic political regime in 1989 has casted the main character to the newly elected Parliament. This actor improvised a lot, being short of time to learn its role – although traditions of national parliamentary politics since at least 1867, western democratic experiences, and also the newly „democratized“ Constitution and standing orders gave instructions. The historic and international models and standards were overshadowed by the possibility of re-shaping its own role – amending sometimes the Constitution, sometimes the Standing Orders. Often even qualified majority requirements haven't raise difficulties in that sense. The starring and stubborn Parliament was restricted only by professional warnings of the Constitutional Court and by the votes of the public 'audience'.

This paper introduces and evaluates<sup>1</sup> the 20-years performance of the Hungarian National Assembly in this special casting.<sup>2</sup> We will outline the development

and trends of the parliamentary law, political composition and functions of the Parliament. Even if a 'new system' or only a new chapter of Hungarian political history begins at the elections of 2010 – as some promise, some fear –, this 20-years-long 'history' is needed and supposed to be resumed.

### 1. *Shaping of parliamentary law*

I recommend two aspects to study the legal norms pertaining to the position, function, organization and operation of Parliament. The so called external parliamentary law can be examined by the legal limits of Parliament's power, while the internal parliamentary law – i.e. the standing orders – by the dichotomy of principles of 'effective' and 'democratic' functioning.

Among others, the constitutional provision setting out the place of legislative in the system of state organs survived all the amendments of System Change. This provides that '*the Parliament is the supreme body of State power and popular representation*'. In contradiction, in 1989–1990, the system of the division of powers has been established, through the parliamentary government in the 'chancellor'-style. Limits of legislative prescribed by public law were only fine-drawn

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<sup>2</sup> Later I am going to refer only shortly to the terms of Parliament, these are: 1. 1990–1994; 2. 1994–1998; 3. 1998–2002; 4. 2002–2006; 5. 2006–2010; 6. 2010– [2014?]. The list of Prime Ministers is the following: 1990–1993: *József Antall* (right wing); 1993–1994: *Peter Boross* (r.w.); 1994–1998: *Gyula Horn* (left wing); 1998-2002: *Viktor Orbán* (r.w.);

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2002–2004: *Peter Medgyessy* (l.w.); 2004–2006–2009: *Ferenc Gyurcsány* (l.w.); 2009–2010: *Gordon Bajnai* (l.w.); 2010– : *Viktor Orbán* (r.w.) Notions of 'Parliament' and 'National Assembly' will be used as synonyms.

afterwards – as a new development period was opened with the accession to the European Union (2004). Every governmental majority in power was about to re-shape its range, continuously trying to extend its competencies.

The balancing position of the *President* of the Republic was clarified early in the political struggles – by decisions of the Constitutional Court. The countersignature is not generally needed for exercising the President's competencies, and this brought up controversial situations even in the 5<sup>th</sup> term of Parliament. The balance of political party-forces, cohabitation and Presidents' personal attitudes determine the assessment of presidency, as we will see at the practice of the right to veto.

Some homework was to be done according to norms of *international law* (for ex. some documents on human rights hasn't got the chance to prevail before 1990), and we had to rethink sovereignty, amend the Constitution, harmonize almost the whole legal system along with the Euro-Atlantic integration – especially, the EU-accession dictated a tight schedule since 1998. The relations between the legislative and the executive has been modified along with the NATO-accession and EU-decision making, so new scrutiny-methods were to be established – with weak effects, and Parliament faced newly rising limits of its 'supreme' power.

The national round table negotiations agreed in a *Constitutional Court* with strong competencies, so the Court had the institutionalized power to build up the notion of 'rule of law' and 'invisible constitution' – generating hot debates and political issues mainly in the '90s. Some ideas emerged to take away some of the Court's competencies, but without any results. Instead, the Parliament had the means to show up its ruling position: the election of judges is restricted to the Parliament and to the compromise of political parties; sometimes the Court was 'disciplined' by amending the Constitution; or, when the Court established the situation of 'unconstitutionality by omission', the legislative often simply ignored to fulfill its task.

Spectacular, hotly debated limits can be identified in initiatives of *direct democracy*. This kind of political pressure puts light on the bad reputation of the representative body and political elites. Movements concerned for ex. the salaries and the revocation of deputies, the election of the head of state, and several other populist social issues. The powers of the representative body (and the representative, indirect democracy) were defended by the Constitutional Court, with the only exception of 2008<sup>3</sup>.

<sup>3</sup> This referendum was initiated in 3 social issues (for ex. tuition fee in higher education) by Fidesz, and its victory led to the fall of socialist-liberal coalition.

