# University of Ss Cyril and Methodius in Trnava
# Slovakia


in International Cooperation with

## The John Paul II Catholic University of Lublin
## Poland

# Political Systems of Visegrad Group Countries

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Trnava - Lublin 2012

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**Publisher**
University of Ss Cyril and Methodius in Trnava, Slovakia

**Publication financed by**
The John Paul II Catholic University of Lublin
and

ul. Koncertowa 7/22, 20-950 Lublin
www.isl.org.pl

ISBN 978-80-8105-434-1

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# ARCHITECTURE OF THE VISEGRAD COOPERATION

*Wojciech Gizicki*

The fall of the Cold War order, political changes and the start of a new era led to the emergence of a clear vision of Euro-Atlantic integration within the sovereign policy of Czechoslovakia, Poland and Hungary. The ambitions of joining the cooperation in the Euro-Atlantic space, though, had to be supported by a diametrical change of the political system in each country, which until 1989 for more than forty years had remained in the sphere of Soviet influence and operated on non-democratic, socialist principles. Still, the idea of integration, though shared by each of the countries, was in the initial period pursued according to their own individual opportunities and capabilities. The dominant view was that membership in NATO and the EU could be attained on the principle of independent action. What is more, among Czechoslovak and Hungarian politicians there were opinions for the need to autonomously pursue the international objectives under discussion. It was also recognized that this would necessarily involve competition between countries where those better able to take effective action would gain priority. This situation altered dramatically with the changing of the international environment in the early nineties of the 20th century, which opened new possibilities. The nature of these changes was extremely dynamic, and for each country to rely solely on its own capabilities and intentions, especially in the case of the new democracies, did not seem realistic. Thus, despite initial scepticism, the Central European countries realized the need for closer cooperation. However, this cooperation was not to be arranged in the form of an official organization but a platform for fixed consultation and dialogue at the intergovernmental level[1]. An important

1 For more on the genesis of the Visegrad Group see e.g. P. Leszczyński, M. Szczepaniak, *Grupa Wyszehradzka. Współpraca polityczna i gospodarcza*, Toruń 1995; B. Góralczyk, *Współpraca Wyszehradzka. Geneza, doświadczenia, perspektywy*, Warszawa, 1999; M. Herman, *Grupa Wyszehradzka.*

factor common values and the Central European identity was the support of intellectual and academic circles. They formulated an unambiguous vision of the merits of closer cooperation on the basis of geographical, historical and cultural closeness, providing an important argument in favour of political cooperation.

Regional cooperation between the three and then four[2] Central European countries involved was based on the Visegrad Declaration signed on 15 February 1991[3]. Throughout, the document emphasizes specific objectives, links and a common heritage of the three Central European countries that wish to jointly pursue their vested interests. What enables a real chance of such cooperation are particularly „the similar character of the significant changes occurring in these countries, their traditional, historically-shaped system of mutual contacts, and their cultural and spiritual heritage and common roots of religious traditions. The diverse and rich cultures of these nations also embody the fundamental values of the achievements of European thought." The Visegrad countries rather successfully pursued the goals contained in the Declaration. Crucial in this respect was a complete departure from any of the dimensions of the totalitarian regime. The main task was to build a new, democratic, modern state, which would be based on civil liberties and free market economy. A clear priority was also the decision to be involved in building a peaceful, integrated European space. The signatories managed to overcome difficulties and to adopt common positions on pivotal issues, including cooperation for security. Examples of this were the bilateral treaties between each of the Visegrad countries. However, alongside these successful and beneficial initiatives, there was no lack of problems and difficult moments in Central European cooperation. At the beginning the Visegrad initiative was not well-received or taken seriously by all international actors and circles. Some countries, especially the other post-communist democracies, saw in it a threat to their own interests. Several Western European centres did not believe in the merits and the possibility of success of project prepared and maintained by weak and still rebuilding ex-communist, not fully sovereign states. It should

*Narodziny, rozwój, perspektywy*, Polish International Affairs, No. 2, 2001, p. 161 f.

2 The the initial arrangement was formed between Czechoslovakia, Poland and Hungary. After the breakup of Czechoslovakia in 1993, the Czech Republic and Slovakia became separate parties to the agreement.

3 The official title of the document is the *Declaration on Cooperation between the Czech and Slovak Federal Republic, the Republic of Poland and the Republic of Hungary in Striving for European Integration*. Text: http://www.cvce.eu/content/publication/2004/2/9/6e592602-5431-42fd-8e65-2274e294ad89/publishable_pl.pdf, [Read 10 February 2012].

be remembered that for several years after 1989 Soviet troops were still stationed in the Central European territories, and political elites were heavily influenced by former communist activists. All the Visegrad countries faced economic problems, including rapidly rising unemployment and galloping inflation. In addition, between members of the Group there were conflicts of varying gravity. All this on the one hand was a serious problem but on the other brought to the surface a need to intensify efforts to achieve the main objective of each country, i.e. the integration with Euro-Atlantic structures and the establishment of stable, safe grounds of sovereign statehood and regional cooperation. It could be said therefore that the ongoing initiative was strengthened not only by joint successes, but also, paradoxically, by its failures. They made everyone aware that the basis for national and international success could only be effective cooperation. Coordination of activities, taking into account the specificities of individual state entities, gave hope (fully justified , as it turned out), of achieving the principal objectives.

The basic success of the Visegrad Group is that it is still ongoing. The main objectives have been achieved. Cooperation, undertaken mainly for rational, pragmatic reasons[4] (driven by the reason rather than the heart, a matter more of convenience than love), has continued, despite emerging concerns and differences over often fundamental matters. This indicates that the Visegrad countries are aware of the existence of much more durable ties that connect them. Thus, differences do not cause mutual abandoning of efforts but rather inspire a search for common ground. The contemporary diversity of ideas, goals and interests, especially in the European space (the EU), gives a clear signal that undertaking the necessary cooperation is a worthwhile endeavour. The common heritage, the Central European identity, as mentioned above, gives a real reason to continue a form of cooperation lasting now for over twenty years. As numerous matters in the the EU require the support of many countries, then the central European platform of the Visegrad Group can be an important, common front of action. Still, it is up to the V4 countries themselves to decide whether their position will be a real, strong and audible manifesto.

4 Such reasons are natural in the case of international cooperation. At the same time, they do not preclude the possibility of basing cooperation on deeper, more permanent bases than pragmatism. See e.g. P. Bajtay, (ed.) *Regional Cooperation and the European Integration process: nordic and central European experiences*, Budapest 1996; P. Bukalska, *Nowa Grupa Wyszehradzka w nowej Unii Europejskiej –szanse i możliwości rozwoju*, Warszawa 2003; A. Jagodziński, (ed.), *The Visegrad Group – A Central European Constellation*, Bratislava 2006.

The main objective that motivated all the members of the Visegrad Group both individually and collectively was integration into the Euro--Atlantic institutions. The achievement of this goal was essential in both the individual and regional perspective. Each country individually and the whole region, through full membership in NATO and the EU, ensured themselves a sense of security associated with participation in a stable and collaborative organizational reality[5]. This objective was also pursued in view of the responsible involvement of the V4 countries in the development of security at the regional and global levels. Integration with NATO stemmed not only from the realization of particular interests, but it was a positive response to demand for a permanent order and stable security space in the new post-Cold War environment. This is particularly important in view of the fact that all of the Visegrad Group countries, especially Poland[6], were vital components the Warsaw Pact, the bloc that until 1991 was regarded as the main confrontational threat to NATO. Achieving membership in the NATO alliance[7] within a few years of the change in political system was therefore an unqualified success. It seems that this achievement in such a short time was made possible by the cooperation and mutual support of the V4 countries. This is especially evident in the case of Slovakia, which had to wait for membership several years longer than the other partners. During that time, it received solidarity and support from the other three countries, which formed a kind of pressure group. In the case of membership in the EU, the uniform position of the Group countries caught the attention of the so-called „old members". The activity of the V4 countries in pursuing EU membership stood out against the background of all the other candidates. The Visegrad countries were highly acclaimed for implementing their obligations incurred by their alliance and agreed agenda. In most areas they manifested a common position and supported specific individual and group interests. Initial scepticism as to the likelihood of the initiative's success gave way to a positive reputation and increased prestige of the states of the Group themselves and of the whole region in the eyes of the EU. This was conducive to its promotion and built political, economic and social trust. From the perspective of the combined territory and population of the four countries, i.e. viewing them as a single organism, the Group is in a position

5 See M. Madej, (ed.), *Cooperation on security in Central Europe - sharing V4 experience with the neighboring regions*, Warszawa 2010.

6 See W. Gizicki, *Od Układu do Paktu. (R)Ewolucyjna zmiana w polityce bezpieczeństwa Polski*, Lublin 2011.

7 Czech Republic, Poland and Hungary - 1999, Slovakia - 2004

to play a major role in the EU. It may become an important trading partner, with a high potential for development. All this increased the potential for greater importance within the EU.

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In this publication the authors of individual texts present the evolution of a particular country's political system[8]. They point to the problems and successes in each dimension, especially the legislative, executive and judiciary. The value of this work is its international character. It was created as a result of research of academics from recognized research and centres and universities in the Czech Republic, Poland, Slovakia and Hungary. The Czech political system is analysed by researchers from the Masaryk University in Brno: Stanislav Balík, Vít Hloušek, Jan Holzer. The nature of the Polish political system is described by Monika Kowalska and Tomasz Bichta of the University of Maria Curie Sklodowska in Lublin. The recent history of the Slovak political system is presented by Juraj Marušiak, a researcher at the Institute of Political Science, Slovak Academy of Sciences in Bratislava, Gábor Török, who teaches at the Corvinus University of Budapest, examines the political system of Hungary. All of these authors specialise in the subject they describe and are the leaders of research in this area in their own countries.

The systemic solutions adopted in each of the Visegrad countries are largely similar. All of them are democratic republics of the parliamentary-cabinet system of government. Each country has adopted, although at different pace, a new constitution. The head of each state is a president elected, in a different manner, for a five-year term of office. The real executive power remains in the hands of government. Significant differences lie in the parliaments. In the case of the Polish and Czech these are bicameral, while the Slovak Republic and Hungary opted for unicameralism. The judicial power is exercised by an independent court system. In terms of the political and election system, the Visegrad countries are characterized by significant instability and frequent changes of cabinets (especially in Poland). This is certainly due to a relatively short period of operation under the sovereign systems, and the dynamic social and political-economic changes of these countries' recent history.

8 We would like to thank Professor Lubomír Kopeček (Brno) for his constructive comments on our articles.

# THE POLITICAL SYSTEM OF THE CZECH REPUBLIC [1]

*Stanislav Balík, Vít Hloušek, Jan Holzer*

## Introduction

The basic subject of this text is a description and analysis of the political system in the Czech Republic since 1993. Dates before 1993 are specified rarely and only where unavoidably required by the context. The text concentrates in six parts (plus introduction and conclusions) on institutional aspects of the Czech political system and its separate power subsystems: legislative, executive, and judicial. The text further devotes attention to the electoral system, local government and the development of the political party system of the Czech Republic. The approach of the text is not historiographical, i.e. ordered by the time of events, but structured according to the problems described and analysed in the Czech democratic regime within the last twenty years. The authors work with standard terminology of social and especially political science. This approach enables comparison with analyses of other political systems of Central-European countries.

## Constitution

The Czech Republic is a parliamentary democracy, based on the constitution of 1992 which has its roots in the historical tradition of the constitutional political regime in postwar Czechoslovakia. The constitution actually preceded the birth of an independent Czech Republic; it was ratified on 16 December 1992 and went into effect on 1 January 1993. Important elements of the democratic state based on the law as defined by the

1 This article has been produced as part of the research project "Political Parties and the Representation of Interests in Current European Democracies" (code MSM0021622407).

constitution are the principle of popular sovereignty, respect for minority rights, and respect for civil and human rights.

Along with the constitution itself, other laws were incorporated into the emerging Czech constitutional order dealing with the dissolution of the Czech and Slovak Federal Republic, especially the Bill of Fundamental Rights and Freedoms. This document was inserted into the Czech constitutional order with the same text as that adopted by the Czechoslovak Federal Assembly in 1991.

What is interesting about the transition period after the birth of an independent Czech Republic was that political reality did not always fully correspond to the letter of the constitution. This was particularly true for two institutions: the Senate as the second chamber of parliament, which was not established until 1996; and the regional governments, which were not established until 2000.

## Legislative Powers

The distribution of powers set forth by the Constitution of the Czech Republic (henceforth abbreviated CCR) puts the Czech Republic in the category of a parliamentary republic, which traces its symbolic roots back to the constitutional order of 1920-1928, the era of Czechoslovakia's so-called First Republic. The power to make laws, the function and composition of the Parliament of the Czech Republic (PCR), the status of its members and the character of its mandate; electoral law; and the process of passing laws, international treaties, and adopting resolutions, are all defined by Article Two of the CCR. Legislative power in the CR is invested in a bicameral Parliament, which is the sole and exclusive legislative body of the CR, and in this sense represents the focal point of Czech political life. The two chambers of Parliament, the Senate and the Chamber of Deputies, are structured differently under the CCR to achieve a mutual counterbalance: they have different systems for electing members, and asymmetrical forms of political composition; differing lengths of term, different age of eligibility, and a different sequence of legislative process. When the Chamber of Deputies is dissolved, the Senate assumes the caretaker role. The basic functions of Parliament are to pass laws, approve international treaties, declare confidence or no confidence in the government of the CR, and to call elections to local government.

The Chamber of Deputies (CD) came into existence as of 1.1.1993. It was not seated directly on the basis of elections, but was carried over under the CCP's transition articles from the original Czech National Assembly, the lawmaking body of the Czech Republic (Bohemia) region under the former Czechoslovak Federation. The second chamber of Parliament, the Senate, was originally to be carried over from the Federal Assembly of the former Czech and Slovak Federative Republic, but in the end this idea was not implemented. Thus first senatorial elections were not held until November 1996 because no law on their manner of election had been adopted. Until the Senate was established its functions were carried out by the Chamber of Deputies, which could not be dissolved until a Senate had been set up.

As previously mentioned, the chambers are elected in different ways. The 200 deputies are elected to 4-year terms by proportional representation, while the 81 senators are elected to 6-year terms on the basis of a majority system, with one third of the mandates being up for election every two years (more on this in the sub-chapter Electoral System). Dual membership in both chambers is prohibited, as is holding simultaneously the offices of president, justice, or other legally-established offices. On the other hand, deputies and senators may simultaneously serve as government ministers, and on parliamentary committees and investigative commissions.

The Chamber of Deputies can be dissolved by the President only in limited instances. It may not be dissolved within three months of the end of the current term, and may be dissolved only if (a) the CD has not passed a vote of confidence in the new government, the chairman of which has been named by the President upon the motion of the Chairman of the Chamber of Deputies (i.e., after a third, unsuccessful round), (b) that the CD has not passed within three months a motion by the government linked to a vote of confidence, (c) the CD has not met for more than 120 days during the last year, (d) the CD has been unable to form a quorum for more than three months, even though the session has not been adjourned (i.e. an insufficient number, one third, of the parliament is in attendance), or if the CD itself presents the president with a motion approved by more than three-fifths of all members.

When the CD is dissolved, the Senate may adopt legal measures on non-postponable matters that require a law to be adopted. The law must be approved by the CD at its next session; if the measure is not approved by the CD it ceases to be valid. This power does not apply to the CCP, to the state budget, the closing of state accounts for the fiscal year, election law, or international treaties.

The parliamentary process and the powers and organizational structure of the two chambers are set forth in the rules of procedure. The organs of the chamber are the presidium, the chairman and vice-chairman, committees, commissions (mandatory) and investigative commissions (facultative – these can be created only within the CD, and are intended for investigation of matters of public interest, if at least 40 deputies support the motion). The chambers assemble separately in meetings open to the public. The public can only be excluded under conditions set by law; however, proposed laws on the state budget and the state final accounting must always be public. Joint sessions of the chambers are called by the chairman of the CD; a typical reason is the election and swearing-in of a president; they can also be held upon agreement by both chambers. In other cases, for example those for which approval by both chambers is required (declaration of war, agreement with deployment of foreign troops, ratification of international treaties, electoral law), a joint session is not required. At the start of an electoral term the chambers first elect a president, no later than 30 days after the election. A session can be adjourned, but for no longer than 120 days during a year. The new date of assembly is announced by the chairman, but he must always do so upon request of the president, premier, or 40 deputies / 17 senators.

The legislative process is defined so as to allow the Senate to act as a brake, which in a normative interpretation serves as a guarantee of the quality of legislative activity. The Senate has an absolute veto on only a few issues, among them adoption of constitutional law, ratification of international treaties on human rights, declaration of war, approval for deployment of foreign troops on Czech soil, resolutions to send armed forces outside the CR, and adoption of electoral law.

The right to legislative initiative is held by any deputy, group of deputies, the Senate, the government (which has the exclusive right to submit laws on the state budget and the state final accounting, on which only the CD votes), and regional councils. Each proposal may be commented on by the government; if it does not do so within 30 days, then it is considered to have agreed. A law is discussed by a system of three readings. Both chambers have a quorum if at least a third of their members are present. To pass an ordinary law a majority of all representatives in attendance is necessary (at least 34 deputies or 14 senators); to declare war or give permission to deploy foreign troops on CR territory a majority of all deputies (101) and all senators (41) is necessary, and a constitutional law or international treaty requires a so-called qualified majority, meaning three-fifths of all deputies

and all present senators. Under extraordinary circumstances (a threat to human rights, state security, or economic damage) the chairman of the CD may decide that a government-proposed law can be handled in an abbreviated meeting (so-called state of legislative emergency).

After approval by the CD the Senate has five possibilities: (1) if it is inactive, then on the 31st day the law is automatically adopted, or (2) it announces that it will not consider the motion, in which case the law is likewise adopted; or (3) within 30 days it takes up and passes the proposal, or (4) within 30 days it rejects the entire law, or (5) within 30 days it returns the law in an amended form to the CD. If the CD then wishes to approve the text amended by the Senate, a majority of all deputies in attendance is sufficient. If not, the amendments must first be rejected by a majority of all attending deputies (if they wish), and then the law is voted on in its original form (again by a majority of all, with further amendments no longer possible). Counter-signature by the President is also not automatic; he wields the right of suspensive veto and may (except in the case of constitutional law) return the adopted law to the CD, giving reason, within 15 days. The returned law is then voted on again by the CD (no amendments allowed), and a majority of all deputies is necessary to override the veto. The legislative process is concluded with the publication of the law in the Code of Laws.

## Executive Power

In the Czech Republic the key institution directly legitimized by elections is the Parliament, while the legitimacy of the executive is derived from that of Parliament. However, the organs of executive power play an important formal and informal political role. The Czech Republic has a dual executive; the President of the Republic is the head of state; the government is headed by its Premier, who is answerable to the Parliament.[2]

The formal status of the head of state is not strongly defined in the CCR. The president has the right to name and recall the premier and individual ministers, and at the same time has the right to wield a suspensive veto over laws. His veto can be overridden by a majority of all deputies of the lower house of parliament; a number of explicit powers are subject to coun-

2 For details concerning executive power in the Czech Republic see e.g. L. Mrklas, *Česká republika*, in M. Kubát, (ed), *Politické a ústavní systémy zemí střední a východní Evropy*, Praha 2004, pp. 94-119.; K. Vodička, L. Cabada, *Politický systém České republiky*, Praha 2007 or J. Fitzmaurice, *Politics and Government in the Visegrad Countries: Poland, Hungary, the Czech Republic and Slovakia*, Basingstoke 1998.

tersignature. The President of the Republic also calls Chamber of Deputies into session, dissolves the Chamber of Deputies, names justices to the Constitutional Court and names its chairman and vice-chairmen, names the chairman and vice-chairman of the Supreme Court, the president or vice--president of the Supreme Audit Office, and members of the Council of the Czech National Bank, and can grant amnesty. The President of the Republic also represents the state externally, and negotiates and ratifies international treaties (in practice they are reviewed by the government or the appropriate ministries); he is the commander-in-chief of the armed forces, and calls elections. The status of the Czech president differs little overall from that of similar Central- and Western-European parliamentary republics.[3]

The legitimacy of the presidential office is moreover indirect, as the President is elected by the Parliament at a joint meeting of the both chambers, for a term of five years, with a two-term limit. The election procedure is somewhat complicated. In the first round a majority of all deputies and majority of all senators is needed. The candidate who gained the largest number of votes in the first round in the Chamber of Deputies advances to the second round, along with the candidate who gained the greatest number of votes in the Senate. In the second round the candidate who gains a majority of all present deputies and a majority of all present senators is elected. If no President of the Republic is elected in the second round, a third round is held within fourteen days which elects the candidate from the second round who gains a majority of the votes of all present deputies and senators. If no President of the Republic is elected even in the third round, new elections are held. The number of repeated elections is not limited by the constitution. It is interesting to note that in 1993, when Václav Havel was elected for the first time to the Czech presidency, the Senate did not yet exist; thus Havel was elected by the Chamber of Deputies only.

The role of the president is determined not only by constitutional stipulations, but by the power of the political personality holding the office. Since its founding the Czech Republic has had two presidents. Both Václav Havel (Czech President in 1993-2003, and before that President of Czechoslovakia 1990-1992) and Václav Klaus (President since 2003) were important figures in the democratic transition and its consolidation since 1989. In the Havel era much effort was given to fixing and stabilizing the status of the President within the structure of Czech political institutions. Havel's

3 See J. Kysela, *Prezident republiky v ústavněprávním systému ČR – perspektiva ústavněprávní*, Praha 2008, pp. 235-262.

tendency towards activist politics and his disputes with the largest governing party, the ODS, led objectively to a rise in political tensions. Efforts by the ODS and ČSSD towards a more exact definition (and therefore limitation) of presidential powers were undertaken during the years of the so-called opposition agreement (1998-2002), but were unsuccessful.

When Václav Klaus took office in 2003 this was not quite the end of active presidential participation in Czech politics, but the frequency of such intervention was significantly less than before, and the reality of the presidential function began to approach its constitutional definition. Another enduring feature of debate over the office of the Czech presidency is the issue of direct presidential elections, which regularly provides for political and media debate prior to presidential elections. The issue was most prominent in relation to the elections in 2008, when Klaus was challenged by Czech-American economist Jan Švejnar.[4]

The decisive role within the executive branch in the Czech is played by the government, which consists of the chairman (prime minister), vice--chairmen, and ministers. The position of the prime minister is formally and traditionally relatively strong.[5] It is the figure of the premier that symbolizes the government outwardly and embodies its basic political course. Within thirty days the new government must win a vote of confidence in the Chamber of Deputies. If this does not happen, the president designates a new premier, and the process is repeated. If the second government does not win a vote of confidence, the president nominates a premier on the recommendation of the chairman of the Chamber of Deputies. If this government fails to win a confidence vote as well, the president may dissolve the Chamber of Deputies. This provision applies even in the case where the government loses a no-confidence vote during the course of the Chamber of Deputies' electoral term. At the request of 50 deputies the Chamber of Deputies may hold a vote no confidence in the government; a majority of all deputies is needed to pass.

During its short history the CR has seen various types of government. The following table provides a summary.

4 See V. Hloušek, *Přímá volba prezidenta – český kontext*, in M. Novák, M. Brunclík, (eds.), *Postavení hlavy státu v parlamentních a poloprezidentských režimech: Česká republika v komparativní perspektivě*, Praha, 2008, pp. 263-285.

5 See S. Balík, V. Hloušek, J. Holzer, J. Šedo, *Politický systém českých zemí 1848-1989*, Brno 2003.

**Table 1.** Governments of the Czech Republic 1992-2010.

| TERM OF GOVERNMENT | PREMIER | PARTY COMPOSITION | SUPPORT IN THE CHAMBER OF DEPUTIES (NUMBER OF DEPUTIES FROM GOVERNING PARTIES) | TYPE OF GOVERNMENT |
|---|---|---|---|---|
| 2. 7. 1992 - 4. 7. 1996 | Václav Klaus (ODS) | ODS, KDU-ČSL, ODA, KDS | 105 | Minimal victorious coalition |
| 4. 7. 1996 - 2. 1. 1998 | Václav Klaus (ODS) | ODS, KDU-ČSL, ODA | 99 (100 from March 1997) | Minority coalition tolerated by the ČSSD |
| 2. 1. 1998 - 22. 7. 1998 | Josef Tošovský (non-partisan) | US, KDU-ČSL, ODA, non-partisans | 61 | Semi-political minority government with time-limited mandate tolerated by the ČSSD |
| 22. 7. 1998 - 15. 7. 2002 | Miloš Zeman (ČSSD) | ČSSD | 74 | One-party minority government tolerated by the ODS |
| 15. 7. 2002 - 4. 8. 2004 | Vladimír Špidla (ČSSD) | ČSSD, KDU-ČSL, US-DEU | 101 | Minimal victorious coalition |
| 4. 8. 2004 - 25. 4. 2005 | Stanislav Gross (ČSSD) | ČSSD, KDU-ČSL, US-DEU | 101 | Minimal victorious coalition |
| 25. 4. 2005 - 16. 8. 2006 | Jiří Paroubek (ČSSD) | ČSSD, KDU-ČSL, US-DEU | 101 | Minimal victorious coalition |
| 4. 9. 2006 - 9. 1. 2007 | Mirek Topolánek (ODS) | ODS | 81 | Minority government |
| 9. 1. 2007 - 8. 5. 2009 | Mirek Topolánek (ODS) | ODS, KDU-ČSL, SZ | 100 | Minority coalition created thanks to votes by two ČSSD deputies |
| 8. 5. 2009 - 13. 7. 2010 | Jan Fischer (non-partisan) | ČSSD, ODS, SZ, non-partisan | 171 | Semi-political government with time-limited mandate |
| 13. 7 . 2010 - present | Petr Nečas (ODS) | ODS, TOP 09, VV | 118 | Minimal victorious coalition |

**For key to acronyms see following table. Source: www.vlada.cz; www.psp.cz.**

From the standpoint of government typology, post-November 1989 Czech politics offers three basic kinds of cabinet: the minimal victorious coalition, minority government, and semi-political government with a non-

-partisan premier and only peripheral support from some of the other political parties.

The first Czech government was formed after elections in 1992 that were held in the old Czechoslovakia. This government, led by Václav Klaus, was a minimal victorious coalition that had a majority of only five votes. With the fragmented opposition on the political left and center, this even this thin majority was enough to govern relatively comfortably. Moreover the government was ideologically homogeneous; the right-wing parties that composed it (ODS, KDU-ČSL, ODA and KDS) were close to one another ideologically.

The composition of the parties remained the same after the 1996 elections in the second Klaus cabinet (the KDS had meanwhile fused with the ODS), but the conditions under which the government functioned soon changed dramatically. The right did not win a majority in the CD, and governed only with the tolerance of the ČSSD. The Social Democrats had no other choice because the other opposition parties – the Communists and the populist Republicans – were opposed to the existing political system and had no potential as coalition partners. The effectiveness of the second Klaus government was significantly less than with his first cabinet. The reason was not only the government's minority status, but the growing differences among the coalition partners, who sometimes behaved on the floor of Parliament like parties independent of the government. This feature of Czech parliamentary-governmental coalition culture has persisted to this day. The fall of the second Klaus coalition government was brought on by affairs over questionable financing of some of the governing parties, one of which – the ODS – consequently split in late 1997/early 1998, spawning the newly-formed US, and leading to the formation of the first example of our third model of Czech government.

"Bureaucratic government" is a term used in the Czech context, tying into the tradition of inter-war Czechoslovakia. This label is not entirely exact, however, either in the case of the cabinet led by then-governor of the Czech National Bank Josef Tošovský (1998), or the later government of Jan Fischer (2009-2010). The inter-war bureaucratic governments were in fact composed of non-party officials; while the Tošovský and Fischer governments combined non-partisans with ministers from some of the parties. Despite the support of the parties in Parliament, the two biggest in Fischer's case (ČSSD and ODS), both Tošovský's and Fischer's cabinets had only a limited mandate, temporally (both were created with the understanding that early elections were to be held) as well as politically. Nevertheless the

governments were popular with the public, certainly more so than the "political" cabinets. To interpret this seemingly odd fact we must recall the general disdain among the Czech public for political parties, which has been something of a constant factor in the political socialization of the Czech public going all the way back to November 1989.

After the 1998 elections a single-party government led by the ČSSD's Miloš Zeman was formed, which was tolerated by the ODS under the so-called "opposition agreement" (see below). After the 2002 elections a minimal victorious coalition was assembled by the ČSSD, KDU-ČSL, and US-DEU, but with the thin majority of a single vote. Despite this, and despite twice switching premiers, the government held on until regular elections in 2006. Those elections again ended in stalemate between the right and the left, and so after long negotiations the Topolánek government was formed consisting of the ODS, KDU-ČSL, and SZ. Again it was a minority government, accompanied by the now-traditional structural difficulties of Czech governments: instability in Parliament, and tense relations within the coalition. A no-confidence vote brought down the government in March 2009. After the 2010 elections a new coalition was formed, headed by Premier Petr Nečas. It consists of the ideologically-close parties ODS, TOP 09, and VV. This coalition has gotten through its early stages, and has a comfortable majority in the Chamber of Deputies, and so there is a strong government for the first time since 1996. However it seems so far that the second problem of Czech governments – tensions and discrepancies among the coalition partners – has not been overcome. The weak "coalition culture" remains an obstacle to more effective and action-ready governance in the Czech Republic.

## The Judicial Branch

The judicial branch (Article Four of the CCR) is composed of independent courts. The status of judges is defined as independent and non-partisan. The independence of the judiciary, limiting direct influence by outside forces (public pressure, the organs of the state) is protected by a prohibition on simultaneously serving in other constitutional or public functions, and by the method of nominating judges: they are named for life, limited only by the possibility of disciplinary proceedings. By non-partisanship we mean renunciation of all relations with participating parties in a dispute for the sake of preserving objective and unbiased judgment. In his decisions

a judge is bound only by legal norms, values and principles, and his conscience. One of the instruments for achieving an impartial judiciary is the location of the most important courts (ÚS, NS, NSS) outside the capital city of Prague, in Brno in the region of Moravia.

Within the judiciary branch there is an internal division of power between the Constitutional Court and regular jurisprudence. The Constitutional Court of the CR (ÚS)[6] is the judiciary organ for the protection of constitutionality. It is not part of the system of courts. Within the Czech political system the position of constitutional jurisprudence, or its relationships between the other organs of the state, are not founded upon long-term tradition. Such a court was established during the period 1921-1931, but it remained without importance. After its first term it did not meet again. The constitutions of 1948 and 1960 provided for no such body. In 1968 it was restored under the law of the Czechoslovak federation, but again it never met. Not until 30.1.1002 was a federal ÚS established. This absence of real tradition is possibly behind one the most important topics in Czech politics, the alleged politicization of the judiciary. Criticism is leveled at what is said to be the over-activity of the ÚS in pronouncing judgment not only on legislation, but government policy in general (critics comment that the ÚS behaves as though it were a "third chamber of parliament"), as well as the plain reality of over-reliance on political actors (usually the political parties) in bringing before the ÚS matters that have already been dealt with through standard political procedures – procedures in which the majority prevails over the minority.

