

BULLETIN
OF THE
TRANSILVANIA UNIVERSITY
OF
BRAȘOV

Vol. 13 (48) - New Series

Series B1

- **MATHEMATICS • INFORMATICS • PHYSICS**

Series B2

- **MEDICINE • PSYCHOLOGY**

Series B3

- **ECONOMIC SCIENCES**

Series B4

- **LAW • SOCIOLOGY • PHILOSOPHY**
- **SOCIAL ASSISTANTS**

Series B5

- **PHILOLOGY**

Series B6

- **MUSIC • SPORTS**
-

Published by
TRANSILVANIA UNIVERSITY PRESS
Brașov, Romania
2006

EXTRASE

THE EXECUTIVE IN THE REPUBLIC OF HUNGARY. CONSTITUTIONAL SETTLEMENTS

Oana ȘARAMET*

Abstract: Nowadays there are still parliamentary political regimes, excepting the British one, which can be met in states as France, Finland, Austria or Hungary, that are called by the doctrine rationalized parliamentary political regimes. The brief presentation of the Hungarian constitutional settlements shall emphasize that this political regime is not an authentic parliamentary regime but a rationalized one.

Key words: Republic of Hungary, executive, Government, President, Constitution.

The structure of the Constitution of Republic of Hungary [1], as well as the attributions offered to the authorities that exercise the three classical powers - legislative, executive and judiciary - reveals the existence of a parliamentary political regime in rationalized form. In this context, we shall emphasize only the particularities met in the Hungarian executive.

1. Constitutional Settlements Regarding the Chief of the State

Art.19 paragraph 3 letter k settles *expresses verbis* the attribution of the Parliament of electing the president of the Republic with the secret vote of the qualified majority of 2/3 from the members of the Parliament. The mandate of the President is of 5 years, any Hungarian citizen who has the right to vote and reached the age of 35 can be elected in this function. The procedure of election starts with the nominalization of a candidate [2] from at least 50 members of Parliament.

The president must be elected within 30 days before the previous mandate expires. The president in function shall begin his mandate in the 8th day from the day the election result has been announced. In the case the elections take place as a consequence of the expiration of mandate of the president before the term, the previous terms shall be modified [3]. The beginning of the mandate is conditioned by the standing of the oath in front of the Parliament. The mandate can be renewed only once.

The role of the president is expressly settled in Art.29 and resides in the representation of the unity of the nation and the surviving of the democratic operations of the state: "(1) Hungary's Head of State is the President of the Republic who represents the unity of the nation and monitors the democratic operation of the State. (2) The President of the Republic is the Commander in Chief of the Hungarian Armed Forces".

The attributions are specifically to a president in a parliamentary republic. Thus

* Dept. of Public Law, Transilvania University of Braşov.

the president promulgates the laws, having possibility of refusing only once the promulgation of a law, in this case he shall send the bill to the Parliament in order to be reconsidered, or to the Constitutional Court for the revision. As settled in Art.30A paragraph 1, the President of the Republic shall: "a. represent the State of Hungary; b. conclude international treaties in the name of the Republic of Hungary; if the subject of the treaty falls within its legislative competence, prior ratification by Parliament is necessary for conclusion of the treaty; c. accredit and receive ambassadors and envoys; d. announce general parliamentary and local government election, mayoral elections as well as the dates of the European parliamentary elections and national referenda; e. have the right to participate in and speak at sittings of the Parliament and of its committees; f. have the right to petition the Parliament to take action; g. have the right to initiate national referenda; i. appoint and dismiss the President and Vice-Presidents of the National Bank of Hungary, and university professors upon the recommendation of persons or organizations specified in a separate law; appoint and dismiss university rectors; appoint and promote Generals of the armed forces; confirm the President of the Hungarian Academy of Sciences; j. confer titles, orders, awards and decorations specified by law and authorize the use thereof; k. exercise the right to grant individual pardons; l. issue rulings in all issues assigned to his sphere of authority on the basis of separate laws". The president convenes the Parliament in the first session after its election (Art.22 paragraph 2), he may require the convocation of the Parliament in an extraordinary session (Art.22 paragraph 3) and may suspend its session, the president may also require the organization of a national referendum (Art.28C, paragraph 4).

Most of the attributions of the president are expressly settled in Art.30A, among them we can enumerate those regarding the

domain of foreign affairs, those regarding the election, the forming, the approval of the forming, the appointment or the revocation of some public authorities. The president may pardon the individuals and emits decisions (decrees) in the cases regarding the citizenship (Art. 30A letter l). The president, as settled in Art.29 paragraph 2, is the chief of the army, the rest of his attributions are developed by the Art.19A-19F regarding the measures adopted in exceptional situations, the president interfering only with the previous approval of the Parliament, or else he shall get the approval after the interfering. The most important attribution of the president is that of dissolving the Parliament with the condition of announcing at the same time the organization of new elections. As settled in Art.28 paragraph 3 this right is exercised only in two conditions namely: the Parliament voted in 12 months of a mandate 4 motions of censorship, or the Parliament didn't elect, in 40 days from the date the first candidate was named, the candidate proposed by the President for the function of Prime-Minister in the case of concluding the governmental mandate. In some exceptional cases settled in Art.28A, the dissolving of the Parliament cannot take place.