Other limits raised by public law shall be only listed here. Observers cannot really cope with the fact, that the legislative and the *constituent power* are not separated in our political system ('only' two-thirds majority is needed to amend the Constitution, which is sometimes given to the governing coalition: between 1994-1998 for the socialists and liberals, and in 2010 for Fidesz). Accordingly, although we have long historical experience, the *second chamber* of the Parliament has not been re-established. *Political parties* by their factions step by step get master over their representatives. Through various disciplinary methods they were able to moderate quitting and seat-changing of selfish MPs, and what is more, governing parties maintained the support of the government – if needed, with splitting of factions<sup>4</sup>. Thanks to this, unique in Central and Eastern Europe, every Parliament fulfilled its term. Prime ministers and coalitions could change, but main governing party stayed for 4 years. The system of *local governments* enjoys some constitutional rights; and the required qualified majority to basic rulings was able to conserve a lot from the 'idea' of self-governing. But practically, the Parliament by determining the budgetary subsidies was in the position to deprive them of their autonomy.

The *electoral system* and the legal status of the representatives were loudly criticized during this period. The sensitive issue of electoral system has not been innovated significantly, lacking the necessary political consent. The most remarkable feature is its disproportion – the winner was over-represented in 1990, 1994, 2010 –, but critics also refer to its inequality in terms of the size of several constituencies<sup>5</sup>, and to the need for a smaller Parliament with much less MPs<sup>6</sup>. The elections held since 1990, along with judicial cases provided with experiences that helped to upkeep the system with slight amendments, and the electoral procedure has been generally re-regulated with a new code of law in 1997. The representatives' mandate was challenged in the first term; a social movement arose to recall the MPs. Later, in light of the harsh, restrictive policies and extending corruption, deputies' allowances and privileges became highly irritating in the eye of public opinion. In this issue, our political elite suppressed a popular initiative for referendum: the compromise between the battling parties to amend the Constitution was easily 'achieved' in 2009. In these initiatives, Parliament tried to follow or answer to demands, but without any success, as we look at its low social estimation.

<sup>4</sup> For ex. see the smallholders' party-split in the 1<sup>st</sup> and 3<sup>rd</sup> term, or the liberal democrats in the 5<sup>th</sup>: the party or faction broke, but some of its representatives continued backing the 'minority' government by their votes.

<sup>5</sup> 22/2005. (VI. 17.) Const. Court decision.

<sup>6</sup> 386 representatives for the population of 10 million, seems to be a world-record.

The Parliament in the first term operated according to the standing orders inherited from 1989, when the old ones were filled *mainly* with democratic content. This first Parliament of the democratic system failed to achieve a new regulation, only a few norms were updated to reach effectiveness by the new extraordinary procedure and provisions on proposals of amendments. The new Standing Orders<sup>7</sup>, adopted in the second term in 1994, proved to be an operable regulation – though some of the paragraphs were found to be unconstitutional and so annulled by the Constitutional Court, and in some fields unsatisfactory or simply missing provisions caused unconstitutional situation. Standing orders are symbolic to represent the autonomy of the legislative. They have to provide with effective, calculable regulation, in order to help Parliament to fulfill its functions. While Standing Orders of 1994 failed to offer clear solution to several political disputes, basically they complied with the mentioned requirements. Hottest battles emerged at the amendments in 1997, while later ones were based already on the compromise of political parties. ‘Homework’ given by the Constitutional Court was done – with some exceptions – by a wider revision in 2007.

Analyzing Standing Orders, principles of effective and democratic functioning are recommended to be applied. It is easy to see that the development of standing orders is mainly about the struggle of these two principles (this struggle had a heroic episode in the dualistic age of Hungary, between 1867 and 1914). We have basic expectations from modern parliaments, that political debates should not obstruct the fulfilling of constitutional and political functions of the institutional system. But, on the other hand, protection of political minority, preservation of opposition’s chances, maintaining political discourse seeking common good – all involve guarantees for rights that limit governing majority.<sup>8</sup> Standing Orders 1994 proved in this field. By ensuring rights of opposition, really good grades can be awarded, considering their birth-circumstances. The socialist-liberal coalition had the vast majority of parliamentary seats, around 72 %. The rights of opposition have been regulated generally with a threshold of one-fifth of mandates (and not one-third which could be also logical, regarding the standard two-thirds qualified majority

requirement). Of course, at the first revision of standing orders in 1997, when achieving some limits regarding speeches outside the orders of the day, the dwarf opposition accused the coalition of “tyranny”.

Finally, we draw attention to the challenges to ‘modernize’ National Assembly. Here, such achievements are welcomed when the EU-accession enforced new procedures and legal institutions, and when freedom of information was extended via means of internet and other information technology.<sup>9</sup>

## 2. *Members and political composition of Parliament*

Describing the operation of the legislative, besides procedural provisions, the political composition and the sociological characteristics of MPs are also important indicators.<sup>10</sup>

Since 1990, elections followed each other in the regular 4-years-terms provided by the Constitution. Some lamented on the relatively low turn-out of 1990<sup>11</sup>, but people’s participation suited to the Central European trends, and elections resulted ‘due’ legitimacy for the representative body. The elections passed off correspondingly with the European democratic norms, without mass or ostentatious frauds, and resulted – with the exception of 2006 – changes of government successively.