The ÚS consists of 15 justices, named to 10-year terms (with repeated nominations possible; moreover, they cannot be recalled) by the President, with the consent of the Senate. The ÚS is headed by a chairman and 2 vice--chairmen; internally the ÚS is divided into a plenum (all 15 members; 10 members must be in attendance in order to take a vote; a simple majority is needed on most questions, but in some cases a minimum of 9 justices) who decide on key issues, and a four-member senate on which all members must be present, with decisions made by majority vote.

In carrying out their functions justices are considered equal; the hierarchy deals with administrative and organizational tasks. To become a justice one must be of good character, eligible for election to the Senate, with a university legal education and ten years of law practice. The office is incompatible with membership in a political party or movement. In

6 See Art. 83-89 ÚČR and Law No. 182/1993 Sb. on the ÚS.

order to protect them in office justices are given the same immunity as deputies or senators (nevertheless, a ÚS justice serves contingent on good behavior; a disciplinary proceeding may vote to remove him from office with a minimum of 9 votes out of at least 12 members attending). Despite these measures to assure neutrality, the selection of constitutional justices is fundamentally a political affair[7], in which the issue of the communist past continues to recur. The issue of judges' membership in the Communist Party of Czechoslovakia prior to 1989 is understandably brought up in relation to the entire judicial community: insufficient personnel replacement in the judiciary branch is often said to be the cause of the present, supposedly unsatisfactory current state of affairs.

The basic function of the ÚS is protection of the principles contained in the CCR, the Bill of Human Rights and Liberties, and constitutional laws and international treaties on human rights; and to rule on individual actions by any citizen and actions by the public authorities. When a law is challenged there is an initial stage of research and interpretation, followed by analysis of the relevant provisions; this is then followed by possible revocationof the act. Of the ÚS's extensive powers, the most important is its capacity to void laws or their individual articles if they are in conflict with constitutional law or international treaty. It also decides on other legal regulations or their individual articles, for example, government decrees or the resolutions of municipal councils, if they are in conflict with constitutional law, the general code of laws, or international treaty. It also decides on constitutional complaints by organs of regional self-government against unlawful intervention by the state. The court acts primarily as a check on the executive branch, but can also act as a check on local government also. The influence of ÚS decisions in shaping political events in the CR is unquestionable: for example, decisions on electoral law, financing of political parties, etc.

Other powers include judgment of constitutional complaints against legal decisions, and other violations of constitutionally-guaranteed rights and freedoms by the organs of the state. It provides a remedy against decisions on matters of certification of elections for deputy or senator; it rules on issues concerning eligibility to serve in the office of deputy or senator; it rules on constitutional complaints by the Senate against the President (i.e. treason) and proposals by the President for revocation of resolutions adopted by CD and Senate in the case when the President for compelling reasons

7 On the individual justices see Vodička, Cabada, *Politický systém...*, pp. 280-281.

could not carry out his office; it rules on measures necessary to carry out decisions of an international court that are binding on the CR, if it cannot be implemented otherwise; and rules on whether decisions to dissolve a political party or other decisions dealing with the activities of a political party are compatible with the constitution or with other laws.

Hearings before the ÚS are quite complicated; the eight types of procedure correspond to its individual competencies.[8] However, decisions once handed down cannot be brought up again; also the principle of urgency applies, meaning that the order of submitted cases need not be adhered to. The sessions themselves are always open to the public.

The function of regular courts is set by the law as protecting civic rights, and deciding (exclusively) on guilt and sentencing for crimes. Courts are organized on four levels, a system generally considered to be overly complicated. Its "two-headed" top tier is the Supreme Court (NS), which is the highest judiciary body on matters pertaining to judicial powers with the exception of matters to be decided by the ÚS or NSS; and the Supreme Administrative Court (NSS), which rules on regulations appertaining to laws or their individual provisions. The judicial system also includes district courts (first instance), regional courts (which handle appeals from the district courts and also decide on some specialized issues), and high courts (appeals from the regional courts). The constitution prohibits the setting up of special courts for individual types of crime.

## Local Government

In the CR local government has two levels, regional and municipal. On both levels a mixed system of public administration is established, where within the framework of a single institutional structure, both local self-government and to a certain extent regional self-government, as well as local state administration, are conducted.

The CR is divided into 14 regions (13 regions and the capital city of Prague, which is treated at the same time as a community and a region). The regions are quite unequal in terms of area and number of inhabitants – the smallest, the Karlovarský region, has a population of 300 thousand and an area of 3314 km$^2$, while the largest, the Středočeský region, has 1.26 mil. residents and 11015 km$^2$. At present the regions are, to a great degree, arti-

8 A. Gerloch, J. Hřebejk, V. Zoubek, *Ústavní systém České republiky*, Praha 1994, pp. 125-131.

ficial entities that fail to correspond with the natural borders of Bohemia, Moravia, and Silesia.[9]

The historic population patterns of the Czech lands have their roots in the way the land was settled, especially during the medieval period. The result is that the CR has more than 10,000 settlements with the characteristics of a municipality. Despite the consolidation process in the second half of the 20th century, there are 6250 self-governing municipalities at present in the CR, representing an average of 1 661 people per municipality, covering an average area of 12.6km$^2$. The average size of the self-governing Czech municipality is among the smallest in Europe. Municipalities holding less than 1000 residents represent 78.4 % of the entire number, but hold only 17.1 percent of the population. More than half of the municipalities have less than 500 people – 57.4 %. There only are five towns holding more than a hundred thousand people.

One interesting feature is the variety of terms used in relation to local self-government (not only in the Czech case). As we have said, there are 6250 municipalities in the CR. Among these, Prague is exceptional: it has a special status as capital city, and at the same time it is a higher autonomous territorial unit. Prague's status is dealt with in a special law. There are 23 municipalities with the status of statutory city; then there are 563 towns, and 177 small towns. What is the difference between these? In and of itself (with the exception of some of the statutory cities) the labels municipality/small town/town have none other than symbolic meaning. In reality they only differ in the nomenclature of the municipal organs. No differences can be found in the extent of powers of an "ordinary" municipality, small town, or town. The main reason for the institution of the statutory city is the possibility to modify the internal organization by statute, or to set up a lower level of autonomy in the form of city quarters. Less than a third of the statutory cities make use of this provision, however.[10]

Neither the regions nor the municipalities in the CR are allowed to decide on the levying or amount of taxes – this power is given exclusively to Parliament. The system for financing local self-government is constantly evolving. The rule applies, however, that they have a share by law in the collection of certain taxes. The current duties of a region set forth by law include the fields of regional development, environmental protection, road maintenance, transportation, secondary education, social services, culture,

9 Vodička, Cabada, *Politický systém*..., pp. 311-312.

10 S. Balík, *Komunální politika. Obce, aktéři a cíle místní politiky*, Praha 2009, pp. 16-23.

and health care facilities.[11] The municipalities have responsibilities in the area of elementary and pre-school education, recreational sports, facilities for seniors, pickup and disposal of waste, sewers and waste water treatment, local infrastructure, etc.[12]

The structures of regional and municipal organs[13] are identical; they differ only in their nomenclature: regional/municipal council, regional/municipal commission, president and his deputies/mayor and his deputy mayors, town council committees, council commissions, regional/municipal office and its director/secretary.

The basic organ on both levels is the council, which is the only element to have a direct democratic mandate. In the case of the regions this can be of 45-65 members depending on the size of the region; at the municipal level 5-70 members. A council member has a standard set of rights and responsibilities – the right of initiative, questioning, etc. His mandate is, like council mandates at all levels of government in the CR, representative. The council decides mainly on all matters falling under the independent powers of the region/municipality.

The commission is the executive organ in the area of autonomous powers; it may decide on matters of transferred jurisdiction where required by law. It consists of the president/mayor, his deputies/vice-mayors and other members of the commission. All are elected from among the council members. In the case of the regions it has either 9 or 11 members, in the case of municipalities 5, 7, 9, or 11 members. The main task of the commission is to prepare proposals and materials for discussion by the council, and see to the implementation of its decisions.

The president/mayor represents the region/municipality externally. He is elected by the council from among its members, and is responsible to it. It does not have wide-ranging powers; it is not the statutory organ of the region/municipality (the commission is). In the case of the statutory cities the offices are referred to as chief magistrates and deputy magistrates.

As organs of initiative, control, and consultation the council establishes committees and the commissions. Audit and financial committees are mandatory; regions must also have a committee for youth, education, and employment. In the regions where at least 5 % of the population (with municipalities 10%) declares other than Czech ethnicity, the council must es-

11 S. Balík, J. Kyloušek, (eds.), *Krajské volby v České republice 2004*, Brno 2005, p. 18.

12 Balík, *Komunální politika...*, pp. 29-32.

13 For information on municipal and regional organs see Balík, *Komunální politika...*, pp. 61-82; Balík, Kyloušek, (eds.), *Krajské volby...*, pp. 19-25.

tablish a committee for ethnic minorities. The commissions have no mandatory committees. The regional/municipal office fulfills the tasks falling under its independent as well as transferred competencies. The first type can be given to it only by the council and commission; the second are its by law. The regional office has significant powers over the municipalities – it wields oversight over its independent and transferred competencies.

## Electoral System

With one exception, at all levels (municipal, regional, lower house of Parliament, European Parliament) the Czech elected representative organs use the proportional voting system. The exception is the Senate, which is elected by a majority system. So far only the collective council body is directly elected, but not the executive organs; that is, mayors of municipalities, presidents of the regions, and the president of the republic are elected through the representative organ.

Elections to the Chamber of Deputies of the CR are held under secret ballot on the basis of general, equal and direct electoral law, according to the principles of proportional representation, with binding candidate ballots and preferential voting. Neither panachage nor cumulation are allowed. The system's main parameters have not changed since 1990, but undergone only partial modifications, the last time in 2001. At present the age of active suffrage (right to vote) is 18, passive suffrage (eligibility for election) 21 years. The length of the electoral term is 4 years. The country is divided into 14 electoral regions (corresponding to the autonomous regions); for the calculation of seats from the number of votes in the individual regions the d'Hondt method is used. There is a 5 % electoral threshold for winning a seat, which is multiplied for coalitions – for coalitions of two parties 10 %, three parties 15 %, and four or more parties 20 %. The voter may cast up to four preferential votes on a single candidate ballot; those candidates that gain at least 5 % of preferential votes from the votes cast for that party within that electoral region have priority for a mandate.[14] The disadvantage of this system is the unequal size of the electoral regions. The number of mandates divided among them depends on voter participation, but within the CR this basically balances out. In 2010 the largest region received 25 mandates, the smallest only 5. The natural threshold for gaining a mandate,

14 R. Chytilek, J. Šedo, T. Lebeda, D. Čaloud, *Volební systémy*, Praha 2009, pp. 301-314.

in the case of a five-mandate electoral region, is around 20 % of the vote. In 2002 and 2010 this had no effect, as none of the successful parties won less than 10 % of the vote. It had a big effect in 2006, however. Two small parties gained almost the same number of votes – the Christian and Democratic Union-Czechoslovak People's Party (KDU-ČSL) took 7.22 % of the vote, the Green Party (SZ) 6.29 %. Nevertheless the structure of their support differed. While the KDU-ČSL was concentrated in the medium-sized and large regions, the Green Party electorate was more evenly distributed over the CR. The result was that the KDU-ČSL won 6.5 % of the mandates, while the SZ only received 3 %, thus gaining only half the number of seats from a similar number of votes.[15]

Voter turnout in the CR has tended to decline since the 1990s; in 2010 turnout was only 62.1 %. The existing electoral system has a tendency to produce a parliament with a high degree of representation at the expense of the ability of governments to take effective action.[16]

Elections to the Senate are held by secret ballot on the basis of general, equal, and direct suffrage, according to the principles of absolute majority representation. The system has not been changed since the first senatorial elections in 1996. Active suffrage rights are gained at 18; the lower age limit for election to the senate is 40. The length of the electoral term is 6 years. The country is divided into 81 single-mandate districts; a third of the Senate is elected every two years with elections being held in 27 of the districts in the fall term of even-numbered years. Both independent candidates and representatives of political parties and movements can run in the elections. To be elected in the first round a candidate must win a majority of the vote; if none does, a second round is held a week later between the two candidates who gained the most votes in the first round. In the second round the candidate who gets the most votes is elected. Any tie is settled by lot.[17]

Voter turnout for elections to the Senate tends to be low. There is usually greater turnout for the first round, which is held at the same time as the regional and municipal elections. Voter participation in the first round is usually around 33-40 %, in the second round 20-25 %.[18] The elections usually last two rounds (victory in the first round is rare); candidates of the right, left, and center have succeeded in winning.

15 *Volby*.cz (http://www.volby.cz).

16 M. Novák, *Volby do Poslanecké sněmovny, vládní nestabilita a perspektivy demokracie v ČR*, Sociologický časopis, č. 4, 1996, pp. 407-422.

17 Chytilek, Šedo, Lebeda, Čaloud, *Volební systémy...*, pp. 304-309.

18 For all information on voter participation go to *Volby.cz* (http://www.volby.cz).

Elections to the regional and municipal councils are held through secret ballot on the basis of general, equal, and direct suffrage, according to the principles of proportional representation. Active and passive electoral rights are assumed at the age of 18 for persons with permanent residence in that particular region or municipality. The term of office is four years. In the case of regional elections the electoral district corresponds to the entire area within the borders of the region. The regional electoral system includes a five percent mandate threshold, which applies equally to individual political parties and movements and to coalitions. Votes are calculated into mandates according to a modified d'Hondt formula, in which the first divisor is 1.42, followed by integral numbers. The candidate ballots are not strongly tied to individual candidates; there is a limited opportunity to cast preference votes (up to four preference votes); movement up the ballot requires winning at least 10 % of preference votes out of the total number of votes cast for that ballot. Only registered political parties and movements can run, not independent candidates or their associations.[19] Voter participation tends to be around 30-40 % of eligible voters.

At the beginning of the 1990s a proportional voting system of free candidate ballots was used at first. This system was slightly modified in 1994 to a proportional system with partially bound candidates that gave an advantage to the smaller parties.[20] In 2001 a five-percent mandate threshold was introduced, and the electoral formula (see below) changed as well.

In municipal elections there is the possibility of dividing a municipality into election districts; however, this possibility is almost never used, and the municipality usually consists of one ward. Registered political parties and movements may run, as may independent candidates and their associations (a certain number of petition signatures are necessary to do so in the latter case, however). The number of signatures required is so large, especially in the big towns, that it is easier to establish a full-fledged national political party or movement. Thus over the last twenty years a number (more than ten) of fully national entities with so-called independent identity have appeared. The purpose of these "independent parties" registered for the entire country is merely to provide "cover" for local independents.

In 2001 the Saint Laguë electoral formula was replaced with the d'Hondt electoral method. While the Saint Laguë benefited the smaller parties at the expense of the large ones, the d'Hondt formula works the other way if the

19 Chytilek, Šedo, Lebeda, Čaloud, *Volební systémy...*, p. 317.

20 P. Šaradín, J. Outlý, (eds.), *Studie o volbách do zastupitelstev v obcích*, Olomouc 2004, pp. 38-39.

number of representatives is small. The voter may vote a straight party ticket; he has as many preference votes as there are members of the council, and may not apply multiple votes to the same candidate. Candidates are seated according to their order on the ballot, if the order is not changed as a result of preference votes. A candidate is moved up the ballot if he gets at least 10 % more than the average on that given ballot. Voter participation during the last decade has been stable at 45 %.

The main drawback of this system is its hidden effects. It appears to the voter as a personalized system in which the voter directly selects the person he is voting for. But when the votes are being counted everything turns out differently: on the basis of the preference votes the mandates are awarded to the parties, and only then is their division within the party settled. Without wishing to, a voter's preference vote may end up helping a completely different candidate. Hypothetically a candidate can even be elected who did not get a single vote.[21]

Elections to the European Parliament (in 2009 residents of the CR elected 22 Euro-parliamentarians) are held on the basis of secret, equal, and direct voting, according to the principles of proportional representation, with bound candidate ballots and preferential voting. Active voting rights fall to all those 18 and older; to be elected one must be 21 years of age. Elections are held every 4 years; there is only one voting district – the entire CR; for calculating mandates from the number of votes the d'Hondt method is used, and a 5 % mandate threshold applies. A voter may cast up to two preference votes on a single ballot. To change the order on the ballet a candidate must receive preference votes from at least 5 % of the number of voters who voted for the given party.[22]

21 Balík, *Komunální politika...*, pp. 83-111.

22 Chytilek, Šedo, Lebeda, Čaloud, *Volební systémy...*, p. 317.

## Party System

Political parties play a key role in the Czech political system[23]. The Czech Republic is classified as a party-controlled parliamentarianism,[24] in which the political parties play an important role in the process of forming and leading governments. Opinion on the current Czech party system is ambivalent. On one side there was a relatively rapid consolidation (by the 1996 elections) of the division of parties by left and right. On the other hand, during the 1990s and the last decade as well, there has been a peripheral reshaping of the party system. By this we mean that there have been changes in the number or the shape of some of the relevant actors in the party system.

The pluralistic Czech party system which emerged in the late 80's and early 90's showed few signs of continuity with the inter-war period of the First Czechoslovak Republic (1918-1938), much less with the post-war era. Some of the parties of course had historical roots. The Christian Democrats continued in the tradition of the Czechoslovak People's Party which came together at the beginning of the 20th century, with roots going back to the 1890s. The Communist Party was founded in Czechoslovakia in 1921, and the tradition of the renewed Social Democrats went all the way back to 1878. However there was virtually no continuity, personal or in terms of political programs, with the pre-Communist era.[25]

The embryonic Czech party system began to form around the competition between the OF and KSČ. The first free elections took place in June 1990, a little more than six months after the fall of the Communist regime. The OF won, with about 50 % of the vote. The Communists finished second with great losses. The embryonic Czech party system began to form around the competition between the OF and KSČ. The first free elections took place in June 1990, a little more than six months after the fall of the Communist regime.

23 **Czech political parties:**
**ČSSD** – Czech Social Democratic Party; **HSD-SMS** – Movement for Autonomous Democracy – Society for Moravia and Silesia; **KDS** – Christian Democratic Party; **KDU-ČSL** – Christian and Democratic Union – Czechoslovak People's Party; **KSČ** – Communist Party of Czechoslovakia; **KSČM** – Communist Party of Bohemia and Moravia; **LSU** – Liberal-Social Union; **ODA** – Civic Democratic Alliance; **ODS** – Civic Democratic Party; **OF** – Civic Forum; **OH** – Civic Movement; **SD-LSNS** – Free Democrats – Liberal National Socialist Party; **SPR-RSČ** – Association for the Republic – Republican Party of Czechoslovakia; **SZ** – Green Party; **TOP 09** – Tradition, Responsibility, Prosperity; **US(-DEU)** – Freedom Union – Democratic Union; **VV** – Public Affiars

24 G. Sartori, *Srovnávací ústavní inženýrství*, Praha 2009.

25 P. Fiala, *Politické strany a stranicko-politické systémy v Československu*, Politologický časopis, č. 1, 2001, pp. 30-39.

**Table 2.** Results of elections to the Czech national assembly (1990 and 1991) and the Chamber of Deputies of the Parliament of the Czech Republic (from 1996 onwards)[26]

| | 1990 | 1992 | 1996 | 1998 | 2002 | 2006 | 2010 |
|---|---|---|---|---|---|---|---|
| OF | **49.50** | - | - | - | - | - | - |
| KSČM[a] | **13.24** | **14.05** | **10.33** | **11,03** | **18.51** | **12.81** | **11.27** |
| HSD-SMS | **10.03** | **5.87** | - | - | - | - | - |
| KDU-ČSL[b] | **8.42** | **6.28** | **8.08** | **9,00** | **14.27[e]** | **7.22** | 4.39 |
| ODS | - | **29.73[c]** | **29.62** | **27,74** | **24.47** | **35.38** | **20.22** |
| ČSSD | - | **6.53** | **26.44** | **32.31** | **30.20** | **32.32** | **22.09** |
| LSU | - | **6.52** | - | - | - | - | - |
| SPR-RČS | - | **5.98** | **8.01** | 3,90 | 0.97[f] | - | - |
| ODA | - | **5.93** | **6.36** | - | - | - | - |
| OH | - | 4.59 | 2.05[d] | - | - | - | - |
| US(-DEU) | - | - | - | **8.60** | **14.27[e]** | 0.30 | - |
| SZ[g] | 4.10 | | - | 1,12 | 2.36 | **6.29** | 2.44 |
| TOP 09 | - | - | - | - | - | - | **16.70** |
| VV | - | - | - | - | - | - | **10.88** |
| OSTATNÍ | 14.71 | 14.52 | 9.11 | 6.30 | 9.22 | 5.68 | 12.01 |

26 The results are presented in percentage of votes received; the bold numbers indicate the parties that made it into parliament after the specified elections. Notes: a. in 1990 the KSČ, in 1992 Levý blok; b. in 1990 KDU; c. in coalition with the KDS; d. SD-LSNS; e. Coalition of US-DEU and KDU-ČSL; f. Miroslav Sládek Republicans; g. SZ ran in 1992 as part of the LSU; h. Abbreviations given at the end of the text.
Source: www.volby.cz.

The OF won, with about 50 % of the vote. The Communists finished second with great losses. The Christian Democratic Union (KDU-ČSL), defending the interests of religious voters, and the Movement for Autonomous Democracy, which advocated autonomous status for Moravia and Silesia entered the Parliament as well. Even while the old Czechoslovakia was still in existence, the Czech party system was already developing independent of the Slovak Party system.

The years 1990-1992 were pivotal in the initial shaping of the party system. The OF fell apart, replaced by the right-wing ODS and ODA and the less-successful centrist OH. There were several unsuccessful attempts at reforming the KSČM,[27] which finally ended in the marginalization of the pro-reform groups and a reaffirmation of the KSČM's dogmatic communist course. The KSČM was isolated in the Czech politics of the 1990s, subjected to a tacit agreement to exclude them; however, the Communists were able to benefit from their potential as a protest party in Czech democratic politics, as they were "untarnished" by having to participate in government.[28]

Likewise in the political center there was a gradual sorting of the individual ideological currents, from social liberalism, Moravian regionalism, and agrarianism, to moderate socialism and social democracy. At the same time, however, voter support declined for parties that were not defined as either right or left. The election campaign of 1992 already showed an increased polarisation across the socio-economic cleavage, as the important parties on the Czech right and left gradually consolidated themselves. At that time the parties positioned themselves either on the right (ODA, ODS, KDS, KDU-ČSL) or the and center and left (OH, HSD-SMS, LSU, ČSSD, KSČM) according to socio-economic ideas. This division was deepened by the emergence of a right-wing coalition led by the conservative-liberal ODS, the conservative ODA, and the Christian democratic KDU-ČSL in 1992-1996, which naturally led to the formation of a left-center opposition. While the centrist parties declined over time, the ČSSD consolidated its position; under the charismatic leadership of Miloš Zeman the party departed from its hesitant centrist course, and dominated the field of the non-communist left.[29]

27 P. Fiala, J. Holzer, M. Mareš, P. Pšeja, *Komunismus v České republice*, Brno 1999.

28 S. Balík, *Communist Party of Bohemia and Moravia and its Attitude towards Own History*, in L. Kopeček, (ed.), *Trajectories of the Left: Social Democratic and (Ex-)Communist Parties in Contemporary Europe: Between Past and Future*, Brno 2005, pp. 140-149.

29 See for example P. Fiala, V. Hloušek, *System partyjny Republiki Czeskiej*, in Antoszewski, A. - Fiala, P. - Herbut, R. - Sroka, J. (red.): *Partyje i systemy partyjne Europy Środkowej*, Wrocław 2003, pp. 15-62. or L. *Kopeček, Éra nevinnosti. Česká politika 1989-1997*, Brno 2010; or K. Deegan-Krause,

The elections in 1996 confirmed the trend toward simplification and clarification of the range of relevant political parties. The number of parties represented in parliament dropped to six. The campaign was dominated by economic issues (further strengthening the socio-economic cleavage) and competition according to the right-left pattern. The elections ended in stalemate: together the parties of the former governing coalition won 99 seats, and parties with no coalition potential (KSČM, SPR-RSČ) won 40 seats. The second Klaus government therefore governed as a minority cabinet which, in combination with growing differences between the four coalition parties and affairs over doubtful party financing, eventually led to the breakup of the government. In the largest governing party, the ODS, a group dissatisfied with Klaus's leadership took the opportunity when Klaus was on a trip abroad to Sarajevo to ventilate their criticism, and later broke away to form the US. After the fall of the Klaus government, a semi-bureaucratic cabinet took over, and the Czech political parties began to prepare for early elections in 1998. But these, too, ended in virtual stalemate.

A creative solution emerged in the form of the so-called "opposition agreement" – (officially the *Agreement on the Creation of a Stable Political Environment*) between the two strongest parties, the ODS on the right and the ČSSD on the left. This allowed for the creation of a minority government under the ČSSD. This fundamentally affected the shape of party competition in 1998-2002. Prior to the senatorial elections in November 1998 the smaller parties – the US that had broken away from the ODS in late 1997/early 1998, along with the KDU-ČSL and the non-parliamentary ODA and DEU – formed the so-called Quad Coalition, which defined itself sharply in opposition to both the ČSSD and the ODS. However, the Quad Coalition (which changed its name to just the Coalition after the merger of the US and DEU and the expulsion of an ODA plagued by financial problems) suffered from disputes among its members and a deficit of realistic policy alternatives to use against the two bigger parties. After the 2002 elections the US-DEU and the Christian Democrats joined the government led by the ČSSD. Despite its poor showing in elections to the European Parliament, twice replacing chairmen (Vladimír Špidla – Stanislav Gross – Jiří Paroubek), and a low level of cooperation among the governing parties, this coalition held on until elections in 2006. But the US-DEU in particular paid a price for their participation in the form of a drawn-out internal party crisis, and gradual marginalization.

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*Elected Affinities: Democracy And Party Competition In Slovakia And The Czech Republic*, Stanford 2006.

The 2006 elections were preceded by an extraordinary campaign. The campaign was conducted by political professionals from the main competing parties according to the principles of political marketing.[30] But the main event was the struggle for power between the ČSSD and ODS, and the duel between their two leaders, Jiří Paroubek (ČSSD) and Mirek Topolánek (ODS). This was reflected not only in the media picture of the campaign, but in the division of Czech public opinion, as well as the results of the voting itself, in which both rivals improved on their 2002 results. Also making it into parliament were the Communists, the Christian Democrats, and for the first time the Green Party. Both of the later two parties became part of the coalition government led by Mirek Topolánek.

But the new government again had to deal with the left-right stalemate: it had exactly 100 seats in Parliament, the same number as the left (ČSSD and KSČM). The situation where it is impossible to assemble an ideologically-coherent coalition with a clear majority in Parliament has been a constant problem for Czech governments since the mid-1990s. After the 2006 elections it took (in Czech terms) an extremely long time after the election to negotiate and set up a government (Topolánek's coalition government did not get its vote of confidence in Parliament until January 2007). The government finally won its vote in parliament only thanks to two "deserters" from the ČSSD. The tendency of parliamentary blocs to crumble at the edges continued; by the end of the term there were 14 independent deputies outside the parliamentary clubs. In January 2009 this government with little support took over the presidency of the Council of the European Union. Regardless of this the ČSSD engineered several votes of no confidence in the government, leading on 24 March 2009 to the fall of Topolánek's government, and its replacement by the government of Jan Fischer (formerly president of the Czech Bureau of Statistics). The new government was approved by agreement of the ODS, ČSSD, and SZ; some of the Christian Democrats also voted for it.

The political parties agreed that the solution to the political crisis was to hold early elections in the fall of 2009. A constitutional law to shorten the electoral term was adopted by both chambers of Parliament, and signed by the President. But in the summer of 2009 one of the independent deputies lodged a complaint against the constitutional law that it was in fact not a law on the constitutional level (and therefore the Constitutional Court

30 See A. Matušková, *Politický marketing a české politické strany. Volební kampaně v roce 2006*, Brno 2006

may not address it); also that the law violated the right to be elected, because due to the shortened electoral term he cannot serve in his office for the entire four years. And indeed, the ÚS actually ruled that the law was in conflict with the constitution. This resulted in the unfortunate prolongation of this strange transition phase, with a fragmented parliament and a semi-bureaucratic government, all the way up to the elections in spring 2010.

In the meantime new actors began to appear on the Czech political scene, in particular VV and TOP 09. TOP 09 was formally registered as a new party in June 2009, but it had began to form earlier around one-time chairman of the KDU-ČSL Miroslav Kalousek. Some of the KDU-ČSL parliamentary club came with him, along with a number of local Christian Democrat organizations that did not agree with the KDU-ČSL's relative shift to the left. Elected to head TOP 09 was the charismatic Karel Schwarzenberg. The party presented itself as a conservative formation to the right of the ODS, emphasizing a non-populist economic program of reform. The VV had emerged from Prague municipal politics back in 2001; in the summer of 2009 it first began to display an ambition to enter parliamentary politics. In terms of political program it is a rather untransparent centrist formation with strong populist elements; in the 2010 campaign it emphasized the battle against corruption.

The 2010 elections brought to the Chamber of Deputies the ČSSD, ODS, KSČM and the first-time parliamentary parties TOP 09 and VV. The SZ and KDU-ČSL were left out in the cold. The government was assembled by Petr Nečas, with his ODS and the other members of the right-wing coalition TOP09 and VV.[31]

In observing the long-term trends of development in the Czech party system, we see a Czech party system that has stabilized in the area of limited pluralism. Besides the dominance of the socio-economic cleavage, another important factor is the long-term existence of an anti-system or protest party on the left (KSČM),[32] which complicates the formation of coaltion governments on the left. The existence of the Communists as a relevant party also prevents the Czech party system from meeting the standards of a moderate pluralism,[33] even though it corresponds to the basic logic of that

31 For details see V. Hloušek, P. Kaniok, *The Absence of Europe in the Czech Parliamentary Election, May 28-29 2010*, EPERN Election Briefing, No. 57, 2010 (http://www.sussex.ac.uk/sei/documents/epernczechrep2010_no57.pdf).