The function of Parliament is incompatible, as settled in Art.30, with any other public, social and political function or any other mandate. He cannot be employee, quality in which he is remunerated only for the activities that are under the incidence of the legislation regarding the copyright. The mandate of the President may cease before the term if the Parliament invokes and votes the state of incompatibility in front of the Parliament [5].

The person of the President is inviolable (Art.31 paragraph 1), but this fact doesn't mean that he cannot respond for his deeds. Thus, the political responsibility intervenes when he intentionally impeaches upon the settlements of the Constitution (Art.31

paragraph 4). The penal responsibility intervenes when, during his mandate, the President committed some illegal acts liable to penal action, in relation with his official attributions. The procedure of impeachment shall be initiated by the Members of the Parliament, and the competence of judgment belongs in both cases to the Constitutional Court that may decide the removal of the President from this function [6].

The acts emitted by the President in exercising his mandate are counter-signed, with few exceptions, by the Prime Minister or by the minister responsible in order to be valid (Art.30A paragraph2).

2. Constitutional Settlements Regarding the Government

The Government is formed of Prime Minister and ministers (Art.33 paragraph 1). The Prime Minister is elected with the absolute majority of the members of Parliament, on the bases of the recommendations made by the President of the Republic, the Parliament voting both for the election of the Prime Minister, as for the program of government. The ministers are named and revoked by the President at the proposal of the Prime Minister, the Government is considered definitely formed at the moment all the ministers are named. The beginning of the Government mandate is preceded by the standing of the oath in front of the Parliament by all its members. The Constitution settles expressly all the situations when the mandate of a minister can cease [7].

The attributions of the Government are also expressly settled by the Constitution in Art.35, as well as the activity of the Prime Minister and the ministers (Art.37), in this case notable differences do not exist as compared with other states.

The responsibility of the Prime Minister and of the ministers towards the Parliament is also consecrated in the fundamental law.

The ministers and the Prime Minister are obliged to respond for their activity in front of the Government and in front of the Parliament. In this sense they made rapports upon their activity (Art.37). The members of the government may participate and may take depositions in the meetings of the Parliament.

The Parliament may initiate by at least 1/5 of its members a motion of censorship with regard to the activity of the government. The Constitution consecrates in Art.39A the system of alternative trust, thus the motion of censorship must contain also the person nominated as a candidate for the function of Prime Minister. In the case, as a consequence of the motion, the majority of the National Assembly expresses the distrust in the Government, the person nominated for the function of the Prime Minister is considered elected, fact that favors the appearance of the steady governments [8]. Up to the moment of designation of a new government, the old government remains in function, but it cannot exert the attribution regarding closing international treaties or emitting decisions. In all these cases an express mandate of the law is required if all these situations cannot be postponed [9].

3. The rapports executive-legislative

In the case of Hungary, as well as in the case of all the other European states, these rapports between the executive and the legislative exist with regard to the designation of the President, and of the Government, the President and the Prime Minister are named directly by the Parliament.

This rapport concerns the activity of the executive and of the legislative. The executive shall ensure the execution, the application of the juridical norm voted by the Parliament on the basis of the program of government voted by the latter. In some exceptional cases, the Government can elaborate decisions and measures by

derogation from the settlements of some laws, on the ground of the mandate given by the Parliament. The Government may annul the decisions and the measures that are not in accordance with the law taken by some subordinated bodies.

On the other hand, both the President of Republic and the Prime Minister have the legislative initiative, the former having the obligation of promulgating the laws, and under the conditions of Art.28B may require the organization of a national referendum.

References

1. Carp R.: *Responsabilitatea ministerială*. București. Ed. All Beck, 2003, pp. 92-93.
2. *Constitution of the Republic of Hungary* was revised significantly in 1990, being published in Official Gazette of the Republic of Hungary, No.84/24.08,1990.
3. The procedure of designation of the President is developed in Art.29B from the Constitution.
4. See Art.29C and 29D from the Constitution.
5. See Art.26 from the Constitution.
6. See Art.31 paragraph 1 and 2 from the Constitution.
7. See Art.31A and Art.32 from the Constitution.
8. See Art.33A and Art.33B from the Constitution.
9. See Art.39B and Art.39C from the Constitution.
10. Ionescu C.: *Regimuri politice contemporane*. București. Ed. ALL Beck, 2004.