<sup>9</sup> Among others, interested visitors may acquire knowledge on how laws are adopted, what questions, interpellations MPs have to answer to, or how parliament voted on a given issue. They can also search for past information, present and future events. As a recent development, in addition to the minutes of the plenary, the minutes of committee sessions are also accessible on the Internet. The parliamentary homepage included elements necessary for providing a wide range of information to the public already before the Act on the free access to electronically stored data has been agreed upon. See: [www.parlament.hu](http://www.parlament.hu)

<sup>10</sup> [http://phd.lib.uni-corvinus.hu/339/3/schwarcz\\_andras\\_ten.pdf](http://phd.lib.uni-corvinus.hu/339/3/schwarcz_andras_ten.pdf).

<sup>11</sup> Following the 40 years long communist period, experiencing free elections, 66% can be considered a low result, indeed.

<sup>7</sup> Res. of Nat. Assembly 46/1994. (IX. 30.).

<sup>8</sup> Read more: Smuk, Péter: *Rights of Opposition in Parliamentary Law. [Ellenzéki jogok a parlamenti jogban.]* Gondolat, Bp., 2008. p. 79–80., 87–92.

Proportion of list votes and other indexes of elections (%)<sup>12</sup>

	1990	1994	1998	2002	2006	2010
Turn-out, Round 1-2	65.77 – 45.44	68.92 – 55.12	56.26 – 57.01	70.53 – 73.50	67.83 – 64.39	64.38 – 46.66
KDNP [ <i>Christian Democrats</i> ]	6.46	7.03	2.31	–	42.03	52.73
Fidesz [ <i>Alliance of Young Democrats</i> ]	8.95	7.02	29.45	41.07		
MDF [ <i>Hungarian Democratic Forum</i> ]	24.73	11.74	2.80		5.04	2.67
FKgP [ <i>Smallholders' Party</i> ]	11.73	8.82	13.14	0.75	–	–
MIÉP [ <i>Party of Hungarian Justice and Life</i> ]	–	1.59	5.47	4.37	2.20	0.03
Jobbik [ <i>Movement for a Better Hungary</i> ]	–	–	–	–		16.67
MSZP [ <i>Hung. Socialist Party</i> ]	10.89	32.99	32.89	42.05	43.21	19.30
SZDSZ [ <i>Alliance of Free Democrats</i> ]	21.39	19.74	7.57	5.57	6.50	–
LMP [ <i>Politics Can be Different</i> ]	–	–	–	–	–	7.48
Other parties	15.85	11.07	6.37	6.8	1.1	1.13
Proportion of parties above the parliamentary threshold <sup>13</sup>	84.2	87.6	88.5	88.7	96.8	96.1
Proportion of votes of the 2 leader parties	46,1	52,7	62,3	83,1	85,2	72,0

<sup>12</sup> Note that voters have two votes, one for the single constituency candidates, and one other for the regional constituency party list. The table shows the list votes aggregated nationwide. These list votes show the nationwide support of parties. See: <http://www.valasztas.hu/en/parval2010/index.html>.

<sup>13</sup> Threshold was in 1990: 4%, since then 5%.

The table shows the stability of the Hungarian party system between 1990-2006, when only 7 parties were able to pass the parliamentary threshold at least once; four parties always, another two parties three times got in to the legislative. A new chapter begins with 2010, when party system has been shocked. The two main parties of the system change failed (MDF and SZDSZ), while two new formations (Jobbik, LMP) achieved surprisingly good results. The indexes also reflect the concentration of the party system, there's no life for outside-parties (except the 'success' of Jobbik before 2010).

We can observe patterns of the party-discipline by the next table. Factions of Fidesz, MSZP, SZDSZ avoided bigger shocks and splits, and Fidesz finished three

terms with extra mandates above the beginning numbers. The most problematic factions were the FKGP and MDF, that split and ceased to exist<sup>14</sup> during the official term of the parliament. Changing seats usually did not happen between governing and opposition sides, exceptionally it was caused by party-split, and the direction was from government towards the opposition (FKGP in the 1<sup>st</sup> and 3<sup>rd</sup>, SZDSZ in the 5<sup>th</sup> term). Since 1998, biggest parties dominate their representatives in such an extent, that we can consider the seating order fairly stable. Even if at the end of terms the number of 'independent' MPs increased, and in two terms majority run out from behind the government.

<sup>14</sup> Its membership decreased below 10 (earlier 15).