32 See M. Kubát, M.: *Teoria opozycji politycznej*, Kraków 2010.

33 See M. Strmiska, *The Czech Party System: a Few Observations on the Properties and Working Logic of the Czech Party Arrangement*, in V. Hloušek, R. Chytilek, (eds.), *Parliamentary Elections and Party Landscape in the Visegrád Group Countries*, Brno 2007, pp. 107-115.

model.[34] The Czech right is consolidated from the standpoint of electoral support, as is the Czech left; but on the political right and center we find frequent schisms over political agendas and personal conflicts, along with the associated decline and disappearance of existing political parties and the emergence of new ones.

## Conclusion

The Czech Republic is an example of democratic parliamentary system. Legislative power is invested in a bicameral Parliament, which is the sole and exclusive legislative body of the Czech Republic. The chambers have different systems for electing members, and asymmetrical political compositions.

In the Czech Republic the key institution directly legitimized by elections is the Parliament, while the legitimacy of the executive is derived from that of Parliament. However, the organs of executive power play an important formal and informal political role. The Czech Republic has a dual exectuvie; the President of the Republic is the head of state; alongside him is the government headed by the Premier, who is answerable to the Parliament. The President has until now been elected by the Parliament at a joint meeting of the both chambers, for a term of five years, with a two-term limit. However the system has been changed and from 2013 the president will be elected directly by the public.

The decisive role within the executive branch in the Czech Republic is played by the government. The position of the prime minister is formally and traditionally relatively strong.

Within the judiciary branch there is an internal division of power between the Constitutional Court and regular jurisprudence.

In the Czech Republic local government has two levels, regional and municipal. On both levels a mixed system of public administration is established, where both local self-government and to a certain extent regional self-government, as well as local state administration, are conducted together within the framework of a single institutional structure.

34 See V. Hloušek, *Seeking a type: The Czech party system after 1989*, Politics in Central Europe, no 1, 2010, pp. 90-109.

Political parties play a key role in the Czech political system. The Czech Republic may be classified as a party-controlled parliamentarianism, in which the political parties play an important role in the process of forming and leading governments.

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# THE POLITICAL SYSTEM IN HUNGARY

*Gábor Török*

## Introduction

It is not easy to summarize the Hungarian political system over a period when, after two decades in which the country enjoyed and had become used to a state of relative stability following the dissolution of Communist dictatorship, such significant political and institutional changes are taking place in the country as have drawn international attention and placed Hungary in the midst of great controversy. In many respects our political system is in a state of transition, and in describing this state we must necessarily relate experiences so recent that it is sometimes difficult to separate the important from the less so. I have therefore endeavoured to present that which is permanent or lasting, whilst of course attempting to indicate that which has changed or which is changing now.

## Constitution

The Third Republic of Hungary was established in October 1989. The last Communist Parliament, elected in 1985, amended the 1949 Stalinist Constitution at this point, based on agreements with opposition parties. The opposition parties demanded that no new constitution should be formally drawn up, as it should be decided by legislation following the democratic elections of 1990. Nevertheless, the amended constitution was new in a substantive sense: instead of the previous Communist dictatorship, it instituted parliamentary democracy.

Following the regime change, several governments attempted to establish a new constitution, but every attempt failed for two decades. Though the MSZP-SZDSZ government of 1994-1998 enjoyed a two-thirds majority in Parliament – that is, enough to amend the constitution – it was unable

to carry out this undertaking due in part to its self-restricting attitude in wanting to include the opposition, and in part to its internal disputes. Thus the 1989 constitution, originally intended to be transitory, was slowly consolidated and made permanent. All involved accepted it; it was, after all, capable of dealing with most political disputes. It retained one serious deficit: its legitimitacy. Since its inception lacked democratic electoral sanction, and no cathartic electoral experience could be attached to it, political agents had an instrumental attitude towards it and, if it served their interests, they would cite the constitution as the source of various problems.

The political situation changed radically in 2010: the elected Fidesz--KDNP government gained a centrally-controlled, disciplined two-thirds majority and made it clear, following the election, that it wished to create a constitution. Citing the one-sidedness of the consitutionalisation process, two of the three opposition parties, MSZP and LMP, refused to take part in the parliamentary debate, whilst the third, Jobbik, though they did take part, voted against it. The country's new Constitution was therefore adopted by Parliament in April 2011 based solely on the votes of pro-government representatives. The new Constitution, effective from 2012, unequivocally mirrors the governing majority's needs and conservative-Christian beliefs in terms of its ideology and symbolic elements. However, in terms of institutional structure, it essentially rests on the 1989 Constitution. The vast majority of the text concurs with the earlier Constitution, whilst at the same time some points – essentially based on the political interests of the forces in power – contain important changes. There is no change however, in the form of government: no fourth republic was established in Hungary in 2011, and the country remains a parliamentary democracy.

The so-called two-thirds laws introduced in 1989 – the numbers of which were reduced by the MDF-SZDSZ pact made in 1990, removing budgetary decisions from this sphere for instance – did not disappear in 2011, but were rather re-named as „Pivotal Laws". It is important to note however, that some financial and material legislature has found its way into the Pivotal Laws, for example in connection with the sharing of taxation, the pension system and the protection of families.

## Legislative Powers

The Hungarian Parliament is unicameral and the general election of Members of Parliament – with the exception of an election due to parlia-

mentary divide or dissolution – is held in April or May of the fourth year following the previous parliamentary election. The first Parliament, elected in 1990, had 386 members – 176 representatives from individual constituencies and 210 elected by list. In 2011 a new electoral law adopted in parliament significantly reduced this number to 106 representatives from individual constituencies and 93 to be elected by list in the future.

In Hungary the Prime Minister has no authority to dissolve Parliament and the President's power in this case is limited. Under the 1989 Constitution the President of the Republic could dissolve Parliament in two cases: (a) if, in the event of a termination of the government's mandate, the candidate for Prime Minister as recommended by the Head of State is not elected by Parliament within forty days of the first personal recommendation being made, (b) if Parliament revokes its confidence in the government four times within the space of 12 months. In the 2011 constitution, option (b) has been removed, being replaced by a new element presenting a new opportunity: the President can dissolve Parliament, if the legislative body has not approved the central budget for the given year by March 31st. At no time in the first two decades of the Third Republic of Hungary has the President had the power to even consider dissolving Parliament.

Thus the simplest option for the dissolution of Parliament in Hungary is if the legislative body decides to do so by majority vote. In such cases – as with the dissolution of the Head of State – a new election must be held within 90 days. It is representative of Hungarian political stability that no such proposition has been put before Parliament since 1990. On the level of political slogans, of course, talk of early elections has come up several times, but not even under minority governments has a vote to dissolve Parliament ever received a majority ruling. Following the first term, attempts were made to dissolve Parliament through a popular referendum, but the Constitutional Court did not give way to these endeavours and later the option for such initiatives was removed from the Constitution.

The Hungarian Parliament has two regular sessions each year, from February 1st to the middle of June, and from September 1st to the middle of December. Naturally, exceptional sessions may be scheduled outside these periods. There is also the possibility of adjourning the sessions; the President may initiate this, but one fifth of the representatives can annul his decision. It is therefore no coincidence that no such initiatives have been attempted in the past two decades and Parliament has been in weekly session continuously since the spring of 1990. There was only a single exception to this: during the first Orbán government of 1999 – 2002, a three-week ses-

sion system was introduced, which meant that the representatives had one week of plenary sessions, another week of committee meetings, and finally a third week for dealing with constituency issues. Despite strong opposition to this policy, the Constitutional Court – with a small majority of votes – did not find it to be anti-constitutional. Since the 2002 elections, however, parliamentary sessions have been returned to a weekly basis.

Hungarian Parliament is a veritable factory of legislature; between 1990 and 2010 it adopted 2551 laws, which means about 500 laws per term. The new government, elected in 2010, has further increased the pace – adopting nearly 350 laws in a year and a half. The government of course, dominates the legislative work. Although not only the government and Members of Parliament but also (rather unusually for parliamentarism) the Head of State and standing committees have legislative powers, most bills which are ultimately approved come from government. The complex legislative procedure, in which Parliament discusses proposals in two readings (general and detailed debates), whilst other members of the various committees repeatedly join in, serve the purpose of quickly removing any proposals that stand no chance of approval. Representatives' initiatives – particularly those from the opposition – thus seldom reach final vote, though the Fidesz-KDNP government elected in 2010 brought a change to this procedure, under which, in many cases, government proposals ARE submitted as individual motions for change from representatives. The aim of this new model of „parliamentary governance" is foremost – bypassing prescribed reconciliation mechanisms – to accelerate the process of the adoption of new laws.

The newly adopted laws – prior to publication – reach the President of the Republic, who has two specific veto rights. Should he disagree with the content of a law, he can return it to Parliament along with his comments („political veto"). If Parliament accepts the proposal again, the President is obliged to sign it. The other option presents itself if the President deems the law, or any part of it, to be anti-constitutional. At this point, he can send the proposal on to the Constitutional Court for a so-called preliminary normative examination („constitutional veto"), which in such cases is determined as a matter of urgency (within 30 days according to the 2011 Constitution). The 2011 Constitution has given not only the President, but also Parliament, the option of a preliminary normative examination. In such cases, the Proposer of the law, the Government, or the Parliamentary President can recommend that Parliament, subsequent to the final vote, ask the Constitutional Court to carry out a normative examination.

It is characteristic of the Hungarian Parliament to have a strong com-

mittee system: not only because the committees even have the right to initiate legislature, but also because the overwhelming majority of MPs are members of one or other standing committee. The committees do not, however, have a significant role in decision-making, but rather in their influence over policy. Besides their role in legislative procedure, they hold hearings, continuously monitoring the events of the relevant policy areas.

Another characteristic of the Hungarian Parliament is the increasing discipline of the political factions. While at the beginning of the nineties, fluctuation and fragmentation were the two most typical features, since the 2000s the various political groups are becoming stronger and ever more cohesive. Typically, neither Fidesz after 1998, nor MSZP following 2002 and 2006, lost any representatives in Parliament, and even the largest ruling party factions have proven shock resistant.

Due to the wide scope of the two-thirds („Pivotal") laws in Hungarian Parliament, the opposition has a special right of veto, in the event that the governing parties do not have a two-thirds' majority in the legislature. However, this measure, introduced in the interest of increasing consensus, has over the last two decades led not tounity, but indecision: the government and the opposition have rarely reached agreement where a two thirds' majority vote was needed. The Fidesz-KDNP government elected to power in 2010 has, with its two-thirds' majority, been able to implement change in virtually all fields, although this has brought us no closer to reaching consensus in Hungarian politics: most of the changes have been brought about not only without opposition support, but in the face of fierce hostility from the opposition.

## Executive Power

The Hungarian government, dominated by the role of the Prime Minister, is not only the leading executive authority, but also has the most important role in the entire institutional system. Whilst the 1989 Constitution brought about a parliamentary system that essentially restricted the power of executive authorities, in 1990 constitutional changes were made, which served to reinforce the power of the executive authority. Following the 1990 parliamentary elections, the largest government party (MDF) and the largest opposition party (SZDSZ) approved a pact which, on the one hand, effectively eliminated the option of a vote of no confidence against a Member of Parliament, whilst on the other hand – based on the German

model – it introduced a system of constructive no confidence. Both measures increased the importance of the Prime Minister: in the former he had a unique role as someone who, in terms of public law, could replace government members, whilst in the latter his position was augmented still further. The Hungarian Head of State is indeed, much like the German Chancellor, a key player in the system: in terms of Hungarian public law, it is not the government that has a Prime Minister, but the other way round. Parliament does not choose a government, but a Prime Minister, and Parliament can only topple the government via the Prime Minister himself.

A majority vote in parliament is necessary for the election of a Prime Minister. The Head of State proposes a prime ministerial candidate, although there has never yet been any question as to whom the President will recommend to Parliament. It is interesting to note that the President's scope in the process is slight, even in symbolic terms: he does not appoint or invite candidates, but merely makes a recommendation to Parliament. Once the candidate has received a parliamentary majority, he can name the members of his cabinet, who all swear an oath.

The strength of the Prime Minister's role is implied within the option of termination of the government's mandate as well. Should the Prime Minister die or resign, or Parliament rescind confidence in him, the government's mandate is terminated and the President must make a new recommendation. The first Prime Minister after the change of systems, József Antall, died in 1993 (table 1). There has only been one instance of resignation thus far, in 2004, when Péter Medgyessy departed. In 2009, Prime Minister Ferenc Gyurcsány was replaced by his own party in a constructive vote of no confidence, which he himself supported. Interestingly, none of these events warranted early elections; Antall was replaced by Péter Boross, Medgyessy by Ferenc Gyurcsány, and Gyurcsány by Gordon Bajnai by act of Parliament.

Hungarian Public Law, in addition to its institution of constructive no confidence, recognises a vote of confidence as well. The Prime Minister can instigate a vote of confidence for his own person, or he can declare the vote on a bill to be a vote of confidence. There has been no recorded instance of the latter, but during the 2006 government crisis – when the newly elected Prime Minister Ferenc Gyurcsány's so-called „Őszöd talk" came to light, in which he criticised his own government's manipulation of the election and their general idleness in strong terms – the Prime Minister made recourse of this provision. At the parliamentary vote held on the 6th October 2006, the coalition parties unanimously voted in support of the Prime Minister.

**Table 1.** Governments of Hungary, 1990-2010.

| DATE OF FOUNDATION | PRIME MINISTER | GOVERNMENT PARTIES | NATURE OF GOVERNMENT | PRELIMINARIES |
|---|---|---|---|---|
| 23.05.1990 | József Antall (MDF) | MDF, FKGP, KDNP | coalition, majority | Parliamentary elections |
| 21.12.1993 | Péter Boross (MDF) | MDF, FKGP, KDNP | coalition, majority | *Death of Prime Minister* |
| 15.07.1994 | Gyula Horn (MSZP) | MSZP, SZDSZ | coalition, majority (2/3) | Parliamentary elections |
| 06.07.1998 | Viktor Orbán (Fidesz) | Fidesz, FKGP, MDF | coalition, majority | Parliamentary elections |
| 27.05.2002 | Péter Medgyes-sy (MSZP) | MSZP, SZDSZ | coalition, majority | Parliamentary elections |
| 29.09.2004 | Ferenc Gyurc-sány (MSZP) | MSZP, SZDSZ | coalition, majority | *Resignation of Prime Minister* |
| 09.06.2006 | Ferenc Gyurc-sány (MSZP) | MSZP, SZDSZ | coalition, majority, from 2008 single party minority | Parliamentary elections |
| 14.04.2009 | Gordon Bajnai (MSZP) | MSZP | Single party, minority | *Constructive vote of no confidence* |
| 29.05.2010 | Viktor Orbán (Fidesz) | Fidesz, KDNP | coalition, majority (2/3) | Parliamentary elections |

As we can see from the first table, essentially a system of political rotation has thus far prevailed in Hungary. With the exception of 2006, every government lost the following elections, whether rightwing (Antall, Boross, Orbán), or leftwing (Horn, Bajnai). The only exception was 2006, when Fe-

renc Gyurcsány's party managed to win the election from an incumbent position. Interestingly, it was this same party (MSZP) who, as government party, suffered the greatest defeat yet at the following elections.

Though under public law Hungarian governments operate on a fundamentally Prime Ministerial Principle, the political process can of course change this picture. This is why, within the same constitutional framework, Prime Ministers have operated with varying levels of authority, dependant mainly on the balance of power within their own party and coalition. Particularly after 1998, the process of strengthening the so-called "presidentialisation" of the office began; the first Orbán government presenting signs of the augmentation of the Prime Minister, followed by the next three Socialist governments, particularly Gyurcsány's cabinet, and now finally in Orbán's second government becoming almost complete. The cabinet, which was elected to power in 2010, is unusual not only due to its two-thirds' majority, but also because the Prime Minister has no real counterweight within his own party and coalition. Viktor Orbán leads a centralised, disciplined, singularly led government, which not only directs Parliament, but also dominates the entire institutional system. In such a political environment, the Prime Minister has significantly stronger formal and informal licences than the Prime Minister of a presidential or semi-presidential system. Furthermore, he has a decisive say in everything that happens in the circles of executive and legislative power, since he can propose candidates for leadership of other elected bodies (courts, prosecution, the media system, the Court of Auditors, etc.) with their backing, he has a decisive say in practically the whole political system.

Next to the government, the President has a merely symbolic role in executive power – in fact, under one interpretation of the system of constitutional law, the Head of State is not even a part of it. The President of the Republic in Hungary is elected by Parliament every five years. A candidacy requires proposal by 50 parliamentary representatives (one fifth of the members under the 2011 Constitution) and the election has three rounds: the first and second require a two-thirds majority, whilst the third simply requires a majority (the 2011 Constitution only specifies two rounds: the first requiring a two thirds' majority, the second a simple majority). This procedure came from the 1946 legislature into the 1989 Constitution, and its obvious and intended objective is to ensure an outcome.

In 1990 Árpád Göncz, SZDSZ's politician, in the wake of the MDF-SZDSZ pact, became a candidate for President (Table 2), and was re-elected five years later by the two-thirds' majority of the MSZP-SZDSZ govern-

ment. At that time, the then opposition parties had nominated Ferenc Mádl to run against him; in 2000, as candidate for the now ruling parties, Mádl was elected President in the third round. The most interesting election of a president so far was in 2005, when the minority ruling party MSZP supported House Speaker, Katalin Szili, who was, however, opposed by the MSZP's coalition partner SZDSZ. The opposition party Fidesz then, sensibly, put forward a candidate who had previously been President of the Constitutional Court, and who would be acceptable to the liberal camp as well. Finally, after prolonged tactical manoeuvring, Sólyom won in the third round, beating his opponent by three votes. Sólyom was, however, unable to win a second time: in 2010 the government parties, with their two-thirds' majority, planted Fidesz's former Vice President into the Presidential seat.

**Table 2.** Presidents of Hungary, 1990-2010.

| YEAR OF ELECTION | ELECTED PRESIDENT | SUPPORTING PARTIES | NUMBER OF OTHER CANDIDATES | NUMBER OF ELECTION ROUNDS |
|---|---|---|---|---|
| 1990 | Árpád Göncz | SZDSZ, MDF | 0 | 1 |
| 1995 | Árpád Göncz | SZDSZ, MSZP | 1 | 1 |
| 2000 | Ferenc Mádl | Fidesz, MDF, FKGP | 0 | 3 |
| 2005 | László Sólyom | Fidesz, MDF | 1 | 3 |
| 2010 | Pál Schmitt | Fidesz, KDNP | 1 | 1 |

Hungarian Heads of State have relatively few discretionary rights and their political power is slight by international standards. Nevertheless, they have a few significant powers within the Hungarian Constitutional structure: they can propose leadership candidates for several important posts (the Ombudsman and heads of judicial and prosecutional bodies), and they can instigate legislation as well as referenda. In the first political cycle, Prime Minister Antall and President Göncz debated whether powers of appointment and the post of Commander in Chief of the Army should belong to this post; however the Constitutional Court eventually ruled in both cases to restrict the rights of the President.

The use of powers depends primarily on the President's perception of his role and in this respect in Hungary the model of a more passive Head of State has prevailed. Nonetheless, there have been exceptions: in his first term Árpád Göncz confronted the government in several important cases, predominantly jurisdictional ones, due to the undeveloped Constitution, as well as one or two influential constitutional vetoes (compensation, redressing the injustices of the former communist system). Göncz's second term and Ferenc Mádl's five years in office were more passive, whilst László Sólyom, elected in 2005, set a new trend. Sólyom i used his powers of appointment without consulting parliamentary parties,, resulting in several of his nominees losing the parliamentary vote. President Sólyom also used a record number of vetoes in his five-year term (17 constitutional and 30 political vetoes), the number of his political vetoes being several times more than those of the previous two presidents put together (Göncz 2, Mádl 6). Pál Schmitt, since his election in 2010, has proven the exact opposite, the new president not using a single veto in his first eighteen months of office and signing off every single new law.

## The Judicial Branch

The Hungarian judicial system is four-tiered. Its highest body, the former Supreme Court, has been re-named the Curia as of 2012, the president of which shall be nominated by the President of the Republic and elected by parliament for 6 years (9 years according to the 2011 Constitution). Since the 1997 judicial reform, the so-called Courts of Appeal have been appointed at the next level (Budapest, Debrecen, Szeged, Győr, Pécs), followed by county and local courts on the third tier. The President of the Republic appoints the magistrates, who are independent and immovable from their office by political means.

With the already mentioned 1997 reform, a new institution was introduced in Hungary: the National Judicial Council (OIT) to administer the judiciary system, the head of which would be the President of the Supreme Court. With this, the administration of the Court was made more independent of the prevailing government, the majority of the 15-person board being professional judges. The Fidesz-KDNP government elected in 2010 has brought about significant changes to the judicial system: it has abolished the OIT and reassigned its responsibilities to the President of the newly-formed National Judicial Office. The change caused significant professional and international debate, particularly after the ruling government

appointed the wife of one of Fidesz's leading politicians to the post, at the same time terminating the mandate of the former Chief Justice, who had been elected for a six-year term in 2009.

The Constitutional Court (AB) was created independently of judicial hierarchy and currently operates in Hungary. The organisation was set up in 1989 and has a particularly wide scope of powers, even by international standards. Amongst other things, it interprets the Constitution, it carries out prior and posterior checks of constitutional compliance, it determines violations of the Constitution by default, it examines any possible inconsistencies with international treaties and one can turn to the Constitutional Court with any constitutional complaints that need to be addressed. The Constitutional Court has unequivocally played a key role in Hungarian politics since the change of systems. This was not so much due to the exceptional scale of its jurisdiction, but much rather, the unprecedented range of its petitioners gave it its central position. Since anyone could instigate a posterior standards' check for instance, virtually all political disputes were referred to the Constitutional Court, thus the organisation became the final decision-maker in all such cases.

The „judicialisation" of politics and political disputes meant that the AB itself became the focus of political debate, and its counterbalance role was usually unappreciated by governments. It is no wonder then that the second Orbán government, which seeks to augment the authority of executive powers, has made significant changes in this field as well. Firstly it has narrowed the range of petitioners (posterior standards' checks can only be requested by the government, the Ombudsman and one quarter of parliamentary representatives now). According to an even more important – and more hotly debated – amendment (approved by Parliament in autumn 2010) the court can only revise legislature on the budget and its implementation, on central taxes, contributions and fees, customs, as well as central legislature on the terms and conditions of local laws, if the given motion does not cite a right to property as the reason for its anti-constitutionalism. This restriction – which the President of the Board called a gaping hole in constitutional protection – will remain in effect as long as the state deficit exceeds half the country's Gross Domestic Product.

The AB used to consist of 11 members; Fidesz-KDNP increased this to 15 in 2011, delegating only its own candidates to the board. Members of the Board were elected for a 9-year term prior to 2011, which has been increased to 11 years under the new Constitution. Previously, they were re-electable for one more term, but this option has been removed. The President of the

Board was formerly elected by the judiciaries, from amongst themselves, every three years; now Parliament will appoint this mandate. The greatest part of the work of the AB was carried out by the so-called First Court after 1990, at the forefront of which stood László Sólyom. The activities of the organisation have stood in the crossfire of professional and political debate ever since, and not only because, in the period following a change of systems, the burden on the Constitutional Court was considerable. To a far greater extent, this is due to the fact that in this court, the so-called activist-minded judges are in the majority. László Sólyom summarised this activism in his image of an „invisible constitution"; according to him „the Constitutional Court must continue its work in interpreting the Constitution and its underlying principles and, by its judgements, form a coherent system, serving as an invisible constitution and sure standard of Constitutionalism, above today's official Constitution, which is often still amended according to the policy of the day." This activism has been much criticised by politicians, so it is little wonder that there has been a tendency for the subsequently elected Constitutional Court judges to be increasingly textually minded. The organisation has been placed in the most difficult spot yet under the second Orbán government, since, with its two-thirds' majority, the government itself has, de facto, become the constitutional majority. There have been several measures which the AB has deemed unconstitutional – or wished to deem unconstitutional – which the governing majority then simply wrote into the Constitution, and thus made constitutional. The real stature of the amended AB can thus presumably be revealed only once the current, rather exceptional, state of affairs has passed and, without a two-thirds majority, the possibility of daily party-political amendments to the constitution ceases.

## Local Government

Hungary is a Unitarian state; the most important decisions are made exclusively by national-level organisations, that is, the government and Parliament. The governance of local affairs is carried out by local governments, so that, subsequent to the change of systems, every municipality has been given the opportunity to have their own local government. All this means that, in the Hungarian model, there are over three thousand local governments; the overwhelming majority of municipal offices (almost ninety percent of them) administer a population of less than five thousand.

This fragmentation is a significant problem in terms of funding, though it is difficult to maintain in other respects as well. It is no accident that the need for local government reform has arisen in virtually every term. The most recent attempts have been made by the Fidesz-KDNP government elected in 2010, the most important element of which – besides maintaining the right of each municipality to its own government – has been the development of shared offices for municipalities with a population of less than two thousand.

**Table 3.** Types of Local Government in Hungary.

| GEOGRAPHICAL / STATISTICAL TERM | NUMBER (2006) | SELF-GOVERNANCE | ORGANISATIONAL PRINCIPLE FOR DECISION-MAKING | POLITICAL WEIGHT OF LEVEL | ACTUAL LEVEL OF COMPETENCE | ELECTORAL SYSTEM |
|---|---|---|---|---|---|---|
| Municipality | 2863 | yes | Depoliticised | low | varying | Shortlist |
| Small Region | 168 | no | Administrative | low | low | - |
| Town | 265 | yes | mixed (part depoliticised) | medium | varying--high | Depending on size: shortlist or mixed |
| County-ranked town | 23 | yes | Political | high | high | Mixed |
| District of the capital | 23 | yes | Political | medium | high | Mixed |
| County | 19 | yes | Political | high | low-medium | Proportional |
| Capital | 1 | yes | Political | high | high | Proportional |
| Region | 7 | no | Administrative and political | medium | medium | – |

**Source:** Körösényi-Tóth-Török 2009, 150.

The first level of the Hungarian local government system is that of the municipality. Every village, large and small, town, city and every district of the capital has the right to administer its own affairs. The second level is that of the county. The 19 counties and the capital each have their own, independent local governments. The municipal and county authorities operate on an equal footing they are not in hierarchical relation to one another. The cities have a special status – as do county seats and a few large towns – and are governed "separately" from the rest of the county. The Hungarian municipal system further recognises subregions and regions. The former are voluntary associates of local governments, whilst the latter (7 of them have been created in Hungary), span several counties and play a significant role in regional development – mainly in connection with European Union funding.

Since 2010 the construction of a new municipal level of government has been in progress. The plan is that, in the future, so-called districts will be formed as a level of government between municipalities and counties (168 in the provinces and 7 in Budapest); these will act as a common administrator of the affairs of several municipalities. Furthermore, the plans state that the Heads of the Districts will not be elected, but rather appointed by government. On the level of local government, the second Orbán administration is endeavouring to centralise power by other means as well: it has removed primary education and healthcare services from the hands of local authorities and declared them a state responsibility.

In the Hungarian system, the various types of municipality are determined by different means (table 3). In municipalities with a population of under ten thousand, the representative body is elected by a so-called shortlist system, which is in fact much like a multi-seat, individual system of election. In municipalities of over ten thousand, a mixed electoral system is used: the majority of seats in the representative body are won by candidates running in individual constituencies, although a compensatory list exists, from which a minority of seats can be filled. The county assemblies and the capital's general assembly are elected by proportional, party-list procedure. The elections consisted of two rounds in 1990, with only one round since 1994. The mayors were elected indirectly in 1990, but from 1994 all elections have been indirect.

In the system of local government, the elections so far have yielded varying results in political terms; independent candidates always dominate in smaller municipalities. The autumn local elections usually serve as a reaction to the parliamentary elections earlier in the year, either re-

inforcing or correcting the balance of power in parliament. In 1990 the parliamentary opposition SZDSZ and its then-ally, Fidesz, won the local elections. In 1994 the governing MSZP won most of the local election votes. In 1998 the results were balanced between the two sides. In 2002 the governing MSZP won a significant victory, then in 2006 the opposing Fidesz dominated. In 2010 the governing Fidesz won more seats than any party before it.

## Electoral System

No two electoral systems are alike in Hungary: in local government elections – as we can see above – each type of municipality uses a different system of election. At European Parliamentary elections, representatives are selected based on a proportional, list-ordered procedure, whilst the parliamentary structure of election is based on a mixed system.

In 1989, when a political agreement between the state party and the opposition parties was made regarding the new parliamentary electoral system, the parties – not being fully aware of what would be in their interests in a free election – agreed to a system which attempted to combine the advantages of both the majority and proportional systems of representation. As a result, of the 386 mandates, 176 were obtainable from individual constituencies, a maximum of 152 from regional lists and a minimum of 58 from national, compensatory lists.

In individual constituencies – where the precondition of nomination of candidates was the collection of 750 recommendation slips – elections were only considered successful in the first round if one of the candidates gained an absolute majority. If, however, no such situation presented itself, a second round was held, with the top three candidates from the first round (as well as those who had gained over 15% of the votes), here a relative majority being enough to win the seat. At the level of individual constituencies, this could produce extremely disproportionate results: in 1990 MDF won 25% of the list with 114 seats, in 1994 MSZP gained 33% with 149 seats and in 2010, Fidesz won 53% of the list with 173 individual constituencies out of 176 (Table 4). However, there has been an instance of over 40% success on the list where the end result of this branch of the electoral system was not disproportionate: in 2002 and in 2006, when Fidesz and MSZP competed head to head, the election results of individual constituencies were also fairly balanced. All in all, however, it is indisputable that the branch of

individual constituencies in the Hungarian electoral system has created an opportunity to over-represent the winning party, and election in most cases was decided at this level.

**Table 4.** Election results in Hungary (1990-2010).

| | PERCENTAGE OF LIST VOTES | SMC SEATS | TERRITORIAL LIST SEATS | NATIONAL LIST SEATS | TOTAL NUMBER OF SEATS | PERCENTAGE OF SEATS | PROPORTIONATE CO-EFFICIENT |
|---|---|---|---|---|---|---|---|
| **Parties – 1990** | | | | | | | |
| MDF | 24.73 | 114 | 40 | 10 | 164 | 42.49 | 1.72 |
| SZDSZ | 21.39 | 35 | 34 | 23 | 92 | 23.83 | 1.11 |
| FKGP | 11.73 | 11 | 16 | 17 | 44 | 11.40 | 0.97 |
| MSZP | 10.89 | 1 | 14 | 18 | 33 | 8.55 | 0.79 |
| Fidesz | 8.95 | 1 | 8 | 12 | 21 | 5.44 | 0.61 |
| KDNP | 6.46 | 3 | 8 | 10 | 21 | 5.44 | 0.84 |
| Other | 15.81 | 11 | – | – | 11 | 2.85 | |
| **Total** | **100** | **176** | **120** | **90** | **386** | **100** | **20.18** |
| **Parties – 1994** | | | | | | | |
| MSZP | 32.99 | 149 | 53 | 7 | 209 | 54.14 | 1.64 |
| SZDSZ | 19.74 | 16 | 28 | 25 | 69 | 17.88 | 0.91 |
| MDF | 11.74 | 5 | 18 | 15 | 38 | 9.84 | 0.84 |
| FKGP | 8.82 | 1 | 14 | 11 | 26 | 6.74 | 0.76 |
| KDNP | 7.03 | 3 | 5 | 14 | 22 | 5.70 | 0.81 |
| Fidesz | 7.02 | 0 | 7 | 13 | 20 | 5.18 | 0.74 |
| Other | 12.66 | 2 | – | – | 2 | 0.52 | |
| Total | 100 | 176 | 125 | 85 | 386 | 100 | 21.15 |
| **Parties – 1998** | | | | | | | |
| Fidesz | 29.48 | 90 | 48 | 10 | 148 | 38.34 | 1.30 |
| MSZP | 32.92 | 54 | 50 | 30 | 134 | 34.72 | 1.05 |
| FKGP | 13.15 | 12 | 22 | 14 | 48 | 12.44 | 0.95 |
| SZDSZ | 7.57 | 2 | 5 | 17 | 24 | 6.22 | 0.82 |
| MDF | 2.8 | 17 | – | – | 17 | 4.40 | 1.57 |
| MIÉP | 5.47 | – | 3 | 11 | 14 | 3.63 | 0.66 |
| Other | 8.61 | 1 | – | – | 1 | 0.26 | |
| **Total** | **100** | **176** | **128** | **82** | **386** | **100** | **12.28** |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Parties – 2002** | | | | | | | |
| Fidesz--MDF | 41.07 | 95 | 67 | 26 | 188 | 48.70 | 1.19 |
| MSZP | 42.05 | 78 | 69 | 31 | 178 | 46.11 | 1.10 |
| SZDSZ | 5.57 | 3 | 4 | 13 | 20 | 5.18 | 0.93 |
| Other | 11.31 | – | – | – | 0 | 0 | |
| **Total** | **100** | **176** | **140** | **70** | **386** | **100** | **11.70** |
| **Parties – 2006** | | | | | | | |
| MSZP | 43.21 | 102 | 71 | 17 | 190 | 49.22 | 1.13 |
| Fidesz--KDNP | 42.03 | 68 | 69 | 27 | 164 | 42.48 | 1.01 |
| SZDSZ | 6.50 | 5 | 4 | 11 | 20 | 5.18 | 0.79 |
| MDF | 5.04 | – | 2 | 9 | 11 | 2.85 | 0.56 |
| Other | 3.22 | 1 | – | – | 1 | 0.26 | |
| **Total** | **100** | **176** | **146** | **64** | **386** | **100** | **6.47** |
| **Parties – 2010** | | | | | | | |
| Fidesz--KDNP | 52.73 | 173 | 87 | 3 | 263 | 68.13 | 1.29 |
| MSZP | 19.3 | 2 | 28 | 29 | 59 | 15.28 | 0.79 |
| Jobbik | 16.67 | - | 26 | 21 | 47 | 12.18 | 0.73 |
| LMP | 7.48 | - | 5 | 11 | 16 | 4.15 | 0.55 |
| Other | 3.42 | 1 | – | – | 1 | 0.26 | |
| **Total** | **100** | **176** | **146** | **64** | **386** | **100** | **15,48** |

On the regional list branch there are maximum 152 mandates. The Hungarian system had 20 regional lists: the 19 counties and the capital. A party could issue a list if it had candidates in at least a quarter – but at minimum two – of the individual constituencies in the given region (county or capital). On regional lists, there were varying numbers of seats according to the size of the population: the greater the number of seats, the more proportional the distribution of mandates could be. A party could only get a listed mandate if it exceeded the 5% national, parliamentary minimum (in 1990 it was 4%). The distribution of mandates was based on the Hagenbach--Bischoff method, and it was also possible to gain a seat with two-thirds of this quota (under such circumstances the difference was deducted from the national list votes). Since a significant number of counties had very few (4-5) mandates, the procedure, based on proportional representation, in

fact produced only somewhat proportionate results. It was predominantly larger parties which gained regional list mandates (table 4), whilst smaller parties could mostly only hope for seats in the capital (where 28 mandates were distributed by list).

The national list would have compensated for the imbalances in the electoral system in theory, though the minimum 58 mandates distributable here (usually between 60-90) naturally could not be used to redress this balance. Only those parties with at least 7 regional lists could issue a national list, which only 6 parties managed in 2010, for instance (as compared to 15 in 1994). The national list could not be voted for directly; the so-called surplus votes were tallied here. Every vote which was given in the individual constituencies or on the regional lists to a party, or party candidate, which (on a national scale) exceeded the 5% minimum, and that did not result in a mandate, is considered a surplus vote. The d'Hondt method was adopted in the distribution of mandates and, naturally, the great losers of the election, and the smaller parties, won most of the seats on this branch (table 4).

The system of parliamentary election approved in 1989 was, overall, capable of producing a viable parliamentary majority in every case and, due to its top-heavy reward mechanism, the winner was always unequivocal. On two occasions (1994, 2010) it was also capable of giving a constitutional majority elective power. Its greatest deficiency lay not in its disproportionateness – in close cases it was even capable of producing remarkably proportionate end results (2002, 2006) – but rather because of its complex, convoluted structure. A significant proportion of voters did not understand how their vote became a mandate; participant data from the early nineties showed that understanding the significance of the second round took the general public some time (1990: 65.8% participation in the first round, 45.4% in the second round). By the 2000s, voters had come to understand the logic of the system (if not its exact operation). There were a record number of participants in the 2002 elections for example, in which more people voted in the second round (73.5%) than in the first (70.5%).

The electoral system described above served six elections in twenty years, during which no serious changes were made (except that before 1994 the parliamentary threshold was increased from 4 to 5%). However, the new government elected in 2010 wished to radically reduce the number of parliamentary representatives, which required it to approve new electoral laws. Under the new laws enacted in 2011, at the next election, the number of parliamentary representatives will be reduced from 386 to 199. The electoral system will remain a mixed one, but the proportional change

of individual and list mandates will benefit individual constituencies. In the system of individual constituencies there will be 106 districts instead of the previous 176, whilst the election of representatives will be decided in a single round. This will make the so-far disproportionate system even more majority-oriented, forcing parties on the same side of the political spectrum to combine their efforts even before election. Regional lists will disappear and voters will be able to allocate their other vote to a national list with 93 distributable mandates, the launching of which requires 27 individual representatives (in such a way that the given party has to have representatives in at least 7 counties, with Budapest considered a county for this purpose). A new feature will be that Hungarian citizens living beyond the borders will be given the right to vote as well, and minority lists can be launched at a reduced rate.

## Party System

When looking at the Hungarian party political system, there are four main topics which must be addressed: the nature of left- and right-wing politics, the major cleavages, stages of change in the political field and the process of concentration[1].

The most important characteristic of the Hungarian political spectrum is that content-wise, unlike most Western European countries, the left wing and the right wing primarily represent an ideological-cultural dimension, and only secondarily an economical-distributional dimension. Which is not to say that categorisations of left- and right-wing are unsuitable for the analysis of the Hungarian political situation, since this interpretative framework or labelling system is, according to surveys, understood by voters and the parties mould their political alliances accordingly. Every coalition since the regime change can be interpreted within this framework and this approach has even proven suitable to describe changes in the political parties. (Fidesz initially, as opponents of the right-wing government – as a liberal party – stood close to the left-wing parties. Its political shift, after 1994, clearly appeared as a switching between blocks, and was understood as such).

1 Hungarian political parties:
Fidesz – Hungarian Civic Union; **FKGP** – Independent Smallholders' Party; **Jobbik** – Movement for a Better Hungary; **KDNP** – Christian Democratic People's Party; **LMP** – Politics Can Be Different; **MDF** – Hungarian Democratic Forum; **MIÉP** – Hungarian Justice and Life Party; **MSZMP** – Hungarian Socialist Workers' Party; **MSZP** – Hungarian Socialist Party; **SZDSZ** – Alliance of Free Democrats.

Accordingly, the governments of 1990-1994, 1998-2002 and 2010-present are considered right-wing in Hungarian terms, whilst the 1994-1998 and 2002-2010 are left-wing. The leading right-wing party was at first MDF, its allies being KDNP and FKGP. On the left, MSZP is the leading party, though in the first election the liberal parties (SZDSZ and Fidesz) looked likely to gain ground. Following MDF's weakening, Fidesz crossed over to the right, whilst SZDSZ became insignificant. From here on, Fidesz determined the right and MSZP the left: every other party positioned itself in relation to this. In 2010, with the emergence of two new parties - Jobbik and LMP - in Parliament, this formula still did not change: the Hungarian party political system interpreted the former as right, the latter as left-wing.

According to surveys, Hungarian politics can basically be understood to run along three cleavages. Interestingly, the defining „class division" of most Western European countries' politics – presumably part of the legacy of Communism – cannot be detected here. To be more precise, it has a different meaning: it is first and foremost a political and not an economic class segmentation. In Hungarian politics, two stronger and two weaker cleavages can be shown, which appear at the elite and societal (voters) level, on an organisational level, and in the sphere of political culture and ideology. The two stronger cleavages are religion and *nomenklatura* (the political class of the Communist system; in more general terms, one's relation and attitudes to the past system), whilst the third is the traditional village-city (agrarian--industrial) opposition. These cleavages have not, however, created segregated sub-cultures in Hungary; they are a supplementary, but not defining, element in understanding the formation of the party system. Due to the homogeneity of Hungarian political culture, we cannot talk of distinct and opposing groups. There is no impervious divide between the two sides, and in any case only a minority of the population can be placed firmly on one or the other side of all three divisions, according to their defining element; the majority are only marginally integrated into one side or the other. At the same time, the role of these divisions in the formation of the party system cannot be underestimated; the structure of the cleavages predate the party system in its current state, despite the fact that the position of the parties has changed in relation to them.

These three cleavages of Hungarian politics create two dimensions, which shape the party system (table 5). The (political) class segmentation in and continuity with the past system shapes the dimension we can call „post-Communism". This dimension separates those parties which represent some form of continuity with the pre-1989 period from those parties

that were never integrated into the Communist regime and who have no relation with the old state party organisations. The other two cleavages together create the other dimension of Hungarian politics. We can call this a cultural-ideological dimension, which includes the religious-secular and the village-city divides, but is more than these: it encompasses long-standing ideological oppositions in Hungarian politics.

**Table 5.** Major cleavages, the dimensions of the party system, and the left-right dichotomy.

| CLEAVAGE | INDICATOR OF CLEAVAGE | PARTY SYSTEM DIMENSION | LEFT-WING POSITION | RIGHT-WING POSITION |
|---|---|---|---|---|
| Political class segmentation | MSZMP membership | Relation to Communism | Post-Communist | Anti-Communist |
| Religion | Frequency of attendance at mass | cultural-ideological dimension | Cultural-ideological leftwing („progressive"; „liberal";„urban") | Cultural-ideological rightwing („traditionalist", „conservative", „folk") |
| Town-country | Place of residence | | | |

**Source:** Körösényi-Tóth-Török 2009, 182.

The meaning of the party system structure can only be understood with the following connection of the dimensions, the cleavages and the left-right; what did left and right mean at different times in the Hungarian party system? During periods when the post-Communist/anti-Communist distinction came to the forefront, this question essentially defined the left and right wings. When this question was no longer relevant, the parties were deemed left or right wing through the cultural-ideological dimension. When both dimensions were relevant, the two dimensions together defined what the left and right meant in the applicable political race. The two dimensions forming the party system therefore give content to the definitions of leftwing and rightwing, and thus the political conflict between the parties.

The Hungarian party system has changed a great deal in the two decades following the change of systems. Initially, it could be called a tripartite system, shaped by several dividing lines, in which the relation to Communism and cultural-ideological issues marked three positions. The main con-

flict was of course between the state party (MSZMP) and the opposition parties, but the opposition parties already separated themselves from one another due to cultural-ideological issues (diagram 1). The differences between MDF and SZDSZ were not clearly defined, but MDF and its allies were more conservative, whilst SZDSZ and its allies confessed to more liberal values. Following the emergence of the successor party (MSZP) in October 1989 and its perceivable weakening, the MDF-SZDSZ opposition increasingly defined the party system of the first, free elections.

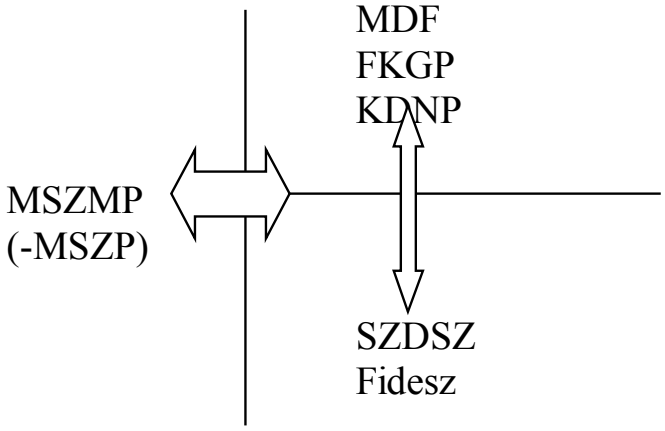


**Diagram 1.** Strucutre of the party system at its inception (1989–1990).

In the first legislative term – following the formation of a government by the MDF and its allies – the three-divisional system was strengthened with one socialist (MSZP), one conservative (MDF-FKGP-KDNP) and one liberal (SZDSZ-Fidesz) pole (2. diagram). At the 1994 elections the three camps had nearly equal support; however, due to the nature of the electoral system, the socialists gained a majority on their own. At this time, the two liberal parties made opposing strategic decisions: SZDSZ found the conservative-liberal divide to be more important, and in 1994 agreed to a coalition with the successor party, whilst Fidesz considered the anti-Communist position to take precedence, and it gradually gave up its former, liberal position, drawing closer to the conservative camp.

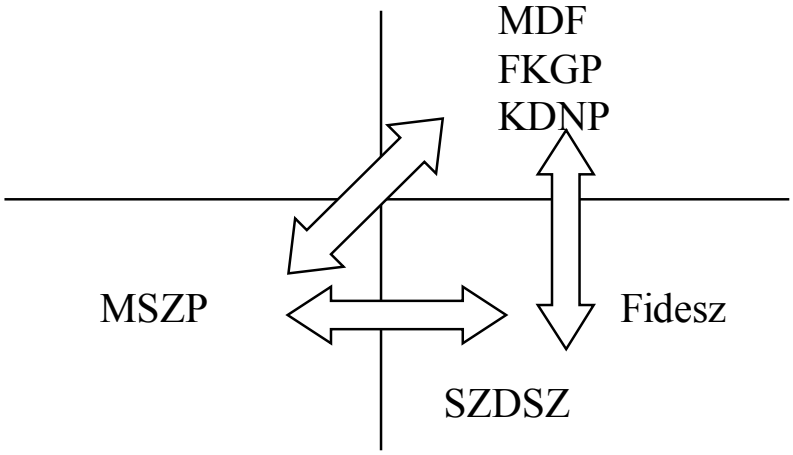


**Diagram 2.** The Hungarian Party System at the end of the first term (1994).

In the second legislative term, Fidesz became more and more right--wing, indeed eventually coming to dominate this side of the political spectrum. When, in 1998, they won the elections, forming a coalition with FKGP and MDF, they were clearly the leading right-wing force, whilst on the left – with the weakening of SZDSZ – MSZP's primacy looked unquestionable. From here on in, for nearly a decade, the formula was stable: as the allied and joint parties lost some of their influence, Hungarian politics became a quasi-two-party system. The two axes merged into each other (Diagram 3), and the Fidesz-MSZP divide placed every political player and every political conflict within this interpretational framework.

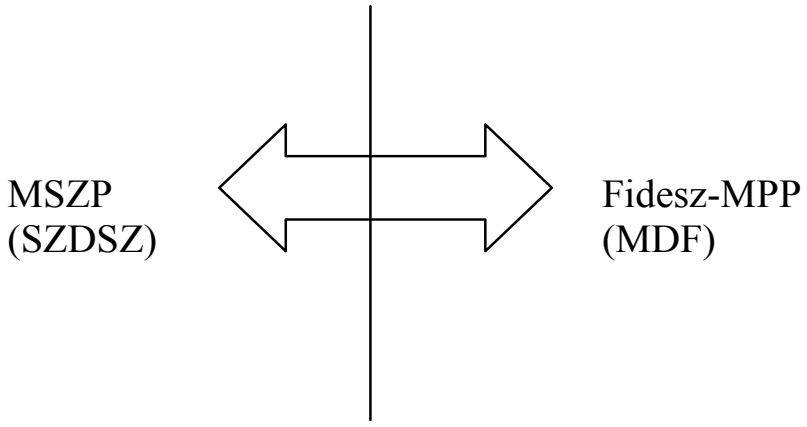


**Diagram 3.** The Party System in the early 2000s.

In the 2002 and 2006 elections the two parties won altogether 80% of the total votes (table 6), which meant that, in under a decade, the Hungarian party system had gone from a moderate, multi-party structure, to a highly-concentrated, bipolar, virtually two-party state. Such a degree of concentration is unprecedented in the region. According to statistics, the number of parties in the Hungarian party system was sustainably reduced to effectively fewer than 3.

**Table 6.** Main indicators of the concentration of the Hungarian Party System.

| | PERCENTAGE OF VOTES OF FIRST PARTY | PERCENTAGE OF VOTES OF FIRST 2 PARTIES | PERCENTAGE OF VOTES OF FIRST 3 PARTIES | NUMBER OF EFFECTIVE PARTIES | NUMBER OF PARTIES ABOVE 5% |
|---|---|---|---|---|---|
| 1990 | 24.7 | 46.1 | 27.9 | 6.7 | 6 |
| 1994 | 32.9 | 52.7 | 64.5 | 5.5 | 6 |
| 1998 | 32.9 | 62.4 | 75.6 | 4.5 | 5 |
| 2002 | 42.1 | 83.1 | 88.7 | 2.8 | 3 |
| 2006 | 43.2 | 85.2 | 91.7 | 2.7 | 4 |
| 2010 | 52.7 | 72.0 | 88.7 | 2.9 | 4 |

The three most important expressions in two decades of the Hungarian party system have been: bloc formation, concentration and stability. Bloc formation was the first to occur within the Hungarian party system, accompanied by concentration, which seemed to bring stability. Voters first chose „blocs", then, at the turn of the millennium, the leading political forces within the blocs emerged. Within the quasi two-party structure dominated by Fidesz and MSZP, it was clear the day after each election who the principal opposition would be; the dominant party was unquestionable in both government and opposition circles.

This formula was called into question at the 2010 parliamentary elections, the most important new feature of which, from the party system perspective, was not that Fidesz won a two-thirds' majority, but that MSZP dropped significantly and two new political forces emerged in Parliament (table 4). The inclusion of the radical rightwing party Jobbik - standing

further to the right than Fidesz - into Parliament raised the potential of a Polish-style right-wing rotational system developing, whilst the potential strengthening of LMP, a party which defines itself as "green", introduced the possibility of a change in left-wing politics. It is too early to say whether the 2010 elections have ultimately ended the earlier quasi two-party system, or whether they have merely temporarily interrupted this process. At the beginning of 2012 it is unclear whether MSZP's stagnating support reveals the strength or rather weakness of the party; the 2014 elections will help us answer this question.

## Conclusion

Since the change of systems, the Hungarian political system has stood out from those of its neighbouring countries due to its stability. The Constitution formed in 1989 has remained virtually unchanged for decades, whilst the electoral system helped to create a clear majority government at every election and every government so far has completed its term – even if changes were made along the way. No early elections have taken place and, subsequent to the multi-party structure of the early years, the party system was simplified and became durable. This stability was, however, transitional and therefore fragile. Neither the legitimacy of the political system, nor the acceptance and embeddedness of the political players, nor even the power of the system provided a firm foundation for stability. For this very reason, it cannot be considered surprising or inexplicable that, following 2010, such significant changes, affecting both soft and hard structures alike, have taken place, after which the notion of stable Hungarian politics – whether temporarily or permanently, it is not yet clear – is no longer valid.

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# THE POLITICAL SYSTEM OF POLAND

*Monika Kowalska, Tomasz Bichta*

## Introduction

1989 was a momentous year in the recent history of Poland. Events that took place in that time drastically changed the face of the Polish state. "Round-table talks" that resulted in the first partly-free parliamentary election which were conducted 4 June 1989, and conclusively contributed to the beginning of the political transformation of Poland.

The process of political transformation in Poland progressed through the next few years, changing the shape of the political system and the mutual competence of principal state agencies. Political action was not easy and it took some time to prepare a new constitution. That is why a transitional act - a so-called Small Constitution - was passed first on 17 October 1992[1]. Despite the many defects in this act, it had some advantages. It implemented a principle of division of power that carrying emphasised the precedence of the Sejm in the system of state agencies. It also introduced the principle of a free representative mandate and a ban on combining specific offices and positions (so-called "incompatibilities") and determined some principles of the system of the local government[2]. The Small Constitution also among other things regulated in detail certain issues concerning setting up the system of the organs of the state, particularly the institution of the president, creating in addition the model of the double executive with the strong position of the head of state.

The process of political evolution in Poland was completed by the passing of the Constitution of the Republic of Poland, which is still in force. It is a normative act of legislation regulating the complete political system of the state,

1 Ustawa konstytucyjna z dnia 17 października 1992 r. o wzajemnych stosunkach między władzą ustawodawczą i władzą wykonawczą oraz o samorządzie terytorialnym (Dz. U. 1992, nr 84, poz. 426).
2 M. Granat, Konstytucja RP na tle rozwoju i osiągnięć konstytucjonalizmu polskiego, Przegląd Sejmowy 2007, nr 4, s. 17.

guaranteeing basic rights and freedoms of the individual and also shaping the interrelations between parliament, government and president - outlining clearly the position of the prime minister (in what is generally seen as a reference to the model of the chancellor's system), at the cost of weakening the position of the head of state.

## Constitution

The Constitution of the Republic of Poland was passed on 2 April 1997 by the National Assembly and adopted in the national referendum on 25 May 1997. Its passing was preceded by a long interim period, in which, at first (1989-1992) partly amended resolutions of a constitution of the Polish People's Republic from 22 July 1952 were in force, and then (1992-1997) the so-called Small Constitution was adopted on 17 October 1992, together with some provisions of the 1952 Constitution of the Polish People's Republic from 1952 which were still in effect.

The Polish constitution of 1997 entered into force on 17 October 1997. Article 10 of the constitution reads: *„1. The system of the Republic of Poland is based on the division and the balance of the legislative branch, the executive branch and the judiciary branch. 2. Sejm and Senate exercise the legislative branch, the President of the Republic of Poland and the Council of Ministers exercise the executive branch, and the judiciary branch is exercised by courts and tribunals*"[3]. Bodies of the legislative branch were treated by the Polish constitution as representatives of the nation; the constitution specified the President as the highest representative of the Republic of Poland and the guarantor of the continuity of the authority of the state. The Council of Ministers was treated as the body conducting internal and foreign policy and managing government administration. The authors of the Constitution of 1997 arranged the relations between these organs of the state so as to create the current rationalised parliamentary system[4], i.e. a parliamentary system with political elements of presidentialism and, more importantly, with elements of an enhanced position of the Prime Minister in the structure of the government, as well as the increased stability of the functioning

3 See: Art. 10, Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997r. (Dz. U. Nr 78, poz. 483 ze zm.)

4 For more information see: J. Szymanek, *Racjonalizacja parlamentarnego systemu rządów*, Przegląd Sejmowy 2007, nr 1, s. 35; R. Piotrowski, *Zasada podziału władz w Konstytucji RP*, Przegląd Sejmowy 2007, nr 4, p. 116; W. Skrzydło, *Konstytucyjne zasady ustroju*, [in:] W. Skrzydło, (ed.), *Polskie prawo konstytucyjne*", Lublin 2000, p. 151.

of the cabinet by accepting the formula of the responsibility of the government under the procedure of the constructive vote of no confidence. The 1997 arrangement of mutual relations between three main central organs of the state in practice results in the final form of not only constitutional solutions, but also the system of political powers and the party system. The German chancellorial system also had significant influence on the current Polish system.

In this context, from a point of view of rationalisation of the system, the new constitutional regulations are undoubtedly an essential and important feature of the parliamentary government system. They authorise the position and the political role of the Prime Minister who as an independent central government administration authority has a genuine managerial role over government activity and as the government's chief, plays a leading role in the process of forming it[5].

Situating the President in the role of the arbitrator was another effect of the streamlining of the system. The instruments of this arbitration are: limited abilities to shorten the term of office of the parliament; right to manage referenda (with the consent of the Senate); the power of legislative veto (although the presidential veto may be overriden by the Sejm with a majority of 3/5 votes); and the power of referring legislation to the Constitutional Tribunal[6]. Moreover, the core competences of the President were retained in his prerogatives, i.e. actions he can perform independently without countersignature. The retention of these options singularly emphasises his role as arbitrator and the guarantor of continuity of state power. It has to be added that quite a lot of these prerogatives are only symbols of his role as the highest representative of the state[7]. In the current legal status the President has lost his right to give his opinion on candidacies in the process of appointing posts in crucial government departments (so-called „weight departments"), as well as the possibility of influencing changes to the executive powers. So the new constitution overall weakened the abilities of the head of state in deciding the fate of the government, and his power relative to the Prime Minister is also reduced by limiting his power to shorten the term of office of the parliament to only two, precisely determined situations. However the constitution widens the list of cases in which the head of state may act without the countersignature of the prime minister.

5 W. Skrzydło, Współczesne modele ustrojowe usytuowania Rady Ministrów, [in:] A. Bałaban, Rada Ministrów, organizacja i funkcjonowanie, Kraków 2002, p. 49.

6 J. Galster, Zasady kreujące system organów państwowych, [in:] Z. Witkowski, (ed.), Prawo konstytucyjne, Toruń 1998, p. 46.

7 P. Sarnecki, Idee przewodnie Konstytucji RP z 2 kwietnia 1997 roku, Przegląd Sejmowy 1997, nr 5, p. 26.

## Legislative Powers

According to Polish constitution (Art. 95, sec. 1) the Sejm and Senate exclusively exercise the legislative power in Poland. The Senate as the house of reflection on potential laws, whose chief task is concern for good law, was reinstated in Poland in 1989. According to the tradition of the Polish parliamentary system, however, a model of legally-asymmetric bicameralism was accepted, retaining Sejm's competence in legislation and the control over executive authorities[8]. The Senate takes part in passing bills as the consultative body, and has a reduced scope in government appointments and creating government agencies and positions, but has been excluded entirely from the possibility of control of the government or holding it to account.

The Sejm and Senate are able to act at all times. It is a rule that the Sejm passes resolutions and bills with an ordinary majority of votes in the presence of at least half of the statutory number of its members, but sometimes the constitution or provisions of the bylaws of the Sejm require an absolute (2/3) or qualified (3/5) majority. Sessions of the Sejm and Senate are open to public. There is also a possibility of passing a motion to hold debate in secret, but only when the good of the state requires it.

The organization and rules of operation of the Sejm and Senate are very similar. The organization and internal rules of each house were regulated with separate regulations[9]. According to these regulations the internal organs of each house consists of: the Speaker, the Presidium of the house, the Council of Senior Members, and various committees[10]. The Speaker of the house is a managerial body which calls sessions and chairs them, acts as external representative of the house and protects its entitlements. He is chosen by the members of the house (representatives or senators) by an absolute majority vote, which in practice is decided by his membership in the largest parliamentary faction. A Speaker and his deputies create the Presidium of the house. The Presidium's tasks are: planning the schedule of the house; giving opinions on cases submitted by the Speaker; organising cooperation between parliamentary committees and coordinating their actions; and interpreting the by-

8 W. Skrzydło, *Konstytucyjne zasady ustroju*, [in:] W. Skrzydło, (ed.), *Polskie prawo konstytucyjne*, Lublin 2000, p.151.

9 Uchwała Sejmu RP z dnia 30 lipca 1992 r. *Regulamin Sejmu RP* (M.P. 2002, nr 23, poz. 398 ze zm.); Uchwała Senatu Rzeczypospolitej Polskiej z dnia 23 listopada 1990 r. *Regulamin Senatu* (M.P. 2002 Nr 54, poz. 74 ze zm.).

10 See: P. Sarnecki, *Senat RP, a Sejm i Zgromadzenie Narodowe*, Warszawa 1995, p. 24.; W. Orłowski, *Organizacja wewnętrzna Sejmu i Senatu*, [in:], W. Skrzydło, (ed.), Polskie..., p. 262.

laws of the house[11]. The organ responsible for ensuring cooperation between parliamentary associations in cases associated with activities and actions of the house is the Council of Senior Members. It consists of the members of the Presidium of the house plus representatives (in practice the chairman or the deputy chairman) of parliamentary associations[12]. The Council of Senior Members deals in particular with reviewing work plans, projects of the agenda of individual sittings of the house and setting dates for sittings of the house. Committees are political bodies appointed to prepare cases to be considered and legislated on by the Sejm and Senate. They also express opinions in cases referred to them by the house or its chairman. There are the following types of committees: permanent, extraordinary and inquisitorial. Permanent committees are appointed for the entire period of the term of office of the house. These are subdivided further according to their scope of action: departmental committees, whose remit corresponds to the scope of action of a particular central government administration authority, and task committees, whose business corresponds to some particular task. In addition to permanent committees, extraordinary committees may be appointed by the house for a specified purpose (for example, to prepare or review a specific bill). These cases usually are not within the scope of action of any of permanent committees. When appointing this kind of committee the house should specify the purpose, principles and manner in which the committee will act[13]. An inquisitorial commission has a different character. It may be established exclusively by the Sejm (Art. 111 of the Constitution) to examine a particular case. It is a committee of inquiry acting pursuant to the criminal procedure codex and having prosecutor's entitlements. Hence is a special Sejm committee with extraordinary character. One of the main aims of such a committee is examining and gathering information about public authorities and revealing the reasons behind irregularities in their functioning. Based on the results of its work the Sejm can then hold individual persons to account according to their political or constitutional responsibilities[14].

It is necessary to distinguish between the system of internal organs of Sejm and Senate and the organizational structures of representatives and senators, created for pursuing a common political agenda and preparing cases

11 For more about members and competence of the Presidium, see: M. Chmaj, *Wewnętrzna organizacja Sejmu*, Przegląd Sejmowy 1999, nr 1, p. 17-45.