**Party factions an independent representatives 1990–2010**

(at the beginning and at the end of terms)<sup>15</sup>

	1990–94		1994–98		1998–2002		2002–2006		2006–2010		2010
Fidesz	22 opp.	26 opp.	20 opp.	32 opp.	148 govern.	143 govern.	164 opp.	168 opp.	141 opp.	139 opp.	227 govern.
FKgP*	44 govern.		26 opp.	22 opp.	48 govern.	33 govern.					
EKgP*		36 govern.									
KDNP	21 govern.	23 govern.	22 opp.						23 opp.	23 opp.	36 govern.
MDF**	165 govern.	135 govern.	38 opp.	20 opp.	17 govern.	16 govern.	24 opp.	9 opp.	11 opp.		
MIÉP***		12 opp.			14 opp.	12 opp.					
MSZP	33 opp.	33 opp.	209 govern.	204 govern.	134 opp.	136 opp.	178 govern.	177 govern.	190 govern.	188 govern.	59 opp.
Néppárt- MDNP** *				15 opp.							
SZDSZ	94 opp.	83 opp.	70 govern.	65 govern.	24 opp.	24 opp.	20 govern.	20 govern.	20 govern.	18 opp.	
Jobbik											47 opp.
LMP											16 opp.
independ ent	7	37	1	23	1	20		11	1	15	1

*	<i>FKgP faction broke in 1992, to the government-supporting '36s' (EKgP) and the opposing '12s'. The latter ceased to exist after a while.</i>
**	<i>MDF faction ceased to exist on 20 March 2009.</i>
***	<i>These two faction was formed during the term of the Parliament.</i>

<sup>15</sup> [http://www.parlament.hu/internet/plsql/ogy\\_fotit.fotit\\_frak\\_cikl?p\\_fejlec=I&p\\_stilus=nyito.css](http://www.parlament.hu/internet/plsql/ogy_fotit.fotit_frak_cikl?p_fejlec=I&p_stilus=nyito.css)

## Governing and Opposition Factions 1990–2010

(membership at the beginning and at the end of terms)

	1990–94		1994–98		1998–2002		2002–2006		2006–2010		2010–2014
	1990	1994	1994	1998	1998	2002	2002	2006	2006	2010	2010
Government	230	194	279	269	213	192	198	197	210	188	263
Governing 'majority' %	59.6	50.2	72.2	69.7	55.2	<b>50.0</b>	51.3	51.0	54.4	<b>49.1</b>	68.1
Opposition	149	154	106	89	172	172	188	177	175	180	122
Independent	7	37	1	23	1	20	-	11	1	15	1

It is important to note, that based on the recruiting and personal selections of parties, the members of the Hungarian political elite (political class) are sitting in the National Assembly. Since 1994, when incompatibility of MPs and mayors of local authorities was abolished, also the local elite can take its part from national politics. The sociological background of representatives can determine their attitude and work, so it can characterize the operation of the whole body as well. Professionalization and career-routes of elites usually lead across the inner organization of political parties, they hardly ever practiced their 'original' profession of their diploma, and so hard would be their 'return' to this profession.<sup>16</sup> However, profession determine the attitude of

each MPs, national and parliamentary politics means very different for a philosopher, a lawyer, or even for an engineer, agronomist. Among the representatives, proportion of lawyers, economic and polytechnic qualifications is usually higher (15-20 percents). 'Philosophical'-temper of the age of system change is already history, arts qualified MPs have ebbed away from 18 to 10 percents.

Analyzers draw attention to the process of consolidation of political class, because less and less novices can be found among the elected MPs. Since 1998, at least half of the representatives has at least one term experience. This makes legislative and legislators experienced, has some stabilizing effect, but on the other hand reflects to the closing circle of elites, so results democratic deficit. (Though, in 2010, the two new parties brought some freshness.)

Proportion of women since 1990 never exceeded 11 percents among MPs. If we put to this fact the underrepresentation of women in other political leading positions, reforms aiming positive discrimination or affirmative actions for women in the electoral system seem to be reasonable. Proportion of women in Parliament is far below the European averages.<sup>17</sup>

<sup>16</sup> Körösiényi, András – Török, Gábor – Tóth, Csaba: A magyar politikai rendszer. [The Hungarian Political System.] Budapest, 2003. p. 96–98. and Schwarcz, András: *A képviselő megkésett modernizációja. A magyar parlamenti képviselők összetétele és a politikai modernizáció. 1884–2006.* [Late modernization of representation. Composition of Hungarian

*representatives and the political modernization 1884-2006.* Budapest, 2008. p. 169–170.

<sup>17</sup> Schwarcz: o.c. p. 170., 173–175.

*Qualifications of Representatives (%)*<sup>18</sup>

	lawyer	medical	teology	polytechnic	arts	teacher	economics	agrarian	other
1990	21.5	13.7	4.1	15.8	18.7	9.4	13.7	7.8	4.4
1994	19.2	6.7	1.8	17.9	15.5	1.0	19.2	11.1	5.4
1998	22.3	6.2	2.6	21.5	12.4	5.8	19.7	10.9	8.3
2002	20.7	6.0	1.8	21.2	12.2	17.1	20.2	7.5	8.1
2006	20.7	7.0	1.8	21.2	10.1	15.0	19.9	6.5	10.1

*Previous experience of MPs and the average in the term*<sup>19</sup>

<sup>18</sup> Every degree, in proportion of the whole sum of MPs. Schwarcz: o.c. p. 192.