12 W. Skrzydło, Władza ustawodawcza w Konstytucji RP, [in:] R. Mojak, (ed.), Ustrój konstytucyjny Rzeczypospolitej Polskiej, Lublin 2000, p. 165; L. Garlicki, Polskie prawo konstytucyjne. Zarys wykładu, Warszawa 2003, p. 220.

13 M. Chmaj, Wewnętrzna organizacja …, p. 34.

14 See: Ustawa z dnia 21 stycznia 1999 r. *o sejmowej komisji śledczej* (Dz. U. Nr 151, poz. 1218 ze zm.).

to present for debate by the house or its internal bodies. The most important are parliamentary clubs, formed according to the political-party criterion and requiring a certain minimum number of members. At the Sejm the parliamentary clubs need at minimum 15 representatives, whereas at Senate 7 senators are required.

The Polish constitution from 1997 doesn't define or fully outline the function of the Sejm and Senate. The competences of the Sejm are generally numbered in the constitutional Art. 95, specifying legislative capacity and oversight of the activity of the Council of Ministers as basic functions of this body[15]. However, the activity of the Senate is of course also in fulfilment of the legislative function[16], with some minor participation in creating and appointing personnel to government positions and agencies.

Bills are passed by a multistage procedure. The right of legislative initiative is granted to: 1 – Sejm representatives; 2 – the Senate; 3 – the President; 4 – the Council of Ministers; 5 – any group of at least 100,000 citizens who have the right to vote in the Sejm election. The Sejm first reviews a bill in three readings and then passes an act by ordinary majority vote in the presence of at least half of statutory number of representatives (unless the Constitution provides otherwise). After that the Speaker of Sejm passes the act on to the Senate for 30-day deliberation. The Senate can: 1 – pass a bill without amendments; 2 – reject the act entirely; or 3 – implement amendments. The decision of the Senate to quash the act or enter amendments is then subject to consideration by the Sejm. The Sejm may override the decision of the Senate by an absolute majority vote in the presence of at least half of the statutory number of representatives. The act passed by the parliament then finds its way to the President who must sign it within 21 days and order it to be published in the Journal of Laws. Before signing the bill, however, the President can either refer an act to the Constitutional Court in order to examine the compliance of the act with the Constitution, or exercise the Presidential veto on the law. The President will be forced to sign the bill anyway, however, if Sejm overrides his veto by passing the bill anew with a 3/5 majority with at least half of the statutory number of representatives present (Art. 122, sec. 5 of Constitution). Similarly, if the Constitutional Tribunal decides that the act is constitutional the President has a duty to sign it within 7 days (Art. 122, sec. 3). However, if the Constitutional Tribunal finds the act to be in conflict with the Constitution, the President cannot sign it

15 A. Bałaban, Pozycja ustrojowa i funkcje Sejmu RP, Warszawa 2000, s. 27, A. Bałaban, Sześć funkcji Sejmu Rzeczypospolitej Polskiej, Przegląd Sejmowy 2007, nr 4, p. 129.

16 P. Sarnecki, *Senat RP, a Sejm…*, p. 43.

and the act does not come into effect. Some bills are passed according to special procedures. Among them there are the following: 1) acts changing the Constitution, 2) acts giving consent to ratification of international agreements which grant powers reserved to organs of the state to international organizations, 3) bills passed as urgent, 4) budgetary acts, 5) codex acts, 6) acts implementingcarrying the law of the European Union out[17].

The Sejm is also mainly responsible for the creation of new government agencies and positions and appointment to government positions. The Sejm is for example responsible for selecting the members of the Constitutional Tribunal and the State Tribunal (except for its chairman) and the Chairman of the National Bank of Poland. The cooperation of both parliamentary houses is necessary for establishing state agencies, and appointing the Chairman of the Auditor General, the Ombudsman, the Spokesman of Children's Rights and the General Inspector for the Protection of Personal Data[18]; in these cases the decisions of the Sejm require the consent of the second house. Together with the President the Sejm has competence in establishing the Council of Ministers; however, in the case of the National Council of Radio and Television and the Monetary Policy Council, the President is entitled to decided on appointees, in conjunction with both houses of parliament.

The oversight function[19] is traditionally regarded as the domain of parliament. According to the Polish constitution it is exclusively realized by the Sejm (Art. 95 sec. 2). Parliamentary oversight can be carried out by Sejm during the plenary sitting, through committees and by individual members of parliament. The house as a whole examines the overall policy of the government and committees exercise oversight on the operations of individual ministers and departments subject to them. Among the privileges of the individual representatives the most significant are the right to ask parliamentary questions, which lets the opposition open debate on the politics of the government.

17 Z. Szeliga, Parlament – władza ustawodawcza, [in:] Organy władzy publicznej w świetle Konstytucji Rzeczypospolitej Polskiej z 2 kwietnia 1997 roku, Lublin 2006, p. 77

18 W. Skrzydło, Ustrój polityczny RP w świetle Konstytucji z 1997 roku, Kraków 2004, p. 176.

19 For more see: M. Kowalska, Funkcja kontrolna Sejmu w świetle konstytucyjnych przepisów okresu przekształceń ustrojowych, [in:] B. Dziemidok-Olszewska, T. Bichta, (ed.), Dwadzieścia lat demokratyzacji systemu politycznego RP, Lublin 2011, s. 29-44; M. Kowalska, Warunki efektywności i wszechstronności sejmowej kontroli Rządu i jego odpowiedzialności, [in:] W. Gizicki, (ed.), Polityczne wyzwania współczesnych państw. Perspektywa państw narodowych i Unii Europejskiej, t. 2, Toruń 2011, s. 225-239; A. Bałaban, Sześć funkcji Sejmu…, p. 148.

The Polish Sejm has several tools to accomplish its oversight function during plenary sittings. It can: 1 - consider the programme of action of the Government (the so-called exposé) presented by the Prime Minister; 2 - pass resolutions in the case of confidence vote on a newly appointed Council of Ministers; 3 – grant, at the request of the Prime Minister, a vote of confidence for his cabinet; 4 - express a vote of no confidence for the Council of Ministers or its members; 5 - consider the report on implementation of the budgetary act, along with information about the level of indebtedness of the state; 6 - pass a resolution on granting a vote of approval for the Council of Ministers; 7 - analyse other government reports and information and pass resolutions associated with them; 8 - pass resolutions holding some persons to their constitutional responsibilities. Above all, Sejm committees exercise oversight over the activity of the government and its members through: 1 - considering reports and information from the government and its members and analysing activity of individual divisions of the civil service; 2 - passing demands and opinions; 3 - passing drafts of resolutions for the whole Sejm to vote on, specifying tasks for the government to carry out or rules under which government must act. Individual representatives can realize their oversight function using the following measures: 1 - reporting on interpellations, parliamentary questions and questions over current affairs; 2 - exercising a right to information and intervention; 3 - exercising a right to declare conclusions and remarks on sessions of the Sejm and its committees[20].

According to the Constitution (Art. 114), the Sejm and Senate, when debating together under the leadership of the Speaker of the Sejm (or, if he is unavailable, the Speaker of the Senate), act as the National Assembly[21]. The National Assembly is a constitutional institution which possesses certain special powers and duties: 1 - taking the vow of the newly elected President of Poland, 2 - recognizing the President's permanent inability to hold office because of a medical condition, 3 - deciding to bring charges against his person before the State Tribunal, 4 - hearing the address of the president of Poland[22].

20 M. Kowalska, Z. Szeliga, Sejmowa kontrola działalności rządu oraz odpowiedzialność rządu przez Sejmem, [in:] M. Żmigrodzki, (ed.), Polityczno-prawne aspekty transformacji systemowej, Lublin 2000, p. 48-50.

21 See wider: L. Garlicki, *Polskie prawo…*, p. 207.

22 P. Sarnecki, *Senat RP, a Sejm...*, pp. 108-109.

## Executive Power

The Polish constitution in Art. 10 sec. 2 says that „*the President of the Republic of Poland and a Council of Ministers exercise the executive power*". The Constitution grants the President executive competences as an entity of the executive power, representative competences as the head of state, and sundry competences relating to his duties of political arbitration and to the balance of powers. The most important task of the Council of Ministers is conducting current matters of policy not reserved for other state agencies and the local self-government, conducting internal and foreign policy and managing the government administration[23].

According to the decrees of the constitution, the President of Poland acts mainly as the arbitrator and mediator overseeing the smooth functioning of the authority of the state and the continuity of the state, embodying the concept of the balance of powers[24]. The character of the office of the President of Poland is generally determined in Art. 126 of the Constitution of 1997. According to it the head of state is the highest representative and the guarantor of the continuity of the authority of the state; he is also a protector of compliance with the constitution, and a guard of the sovereignty of the state and the security, inviolability and indivisibility of its territory. The president is the head of state, and has privileges associated with representing Poland and also implementation competence, as well as acting as political arbitration guaranteeing effective functioning of the state. Presidential political arbitration is aimed at keeping the constitutional order, the continuity of the operation of the state and its bodies, especially in times of crisis or during conflict. The President, performing the function of the arbitrator, is supposed to solve any disputes between organs of the state and to stand guard for its ultimate values, becoming a guarantor of the stability of the system of the state[25]. For these purposes the institution of *incompatibilitas* also plays an important role. The constitution provides (Art. 132) that „*The President of Poland can hold no other office or perform no public duty, except for the ones which are associated with the office he holds*"[26].

23 R. Mojak, Władza wykonawcza w Konstytucji RP, [in:] R. Mojak, (ed.), Ustrój konstytucyjny Rzeczypospolitej Polskiej, Lublin 2000, p. 183.

24 W. Skrzydło, System organów państwowych w świetle Konstytucji, [in:] W. Skrzydło, (ed), Polskie..., p. 207.

25 Zob. M. Kowalska, Pozycja Prezydenta RP w okresie przekształceń ustrojowych [in:] D. Walczak-Duraj, (ed.), Aksjologiczny i pragmatyczny wymiar współczesnej polityki, Łódź 2011, pp. 110-111, A. Chorążewska, Prezydent jako czynnik równowagi, arbitraż prezydencki, Przegląd Sejmowy 2005, nr 6, p. 65.

26 R. Mojak, Prezydent Rzeczypospolitej Polskiej, [in:] W. Skrzydło, (ed.), Polskie..., p. 303.

The President does not incur political responsibility for actions associated with his office, but he is responsible for violations of laws or the constitution, and also for crimes committed. In these two cases the head of state stands in front of the State Tribunal - with the sanction of folding it ex officio. According to the nature of the parliamentary system, the constitution implements the general rule that official acts of the President require the countersignature of the Prime Minister (Art. 144, sec. 2). However the constitution also dictates as many as 30 of his prerogatives (Art. 144, sec. 3), enhancing his political position in the process.

It is possible to divide presidential competences into five basic groups. They cover: 1) competence in relationships with parliament, government and bodies of the judiciary branch, 2) competence in foreign affairs, 3) competence in cases of the defence and security of the state, 4) law-making competence, 5) traditional competences of the head of state[27].

In relation to parliament the President has prerogatives influencing the political existence of both houses (a right to shorten the term of office) and on the content of laws passed by parliament (the power of hanging veto). His prerogatives towards parliament also concern the right of legislative initiative and lawmaking initiative [these are exactly the same thing] and also the right to refuse to sign an act in case of its unconstitutionality. Moreover the President orders the parliamentary election, calls the first sessions of the Sejm and Senate, may present an address to the Sejm, Senate or National Assembly, and may also order a nationwide referendum with the consent of the Senate.

Regarding the Council of Ministers the President possesses the following rights: a) to appoint and dismiss the government; b) to make, at the request of the Prime Minister, changes in the composition of the Council of Ministers; c) to call the Cabinet Council in cases of the special importance; d) to present to the Sejm a proposal for calling the Prime Minister or some individual minister to account over their constitutional responsibilities.

The independence of the judiciary branch from the executive power's influences in the division of power in the state considerably reduces the powers of the head of state regarding judicial structures. That is why the President has no power to influence on the decisions of courts and tribunals, except for a prerogative of presidential pardon. However, he possesses an important power with respect to the organization of the judiciary branch. He appoints judges (except for judges of the Constitutional Tribunal and the

27 See.: R. Mojak, *Władza wykonawcza* …, p. 197-199.

State Tribunal) for an indefinite term of office at the request of the National Board of the Judiciary. He also appoints a Chairman and Vice-chairman of the Constitutional Tribunal, the first President of the Supreme Court, as well as the Chairman of the Supreme Administrative Court. He can also apply to the Constitutional Tribunal for adjudicating conflicts of competence between constitutional central organs of the state. The scope of these entitlements indicates an important aspect of the head of state's function, that his apolitical status guarantees an independent judiciary[28].

The President of Poland is the highest representative of the state in external relations, but in international relations the President is constitutionally obliged to cooperate with the Prime Minister and with the Minister of Foreign Affairs (Art. 133, sec. 3). This means that the President and the government should agree on direction of international policy and coordinate action in the international arena[29]. His duties in this aspect mainly include: ratification and termination of international agreements, appointing the diplomatic representatives of the Polish state, and accepting the credentials of new diplomats from other countries and of international organizations.

Another class of the President's powers are: duties in the field of defence (control over the armed forces, declaring a state of war, mobilization and use of military forces) and the field of security (concerning particular threats to the state). The Polish President is the highest authority over the armed forces, in accordance with the principle of civilian control over the armed forces. However, the accepted model is one of passive control: the President makes important decisions concerning war and its conduct, but does not engage in directly managing the military. Moreover, the President has a right to decide on a state of war, in the place of the Sejm, if it cannot gather for the sitting. The President as the agent protecting sovereignty and the security of the state also has prerogatives in the circumstance of particular threats to the state. The Polish constitution makes provision for three kinds of states of emergency. Martial law and a state of emergency are declared by the President on the proposal of the Council of Ministers; a state of natural disaster is declared by the Council of Ministers alone[30].

28 B. Dziemidok-Olszewska, *Prezydent Rzeczypospolitej Polskiej – władza wykonawcza*, [in:] *Organy władzy publicznej w świetle Konstytucji Rzeczypospolitej Polskiej z 2 kwietnia 1997 roku*, Lublin 2006, pp. 103-104

29 R. Mojak, *Prezydent Rzeczypospolitej …*, p. 318

30 B. Dziemidok-Olszewska, *Prezydent …*, p. 104-107; W. Skrzydło, *Konstytucja Rzeczypospolitej Polskiej, Komentarz*, Kraków 2002, p. 178.

The constitution of 1997 makes the Council of Ministers the chief agent of the dualistic executive. It is appointed by the state legislative authority to conduct the internal and foreign policy of the Republic of Poland, to manage the government's administration and to execute the most important task - conducting the actual matters of the politics of the state in fields not reserved for the local self-government and other of state agencies. So in practice the executive branch (i.e. the function of ruling the state) in the wider degree [meaning unclear] was assigned by authors of the constitution to the Council of Ministers than to the President of Poland.

The Polish constitution (Art. 154-155) outlines three procedures for forming a government. The normal procedure is for the Council of Ministers to be established by, and on the initative of, the President. However, a government established in that way needs to obtain a vote of confidence from Sejm, passed with an absolute majority of votes in the presence of at least half of the statutory number of representatives. Two other proceedings are also specified in reserve: a) the Prime Minister and other ministers may be chosen by the Sejm, by an absolute majority vote in the presence of at least half of the statutory number of representatives, after which the President appoints the Council of Ministers thus chosen, b) the President appoints first the Prime Minister, and then the other members of government – in which case Sejm must pass a confidence vote with an ordinary majority of votes in the presence of at least half of the statutory number of representatives. In case of a Council of Ministers being established by the second reserve procedure but not obtaining a vote of confidence, the President compulsorily shortens the Sejm's term of office and orders an early parliamentary election.

In practice the process of forming a government is a difficult and multistage trial, in which the particular role falls to the future Prime Minister. The person of the Prime Minister, in conditions of coalition cabinets, is a result of the agreement among political groupings being supposed to create the government. Pointing the candidate for the Prime Minister opens the doors to preparing negotiable programme of action of the government and its personal composition. So far, since 1989 the mission of forming a government in Poland was delegated to: Cz. Kiszczak, T. Mazowiecki, J. K. Bielecki, J. Olszewski, W. Pawlak, H. Suchocka, W. Pawlak (for the second time), J. Oleksy, W. Cimoszewicz, J. Buzek, L. Miller, M. Belka (twice), K. Marcinkiewicz, J. Kaczyński and D. Tusk (twice). In addition in most of cases the process of creating cabinets ended with the success. Only Cz. Kiszczak in 1989 and W. Pawlak in 1992didn't manage to form their cabinet. However M. Belka's government formed in 2004 didn't get the vote of confidence with absolute majority of votes at first. But

after the passing of constitutional dates (Art. of 154 sec. 3 of the Polish constitution), when the Sejm could choose "its" prime minister and the cabinet, president A. Kwaśniewski decided as part of next constitutional proceedings to appoint a government at the head M. Belka again. This cabinet got from the Sejm the vote of confidence with ordinary majority of votes gaining the status of the minority government.

It is also worth to point out that not all Prime Ministers affected the ultimate personal make-up of their cabinet to the same degree. T. Mazowiecki, J. Olszewski and L. Miller were those who had a great independence in the selection of ministers. However personal decisions at the government of J.K. Bielecki and H. Suchocka fell without the participation of Prime Ministers[31]. On behalf of J.K. Bielecki the negotiations about creating the cabinet were carried on by the president L. Wałęsa. H. Suchocka took up the office of the prime minister, when parties being supposed to be a member of a future government already determined his members. M. Belka government's personal composition was determined by the president A. Kwaśniewski, but the composition of the K. Marcinkiewicz's cabinet was determined by „Law and Justice „ party leaders Jarosław and Lech Kaczyńscy. Prime Ministers: W. Pawlak, J. Oleksy, W. Cimoszewicz, J. Buzek, J. Kaczyński and D. Tusk at the process of selection the members of their cabinets, in smaller or large degree, were limited by the position of their coalition partners. Moreover in 1992-1997 (in the term of the so-called Small Constitution), Prime Ministers (W. Pawlak and J. Oleksy) were limited additionally with position of president L. Wałęsa who led into the cabinet three „his" ministers (foreign affairs, internal affairs and defence)[32].

The President of Poland has the right to accept the resignation of the cabinet, as well as to make a cabinet reshuffle at the request of the Prime Minister and the right to recall individual ministers who obtained a no-confidence vote from the Sejm. The resignation of the Council of Ministers occurs: 1 - on the first sitting of the newly elected Sejm, 2 - after the Council of Ministers have been informed of a no-confidence vote by the Sejm, 3 – in case of a failed confidence vote for the government, 4 - as a result of the resignation of the Prime Minister[33].

31 See: K. Groblewski, Ruch w Belwederze. Spotkanie Wałęsa-Mazowiecki, „Rzeczpospolita" 28.12.1990, nr 300, s. 1-2; E. Szemplińka, Skazana na władzę. Wyborem nowego kandydata na premiera najbardziej zaskoczona była Hanna Suchocka, „Wprost" 1992, nr 29, s. 19.

32 For more information see: K. Leszczyńska, Elity rządowe w Polsce w latach 1989-2009, in: K. Leszczyńska, Rzeczpospolita Polska 1989-2009, Toruń 2010, pp.122-145

33 Check. art. 162 *Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.* (Dz. U. Nr 78, poz. 483 ze zm.).

The Council of Ministers a body jointly composed of the prime minister and the other ministers of government. However, the composition of the Cabinet can be widened to include Deputy Prime Ministers and chairmen of committees as required by acts of parliament. In the mechanism of functioning of the government and in the entire system of government administration, the Prime Minister occupies the most important position as the chief of the government and the person who manages it. „*Ensuring the execution of the policy of the Council of Ministers and determining ways for deciding it*"[34] are priority tasks of the Prime Minister. He also participates in appointing, shaping and changing the government. The Prime Minister coordinates, organizes and inspires works of the government, oversees the actions of individual ministers, and moreover calls and chairs sittings of the government. He is also a superior authority to the government administration and the civil service. Yet, the mode of functioning of the Council of Ministers is determined by the rule of joint decision making and decisions made by negotiation (i.e. by political agreement), and in exceptional circumstances by voting or with positions of individual ministers arranged by correspondence exceptionally by voting or by way of correspondence agreeing on positions of individual ministers[35]. To sum up, internally, the structure of the government is defined by a few special features: 1) the principle of political management by the prime minister, 2) the principle of diversifying the political status of ministers, 3) the principle of the restricted political self-reliance of ministers, 4) the principle of the limited joint authority of the functioning of the Council of Ministers[36].

The constitution implements the rule of legal-constitutional liability of members of the Council of Ministers (Art. 156). Members are held accountable by the State Tribunal, on the initiative of the Sejm, for the breach of the constitution or acts of parliament, as well as for a crime committed in relation to the government position occupied. This liability is characterised by its exclusively individual character[37]. However the principal form of accountability is that termed political responsibility, invoked for unacceptable direction or methods of state policy. This responsibility can assume both collective and individual character (Art. 157)[38]. The procedure of calling the Council of Ministers to account under political responsibility takes place, in the current legal regime, according to the mechanism of the constructive vote of no confidence (Art. 158).

34 Check art. 148 *Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.* (Dz. U. Nr 78, poz. 483 ze zm.).

35 R. Mojak, Skład, *Organizacja wewnętrzna oraz zasady i tryb funkcjonowania Rady Ministrów*, [in:] A. Bałaban, (ed.), *Rada Ministrów, organizacja i funkcjonowanie*, Kraków 2002, p. 376.

36 Ibidem, pp. 293-294.

37 W. Skrzydło, *Konstytucja…*, Kraków 2002, p. 210.

38 L. Garlicki, *Rada Ministrów* …, p. 154.

**Table 1.** Goverments in Poland (1989-2012).

| TERM OF GOVERNMENT | PRIME MINISTER | PARTY COMPOSITION |
|---|---|---|
| 24.08.1989 – 25.11.1990 | Tadeusz Mazowiecki | Solidarność – ZSL – PZPR – SD |
| 12.01.1991. – 05.12.1991 | Jan Krzysztof Bielecki | KLD – ZChN – PC – SD |
| 23.12.1991 – 05.06.1992 | Jan Olszewski | PC – ZChN – PSL-PL |
| 05.06.1992 – 07.07.1992 | Waldemar Pawlak | PSL |
| 11.07.1992 – 18.10.1993 | Hanna Suchocka | UD – KLD – ZChN – PChD – PPPP – PSL-PL |
| 26.10.1993 – 01.03.1995 | Waldemar Pawlak | SLD – PSL – BBWR |
| 06.03.1995 – 26.01.1996 | Józef Oleksy | SLD - PSL |
| 07.02.1996 – 17.10.1997 | Włodzimierz Cimoszewicz | SLD – PSL |
| 31.10.1997 – 19.10.2001 | Jerzy Buzek | AWS – UW |
| 19.10.2001 – 02.05.2004 | Leszek Miller | SLD – UP – PSL |
| 02.05.2004 – 19.05.2004 | Marek Belka | SLD – UP |
| 11.06.2004 – 19.10.2005 | Marek Belka | SLD - UP |
| 31.10.2005 – 10.07.2006 | Kazimierz Marcinkiewicz | PiS – Samoobrona - LPR |
| 14.07.2006 – 05.11.2007 | Jarosław Kaczyński | PiS – Samoobrona – LPR |
| 16.11.2007 – 18.11. 2011 | Donald Tusk | PO – PSL |
| 18.11. 2011 – | Donald Tusk | PO – PSL |

**Source:** www.sejm.pl (16-09-2012).

The Sejm expresses a vote of no confidence for the government and simultaneously chooses the new chairman of the Council of Ministers with a majority of the statutory number of representatives (at least 231 members of the Sejm). The proposal for this vote must be submitted by at least 46 representatives. If

the resolution is passed by the Sejm, the President accepts the resignation of the current cabinet and appoints the new Prime Minister chosen by the Sejm and appoints other members of the government according to the proposal of the chairman of the government[39]. The procedure of passing the vote of no confidence towards an individual minister resembles the one described above, except that the proposal must be submitted by at least 69 representatives in this case (Art. 159).

## The Judicial Branch

Under the current constitutional order the branch of the judiciary are consists of the system of courts and two separate and independent bodies with special powers, namely the State Tribunal and the Constitutional Tribunal.

The function of courts is exercising the judicial functions, by which is meant that activity of the state carried out by independent courts, consisting of making the binding decisions of legal disputes, involving parties who count as one or more of the following: a natural person, a legal person, or an object acting in a legal system. Courts as national organs of legal protection were authorised by the constitution of 1997 for exercising judicial functions on the principle of exclusiveness[40]. This is expressed in Art. 175 sec. 1 which says that the judiciary in Poland is exercised by: the Supreme Court, courts of popular jurisdiction, administrative courts and military tribunals[41]. The constitution also allows for establishing an exceptional court, but only in time of war (Art. 175 sec. 2).

The Supreme Court is a court of cassation, being in charge of the activity of popular and military courts in the field of their adjudication. Moreover, within its competence are: deciding on the interpretation of the law; investigating election protests and adjudicating about the accuracy of presidential and parliamentary elections; determining the accuracy of nationwide referenda[42]. The Supreme Court consists of the first Chairman (appointed by the President for a period of 6 years), vice-chairmen and judges. The Supreme Court is a compound body and is divided into four Houses: Civil, Penal, Military and Labour, Social Insurance and Public Affairs. The most fundamental level of

39 Z Szeliga, *Rada Ministrów a Sejm 1989 - 1997*, Lublin 1998, p. 35.

40 W Skrzydło, *Ustrój polityczny…*, p. 215.

41 For more, see: T. Bichta, Sądy wojskowe [in:] B. Szmulik, M. Żmigrodzki, (ed.), *Ustrój organów ochrony prawnej*, Lublin 2001, pp. 145-154.

42 B. Szmulik, Sąd Najwyższy, [in:] B. Szmulik, M. Żmigrodzki, (ed.), *Ustrój...*, p. 98.

the judiciary is the popular courts which exercise judicial powers in all cases, except for those reserved by law for the jurisdiction of other courts (the presumption of competence rule). Popular courts adjudicate in civil cases, family cases, penalty law and labour and social insurance law. They have a three-tier structure: regional courts, circuit courts and courts of appeal[43]. Administrative courts - in the form of provincial administrative courts and the Supreme Administrative Court - were appointed for the inspection of legal functioning of the civil service. As cassation courts, they can repeal, annul or sustain an administrative act which is being challenged. They adjudicate principally in cases of: 1 - complaints about the resolutions or inactivity of administrative bodies; 2 – complaints about local legislation; 3 – conflicts of competence between self-governing units and bodies of the local government administration, requiring court adjudication[44]. Military tribunals[45] exercise judicial powers as part of the armed forces and are divided into garrison and circuit courts. They have the character of criminal courts and are competent in matters of crimes committed by soldiers in the active military service, as well as some crimes committed by civil employees of the army and soldiers of military forces of foreign countries.

Judicial independence means that the guarantee of a right to a court hearing is understood as meaning a right to independent adjudication by judges in a thorough, impartial, truly independent manner, in accordance with their own conviction. It is also the guarantee of the exercise of the right to the court's protection against infringements of laws and the liberty of individuals. It allows the principle to function, that there is a division between judicial authorities and the legal democratic state. Judicial independence must be provided for by numerous warranties which together ensure a system in which judges are constrained only by their legal right to act in a given situation. The most significant guarantees of the position of the judge are: 1 – they are subject only to the constitution and acts of parliament; 2 – the manner of appointing them (by the president at the request of the National Board of Judiciary); 3 – the judge cannot be removed ex officio; 4 – the judge cannot be moved without his agreement; 5 - judicial immunity; 6 - material status; 7 - a judge's office cannot be merged with another; 8 - the political neutrality of judges[46]. In Poland there is predicted

43 Ustawy z dnia 27 lipca 2001 r. *Prawo o ustroju sądów powszechnych* (Dz. U. Nr 98, poz. 1070 ze zm.).

44 Art. 1 ustawy z dnia 25 lipca 2002 r. - *Prawo o ustroju sądów administracyjnych.* (Dz. U. 2002, nr 153 poz. 1269).

45 Ustawa z dnia 21 sierpnia 1997 r Prawo o ustroju sądów wojskowych (Dz. U. 1997, nr 117, poz. 753 ze zm.).

46 B. Szmulik, Sądy powszechne, [in:] B. Szmulik, M. Żmigrodzki, (ed.), *Ustrój...*, pp. 124-125.

[by a prophet? Request clarification/original text] also a participation of citizens in exercising the judicial powers. In this way the professionalism of judges combines with principles of social representatives of the public opinion cooperating with each other on equal terms.

According to the nature of the state under rule of law, power in the state is closely connected with oversight and accountability of people exercising power. All illegal activities of state officials should be thoroughly investigated. That is why there is an institution attending to the constitutional responsibility called the State Tribunal. Members of the State Tribunal (except for the chairman, who is chosen *ex officio*, and the First President of the Supreme Court) are chosen by the Sejm on the first sitting of the newly elected Sejm for the period of his term of office. Representatives and senators cannot became members of that body. The 19 members of The State Tribunal are: the chairman, 2 deputies of the chairmen and 16 members. Deputies of the chairmen of the Tribunal and at least half of its members should have judicial qualifications[47]. Members of the State Tribunal are independent in their activity and are subject exclusively to the law. They are entitled to a formal immunity and a personal inviolability. They are under the incompatibilities rule, in that they may not combine their office with the implementation of the mandate of the deputy, the presidential office or the employment in state government authorities.

Constitutional responsibility is a legal responsibility not to violate the constitution nor for certain entities and persons indicated in the constitution to commit certain acts in the course of carrying out their duties. The process of accountability for breach of constitutional responsibility is initiated with will of the parliament, but carried out by the body of the judiciary branch. The constitution (Art. 198, sec. 1) determines the group of persons subject to constitutional responsibility. They are: the President of Poland (in 2001 the Speaker of Sejm and the Speaker of Senate were also involved due to temporarily performing presidential duties); members of the Council of Ministers; the prime minister; the Chairman of the National Bank of Poland; the commander-in-chief of the armed forces; ministers; members of the National Radio and Television Council. According to Art. 107 of the Polish constitution representatives and senators are in breach of constitutional responsibility if they manage a business or economic activity which receives benefits from the property of the State Treasury or the local self-government, or if they purchase such property; both of which are punished with the sanction of depriving the deputy of his mandate[48].

47 M. Kowalska, *Trybunał Stanu*, [in:] B. Szmulik, M. Żmigrodzki, (ed.), *Ustrój...*, p. 74.

48 W. Szyszkowski, *Trybunał Stanu*, [in:] Z. Witkowski, (ed.), *Prawo konstytucyjne...*, pp. 360 i 363. See also: M. Zubik, *Trybunały po dziesięciu latach obowiązywania Konstytucji III RP*, Przegląd Sej-

The course of the procedure that leads to enforcing the constitutional responsibility covers the following phases: 1 – a preparatory procedure which is held in Sejm (or the National Assembly, if the President is being held accountable), 2 – a procedure in the State Tribunal having two instance character, 3 - executive proceedings[49]. For breach of the constitution the State Tribunal can adjudicate the following penalties: 1) loss of active and passive electoral rights for the office of the President and to parliament and councils of local communities (from 2 up to 10 years), 2) a ban on taking managerial stances or performing the posts associated with any particular responsibility in state agencies and social organizations (from 2 up to 10 years, or permanently), 3) loss of orders, decorations and honorary titles and eligibility to receive them (from 2 up to 10 years)[50].

According to the Constitution (Art. 145 and Art. 156) the State Tribunal can also enforce criminal liability, although only against members of the Council of Ministers (for an offence committed in relation to their position) and the President of Poland (for any common crime).

The Constitutional Tribunal and the non-parliamentarian control of the constitutionality of the law do not have a long tradition in Poland. The Tribunal commenced its activity 1 January 1986 pursuant to Act on The Constitutional Tribunal from 29 April 1985. Currently the legal basis on which the Constitutional Tribunal acts is formed by the Polish constitution (Art. 188 - 197 and Art. 79, Art. 122 sec. 3 and 4, Art. 131 sec. 1 sentence 2, Art. 133 sec. 2) and the Act on the Constitutional Tribunal from 1 August 1997[51].

The members of The Constitutional Tribunal are 15 judges chosen individually for a period of 9 years by the Sejm (elected by an absolute majority of votes, at the presence of at least half of the statutory number of representatives) and are persons of outstanding legal knowledge. Re-election is inadmissible. The law provides additionally the requirement of having qualifications for occupying a position of the judge of The Supreme Court or the Supreme Administrative Court[52]. The status of the judges of The Tribunal is the same as written above in case of other judges.

The Constitutional Tribunal: 1 - controls the constitutionality and legalities of normative acts, 2 - investigates constitutional complaints, 3 - checks

mowy 2007, nr 4, p. 169.

49 M. Kowalska, *Trybunał Stanu* …, pp. 81-82.

50 M. Kowalska, *Organy władzy sądowniczej* …, pp. 201-202

51 Dz. U. 1997, nr 102, poz. 643.

52 T. Bichta, B. Szmulik, *Trybunał Konstytucyjny* (I), [in:] B. Szmulik, M. Żmigrodzki, (ed.), *Ustrój...*, p. 48.

the conformity to the constitution of purposes or activities of political parties, 4 - adjudicates conflicts of competence between central constitutional organs of the state, 5 - adjudicates on allegations of temporary obstacles to holding the office by the President, 6 – informs state legislative authorities of problems with the law they should address, or problems that may arise from the decisions of the Tribunal.

According to the principle of hierarchical sources of law, the basic task of the Constitutional Tribunal is to ensure the constitutionality and the legality of legal documents and to eliminate measures incompatible with the system of the law in force. The control of the constitutionality of normative acts (Art. 188 of Constitution) means adjudicating in the following cases: a- compliance of acts and international agreements with the constitution, b- compliance of acts with ratified international agreements when ratification required the prior agreement expressed in the act, c- compliance of the law issued by central state agencies with the constitution, ratified international agreements and acts. Usually activities of The Tribunal are characterized as inspection after the fact, i.e. Examining acts which are already in force or are in vacatio legis. However the Polish constitution grants the right to the president of Poland to ask the Constitutional Tribunal about conformity to the constitution of an act or international agreement before signing it (preliminary examination)[53].

The new competence granted to the Tribunal by Art. 79 of the current constitution is a constitutional complaint. This may be mades by anyone whose constitutional freedoms and rights under law were violated (except for foreigners applying for asylum or refugee status in Poland). A Polish constitutional complaint can be directed only against a normative act (examination of which is the fundamental purpose of the court) or against a public authority's ruling concerning the constitutional rights and duties of the complainant. It isn't possible however to question directly the constitutionality of individual decisions. The complaint should be carried within 90 days of the delivery of the valid judgement or the final decision to the suing and obligatorily drafted by the attorney-at-law or the legal adviser[54]. According to the principle of political pluralism, people have a right to create political parties (Art. 11). However, Polish constitution (Art. 13) forbids the existence of political parties promoting totalitarian methods of action such as Nazism, fascism and communism, as well as parties with programs that establish or allow for racial and ethnic hatred or the use of violence to gain the power or

53 Ibidem, p. 171

54 For more, see: J. Trzciński, (ed.), *Skarga konstytucyjna*, Warszawa 2000; L. Bagińska, *Skarga konstytucyjna*, Warszawa 2010.

influence on the politics of the state. The constitution also forbids keeping a party's internal structure or membership secret. In case of doubt, the Constitutional Tribunal adjudicates on whether a political party's actions or purposes conform to the Constitution.

Since 1997 the Constitutional Tribunal adjudicates conflicts of competence between central constitutional organs of the state. Moreover it adjudicates on temporary obstacles to holding the office of the president. The principle is that if the President becomes temporarily unable to hold office, he notifies the Speaker of the Sejm who temporarily takes over duties of the president. If the President isn't able to notify the Speaker of the Sejm about his incapacity, then the Constitutional Tribunal adjudicates about the obstacle to holding his office, at the request of the Speaker of the Sejm. In the case of recognition of a temporary obstacle to holding the office by the President, the Constitutional Tribunal entrusts the Speaker of the Sejm with temporary execution of presidential duties. The Constitutional Tribunal as part of its tasks also carries out a signalling function. It informs the Sejm and Senate of substantial problems resulting from the activity and the judicial decisions of the Tribunal. Moreover the Tribunal presents remarks to appropriate state legislative authorities about gaps in the law and other mistakes that should be removed to provide cohesion in the legal system[55].

Proceedings in the Constitutional Tribunal are based on models of judicial proceedings. The Tribunal cannot act on its own initiative, but there are three forms of initiating procedures before the Tribunal: the conclusion, the legal question and the constitutional complaint. Trials before the Constitutional Tribunal are open, although the proceedings may be closed on grounds of state security or the protection of state secrets.

Since 1997 decisions of the Constitutional Tribunal in Poland are conclusive and have a generally applicable legal validity. Decisions must be immediately announced at any official body where the normative act under challenge was announced. If it was not published, then decisions are subject to an announcement in „Monitor Polski". It is a principle that decisions of the Constitutional Tribunal come into effect on the day of announcing them, unless the Tribunal chooses another date for the challenged normative act to lose validity. However, the delay between announcement and loss of validity cannot exceed 18 months in case of statutes and 12 months in case of other normative acts.

55 M. Kowalska, *Organy władzy sądowniczej …*, p. 174-176.

## Local Government

Local government in Poland is organized on three levels[56]. The largest units, at the regional level, are *województwa* (provinces), which were consolidated and reduced in number from 49 to 16 in 1999. At the next level are 300 *powiaty* (counties or districts), followed by about 2,500 *gminy* (towns and rural communities). The last are the fundamental territorial units within Poland. The status of the capital city of Warsaw is regulated by a special legislation. Both *powiaty* and *gminy* are governed by councils, elected to four-year terms. These councils in turn elect the heads of local administration. The representatives to the *sejmiki wojewódzkie* (provincial legislature) also are elected to four-year terms. The head of provincial administration, the *wojewoda*, is nominated by the prime minister.

## Electoral System

In Poland, apart from constitutional provisions, the basis of the of election processes today is an election codex from 5 January 2011[57]. According to the Constitution (Art. 96, sec. 1) elections to the Sejm have five features. They are: universal, direct, equal, proportional and secret; whereas to the Senate (Art. 97, sec. 1) they are: universal, direct and secret. The right to vote is possessed by all Polish nationals, 18 years of age who aren't declared legally incapacitated or deprived of rights pertaining to public posts or elections in a valid court decision (Art. 62). The right to be elected is possessed by those who on the day of election are a certain age. In elections to the Sejm this is 21 years, in the senatorial election 30 years.

Members of the Sejm and Senate are elected for four-year tenures. Parliamentary elections are always held altogether (according to the constitutional principle of equal terms in office of both houses of the Parliament - Art. 98, sec. 3, sentence 2). Elections are ordered by the president of Poland. The Sejm is composed of 460 representatives chosen according to the proportionality rule on meeting 5% of the electoral threshold; whereas the Senate consists of 100 senators chosen in one–mandate circuits according to the relative majority rule. Political parties and electors are entitled to a right to propose candidates for

56 Ustawa z dnia 8 marca 1990 r. *o samorządzie gminnym* (Dz. U. 1990, nr 16, poz. 95); Ustawa z dnia 5 czerwca 1998 r. *o samorządzie powiatowym* (Dz. U. 1998, nr 91, poz. 578)); Ustawa z dnia 5 czerwca 1998 r. *o samorządzie województwa* (Dz. U. 1998, nr 91, poz. 576).

57 Dz. U. Nr 21, poz. 112.

deputies. To register a slate of canditates for the Sejm it must be supported by at least 5 thousand electors. This is a condition of registering (although committees whose are lists already registered with at least half of the circuits are free of this requirement); whereas a candidate for the senator must be supported by at least 2 thousand electors. It is possible only to run in one constituency, and only for one of the houses of Parliament at the same time. The verification of the validity of elections is the responsibility of a Supreme Court[58].

The term in office of the parliament starts on the day of the first session of the new Sejm convened by the president of Poland and lasts till the day preceding the day of the Sejm's next term in office. A continuity of existence of the parliament is a fundamental advantage of this solution, as a previous term in office cannot end before a new one is constituted[59]. However the Polish constitution provides the possibility of shortening its term in office: either by a Sejm vote for self-dissolution with a 2/3 majority of votes of the statutory number of representatives (Art. 98, sec. 3) or by decision of the head of state. The president may (optionally) shorten the Sejm's term in office within 4 months from the day of submitting to the Sejm the draft of a budgetary act that they refuse to pass (Art. 225); however, he is obligated to make such a decision if the third procedure of forming a government does not yield a result (Art. 155, sec. 2). Members of Parliament (Art. 104) have a free mandate. They can act without any directives or instructions, and more importantly, they cannot be dismissed by electors prior to the end of their term in office. Independence of the mandate is guaranteed by such institutions as: the parliamentary immunity and personal inviolability, and a number of other rights and privileges, and the ban on business activity.

In the case of the mandate of an individual representative expiring during their term in office, the Speaker of the Sejm gives the mandate to the candidate from the circuit list who got the largest number of votes in the elections (if two candidates would get the same number of votes their order on the list adjudicates; in case there are no candidtes on the list, the mandate stays not used to the end of term in office). In case of the expiration of the mandate of the senator, a by-election is conducted. However the mandate remains unfilled if less than 6 months remain till the end of the term in office[60].

Since 1990 the President of Poland is also chosen by the nation in the regular, direct general election, by secret ballot and by absolute majority of

58 For more see: Z. Szeliga, *Parlament…*, pp. 29-39.
59 L. Garlicki, *Polskie prawo …*, p. 210.
60 Z. Szeliga, *Parlament …*, p. 39-40.

the valid votes (Art. 127). The president is chosen for a five-year term in office with one-time possibility of re-election[61]. Only a person possessing Polish citizenship who has full voting rights in parliamentary elections and who is at least 35 years old may be chosen for the office. Moreover the candidate must get preliminary backing from 100,000 electors in order to register. The Speaker of the Sejm orders presidential elections. The winner is the candidate who gets over the half of the valid votes[62]. The newly-chosen president takes his office after taking a vow in front of the National Assembly. A refusal of the vow would mean the need to conduct new elections. Under constitutional regulations (Art. 131) the office of the head of state can also be made vacant emptying prior to the end of the term in office in case of: 1 - death; 2 – the President renouncing the office; 3 - statement by the Supreme Court of the nullity of presidential elections; 4 - a National Assembly resolution, passed by a 2/3 majority of the statutory number of its members, declaring the permanent inability of the President to hold office due to a medical condition; 5 - placing the President *ex officio* by the adjudication of the State Tribunal. In this situation, until a new head of state can be chosen, the Speaker of the Sejm takes over the duties of the president.

## Party System

In Poland a functional party system is a basic principle of political pluralism contained in the constitution. In addition, the following principles apply to the institutionalisation of political parties: the principle of open and voluntary membership; the principle of transparent financing; democratic principles of the organizational structure of the party; freedom of speech, including creating real opportunities for diverse political powers to have access to mass media[63]. Art. 13 of the Constitution, as noted above, also applies and outweighs all other principles.

The Polish party system is a registration system. The Circuit Court in Warsaw is the body which registers parties. According to the Act on Political Parties,[64] to legally register the party one should collect 1000 signatures of support, prepare statutes of organization and undergo registration proceedings,

61 Art. 127, Konstytucja RP z dnia 2 kwietnia 1997 r (Dz. U. Nr 78, poz. 483 ze zm.).

62 R. Mojak, *Władza wykonawcza …*, p. 195.

63 T. Bichta, *Kształtowanie się systemu partyjnego RP w latach 1989 – 2007*, (in:) T. Bichta, B. Dziemidok-Olszewska, (ed.), *Dwadzieścia lat demokratyzacji systemu politycznego RP*, Lublin 2011, p. 144.

64 Ustawa o partiach politycznych z dnia 27 czerwca 1997 r., Dz. U. 2011, nr 155, poz. 924.

during which the compliance of the purposes of the party with the constitution is examined. Parties are subject to a control in financing made by the State Electoral Commission. They have a duty of filing financial statements to the PKW every year by the 31st of March. This allows financial inspection of parties. As was written above, the Constitutional Tribunal exercises the chief role in examining the constitutional conformity of the aims and activities of political parties. However, a registration court always makes decisions about deleting the party from the register. A party can also disband of its own accord.

Polish nationals of 18 years of age or more can be party members. Membership is voluntary and open. However, there are two cases in which these principles are mitigated: membership must be suspended for the duration of holding or working for certain particular offices,[65] and membership of any party is prohibited for those who hold certain posts or professions[66]. The most important document of a political party is its statutes. It contains all the information about a party, its aims and its internal organization.

Finances of political organizations in Poland come from three sources: public (from the state budget), private and from the party's own property. Permissible incomes come from bank accounts, selling party properties, state treasury debentures and certain activities natural to a political party such as sales of badges and party publications. Polish parties are allowed to keep all their money in bank accounts. They can also establish special funds, expert and electoral, where they gather money for pursuing their agendas[67].

Polish parties are mostly catch-all parties, often simply serving as a power base for their leaders[68]. Their aim is to become organizations similar to their counterparts in Europe. Election campaigns are the most important focus of their activity. They allocate ever-increasing funds for electoral matters. They also employ specialists in political marketing. Political parties cannot perform tasks reserved in law for public authorities

65 Members of the Monetary Policy Council and Members of the National Radio and Television Council must suspend their membership during executing their functions as public officers.

66 Most importantly, uniformed forces, judges, public prosecutors, ombudsman, the Chairman of Polish National Bank, chief and people working in PKW, chief of The Institute of National Remembrance, professional soldiers and officers of civil service. For more see: T. Bichta, *Struktura organizacyjna partii politycznych w Polsce po 1989 roku*, Lublin, 2010, pp. 76-77.

67 B. Grylak, M. Żmigrodzki, Status prawny partii politycznych w Polsce (in:) W. Sokół, M. Żmigrodzki, (ed.), Współczesne partie i systemy partyjne .Zagadnienia teorii i praktyki politycznej, Lublin 2003, pp. 296-310.

68 See wider: T. Bichta, Istota przywództwa partyjnego i procedury legitymizacji liderów – analiza na przykładzie polskich ugrupowań parlamentarnych po roku 1989, (in:) Kryzys przywództwa we współczesnej polityce, ed. W. Konarski, A. Durska, S. Bachrynowski, Warszawa 2011, pp. 261-276.

or replace these bodies in performing their tasks. They also cannot have organizational units in workplaces, conduct public collections and conduct business activities.

The party system is comparatively competitive and pragmatic, but both of these principles are also firmly limited. At present there is a state of moderate pluralism with two main parties, comparatively stable, but not entirely predictable, which the election result of the Palikot Movement in the last parliamentary election attests to. Political parties differ mainly over minor social matters or attachment to tradition or certain political ideals. They also maintain ideological differences. Within the last 20 years one can distinguish the following main features of the Polish political system:

- At first, massive instability and fragmentation of the political landscape. This was caused by a large number of political parties, with frequent amendments to the organizational structure of the party (mergers, splits). In time, the Polish party system gradually consolidated. From 1993 it is possible to talk about the existence of dominant groupings and lower number of parties in the parliament.
- Polish politics was organised by the post-Communist division.
- After 1989 electoral law was amended three times, which became another reason of the instability of the system .
- A disconnect between parties and electors – people were tired of politics, and are not politically involved. The quality of politics is also low. This resulted in a low voter turnout.
- Growing support for an anti-system parties (Samoobrona, LPR).
- Very weak links between parties and voters. Politicians changed their parties or parliamentary clubs very often.
- Creating coalitions based mostly on common past , not programmatic issues.
- The level of aggregation was higher and higher: the increase of controlling of parliamentary mandates by stronger parties.

At present the most important and popular political parties are[69]: Civic Platform, Law and Justice, Palikot's Movement, Polish People's Party, Democratic Left Alliance[70].

69 See: *Polskie partie i ugrupowania parlamentarne*, ed. K. Kowalczyk,. J. Sielski, Toruń 2004.

70 Political Parties in Poland: **PO**: Civic Platform; **PiS**: Law and Justice; **SLD**: Democratic Left Alliance (1947: Polish Workers' Party, PPR; 1989: Polish United Workers' Party, PZPR; 2007: Left and Democrats, LiD); **PSL**: Polish People's Party (1989: United People's Party, ZSL); **SRP**: Self-Defense

Platforma Obywatelska was founded in 2001 as a split from Akcja Wyborcza Solidarność, under the leadership of Andrzej Olechowski and Maciej Płażyński, with Donald Tusk.. It is a centre-right political party. It combines liberal stances on the economy with social conservative stances on social and ethical issues. In the 2001 parliamentary election party became the largest party in opposition to the government led by the Sojusz Lewicy Demokratycznej. PO remained the second-largest party at the 2005 election, but this time behind the national conservative party PiS. In 2007, PO overtook PiS, now established as the two dominant parties, and formed a government in coalition with the PSL with party leader Donald Tusk as Prime Minister of Poland and Bronisław Komorowski as President. At present Platforma Obywatelska is the largest party in the Sejm, with 207 seats, and the Senate, with 63 seats. In November 2010, local elections granted Civic Platform about 30.1 percent of the votes[71].

Prawo i Sprawiedliwość is a national conservative political party. It was founded in 2001 by the Kaczyński twins, Lech and Jarosław. It was formed from part of Akcja Wyborcza Solidarność (AWS), with the christian democratic Porozumienie Centrum forming the new party's core. The party won the 2005 election, while Lech Kaczyński won the presidency. His brother Jarosław served as Prime Minister, before calling elections in 2007, in which the party came second to PO. The party programme is dominated by anti-corruption, conservative, law and order agenda. It has embraced economic interventionism, while maintaining a socially conservative stance that moved in 2005 towards the Catholic Church. Initially the party was broadly pro-market. On foreign policy, PiS is t and less supportive of European integration. The party is soft eurosceptic, and opposes a federal Europe[72].

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of the Republic of Poland; **LPR**: League of Polish Families; SDPL: Social Democracy of Poland; **PD**: Democratic Party (1997-2001: Freedom Union, UW); **UP**: Labour Union (1991: Labour Solidarity, SP); **ROP**: Movement for the Reconstruction of Poland (2005: Patriotic Movement, RP); **AWSP**: Solidarity Electoral Action of the Right (1997: Solidarity Electoral Action, AWS); **PPS**: Polish Socialist Party; **SKL**: Conservative People's Party; **ZChN**: Christian National Union (1991: Catholic Election Action, WAK; 1993: Catholic Electoral Committee Fatherland, KKWO); **RS**: Social Movement (1989-1993: NSZZ Solidarity, S); **PPChD**: Alliance of Polish Christian Democrats (1991-1993: Party of Christian Democrats, PChD); **PC**: Centre Alliance (1991: Civic Centre Alliance, POC); **KPN**: Confederation for an Independent Poland; **PL**: People's Alliance; **ChD-SP**: Christian Democracy-Labour Party (1947: Labour Party, **SP**; 1991-1993: Christian Democracy, ChD); **BBWR**: Nonpartisan Bloc for Support of Reforms; **DU**: Democratic Union; **KLD**: Liberal Democratic Congress; SD: Democratic Party; **K**: Catholic Associations; **BD**: Democratic Bloc; **PSL-NW**: Polish People's Party-New Liberation; **SL**: People's Party; MN: German Minority.

71 See: Polskie partie i ugrupowania parlamentarne, ed. K. Kowalczyk,. J. Sielski, Toruń 2004, pp. 122-142.

72 Ibidem, pp. 143-168.

Polskie Stronnictwo Ludowe is a centrist, agrarian, and Christian democratic political party. It currently has 31 members of the Sejm, one member of the Senate. It is the junior partner in a coalition with PO. The party was formed in 1990. Originally a left-wing party, the PSL formed a coalition with the SLD after winning 132 seats in the Sejm at the 1993 election. The party fell to 27 at the next election, and moved towards the centre at the end of the 1990s. In 2001, PSL re-entered a coalition with the SLD, but withdrew in 2003. After the 2007 election, the party entered a coalition with the centre-right Platforma Obywatelska. The party's platform is strongly based around agrarianism. Economically, the party advocates state interventionism, especially in agriculture, and „slower privatization". It also supports mandatory public (state) education and publicly funded health care[73].

Sojusz Lewicy Demokratycznej is a social-democratic political party. Formed in 1991 as a coalition of centre-left parties, it was formally established as a single party on 15 April 1999. It is currently the third largest opposition party in Poland. However the SLD could not avoid from suffering a huge defeat in the 2005 parliamentary election, SLD only won 11.3% of the vote. In late 2006 a centre-left political alliance called Lewica i Demokraci was created, comprising SLD and smaller centre-left parties, the Unia Pracy, Socjaldemokratyczna Partia Polski, and the liberal Partia Demokratyczna – demokraci.pl. The coalition won a disappointing 13% in the 2007 parliamentary election and was dissolved soon after in April 2008. In 2011 national parliamentary election SLD received 8.24% votes which gave them 27 seats in the Sejm. On December 10, 2011, Leszek Miller was chosen to return as the party leader[74].

Ruch Palikota was formally registered on 1 June 2011. The party leader Janusz Palikot resigned from the Platforma Obywatelska and created his own party. In the October 2011 elections, party received 10 percent of the vote and won 40 seats in the Sejm. After elections some od of the MPs of different parties decided to leave their parties and join the new party. Ruch Palikota wants to end religious education in state schools, end state subsidies of churches, legalize abortion on demand, give out free condoms, allow same-sex civil unions, switch to the Mixed-member proportional representation system, reform the Social Security Agency, abolish the Senate, legalize cannabis and implement flat taxes[75].

73 Ibidem, pp. 94-121.

74 See wider: Ibidem, pp. 48-76

75 See wider: http://www.ruchpalikota.org.pl/ (23-10-2012).

**Table 2.** Results of elections to Polish Sejm (1991-2005).

| | 1991 | | 1993 | | 1997 | | 2001 | | 2005 | |
|---|---|---|---|---|---|---|---|---|---|---|
| | % | Seats | % | Seats | % | Seats | % | Seats | % | Seats |
| **PO** | - | - | - | - | - | - | 12,7 | 65 | 24,1 | 133 |
| **PiS** | - | - | - | - | - | - | 9,5 | 44 | 27,0 | 155 |
| **SLD (PPR, PZPR, LiD)** | 12,0 | 60 | 20,4 | 171 | 27,1 | 164 | 41,0 | 200 | 11,3 | 55 |
| **PSL (ZSL)** | 8,7 | 48 | 15,4 | 132 | 7,3 | 27 | 9,0 | 42 | 7,0 | 25 |
| **SRP** | - | - | 2,8 | - | 0,1 | - | 10,2 | 53 | 11,4 | 56 |
| **LPR** | - | - | - | - | - | - | 7,9 | 38 | 8,0 | 34 |
| **SDPL** | - | - | - | - | - | - | - | - | 3,9 | - |
| **PD (UW)** | - | - | - | - | 13,4 | 60 | 3,1 | - | 2,5 | - |
| **UP (SP)** | 2,1 | 4 | 7,3 | 41 | 4,7 | - | SLD | 16 | SDPL | |
| **ROP (RP)** | - | - | 2,7 | - | 5,6 | 6 | AWSP | | 1,1 | - |
| **AWSP (AWS)** | - | - | - | - | 33,8 | 201 | 5,6 | - | - | - |
| **PPS** | SP | | SLD | | SLD | | 0,1 | - | - | |
| **SKL** | - | - | - | - | AWS | | PO | | - | - |
| **ZChN (WAK, KKWO)** | 8,7 | 49 | 6,4 | - | AWS | | AWSP | | - | - |
| **RS (S)** | 5,1 | 27 | 4,9 | - | AWS | | AWSP | | - | - |
| **PPChD (PChD)** | 1,1 | 4 | KKWO | | AWS | | AWSP | | - | |
| **PC (POC)** | 8,7 | 44 | 4,4 | - | AWS | | - | - | - | - |
| **KPN** | 7,5 | 45 | 5,8 | 22 | AWS | | - | - | - | - |
| **PL** | 5,5 | 28 | 2,4 | - | AWS | | - | - | - | - |
| **ChD-SP (ChD)** | 2,4 | 5 | KKWO aaaa | | AWS | | - | - | - | - |
| **BBWR** | - | - | 5,4 | 16 | AWS | | - | - | - | - |
| **DU** | 12,3 | 62 | 10,6 | 74 | - | - | - | - | - | - |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **KLD** | 7,5 | 37 | 4,0 | - | - | - | - | - | - | - |
| **SD** | 1,4 | 1 | - | - | - | - | - | - | - | - |
| **K** | - | - | - | - | - | - | - | - | - | - |
| **BD** | - | - | - | - | - | - | - | - | - | - |
| **PSL-NW** | - | - | - | - | - | - | - | - | - | - |
| **SL** | - | - | - | - | - | - | - | - | - | - |
| **Indepen-dents** | - | - | - | - | - | - | - | - | - | - |
| **MN** | 1,2 | 7 | 0,7 | 4 | 0,6 | 2 | 0,4 | 2 | 0,3 | 2 |
| **Others** | 15,8 | 39 | 6,8 | - | 7,4 | - | 0,5 | - | 3,6 | - |
| **Turnout** | **43,2** | **460** | **52,1** | **460** | **47,9** | **460** | **46,2** | **460** | **40,6** | **460** |

**Source:** Wolfram Nordsieck, http://www.parties-and-elections.eu/poland2.html (2012-08-26).

It isn't possible to state that the Polish party system has stabilized entirely. It is still in the phase of consolidation. Too many negative factors are at work in the Polish political landscape – old stereotypes of seeing many parties through the prism of their history, the origin of their activists or their situation on the political spectrum.

**Table 3.** Results of elections to Polish Sejm (2007-2011).

| Party | 2011 | Seats | 2007 | Seats |
|---|---|---|---|---|
| Platforma Obywatelska (PO) | 39,20% | 207 | 41,50% | 209 |
| Prawo i Sprawiedliwość (PiS) | 29,90% | 157 | 32,10% | 166 |
| Ruch Palikota (RP) | 10,00% | 40 | - | - |
| Polskie Stronnictwo Ludowe (PSL) | 8,40% | 28 | 8,90% | 31 |
| Sojusz Lewicy Demokratycznej (SLD) | 8,20% | 27 | 13,20% | 53 |

| | | | | |
|---|---|---|---|---|
| German Minority Electoral Committee | 0,20% | 1 | 0,20% | 1 |
| Others | 4,10% | - | 4,10% | - |
| **Total** | **-** | **460** | **-** | **460** |
| **Turnout** | | **48,90%** | | **53,80%** |

**Source:** Wolfram Nordsieck, http://www.parties-and-elections.eu/poland2.html (2012-08-26).

## Conclusion

From the point of view of the division of power in the democratic state the most important element is relationship between the legislative and executive. Authors of the 1997 Constitution gave these relations the shape of the streamlined parliamentary system (the rationalised system). The main intention of authors of the constitution was providing for the functioning of a stable executive, with a strong position of the prime minister within the government (on the pattern of the chancellor's system) and with the President principally taking on a role of political arbitrationl. At present we have direct elections of the head of state chosen by the nation (strengthening his position) with the separate general election of both houses of Parliament. Moreover, appointment of government is done by the President, but with the constitutionally-required support of the majority of the Sejm – it is also a principle that the Council of Ministers and its members are accountable to the Sejm for breach of political responsibility. Polish law-makers took also installed the rule of constructive vote of no confidence so as to exert an ultimate influence on the creation and actions of the Council of Ministers. This is particularly important because the Sejm is elected by proportional representation, which encourages the formation of coalition governments. The 1997 Constitution left unchanged the principle of the parliamentary system, which is that the formation of the government, its functioning, and above all its effectiveness are dependent on the power of the Sejm.

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# THE POLITICAL SYSTEM IN THE SLOVAK REPUBLIC

*Juraj Marušiak*

## Introduction

The shaping of the political system of Slovakia was, unlike the other Visegrad Group countries, closely connected with the building of the state. Slovakia a the legal successor of Czechoslovakia; however, the fact that the Slovak Republic is a newly constituted national state had a certain influence on the contents of its constitution which stresses the national character of the state.

Another factor by which Slovakia differs to the other Visegrad states is the fact that during the first years of independence the continuity of the democracy consolidation process was questioned. The deviations of Slovakia from the typical Central European path of transition[1] took place mainly in the years 1994 – 1998 during the third government led by Vladimír Mečiar (a coalition of Movement for Democratic Slovakia, the Slovak National Party and the Union of Workers of Slovakia, HZDS – SNS – ZRS).

There were even cases of the malfunction of the democratic institutionsduring that time. The former deputy of the National Council of the Slovak Republic, František Gaulieder's, parliamentary mandate was removed on 4 December 1996 against his will after he left the ruling HZDS on 4 November 1996[2]. A similar case took place in February 1997 when, after the death of parliamentarian Bartolomej Kunc (SNS), his mandate was supposed to be taken by Emil Spišák who was the next on the party´s electoral list. However in 1997 he was no longer a member of SNS and the party nominated Ladislav Hruška to replace the late Kunc. Although the Constitutional

1 S. Szomolányi, *Kľukatá cesta Slovenska k demokracii*, Bratislava, Stimul 1999, p. 57-58.

2 Resolution on the case of Frantisek Gaulieder, Member of the Slovak Parliament. B4-1389 and 1419/96, in *Official Journal C 020 , 20/01/1997 P. 0145* http://eur-law.eu/EN/Resolution-case-Frantisek-Gaulieder-Member-Slovak-Parliament,168400,d.