<sup>19</sup> Schwarcz: o.c. p. 188.

	Elected for the first time	Elected for the 2 <sup>nd</sup> or 3 <sup>rd</sup> times	More (4–7)	Average
1990	96.4%	3.6%	0.0%	1.04
1994	63.5%	36.5%	0.0%	1.38
1998	48.7%	50.5%	0.8%	1.69
2002	31.1%	55.4%	13.5%	2.16
2006	27.7%	47.7%	24.6%	2.54

### 3. Chapters from a law-factory

Also for constitutional law and political science, notions of 'working parliament' and 'debating parliament' can be used.<sup>20</sup>

I consider the Hungarian Parliament being closer to the a working model, because although proposals from opposition barely have any chance to be accepted, legislative often influence the content of the government-recommended bills. It is also important to emphasize that I do not find the 'debating' model less worthy, as Hungarian politicians usually do. There is no order of importance for the functions of debating and law making, both have to be fulfilled. Keeping in mind that relations of legislative and executive changed, governmental factions are well-disciplined, chancellor-like Prime Minister plays more and more important role – the scrutiny and open debate become politically crucial for opposition and public opinion. The real challenge for Parliament was to find the right balance of functions and manage the mass job with law-making.

In the first, 'philosopher' term of Parliament, legislation was hindered by several obstacles. Unsatisfactory preparatory mechanisms, lack of guarantees for effective operation, unsettled attitude of deputies, and early period of forming of party system – all have resulted a creaking machinery of our law-factory. Parallel, legislative had got a lot of tasks to do, establishing capitalism and rule of law. The 1<sup>st</sup> term passed far more bills (432) as in the last, 5-years-long term in the communist era (132). In the 2<sup>nd</sup> term, with the overwhelming majority – that proclaimed the respect for rights of opposition – and with the new Standing Orders, working parliament model had pretty good prerequisites. Still, involvement of opposition remained in phrases, as statistics show the tiny success of its proposals. The 3<sup>rd</sup> government introduced the method of 3-weeks-sittings, in order to make legislation more effective – but it provoked the destruction of oppositional rights, and then turned out to be a barren effort. Outcomes and intensity of legislation decreased, and control-methods were also narrowed. The return to the working model as proclaimed by the speaker of the 4<sup>th</sup> term was realized by quantitative indexes. Its costs can be identified if we look at the sweeping aside opposition's proposals, and the low quality of laws in the disciplined 4<sup>th</sup> and the crises-amassing 5<sup>th</sup> terms.

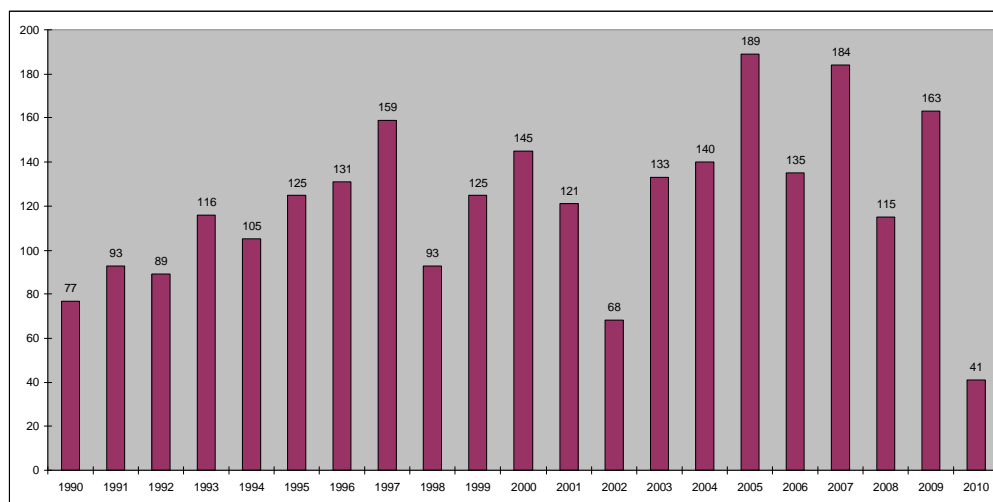
<sup>20</sup> Körösiényi, András: *Government and Politics in Hungary*. Bp., CEU Press., 1999., p. 226–227.

In tendency, legislative work shows a clear direction in the past 20 years: progressive quantitative expansion, conserving a lot of the dysfunctions of law-factory. These anomalies could have been identified by the perspicacious observer already in the first years after the system change. Legislative power is open in the direction of the executive's regulative power. Parliament has occupied matters and fields of legal regulation from other authorities, massively increasing its own liabilities. The continuous reform-pressure with attempts of

innovation, jockeying by-passing of the qualified majority rules became very straining, aggravated also with the real or putative need for 'do-it-quickly'. We can not diagnose development considering the requirements of mature and farseeing legislation. Obtrusive carrying out of political intentions characterizes proceedings, resulting that Parliament has to amend its own acts several times, in few but sensitive cases in one year following the adoption.

*Legislation in numbers  
(bills promulgated and average number of paragraphs)*

	<b>Number of bills</b>	<b>Paragraphs (average)</b>
1990–1994	432	21
1994–1998	499	27
1998–2002	464	21
2002–2006	573	27
2006–2010	585	28
<b>Sum:</b>	<b>2547</b>	<b>25</b>



Re-establishing the upper chamber of Parliament is a popular demand even among constitutional lawyers. This chamber is usually envisaged as a corporate body, securing representation for several social groups, ethnic and national minorities, churches, etc., and would be useful also for a slower but more farseeing preparation of laws. Lacking this chamber, Hungarian constitutional system provides only with two other organs, as guarantees for control and quality legislation. These are the President of the Republic with the right to veto, and the Constitutional Court.

In the eye of some observer and public opinion, the exercise of veto [proposing preliminary norm control of the Constitutional Court or returning laws to Parliament

for reconsideration] is a method for confronting of co-habiting President and executive.<sup>21</sup> This opinion can be supported with statistics, but I would rather look for more reasons to explain László Sólyom's extraordinary activity. Among these reasons firstly we can find the sadly poor standards of law-making. Regarding the comments of veto, the President often had to refer to the anomalies of legislative proceedings (ignoring the opinion of concerned groups and organizations, lack of coherence, disturbance of 'last-minute' proposals, etc.).

<sup>21</sup> See: Körösnéyi (1999) p. 278–281. – Before 2002 the experience of the veto is so scant that we can only partially agree with that statement.



*Veto right of the President of the Republic in numbers<sup>22</sup>*

<i>Terms</i>	<i>1990–1994</i>	<i>1994–1998</i>	<i>1998–200(0)</i>	<i>200(0)–2002</i>	<i>2002–200(5)</i>	<i>200(5)–2006</i>	<i>2006–2010</i>
<i>President</i>	<i>Árpád Göncz</i>	<i>Árpád Göncz</i>	<i>Árpád Göncz</i>	<i>Ferenc Mádl</i>	<i>Ferenc Mádl</i>	<i>László Sólyom</i>	<i>László Sólyom</i>
Proposing Preliminary Norm Control	7	–	1	3	10	–	15
<i>Returning Laws to Parliament for Reconsideration</i>	–	2	–	1	5	2	27

<sup>22</sup> <http://www.parlament.hu/cgi-bin/insurl/?fotitkar/tvalk/normakontroll.htm> and <http://www.parlament.hu/cgi-bin/insurl/?fotitkar/tvalk/megfontol.htm>.

The Constitutional Court may interfere in the operation of National Assembly regarding the Standing Orders and the outcomes of legislation. We already mentioned the review of Standing Orders above, here the rest of norm control shall be examined. The Court can review not only the constitutionality of content of adopted bills and other normative resolutions of Parliament, but adjudicates the unconstitutionality by omission and the violation of norms of proceedings as well. Concerning omissions, some debts of legislative already reached ‘adulthood’. Violation of procedural provisions is rather rare, but the case of bill on hospitals can be regarded eminent. In 2003, the Parliament, receiving the letter of returning from President Mádl, adopted the bill on the same evening, without reconsidering anything of the content, and violating the right of deputies and the Pre-

sident to be present on the sitting. (Do not forget the speaker’s above mentioned promise from 2002 to ensure oppositions chance to take part in legislation with returning to the model of working parliament!) The Court by openly undertook activism, in the 90’s became an agent of developing Constitution and rule of law. In this role, the Court brought decisions not simply annulling adopted bills, but actively ameliorating rule of law, provided even with accurate directions for future legislation and policies. Following the Sólyom-era<sup>23</sup> of the Court this activism calmed down.

<sup>23</sup> László Sólyom presided the Constitutional Court between 1990–1998.

*Annulling of bills and provisions by the Constitutional Court in numbers<sup>24</sup>*

	<b>Annulling of whole bills</b>	<b>Partial annulling</b>	
	<i>Bills</i>	<i>Provisions of bills</i>	<i>Bills affected by decisions</i>
Before the 1 <sup>st</sup> term	3	38	21
<i>1990–1994</i>	1	70	43
<i>1994–1998</i>	–	96	50
<i>1998–2002</i>	1	25	16
<i>2002–2006</i>	2	34	31
<i>2006–2010</i>	2	15	10
<b>Sum:</b>	<b>9</b>	<b>278</b>	<b>171</b>

<sup>24</sup> [http://www.parlament.hu/fotitkar/tvalk/ab.htm#\\_Toc200867832](http://www.parlament.hu/fotitkar/tvalk/ab.htm#_Toc200867832)

Here, it is not necessary to give an overlook on the development of the parts of legislative proceedings, I only note that Standing Orders 1994 have revised

them in details. Disserting the outcomes of legislation, I build up a structured inventory concerning policy contents and subject-matters.