Court of the Slovak Republic accepted the complaint of Emil Spišiak and stated that the constitutional provision (Art. 30.4), according to which each citizen had an equal access to elected or public offices, had been violated, the parliament didn't retract the decision on the mandate of Hruška[3]. The most controversial case, which had a crucial impact on the semi-isolation of Slovakia before the parliamentary elections of 1998, was the manipulated referendum on the direct election of the president in 1997, which was unilaterally cancelled by the government.

The violation of the principles of the rule of law, degradation of the separation of powers (especially the independence of the office of President), the exclusion of the opposition from the control of the security services and finally the misuse of the security forces in the political struggle were the reasons why Slovakia in the second half of the 1990s was considered as a hybrid regime. Andrád Bozóki placed Slovakia into the category of fragile democracies together with Romania and Bulgaria, and Charles Gati even characterized the emerging regime as a "semi-authoritarian regime".[4] According to Czech political scientist Lubomír Kopeček the political regime in Slovakia in the era of V. Mečiar became an "unfinished competitive authoritarianism."[5] S. Szomolányi however argues that the authoritarian regime "had not been established."[6] Typical for authoritarian regimes is marginalization of the opposition, which is then not able to change the regime in any fully constitutional way. That was not the case in Slovakia. The system of parliamentary democracy had been preserved, as well as the division of power. The parliamentary elections in September 1998 passed without violations. The political pluralism of the country was not questioned, nor the freedom of the non-state-owned media. Therefore the case of Slovakia in the years 1994 – 1998 is more like the concept of fragile democracy or illiberal democracy raised by F. Zakaria.[7]

Due to falling short of democratic criteria, Slovakia had not been invited to NATO membership and to the pre-accession negotiations with the EU in 1997. After the parliamentary elections in 1998 Slovakia made a significant step towards the consolidation of democracy and in 2004 the country became a member of NATO and the EU. The other factor which had

3 D. Malová, E. Láštic, *The Gradual Amending of the Slovak Constitution. Combating the Ambiguous Rules in 1992 – 2001*, Central European Political Science Review, vol. 2, issue 4, Summer 2001, pp. 103 – 128.

4 S. Szomolányi, *Identifying Slovakia´s Emerging Regime*, in S. Szomolányi – J. Gould. (eds.): Slovakia. Problems of Democratic Consolidations and Struggle for the Rules of the Game, New York 1997, s. 14.

5 L. Kopeček, *Demokracie, diktatury a politické stranictví na Slovensku*, Brno 2006, p. 192.

6 S. Szomolányi, *Identifying …*, p. 26,

7 F. Zakaria, *Budoucnost svobody*, Praha 2004, pp. 109 – 146.

an impact on the constitutional and political system of the country is the ethnic diversity of the country´s population. According to the population census performed in 2011 only 80 % of the inhabitants are ethnic Slovaks, the rest are members of Hungarian (8,5 %), Roma (2 %) or other ethnicities[8]. This factor makes Slovakia the country with the highest proportion of national minorities among the V4 countries.

## Constitution

The Slovak Republic is a parliamentary democracy based on the Constitution adopted in 1992. The model of parliamentarism is rooted in the constitutional system of the first Czechoslovak Republic (1918 – 1938) and on the constitutional regime of the post-war Czechoslovakia. The Constitution was adopted on 1 September 1992 and went into effect on 1 October 1992. Although at this time the Czech and Slovak Federal Republic still existed, Czechoslovak statehood wasn't mentioned in the constitution at all. The constitution understood Slovakia as an independent state. The constitution incorporated the Bill of Fundamental Rights and Freedoms adopted by the Czechoslovak Federal Assembly in 1991 as its Chapter Two.[9]

The preamble of the Constitution of the Slovak Republic underlined the national principle on which the Slovak Republic is constituted, speaking right at the beginning of "We, the Slovak nation… recognizing the natural right of the nations to self-determination". Only after that is there mention of "members of the national minorities and ethnic groups living in the territory of Slovak Republic". While the "Slovak nation" is understood as the collective body, the rights of the national minorities and ethnic groups are regulated as the rights of the individuals belonging to respective groups. We can agree that the preamble combines the national principle with the civic one; in spite of this fact, the preamble of the constitution comes in for criticism by the representatives of the Hungarian minority.

According to the Constitution the Slovak Republic is a sovereign democratic state governed by the rule of law. It is not linked to any ideology or

8 According to the previous population census in 1991 and 2001 the share of Slovaks was higher, more than 85 %. In 2011 the share of Hungarians dropped from 9,7 % (2001) to 8,5 %, the share of Roma increased from 1,4 % in 2001 to 2 %. About 7 % of the citizens of Slovak Republic (more than 380 thousand) didn´t specify their ethnicity. See more: *Obyvateľstvo SR podľa národnosti – sčítania 2011, 2001, 1991*. Bratislava, Statistical Office of the Slovak Republic – official website. http://portal.statistics.sk/files/tab-10.pdf

9 J. Rychlík, *Rozpad Československa. Česko-slovenské vztahy 1989 – 1992*, Bratislava 2002, p. 293 -294.

religion. The Slovak Republic recognizes and honors the international law and international obligations by which it is bound. According to the constitution the state power originates from the citizens who exercise it through their elected representatives or directly. The Constitution stresses the "single and indivisible" (Art. 3.1.) character of the Slovak territory and the status of the Slovak language, which is considered as the "state language", although it anticipates the adoption of the special law permitting the use of other languages than the state language in official communication (Art. 6). This law was, however, adopted only in 1999, so the anticipation raised by the constitution was fulfilled only after a rather long period. The presence of such articles is in recognition of the ethnic diversity of the country, as well as a reaction to the demands of some representatives of the Hungarian minority for the territorial autonomy of the regions populated by ethnic Hungarians. The Constitution stresses that "no one may be deprived on the citizenship of Slovakia against his will" (Art. 5.2). However, after the introduction of the so-called dual citizenship law in Hungary in 2010 which allows Hungarian citizenship to be granted even to ethnic Hungarians permanently living abroad without any "real ties" to their ancestral state (such as work, study, permanent residence, or marriage with a citizen of Hungary), the National Council of the Slovak Republic adopted an amendment to the citizenship law of Slovak Republic[10]. According to this law each citizen of Slovakia who actively pursues the citizenship of another country loses Slovak citizenship. This legal arrangement doesn't affect the Slovak citizens who obtained the citizenship of another country before.

## Legislative Powers

The distribution of powers set forth by the Constitution of the Slovak Republic puts Slovakia into the category of a parliamentary republic. The sole constitutional and legislative body of the Slovak Republic is the unicameral National Council of the Slovak Republic (Národná rada Slovenskej republiky, NR SR). Due to the parliamentarian model of the state the NR SR is the centre of gravity of the political life of the country.

The competences, composition, powers of appointment, recall and establishing of governmental entities, and the main principles of the legislati-

10 M. Bútora, *Zahraničná politika Slovenska: kontinuita a zmeny*, in: Slovensko 2010: Správa o stave spoločnosti a demokracie a o trendoch na rok 2011. Bratislava 2011, p. 214.

ve process and functioning of the NR SR are defined by Chapter Five of the Constitution of the Slovak Republic.

The NR SR has been established (according to the Constitution of the Slovak republic of 1992) as the continuation of the Slovak National Council, which was the legislative body of the Slovak Republic as a federal unit of the Czech and Slovak Federal Republic. NR SR is composed of 150 Members of Parliament which are elected to 4-year terms by proportional representation (more in the sub-chapter Electoral System). The electoral system in Slovakia is not regulated by the constitution.

Members of Parliament are the representatives of citizens; they execute their mandate personally, in accordance with their conscience and conviction, and are not bound by any orders. However, in 1994-1998 V. Mečiar and the HZDS led by him attempted to introduce the imperative mandate in order to remove the parliamentary mandates of the deputies which seceded from HZDS and SNS, and they were eventually successful in the cases of F. Gaulieder and E. Spišák. The post of parliamentarian is incompatible with the posts of judge, prosecutor, public defender of rights, member of the Armed Forces, member of the Police Corps and member of the European Parliament (EP). However, if a deputy is appointed member of the Government of the Slovak Republic, his mandate does not terminate while he executes the government post, it is just not executed. For the period in which the deputy occupies the government post, his mandate is occupied by a substitute.

According to the Constitution of the Slovak Republic (Article 78) a Member of Parliament may not be prosecuted for his votes or statements made in the NR SR or its bodies, even after the termination of his mandate. The Member of Parliament may not be taken into custody without the consent of the NR SR. Before July 2012, even criminal prosecution, or disciplinary proceedings, couldn't be initiated against a Member of Parliament without the consent of the NR SR. If the NR SR denied its consent, criminal prosecution or being taken into custody was ruled out during the term of the mandate. In such cases, the statute of limitations didn't apply during the exercise of the mandate.

This situation was sharply criticized, mostly by non-governmental organizations and the political opposition. The result of such pressure was the adoption of amendments to the law on offences nr. 372/1990 Zb. This deprived Members of Parliament of their parliamentary immunity in the cases of

minor offences (driving offences etc.)[11]. Later, on 26 July 2012, NR SR adopted the new Constitutional amendment nr. 232/2012 Z.z. by agreement of the all parliamentary political parties[12]. Since then the immunity has been restricted only to voting or statements made in the NR SR, or its bodies. The detainment of the parliamentarian will be henceforth conditional on the consent of the Mandate and Immunity Committee of the NR SR[13]. If the deputy has been caught and detained while committing a criminal act, the relevant authority is obliged to report this fact to the Speaker of the NR SR. Unless the Mandate and Immunity Committee of the NR SR gives its consent to the detainment, the Member of Parliament must be released immediately. If a Member of Parliament is in custody, his mandate does not terminate, it is merely not exercised.

The NR SR has a quorum if more than one-half of all its Members of Parliament are present. For a resolution of the NR SR to be valid, it must be passed by more than one-half of the Members of Parliament present. In order to approve an international treaty dealing with the membership of Slovak Republic in an organization mutual defence and collective security, for any international treaties on human rights and fundamental freedoms, international political treaties, international treaties of military nature, international treaties establishing the membership of the Slovak Republic in international organizations, international economic treaties of general nature, international treaties whose execution requires instating a law and international treaties which directly constitute rights or obligations of natural persons or legal persons to be valid, an approval of of more than one-half of all Members of Parliament is required.

The agreement of at least a three-fifths majority of all Members of Parliament is required to pass and amend the Constitution and constitutional laws, to adopt an international treaty transfering the exercise of a part of the rights of Slovak Republic to the European Communities and European Union, to adopt a resolution by public vote to remove the President of the Slovak Republic, to file charges against the President and to declare war on another state.

At the request of the NR SR, or any subsidiary body, a member of the Government of the Slovak Republic, or the head of another body of

11 Law Nr. 79/2012 Z.z. (ZÁKON č. 79/2012 Z.z. z 3. februára 2012, ktorým sa mení a dopĺňa zákon Slovenskej národnej rady č. 372/1990 Zb. o priestupkoch v znení neskorších predpisov a o doplnení niektorých zákonov.)

12 Law Nr. 232/2012 Z.z. (ZÁKON č. 232/2012 Z.z. z 26. Júla 2012, ktorým sa mení Ústava Slovenskej republiky č. 460/1992 Zb. v znení neskorších predpisov).

13 Poslanci sa za imunitu už schovávať nebudú, dohodli sa na jej zrušení. TASR, 16. 5. 2012.

state administration, must participate in a meeting of the NR SR (or its subsidiary body).

The right to legislative initiative is possessed by any Member of Parliament, the committees of the NR SR and the Government of the Slovak Republic. If the President of the Slovak Republic returns a constitutional or other law with objections, the NR SR will discuss the law again and, in the event of its approval, the law must be promulgated. A law should be signed by the President of the Slovak Republic, the Speaker of the NR SR and the prime minister of the Slovak Republic. If the NR SR, after having discussed a law a second time, approves the law even despite the objections of the President of the Slovak Republic, and the President of the Slovak Republic declines to sign the law, the law is promulgated even without the signature of the President of the Slovak Republic. A law becomes valid with its promulgation.

The NR SR has the right to pass a vote of no confidence in the Government of the Slovak Republic or a member of it. The motion to pass a vote of no-confidence can be discussed by the NR SR upon the request of at least one-fifth of its Members of Parliament.

The Speaker of the NR SR is elected and recalled by the NR SR by secret ballot, requiring more than one-half of the votes of all Members of Parliament. The Speaker is accountable only to the NR SR. The Speaker calls and chairs meetings of the parliament, signs the Constitution, constitutional laws and other laws, takes the oath from Members of Parliament of the NR SR, and calls elections to the NR SR, elections of the President of the Slovak Republic and elections to the bodies of territorial self-administration. The Speaker has the right to call for public voting on recalling of the President of the Slovak Republic. The Speaker and deputy speakers remain in office after the election term expires, until the NR SR elects a new Speaker. The Speaker and deputy speakers manage and organize the activity of the NR SR.

According to the Constitution of the Slovak Republic (Art. 93-100) the referendum is considered as part of the legislative power. A referendum is used to confirm a constitutional law on entering into a union with other states, or on withdrawing from that union (Art. 93/1). In the case of the entering into a union with other states or on withdrawing from this union the referendum is mandatory. However the referendum can be used to decide on other important issues of public interests, with the exception of basic rights and freedoms, taxes, levies, and the state budget, which may not be the subject of a referendum.

A referendum is called by the President of the Slovak Republic if requ-

ested by a petition signed by a minimum of 350 000 citizens, or on the basis of a resolution of the NR SR, within 30 days of the receipt of the citizens' petition, or the resolution of the NR SR.

The President of the Slovak Republic may, before calling a referendum, file with the Constitutional Court of the Slovak Republic a petition for a decision whether the subject of the referendum is in accordance with the Constitution or a constitutional law. The motion to pass a resolution of the NR SR on calling a referendum may be introduced by Members of Parliament, or by the Government of the Slovak Republic. A referendum shall be held within 90 days from the day it was called by the President of the Slovak Republic.

The results of referendum are valid only if the turnout of the eligible voters is higher than one half and if the decision was endorsed by more than one half of the participants in the referendum. The proposals adopted in the referendum will be promulgated by the NR SR in the same way as it promulgates laws. However, the aforementioned conditions, which are laid out in the Constitution of the Slovak Republic (Art. 98) have ensured that the role of the referendum in the legislative process in Slovakia is quite low in spite of the fact that since 1994 there were seven referendums organized in Slovakia. The single successful referendum with turnout more than 50 % took place in the year 2003 and concerned EU membership of the Slovak Republic. The requirement of such high turnout creates the opportunities for the effective blocking of the referendum by its simple boycotting. Another problem is, to which extent the referendum is legally binding. Although the NR SR is obliged to promulgate the results of a referendum, the Constitution doesn't mention the duty of Parliament to adopt the necessary legislative changes in order to bring the results of the referendum into force[14]. According to P. Spáč, this issue is the topic of discussion among political scientists as well as constitutional experts whenever some referendum is called, although without any satisfactory results[15].

## Executive Power

The executive in Slovakia has a dualistic character. The head of the state is the President of the Slovak Republic, which is, since 1999, directly legiti-

14 See more P. Spáč, *Priama a zastupiteľská demokracia na Slovensku. Volebné reformy a referendá po roku 1989*, Brno 2010, p. 185 -261.

15 P. Spáč, *Priama...*, p. 189.

mized by the elections, whilst the second executive body, the Government of the Slovak Republic, headed by the Prime Minister, is responsible to the NR SR. The government, according to the Constitution, is the supreme body of executive power (Art. 108). However, the Constitutional Court of the Slovak Republic adopted in 1993 the resolution nr. 39/93 according to which the „constitutional position of President is in fact dominant compared with the constitutional position of Government"[16].

After the introduction of the popular election of the president some political scientists consider the Slovak political system as semi-presidential. However, in the case of Slovakia, such classification is used with some reservation. For example Matthew Søberg Shugart describes the political system of Slovakia as the premier-presidential system[17]. Robert Elgie considers Slovakia as a semi-presidential regime with a balance of presidential and prime-ministerial powers[18] However, other experts, like Peter Horváth, analyzing the competencies of the President, stated that even after the modification of the constitution in 1999 and introduction of the popular election the position of the head of the state remained weak[19].

According to the Constitution of the Slovak Republic the President both represents the Slovak Republic externally and through his decisions ensures proper functioning of constitutional bodies. The President performs his office according to his or her conscience and conviction, and is not bound by any orders. Till 1999 the President was elected by the parliament; since that time he is elected by popular vote by secret ballot for a period of five years.

Candidates for President can be nominated by at least 15 Members of Parliament or by citizens eligible to vote in the NR SR election, on the basis of a petition signed by at least 15 000 such citizens. The nominations are submitted to the Speaker of the NR SR not later than 21 days after the elections have been called. The candidate has to get more than one-half of all valid votes of eligible voters. If no candidate gets the necessary majority of votes by voters, a second ballot is held within 14 days. In the second ballot run the two candidates with the highest number of valid votes. The candi-

16 D. Leška, *Formovanie politického system na Slovensku po roku 1989*, Bratislava 2011, p. 43.

17 M. Søberg Shugart, *Semi-Presidential Systems: Dual Executive And Mixed Authority Patterns*, French Politics, vol. 2005, issue 3, pp. 323–351.

18 R. Elgie, *A Fresh Look at Semipresidentialism: Variations on a Theme*, Journal of Democracy, vol.16, issue 3, 2005, p.102.- 109.

19 P. Horváth, *Prezident v politickom systéme Slovenskej republiky*, Slovenská politologická revue, issue 3, 2005, p. 1-31.

date who received in the second ballot the highest number of all valid votes of the participating voters is elected President. The minimum age when the citizen of Slovak Republic may be elected President is 40 years on the day of election.

According to the Constitution of the Slovak Republic (Art. 102) the president represents the Slovak Republic externally and negotiates and ratifies international treaties. He may delegate to the Government of the Slovak Republic or, with the Government's consent, to individual members of the Slovak Republic, the negotiation of international treaties. He may file with the Constitutional Court of the Slovak Republic a petition for a decision on the compliance of a concluded international treaty, which requires consent of the NR SR, with the Constitution or a constitutional law. President may dissolve the NR SR if the policy statement of the Government of the Slovak Republic is not approved within six months after its appointment, if the NR SR failed to pass within three months a government draft law that the government tied to a vote of confidence, if the NR SR was incapacitated to make decisions for more than three months, although the session was not interrupted and during that time it was repeatedly called for sessions, or if the session of the NR SR was interrupted forlonger than permitted by the Constitution.

The President signs laws and appoints and recalls the prime minister and other members of the Government of the Slovak Republic, entrusts them with the management of ministries and accepts their resignation.

The President calls referenda and can return to the NR SR any laws with comments within 15 days after their approval. The President may present to the NR SR reports on the state of the Slovak Republic and on important political issues. The President also appoints and recalls the judges of the Constitutional Court of the Slovak Republic, President and Vice-President of the Constitutional Court of the Slovak Republic, judges, Chief Justice and Deputy Chief Justice of the Supreme Court of the Slovak Republic, General Prosecutor and three members of the Council of Judges.

The President declares war on the basis of a decision of the NR SR, or if the Slovak Republic is attacked, or as a result of commitments arising from international treaties on common defense against aggression; he concludes peace treaties.

If no President is elected, or if the office of the President becomes vacant before a new President is elected, or before the newly elected President has been sworn in, or if the President is unable to perform his function for serious reasons, the powers of the President are divided between the go-

vernment and the Speaker of Parliament (Art. 105/1). This constitutional amendment (Constitutional Law nr. 244/1998 Z. z.) was adopted in August 1998 and came into effect on 5 August 1998, when the post of president remained vacant and the powers of president were transferred to the government, in accordance with the first version of the Constitution of the Slovak Republic. However, the opposition feared the concentration of the power in the hands of then-Prime Minister Vladimír Mečiar.

The president may be recalled (Art. 106) before the termination of his term of office by a public election, called by the Speaker of the NR SR; the holding of a recall election must be approved by not less than a three-fifths majority of all members of the NR SR. The President is recalled if more than one-half of all eligible voters voted for his recall in the public election. If the President was not recalled in the election, the President will dissolve the NR SR within 30 days of the announcement of the election results. In such an event, a new term of office begins for the President. The Speaker of the NR SR will call an NR SR election within seven days of its dissolution.

The President can be prosecuted only for deliberate violation of the Constitution or high treason. The decision on the indictment against the President is made by the NR SR by a three-fifth majority vote of all Members of Parliament (Art. 107). The indictment against the President is filed by the NR SR with the Constitutional Court of the Slovak Republic, which decides on the indictment in a plenary meeting. A sentencing decision of the Constitutional Court of the Slovak Republic means the loss of both the office of the President and eligibility to run for the office again.

The role of the president in Slovakia is determined not only by the Constitution, but also by the power of the political personality holding the office and, even more, by his or her relation with the government and parliamentarian majority. Since its establishment Slovakia has had three presidents. The first one, Michal Kováč (1993 – 1998), was the representative of the HZDS; however, he very soon came into conflict with V. Mečiar, and his chances to influence the policies of the government were limited. His report on the state of the Slovak Republic delivered in the NR SR on 9 March, 1994 impelled the opposition to propose the recall of V. Mečiar from the position of the Prime Minister. Since Mečiar´s comeback to the office after the early parliamentary elections the HZDS with its coalition partners made attempts to remove M. Kováč from office, but were not able to constitute the three--fifths majority required[20]. The NR SR adopted on 5 May 1995 a resolution

20 M. Kováč, *Pamäti. Môj príbeh občana a prezidenta*. Dunajská Lužná 2010, p. 239.

proclaiming no confidence in M. Kováč[21]. Parliament made serious cuts in the financing of the Office of the President from the state budget as well[22].

After the direct elections of President were introduced, Slovakia saw several cases of the „cohabitation" of the President and Prime Minister from different political factions. This was the case of the centre-left oriented President Rudolf Schuster, who several times criticized the politics of the center-right government of Mikuláš Dzurinda (2002 – 2004), and Ivan Gašparovič who had some tensions with the government of Iveta Radičová (2010 – 2012). However, the tension in these cases never reached the level of confrontation seen before 1998.

The decisive position within the executive branch in Slovakia is that of the government, which is, according to the Constitution of the Slovak Republic, considered the supreme body of executive power (Art. 108). The Government consists of the prime minister, deputy prime ministers, and ministers. Unlike the constitutional practices of Czechoslovakia and the present-day Czech Republic, a Government member must not exercise the mandate of a deputy or be a judge. A member of the government must not perform any other paid office, profession or be involved in any entrepreneurial activity.

The position of the Prime Minister in Slovakia is traditionally relatively strong as he embodies the basic political course of the government. Therefore generally the Prime Minister is simultaneously the head of the largest coalition party. However, since the founding of the Slovak Republic there have been some exceptions. In March 1994 Jozef Moravčík was appointed Prime Minister, and only subsequently became the leader of the newly emerged Democratic Union party.

Mikuláš Dzurinda was appointed Prime Minister as the leader of the strongest coalition party within the Slovak Democratic Coalition. However, after the dissolution of this alliance of five political parties, M. Dzurinda was not able to regain his leading position in his „mother" party, the Christian Democratic Movement (KDH), and left to found a new party, the Slovak Democratic and Christian Union (SDKÚ), in 2000. The weak position of the Prime Minister Iveta Radičová (2010 – 2012) within her own party (SDKÚ-DS) was one of the reasons of the collapse of the government led by her.

21 F. Šebej, *Návrat do sivej zóny?* Týždeň, issue 9, 2007, 26. 2. 2007.

22 M. Kováč, *Pamäti…*, p. 250 - 253

The position of the Prime Minister is relatively strong according to the constitution as well. The Prime Minister is appointed by the President, but the other members of the Government are appointed and recalled at the recommendation of the Prime Minister. Within 30 days of its appointment, the Government is obliged to appear before the NR SR to present its program, and to request the expression of its confidence. The Government as well as its individual members are accountable for the execution of its duties to the NR SR, which can pass a vote of no-confidence in them at any time. The Government can at any time request the NR SR to pass a vote of confidence in it. If the parliament passes a vote of no confidence in Government or if it turns down the Government's request to pass a vote of confidence in it, the President will recall the Government. If the NR SR passes a vote of no confidence in the prime minister, the president of the Slovak Republic will recall him. The recalling of the prime minister results in the stepping down of the Government.

If the President of the Slovak Republic accepts the resignation of, or recalls, a member of the Government, he will determine which Government member will temporarily be charged with the management of the department previously administered by the Government member whose resignation he accepted. However, no such provision could solve the situation created when government itself loses the confidence of the NR SR. When this has happened, the political parties decided to call the early parliamentarian elections instead of the seeking of a new majority within the parliament. Therefore, following this politically motivated decision, and in response to the fall of the government led by I. Radičová in October 2011[23], a constitutional amendment was adopted according to which the Government is charged with the execution of its duties until the new government will be appointed. The Government in this period is not authorized to decide on the principal measures concerning the implementation of the Slovak Republic's economic and social policy, principal questions of domestic and foreign policy or to submit a draft law of the NR SR or some other important measure to the public for discussion. At the same time the parliament cannot at this period pass a vote of confidence or non-confidence in the Government and the Government is in some issues (appointment andrecall of some state officials and the three members of the Judicial Council and certain other matters) obliged to receive the approval of the President befo-

23 Ústavný zákon č. 356/2011 z 21. októbra 2011, ktorým sa dopĺňa Ústava Slovenskej republiky č. 460/1992 Zb. v znení neskorších predpisov; D. Dudinský, Októbrová novela Ústavy Slovenskej republiky. Politeia, 25. 10. 2011. http://oz-politeia.blogspot.sk/2011/10/oktobrova-novela-ustavy-slovenskej.html

rehand. Some experts consider such a constitutional amendment as a breach of the existing constitutional principles. The consequence of this change is the weakening of the powers of the parliament and, by the same token, a strengthening of the powers of President[24]. Political scientist Michal Horský describes this constitutional amendment as a shift towards the semi-presidential system, similar to that in France[25].

Since its establishment Slovak Republic has experienced several types of the Government. We provide their overview in the following table:

**Table 1.** Governments of the Slovak Republic 1992-2012[26].

| TERM OF GOVERNMENT | PRIME MINISTER | PARTY COMPOSITION | SUPPORT IN THE NATIONAL COUNCIL OF THE SLOVAK REPUBLIC (NUMBER OF DEPUTIES FROM GOVERNING PARTIES) | TYPE OF GOVERNMENT |
|---|---|---|---|---|
| 24. 6. 1992 - 10. 11. 1993 | Vladimír Mečiar (HZDS) | HZDS | 74 | One party, minority government tolerated by the SNS |
| 10. 11. 1993 - 15. 3. 1994 | Vladimír Mečiar (HZDS) | HZDS, SNS | 81 | Minimal victorious coalition |
| 15. 3. 1994 - 13. 12. 1994 | Jozef Moravčík (DU) | SDĽ, KDH, DU | 71 | Broad coalition, minority government, tolerated by the Hungarian Coalition |

24 B. Balog, *Transformácia ústavného systému Slovenskej republiky*, Creative and Knowledge Society/Internacional Scientific Journal, vol. 1, 2011, issue 1, pp. 70-82.

25 M. Horský: *Novela ústavy spraví zo Slovenska poloprezidentský štát*. Aktuality.sk, 21. 10. 2011. http://www.aktuality.sk/clanok/195814/m-horsky-novela-ustavy-spravi-zo-slovenska-poloprezidentsky-stat/

26 J. Kmeť, Slovensko, in: S. Balík, – V. Havlík et al.: Koaliční vládnutí ve střední Evropě. Brno, Masarykova univerzita 2011, p. 208; The Election to the Parliament of the Slovak Republic – Bratislava, Statistical Office of the Slovak Republic, official website – http://www.volbysr.sk

| | | | | |
|---|---|---|---|---|
| 13. 12. 1994 - 30. 10. 1998 | Vladimír Mečiar (HZDS) | HZDS, ZRS, SNS | 83 | Minimal victorious coalition |
| 30. 10. 1998 - 16. 10. 2002 | Mikuláš Dzurinda (SDK) | SDK, SDĽ, SMK, SOP | 93 | Broad coalition |
| 16. 10. 2002 - 11. 9. 2005 | Mikuláš Dzurinda (SDKÚ) | SDKÚ, KDH, SMK, ANO | 78 | Minimal victorious coalition |
| 11. 9. 2005 - 8. 2. 2006 | Mikuláš Dzurinda (SDKÚ) | SDKÚ, KDH, SMK, Independent deputies | 68 | Minority government, tolerated by the independent Members of Parliament |
| 8. 2. 2006 - 4. 7. 2006 | Mikuláš Dzurinda (SDKÚ) | SDKÚ, KDH, SMK, Independent deputies | 52 | Minority government, tolerated by the independent Members of Parliament |
| 4. 7. 2006 - 10. 7. 2010 | Robert Fico (Smer –SD) | Smer-SD, HZDS, SNS | 85 | Minimal victorious coalition |
| 10. 7. 2010 - 3. 4. 2012 | Iveta Radičová (SDKÚ-DS) | SDKÚ-DS, SaS, Most-Híd, KDH | 79 | Minimal victorious coalition |
| 3. 4. 2012 - present | Robert Fico (Smer-SD) | Smer-SD | 83 | One-party government |

**For key to acronyms of the political parties see following table.**

Coalition governments have been the most common type to hold power in Slovakia. The single-party government composed by the members of HZDS was in power in 1992 -1993[27], but from the standpoint of government typology it was only a minority government. This government was still forced to fight for survival, and the formation of a coalition with the SNS didn't ensure it a stable majority due to repeated splits within both ruling parties.

After the NR SR passed the vote of no confidence to the Prime Minister Vladimír Mečiar in March 1994, his government was replaced by a broad coalition of the centre-left and centre-right parties, which however had minority character as well and was unofficially supported by the coalition of the parties representing the Hungarian minority. After the early parliamentary elections in September 1994 the government of Jozef Moravčík was replaced by the stable minimal victorious coalition of HZDS, SNS and ZRS. Due to the authoritarian tendencies of the third government of Vladimír Mečiar[28] the coalition potential of HZDS and SNS was at its nadir after the parliamentary elections in 1998 and a new broad coalition of centre-right and centre-left parties was established. It initially had a constitutional majority, although it lost this due to splits within the coalition parties. In spite of permanent conflicts this coalition successfully survived till the regular parliamentary elections in 2002.