In constitutional transition – uniquely in post-communist region – formally new Constitution had not been adopted, but the law nr. XX of 1949 gained a content based on principle of democratic rule of law. Most of the duty has been carried out by the amendments to the Constitution in 1989–1990. The Parliament amended the basic law in each analyzed term, but the revision by Law XL 1990 that implemented the pact of MDF and SZDSZ is prominent with its magnitude. Later, new consent to adopt a new Constitution still has not been achieved, although the government theoretically has the

necessary qualified majority between 1994–1998.<sup>25</sup> In each term, qualified majority was reached by compromises between government and its opposition – in the 2<sup>nd</sup> term coalition used its majority – in several parts for amending. Amendments ‘coerced’ by international law, EU- and NATO-accession can be highlighted. These cases can indicate the often missed national standards, when leading parties of right and left wing, political elite and public opinion agreed in concordance.

<sup>25</sup> Regarding also the one-term provision of raising two-thirds majority rule to four-fifth in that case. (See: Art. 24 (5) of the Constitution.)

*Number of amendments to the Constitution*<sup>26</sup>

	<i>Bills amending the Constitution</i>	<i>Number of paragraphs amended</i>
1949–1990	25	-
1990–1994	7	75
1994–1998	6	30
1998–2002	2	10
2002–2006	4	22
2006–2010	5	12

<sup>26</sup> Hungarian Official Journal 2009/150.. (23 October 2009) p. 38758–38761.

Homework and duty had been given to legislation by challenges of economic and social modernization along the following periods.

1. The first term got the hard work to establish rule of law and an economic system based on European standards. It began to dismantle the previous system’s structures, tried to handle crises of transition – unemployment, collision of several segments of market – and on further social segments should have managed the groundwork of transition processes. In this role, the Parliament of the 2<sup>nd</sup> term followed it, with attempts of economic, budgetary and state reforms. The magnitude of challenges can be seen in the results of elections – failing governments in every four years, till 2006.

2. Second period is characterized by the harmonization of laws in the light of Euro-Atlantic integration. Legislation wrestled with this tremendous duty for years – accession negotiations lasted from 1998 till 2004 – but the date of EU-accession has been determined by political contexts on the European level. Harmonization coerced some modernization and innovation as well, but this was not certainly accompanied with reforms of state policy and regulation.

3. In the last, third period, the pursuit of politically stubborn, verbally ‘modernizing’ ambitions surrounded by crises could not be successful. Materializa-

tion of information society, a more effective and economical state, elimination of corruption and societal anomaly is hardly achievable by a National Assembly that fights above all with its own early-lost prestige and the bad quality of legislation. Special chapter of anomalies is the ‘stormy years’ of direct democracy, which aimed not only to achieve new policies, but also attacked bills and the legislative as an institution. Opposition found ‘remedy’ by referendum in 2008 for the ‘liar’ campaign of 2006, civil movement besieged deputies’ allowances, etc.

I regard symbolic the ‘career’ of the Act pertaining to legislative procedures. It was adopted in 1987, at the dawn of constitutional transition. Providing with legal measures to legislative competencies, protecting Parliaments authority in legislation it helped the renaissance of National Assembly. By the system change of 1989–1990, re-regulation or at least reparation of this Act regrettably fell behind. The ambitions and the proposal of a new regulation perished in obscure circles of legislative procedure in the 4<sup>th</sup> term. Lots of its outworn and non-interpretable provisions rather embarrassed the legislation and application. At the end of 2009, as closing of the studied 20 years period, the Constitutional Court annulled this Act, giving a chance for the new government to adopt a new regulation in the early of the 6<sup>th</sup> term.

#### 4. *The function that failed – parliamentary scrutiny*

The Parliament shall hold the vote on the election of the Prime Minister and on the passage of the Government's program at the same time [Const. Art. 33 (3)]. This program can be regarded as the base of the confidential relation between the legislative and the executive. The dynamic process of parliamentary control sets this program and laws against the operation and policies of the government. In the last 20 years twice the National Assembly was not in the position to implement Constitution's mentioned provision by voting on the program and the Prime Minister in the same time. It happened first at the election of József Antall, in 1990; secondly in 2009 when Gordon Bajnai was raised to the Prime's chair by the constructive vote of no-confidence. The opposition in both cases complained how parliamentary government could operate with this blot.

Process of parliamentary control may give a lot of reasons to critics and perhaps anxiety. We cannot ignore that means of scrutiny are living institutions in each term, according to their regulation and the ope-

ration of Parliament. Plenary sittings and opposition continuously used methods of acquiring information, opportunities of open political debates in that sense. These methods, however, succeeded rarely in their object. We can observe these proceedings rather a process, as they were applied in party politics.

Undoubtedly, trends of scrutiny proceedings had broken in the 3<sup>rd</sup> term with the 3-weeks-sitting order. This order physically gives less time for questioning, and does it even rarely, so between 'issue' and question 3 weeks pass away. Above this, more and more deputies from the governmental side (mis)use the interpellation, pushing opposition out of the questioning time. Proportion of interpellations from the opposition is still below the average also in the 4<sup>th</sup> term. Controversial standing order [St. Orders 90 and 91] lets ministers slipping away; they can ignore questions finding its matter out of their competence. Sometimes, time makes the favor when questions are kept and bled to death in long waiting. Huge number of written questions after 2002 was unpleasant for the administration, but concerning the possibility of written answers, can not be regarded as tool of obstruction.

*Number of interpellations and the proportion of opposition*

<b>Term<sup>27</sup></b>	<b>Interpellations</b>	<b>From the Opposition</b>
1994–1998	804	744 (92.5%)
1998–2002	833	524 (63%)
2002–2006	895	676 (75%)
2006–2010	776	658 (85%)
<b>Sum:</b>	<b>3308</b>	<b>2598 (78.5%)</b>

<sup>27</sup> Figures are not available yet from the 1st term.

Most problematic segment of parliamentary control is the operation of scrutiny committees, regarding both the regulation and the experiences of functioning. Constitutional Court judged the applicable provisions of the Standing Orders unconstitutional and unsatisfactory in 2003; because provisions were inadequate to pursue effective control and ensure personality rights. The Parliament still has not done anything to re-regulate this matter. Monitoring by committees was inadequate from other aspects too. Proposals to establish such committees – although one-fifth of the number of deputies has the right – could prevail near to 50 percents only in the 4<sup>th</sup> term, in other periods, opposition was less successful. Operation of committees only in exceptional cases were able to give valid picture on the matter of scrutiny; political parties used them as performing occasions to form political discourse agenda, or rather to bore public opinion. As their mandate expired, committees – their

composition is based on the principle of parity – could not agree on the resolution about their 'assessment'.

Also in the history of scrutiny committees feature a controversy in the 3<sup>rd</sup> term: any of the proposed committees of the opposition had been set up, contrary to the standing order nr. 36. In the 4<sup>th</sup> term, proposals of opposition were counterweighted by similar proposals of the governing coalition. Doing so, each side could counteract, with the usual reasoning that scandals of the previous government(s), other parties, etc. shall be investigated too. This control-mechanism, coming to the 5<sup>th</sup> term, became worn-out. Even numbers of proposals decreased, and the operation of set up committees were not followed by media – it is already history, when in the 2<sup>nd</sup> term it seemed to be a strong weapon in hands of opposition to overthrow government. The 'Political Debate' (Standing Order nr. 129) has been burnt out similarly: in 2009 and 2010 no debates were proposed...

*Number of scrutiny committees, proposed and set up*

	Proposed by govern- mental side	<i>Set up</i>	Proposed by the opposition	<i>Set up</i>	<i>Sum of set up</i>
1990–1994	11	0	13	1	<b>1</b>
1994–1998	2	1	25	5	<b>6</b>
1998–2002	8	4	16	0	<b>4</b>
2002–2006	8	3	20	9	<b>13</b>
2006–2010	3	0	11	1	<b>1</b>

*'Political Debates' held*

	<b>1990-94</b>	<b>1994-98</b>	<b>1998-2002</b>	<b>2002-2006</b>	<b>2006-2010</b>
Debates	5	11	15	27	10
Proposed by opposition	2	10	11	22	5

\* \* \*

Parliament's direct political function is to provide with regulated framework for open political debates. In formation of democratic and critic public opinion, information-flow on the political statements, programs, alternatives is crucial; also political parties control each other by open debates. On this field we can welcome the open operation of Parliament, but parties employed other methods of public sphere, like TV, internet, street demonstrations, and these methods have partly played down publicity of the plenary politics. Discourse between government and opposition can be considered persistent, citizens can complain rather because of the vulgarity of debates. Strongly mastered deputies served leaders' ambitions; they hardly tried to find common goals and national consent, so political culture rapidly declined.

Some analyzers recognized the weakening of consensual segments in the Hungarian political system, pa-

rallel with the prevailing elements of majoritarian democracy.<sup>28</sup> Instead of assessing of these models of democracy, I would rather draw attention to the fact that in 2010, a two-thirds majority government started to re-build state and began to prepare the new constitution of Hungary. Several questions to characterize Hungarian political system remain to be answered later, our 20 years history gives not enough perspective. Some claim for a new system change, some for rebuilding legitimacy of state organs. Experience of Western and Hungarian parliamentarism can provide with standards for future politics as well. Hopefully, these achievements will not be thrown away as crises and anomies of constitutionality will be eliminated.

<sup>28</sup> See in English: Körösényi (1999) p. 285–295.