Less stable was the coalition of the ideologically related centre-right conservative and liberal parties SDKÚ, KDH, SMK and ANO. After the secession of the group led by Ivan Šimko from the SDKÚ and the disintegration of the ANO, the government lost the majority and became dependent on the "independent" parliamentarians, including former members of HZDS. In February the KDH left the coalition, whose support fell to 52 deputies, i.e. little more than one third of the parliament. After the early elections in June 2006 the minimal victorious coalition of Smer-SD, HZDS and SNS was established. This coalition had stable support in the parliament, unlike the unstable coalition of four center-right parties (SDKÚ-DS, SaS, KDH, Most-Híd) which was in power in the years 2010 – 2012. This coalition broke up in October 2011 after the parliament turned down the Government's request to pass a vote of confidence in it. After the early elections in March 2012 a single-party government led by Robert Fico (Smer-SD) has

27 The Minister of Economy Ľudovít Černák was a SNS-member; however this party was not the offical member of the coalition.

28 The first government of V. Mečiar was in power before the establishment of the independent Slovak Republic in the years 1990 – 1991.

been established. Thus there have been six parliamentary elections in Slovakia since the country´s independence, and only three of them were called normally. In the other cases, early elections were called upon agreement of the main political parties and with the assistance of special purpose-built constitutional amendments.

## The Judicial Branch

Justice in the Slovak Republic is administered by independent and impartial courts. Justice at all levels is administered independently of other state bodies. The judges as well as prosecutors are appointed for life and they are prohibited from serving simultaneously in any constitutional or public function, involvement in any entrepreneurial or another economic or gainful activity with the exception of scientific, artistic, literary or educational work and the membership in the Council of Judges of Slovak Republic. If the appointed judge is a member of a political party or a political movement, he is obliged to give up membership in them before taking the oath. The judicial branch in Slovakia is divided into the Constitutional Court of the Slovak Republic and the regular jurisprudence.

The Constitutional Court of the Slovak Republic is the independent judicial organ for the protection of the constitutionality. It was established on the legal basis of the Constitution of the Slovak Republic and it started to act in March 1993. Its seat is in Košice, in the second largest city of Slovakia and centre of Eastern Slovakia. Due to the weak tradition of constitutional jurisprudence there have been several problems in the definition of its powers, mainly in the period of the years 1994 – 1998. The main problem was the fact that some issues concerning the powers of President and NR SR were not covered by the its jurisdiction. The mechanisms of an enforcement of its verdict were deepened as well. Respective changes were included into the amendments of the Constitution of the Slovak Republic nr. 90/2001 Z.z.[29].

The Constitutional Court of the Slovak Republic is comprised of 13 judges. They are appointed by the President of Slovak Republic for a period of twelve years out of the double number of candidates approved the NR SR. The candidates can be proposed to the NR SR by the Members of Parliament, Government of the Slovak Republic, Chairman of the Constitutional

29 D. Leška, *Formovanie …*, p. 51.

Court of the Slovak Republic, Chairman of the Supreme Court of the Slovak Republic, General Prosecutor of the Slovak Republic, branch organizations of the lawyers and scientific institutions.[30]

As a judge of the Constitutional Court can be appointed any citizen of Slovak Republic who may be elected to the NR SR, has reached the age of 40 years, has obtained a university law education and been practicing law for at least 15 years. The same person cannot be appointed as judge of the Constitutional Court repeatedly.

The Constitutional Court is headed by a chairman, who is substituted by a vice-chairman. They are appointed from the judges of the Constitutional Court by the President.[31]

The judges of the Constitutional Court are protected against criminal prosecution or disciplinary proceedings in the same way as the Members of the Parliament. Criminal prosecution or taking into custody of a judge of the Constitutional Court is allowed only upon the agreement of the Constitutional Court. However, a constitutional amendment proposal which has being prepared and passed in 2012 in order to remove the immunity of the Members of Parliament doesn't interfere with the immunity of the judges of the Constitutional Court[32].

The Constitutional Court decides on the compatibility of laws with the Constitution and with constitutional laws; decrees issued by the Government and generally binding legal regulations issued by ministries and other central bodies of state administration with the Constitution and constitutional and other laws; generally binding decrees issued by territorial self-administration bodies with the Constitution and laws; generally binding legal regulations issued by local state administration bodies with the Constitution, laws, and other generally binding legal regulations; and generally binding legal regulations with international treaties promulgated in a manner established for the promulgation of laws.

The Constitutional Court decides on jurisdictional disputes among central bodies of state administration, unless the law specifies that these disputes are decided by another state body. The Constitutional Court decides on complaints filed against legally valid decisions of central state administration bodies, local state administrative bodies, and territorial self-administration bodies violating basic rights and liberties of citizens, unless

30 D. Leška, *Formovanie* …, p. 52.

31 Law nr. 38/1993 z.z. (Zákon NR SR č. 38/1993 Z.z.)

32 *Zrušenie trestnoprávnej imunity je hotové, rozhodnú v júni*, Webnoviny.sk, 26. ´5. 2012. http://www.webnoviny.sk/spravy/zrusenie-trestnopravnej-imunity-je-hot/502976-clanok.html

decisions on the protection of these rights and liberties are within the jurisdiction of another court as well.

The Constitutional Court is authorized to provide an interpretation of constitutional laws in disputed matters. However, the Constitutional Court does not assume a stand on matters concerning the compatibility of draft laws and the drafts of other generally binding legal regulations with the Constitution and constitutional laws.

The Constitutional Court decides on complaints filed against the decision to verify or not to verify the mandate of a deputy of the NR SR. The Constitutional Court decides on the constitutionality and legitimacy of elections to the NR SR, to the European Parliament and to territorial self--administration bodies. The Constitutional Court plays an important role in referendum procedures as its decision could de facto cancel the calling of a referendum or its results. It is authorized to decide on the compatibility of the question posed by a referendum, which is to be called on the basis of a petition of citizens or a resolution of the NR SR, with the Constitution or constitutional laws. The decision to consult the Court can be made by the President before the calling of the referendum. The Constitutional Court also decides on complaints filed against referendum results.

The Constitutional Court decides whether the decision to disband or suspend the activity of a political party or a political movement was in harmony with constitutional and other laws. It can also decide on high treason charges filed by the NR SR against the president of the Slovak Republic.

Proposals to initiate proceedings at the Constitutional Court can be submitted by at least one-fifth of deputies of the NR SR, the President of the Slovak Republic, the Government of the Slovak Republic, any court, the general prosecutor, the office of Ombudsman (over issues which could violate the human rights) and the Supreme Audit Office. The Constitutional Court decides on the complaints of juridical or natural persons objecting to violations of their basic rights or freedoms or of human rights and freedoms arising from an international treaty ratified by the Slovak Republic.

If the Constitutional Court establishes by its verdict that certain legal regulations are incompatible with the legal system of the country, this causes the relevant regulations, their parts, or, as the case may be, some of their provisions to cease to be effective. The relevant bodies have to bring them into harmony with the Constitution and constitutional laws within six month period. If they do not, the relevant regulations or their parts or provisions cease to be effective six months after the announcement of the ruling. There are no legal remedies against a decisions made by the Constitutional Court.

The administration and the regulation of the regular courts in the Slovak Republic fall under the power of the self-administration of judges. The representative body of the judiciacy is the Council of Judges, which was established by a constitutional amendment adopted in 2001. The Council of Judges consists of the 18 members whose tenure is 5 years. They can be appointed twice consecutively. In order to protect its independence and professional quality it is created by different institutions[33]. Eight of them are elected by the judges of Slovak Republic and three of them are elected by the NR SR. Three members of the Council of Judges are appointed by the President of the Slovak Republic and another three by the Government.

To the main powers of the Council of Judges belongs the right to submit proposals to the President to appoint and remove judges and the Chairman and Vice-Chairman of the Supreme Court of Slovak Republic, to decide on the delegation and displacement of the judges, to elect and recall the members of the disciplinary senates and to elect and recall the chairmen of the disciplinary senates. The Chairman of the Supreme Court of the Slovak Republic is simultaneously the chairman of the Council of Judges.

The judges are appointed by the President for life on the proposal of the Council of Judges. The Chairman and the Vice-chairman of the Supreme Court of Slovak Republic are appointed by the President for a five-year period. They can be appointed two times consecutively.

The system of regular courts in Slovakia has a two-stage character, the first instance being the district court and the second instance the regional court. Regional courts handle appeals from the district courts but in some specialized issues are acting as the court of first instance. The Supreme Court handles appeals from the regional courts.

The growing pressure from the citizenry to strengthen measures against corruption was the reason of the establishment of the so called Special Court and Special Prosecutor´s Office by the Law nr. 458/2003 Z.z. Both institutions started work in 2004 and their activities were mainly focussed on criminal acts committed by the representatives of the constitutional bodies and criminal offences related to organized crime. As the judges and prosecutors were verified by the National Security Authority and the salaries were considered by the deputies from HZDS to be unreasonably high comparing to the salaries of the other judges, the Constitutional Court dec-

33 D. Leška, *Formovanie …*, p. 57.

lared the character of the Special Court to be unconstitutional. However, the Special Court was in 2004 replaced by a Specialized Court with a similar scope of activities[34].

The General Prosecutor is according to the Constitution of the Slovak Republic (Art. 149) appointed and recalled by the President of the Slovak Republic in response to aproposal of the NR SR.

Due to a constitutional amendment adopted in 2001 the institution of the Public Defender of Rights (Ombudsman) has been established. The Public Defender of Rights is elected by the NR SR for the five years period. The candidate should be proposed by at least 15 deputies.

## Local Government

In the Slovak Republic the local government has two levels – municipal and regional. Only in 2001 was regional autonomy implemented The structure and model of state administration are the topic of the conflict between different political parties. Whereas the centre-right parties advocate the model of the specialized state administration (the network of the authorities subordinated directly to the particular ministries), the nationalistic and centre-left parties prefer the integrated model of state administration (concentration of the state administration on the regional level into the single office). Due to the lack of consensus within the Slovak political elites, changes in state administration are frequently made, including changes to the territorial division of Slovakia, which we wish to discuss now.[35]

Slovakia since 1996 is divided into 8 regions (kraj). The largest is Banskobystrický region with the area 9 454 km$^2$, the smallest – Bratislavský region – is 2 053 km$^2$. On the other hand there are big differences in the population density of the regions due to the different natural conditions. Thus the most populated area is Prešovský region, which has 809 443 residents, and the Trnavský region has the smallest population – only 563 081. However, the highest population density is that of Bratislavský region, which includes the capital" 306.3 inhabitants per km$^2$. In spite of the large area the population density of Banskobystrický region and Prešovský region is very small – only 69 and 90.2 inhabitants per km$^2$ respectively. According to the statistical data collected at the end of 2010 about 54.68 % of the Slovak po-

34 D. Leška, *Formovanie …*, pp. 59 – 60.

35 D. Sloboda, *Slovensko a regionálne rozdiely. Teórie, regióny, indikátory, metódy*, Bratislava 2006, pp. 15 – 16.

pulation lives in the urban areas; however, there are big regional differences in the level of urbanization.[36]

In 2010 there were, according to the Statistical office, 2 891 municipalities in the Slovak Republic, including 138 towns. 56.6 % municipalities have between 200 – 1000 inhabitants, but they together constitute only 15 % of the population.

The main principles of the local self-administration were settled by the Law on the Municipal Establishment nr. 369/1990 Zb.[37] The institutional position of and arrangements concerning local self-administration of the cities with population of over than 200 000 (currently only Bratislava and Košice) is regulated by special legal acts. There are only very general legal provisions defining the differences between normal municipalities and those classified as towns (or cities), considered as a special type of municipality, not a different entitny. The status of the municipality can be raised to the level of a town upon the decision of the NR SR, if it meets the following criteria. The municipality has to be an economic, administrative and cultural centre, or a centre of tourism, or a spa. It should provide services for the inhabitants of the neighboring municipalities, have traffic connections with the neighboring communities and at least in some parts have an urban architectural character. If the municipality fulfills these conditions it doesn't need to meet the following condition which is the population of at least 5 thousand inhabitants. Therefore there are some municipalities with the population less than 5 thousand inhabitants which obtained the status of a town, mainly for historical reasons.

A municipality is an independent territorial and administrative entity governing the population in residence on its associated territory. A municipality is a legal person with its own property, budget and sources of income. According to the Act Nr. 369/1990 Zb. there are no differences in the competences between the municipalities and towns. They have an equal position. However, such an arrangement creates significant personal, organizational and financial problems for the local self-governments, especially in the case of the small municipalities. The small villages have frequent problems in finding candidates for thedeputies of the local assemblies and for the mayors. Such villages also have problems providing the necessary services to their inhabitants[38].

36 *Slovensko – všeobecné charakteristiky za rok 2010*, Bratislava, Statistical Office of the Slovak Republic 2010. http://portal.statistics.sk/showdoc.do?docid=2213

37 Law nr. 369/1990 Zb. (Zákon č. 369/1990 Zb. o obecnom zriadení).

38 J. Šutajová, *Formovanie obecnej samosprávy na Slovensku*, in: Človek a spoločnosť, vol. 2006,

The state administration may delegate authority to local governments for particular tasks that are financed by state funds[39]. Many municipalities make use of the right to associate with other municipalities to create the common municipal offices in order to fulfill some of their duties. They may issue ordinances that are binding for all individuals and corporate bodies within their jurisdiction. Such ordinances may be superceded or invalidated only by parliamentary acts. Decisions concerning administrative matters of municipal offices may be appealed in district offices. With some statutory exceptions, local authorities are independent from state supervision[40].

A municipality can be established, merged with another municipality, divided or abolished by the governmental regulation; however such decisions also require the approval of the inhabitants of the municipalities by local referendum.

Under the Fiscal Decentralization Act Nr. 564/2004 Z. z. the responsibilities and financial autonomy of the municipalities were increased. To the main responsibilities of the towns and municipalities belong primary education, environmental issues, the issuing of building permits, social assistance, health care, regional development, sport, etc. Local governments are permitted to collect locally-imposed fees and taxes, which constitute 28 % of their total incomes. Local authorities receive 72 % of the total incomes from the taxes of the natural persons.[41]

The decision-making bodies of the local government are the municipal council and the mayor. Both the municipal council and mayor are elected directly. The mayor represents the municipality in all matters, and is responsible for decisions on municipal property and for the organization of the municipal administration. The municipal council may decide to establish an executive board which is elected by the municipal council from among its own members, and which is at most a third of the size of the council. The executive board is an advisory body of the mayor. Municipal council can also establish another type of advisory body, commissions. Not only the elected deputies of the municipal council, but also the local inhabitants, may be appointed to a commission.

The executive body of the municipal council is the municipal office. Its head is appointed by the municipal council on the proposal of the mayor.

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issue 2, on-line text http://www.saske.sk/cas/archiv/2-2006/Sutajova.html.

39 J. Nemec – P. Bercik – P. Kuklis, *Local Government in Slovakia*, in: T. Horváth, (ed.), *Decentralization, Experiments and Reforms*, Budapest 2000, p.304.

40 Ibidem.

41 D. Leška, *Formovanie …*, pp. 164 – 165.

The municipal council appoints the chief inspector of the municipality and the chief of municipal police, also on the proposal of the mayor[42]. The internal structure of the local governments in the towns and cities is identical.

There are some elements of direct democracy present in the local government of Slovakia. The municipal council may call a municipal assembly where the relevant issues concerning the life of municipality can be discussed. A local referendum is obligatory in cases of merging with another municipality, division of the municipality, its abolishment, and change of its name as well as suspension of the mayor of the municipality. Local referenda may be called on the petition of at least 30 % of the eligible voters.

The second level of the local government, the self-governing regions which are also called the Upper-Tier Territorial Units, was established in 2002 upon the Act nr. 302/2001 Z.z. Their structure copies the structure of the administrative division of Slovakia adopted in 1996. However, there was discussion of another arrangement of the regional self-governing regions, based on 12 historical regions or on the three regions existing in the years 1960 – 1989 plus the capital city of Bratislava as an separate region[43]. The political representatives of the Hungarian minority proposed the establishment of the Komárňanský kraj, within which ethnic Hungarians would be a majority. This proposal was presented in January 1994 by the Komárno assembly of the representatives of the local self-administrations from the municipalities inhabited by the members of Hungarian minority; it declared the Hungarian minority to be a "partner nation" and, had it passed, would have led to the establishment of the Hungarian ethno-regions[44]. Under the recent territorial division of Slovakia, the area with the highest proportion of ethnic Hungarians is Nitriansky region, with around 30 %.

The main areas of responsibility of the regional governments are secondary education, railways, tourism, bus transportation, maintenance of the roads, social assistance, theaters, museums and galleries, health service and civil protection. The regions are allowed to collect taxes and they receive a share of 23,5 % of the total income from the taxes of the natural persons.[45] The structure of the regional government is similar to the structure of the

42 J. Nemec, P. Bercik, P. Kuklis, *Local Government in Slovakia*, in: T. Horváth, (ed.), *Decentralization...*, pp.297 – 242.

43 D. Leška, *Formovanie …*, p. 170.

44 L. Szarka, *Menšinový politický pluralizmus a budovanie komunitnej identity maďarskej menšiny. Činnosť maďarských strán na Slovensku v rokoch 1989 – 1998*, in: J. Fazekas, P. Hunčík, (eds), *Maďari na Slovenskku (1989 – 2004). Súhrnná správa. Od zmeny režimu po vstup do Európskej únie*, Šamorín 2008, p. 103.

45 D. Leška, *Formovanie politického …*, p. 176.

local government. The decision-making bodies are the regional council and the chairman of the self-governing region.

The organization of the state administration on the local and regional level is the topic of political disputes between the political parties. Therefore Slovakia has experienced several reforms or attempted reforms of the state administration. Since 1990 the dual model, based on the strict separation of the state administration and the local self-government, was imposed. In this respect Slovakia is exceptional among the V4 countries[46]. Self-administration and state-administration on the regional level (3 regions + Bratislava) was abandoned. The core of the state administration became 38 district authorities and 121 borough authorities on an intermediate level between the district and municipality[47]. Besides the general state administrations, specialized state administration authorities were established as well, but only on the levels of districts. To the communities were transferred some duties in the framework of delegated state administration.

This administrative reform was abandoned in 1996. According to the new Law nr. 221/1996 Z.z. on the territorial and administrative division of the Slovak Republic, Slovakia was divided into 8 regions and 79 districts. The partition of the state administration into the general and specialized continued. A new reform was adopted in 2003, under which the previous 79 district authorities were replaced by 50 borough state authorities of general state administration, although with more 64 temporary or permanent offices detached in the particular towns. In 2007 the regional general state administration authorities were abolished. On the regional and district level remained only specialized state administration authorities. The fiscal decentralization caused the transfer of a significant share of the powers of the state administration to the local and regional self-government, which then fulfill the duties of general state administration. The reason for these administrative reforms is the high degree of politicisation of the state administration, whose the leading positions are generally occupied by the nominees of the presently ruling political parties. The Ministry of Interior of the Slovak Republic announced in August 2012 the new reform of the public administration called ESO (Efficient, Reliable, Opened). According to it that the specialized authorities of the state administration on the local

46 J. Šutajová, *Formovanie obecnej samosprávy na Slovensku*, in: Človek a spoločnosť, vol. 2006, issue 2, on-line text http://www.saske.sk/cas/archiv/2-2006/Sutajova.html.

47 D. Klimovsky, Public Administration Reform in Slovakia: 20 Years of Experience without Different Institutional Settings on the Local and Regional Levels, in Analytical Journal, vol. 3, issue 1, p. 6; D. Leška, Formovanie politického system na Slovensku po roku 1989. Bratislava 2011, p. 181.

and regional level will be abolished and replaced by the authorities of the general state administration on the level of districts. Besides the general state administration authorities the contact points of in some municipalities or towns placed far from the district capital will be introduced in order to make the state administration closer to the citizens[48].

## Electoral System

Elections to the NR SR are based on the proportional system. They are regulated by the Act nr. 333/2004 Z.z. They are held on the basis of the general, equal and direct electoral law under secret ballot. The age of active right to vote is 18 years, the age of passive suffrage is 21. Before 1998 Slovakia was divided into four electoral regions which reflected the territorial and administrative division of Slovakia before 1998. Since the electoral reform adopted in 1998 Slovakia is a single constituency. The electoral term of the NR SR is 4 years. Only the political parties or their coalitions may take part in the electoral competition. The electoral threshold for the political parties is 5 % of the votes for the winning of a seat. For coalitions of two or three parties the threshold is 7 %, for the coalitions of four and more parties the threshold is 10 %. The voters may give up to four preferential votes on a single candidate list. The candidates who gain at least 3 % of preferential votes from the votes cast for that party (or coalition) have priority for a mandate. The calculation of the seats is based on the Hagenbach-Bischoff quota and use of the method of the highest remains[49]. Voters who don't have permanent residence in the territory of the Slovak Republic may participate in the elections upon their request by correspondence voting. The electoral commissions at all levels are created from equal numbers of representatives of the political parties or coalitions which are taking part in the elections.

The dynamic of voter turnout in the parliamentary elections is unstable. It achieved the highest level in 1990 with 95.39 %, then dropped slightly down to 75.65 % in 1994. However, the increasing polarization of society during the third government of Vladimír Mečiar and the threat of the international isolation of Slovakia and its exclusion from EU and NATO enlargement caused a turnout of 84.24 % in 1998. However in 2002 the turnout dropped to 70.36 % and in 2006 to its lowest level yet, 54.67 %. The

48 *Premiér smeruje k ľuďom, chce ušetriť 700 miliónov eur*, Webnoviny.sk, 27. 8. 2012. http://www.webnoviny.sk/spravy/vlada-chce-usetrit-reformou-statnej/535622-clanok.html

49 P. Spáč, *Priama...*, p. 50.

succesful mobilization of the voters of the centre-right parties increased the turnout to 58.83 % in 2010. In the last parliamentary elections the turnout was 59.11 %. Generally the mobilization of the voters and higher turnout have benefitted the centre-right parties, with the exception of the elections in 2012, when voters mobilised against the former coalition and in favor of the centre-left Smer-SD party.

The presidential elections in Slovakia are based on the two-round majoritarian system. The elections are regulated by the Act nr. 46/1999 Z.z. The President is elected for five years. The electoral commissions on all levels are formed from one representative each of all political parties represented in the NR SR and the electoral committees supporting particular independent candidates. If no candidate receive more than half of the valid votes, the second round is held at the latest 14 days after the first round. In the second round the two candidates face off who received the highest number of the votes in the first round. In all direct presidential elections so far (1999, 2004, 2009) it was necessary to hold a second round. Unsurprisingly, the only candidates proceeding to the second round were those enjoying the support of major political parties. The turnout is smaller than for the parliamentarian elections. The highest level of voter participation was in 1999, when the turnout on the first round was 73.89 % and on the second round 75.45 %. Such high turnout was the consequence of the persistent conflict between HZDS led by V. Mečiar and the former democratic opposition. However, in 2004 the turnout dropped to 47.94 % (1st round) and 43.5 % (2nd round) due to the weak campaign of the political parties. In 2009 the turnout was similar (43.64 % in the first round), but after a massive campaign organized by the political parties and polarized relations between the coalition and centre-right opposition it increased to 51.67 % in the second round.

The elections to the municipal and regional councils are based on the principles of the majoritarian voting, although some analysts state that these principles are applied only in the elections of mayor, head of the self-governing region and President of Slovak Republic[50]. However, the deputies of the municipal and regional councils are elected from multi-member constituencies. The list of candidates may be submitted by the political parties or their coalitions or by the independent candidates, supported by a petition signed by voters. The number of signatures required for this depends on the size of the municipality. Voters may vote for the individual candidates

50 P. Spáč, *Priama …*, p. 88.

directly, rather than for the parties. Due to the personalized character of the elections and possibility of independent candidates for the local and regional councils, other experts have classified this electoral system as majoritarian[51]. The elections of the mayor and chairman of the self-governing region are organized simultaneously with the elections of the municipal or regional council.

The mayor of the municipality is elected in a one-round election. The winner is the candidate who receives the highest number of the votes. The chairman of the self-governing region is elected in the two-round system. If no candidate receive more than half of the valid votes, the second round takes place at the latest within 14 days of the first round. In the second round take part the two candidates who received the highest number of the votes in the first round. The municipalities and the regions are generally divided into different electoral districts. The highest turnout in the regional elections was in 2001 (26.2 % in the first round; 22.61 % in the second round) when they took place for the first time. In 2005 the turnout in the first round dropped to 18.02 % and it slightly increased in 2009 to 22.9 %. However, such low turnout shows that the citizens of Slovak Republic don't understand the importance of the self-governing regions, which were introduced more than ten years after the political changes; this is probably compounded by the artificial character of the present administrative and territorial division of the country. Another reason may be the timing of the elections. The regional elections in 2005 took place after the two-round presidential elections and elections to the EP in 2004, and before the parliamentary elections in 2006. In 2009 they followed the elections of President and EP and the voters were probably tired of voting. Another cause of confusion may be the irrational-seeming makeup of regional coalitions, based on the interests of the regional elites of the political parties, which sometimes don't correspondend with the coalition ties on the parliamentary level.

The elections to the European Parliament are regulated by the Act Nr. 331/2003 Z.z. They are held on the basis of secret, equal, and direct voting, according to the principles of proportional representation. The age of active right to vote is 18 years, the age of passive suffrage is 21. The voters may cast up to two preferential votes on a single candidate list. The candidates who gain at least 3 % of preferential votes from the votes cast for that party (or coalition) have priority for a mandate. The Slovak Republic is a single con-

51 P. Horváth, V*oľby a volebné systémy, Slovenská politologická revue*, vol. 2004, issue 4; R. Štefančík, *Väčšinový volebný systém na Slovensku*, *Slovenská politologická revue*, vol. 2005, issue 4.

stituency. The electoral term of the EP is 5 years. Only the political parties or their coalitions may take part in the electoral competition. The electoral threshold is 5 %. The calculation of the seats is based on the Hagenbach-Bischoff quota and uses the method of the highest remainder. In 2004 the residents of Slovak Republic voted in 14 Members of the EP, five years later 13. The electoral turnout was in both cases the lowest in EU – 16,96 % or 19,64 %[52].

## Party System

Political parties are an intrinsic part of the political system of Slovak Republic[53]. This is the natural result of the introduction of the proportional

52 Statistical Office of the Slovak Republic, official website – http://www.volbysr.sk, http://www.statistics.sk; L. Pastirčíková, *Slovensko*, in P. Šaradín et al., Evropské volby v postkomunistických zemích, Olomouc 2004, pp. 163 – 181.

53 **Slovak Political Parties:**

**VPN** – Verejnosť proti násiliu (Public against Violence), since 1991 Občianska demokratická únia (Civic Democratic Union, ODÚ); **KDH** – Kresťanskodemokratické hnutie (Christian Democratic movement. In 1998 the party ran for parliamentary seats within Slovak Democratic Coalition); **DS** – Demokratická strana (Democratic Party). In 1998 the party ran for parliamentary seats within Slovak Democratic Coalition, and in the 2002 parliamentary elections ran with the Democratic Union, but withdrew from the running before the election and recommended voting for the SDKÚ. The DS merged with the SDKÚ in 2005 to form the SDKÚ-DS; **DÚ** – Demokratická únia (Democratic Union).I In 1998 the party joined the SDK coalition, and in 2000 they merged into the SDKÚ; **SDK** – Slovenská demokratická koalícia (Slovak Democratic Coalition); **SDKÚ-DS** – Slovenská demokratická a kresťanská únia – Demokratická strana (Slovak Democratic and Christian Union – Democratic Party), 2000 – 2006 Slovenská demokratická a kresťanská únia (Slovak Democratic and Christian Union); **SDĽ** – Strana demokratickej ľavice (Party of the Democratic Left). In 1990 it ran for the elections as Komunistická strana Československa (KSČS, Communist Party of Czechoslovakia), in 1994 ran for elections within the framework of the coalition Spoločná voľba (Common Choice) together with three minor centre-left parties (SDSS – Social Democratic Party of Slovakia; HP – Farmers Movement; SZS – Slovak Green Party), in 2004 joined Smer (Direction); **KSS** – Komunistická strana Slovenska (Communist Party of Slovakia), new political party founded in 1992 by opponents of the transformation of the former KSS into the social-democratic SDĽ; **ZRS** – Združenie robotníkov Slovenska (Union of the Workers of Slovakia); **SOP** – Strana občianskeho porozumenia (Civic Understanding Party), in 2003 joined Smer (Direction); **Smer-SD** – Smer – sociálna demokracia (Direction – Social Democracy), in 2002 ran for election under the name Smer; **HZDS** – Hnutie za demokratické Slovensko (Movement for a Democratic Slovakia), since 2003 Ľudová strana – Hnutie za demokratické Slovensko (Peoples Party – Movement for a Democratic Slovakia); **SNS** – Slovenská národná strana (Slovak National Party); **SMK** – Strana maďarskej koalície (Party of the Hungarian Coalition). In 1990 and 1992 it ran for election as the coalition of two parties representing the Hungarian minority – Spolužitie (Coexistence) (ESWS) and Maďarské kresťanskodemokratické hnutie (Hungarian Christian Democratic Movement, MKDH). In 1994 the bloc adopted the name Maďarská koalícia (Hungarian Coalition), and in 1998 both parties merged with the minor Hungarian Civic Party into the SMK; **Most-Híd – Bridge; ANO** – Aliancia nového občaa

electoral system in the parliamentary elections. Therefore the political parties have an important, even decisive role in the shaping the government. Before the elections in 2012 even the decision-making processes in the coalition governments were backed by negotiations between the political parties within the framework of the coalition councils. The relations between the ruling parties were arranged by the coalition agreements. The political parties play a crucial role in the distribution of power in the state institutions (even on the regional level) and in the enterprises owned by the state. The party system in Slovakia has experienced various changes and is quite unstable.

In spite of the fact that the foundations of the pluralist party system of Slovakia were established in 1989, when Slovakia was still part of the federal Czechoslovak state, and in spite of having the same legal framework for the formation of the political parties given by the so-called "small law on the political parties"[54], the development of the party systems in Slovakia and Czech Republic was characterized by essential differences. The main feature of the Slovak party system is its non-consolidation and frequent changes of the political parties' landscape. The parties are generally built top-down[55]. The volatility of the voters' loyalty is quite high; for which reason we can list in Slovak politics several spectacular rises and falls of political parties. For example VPN (since 1991 ODÚ) fell from 29.3 % in 1990 to 4.04 in 1992. Highly spectacular is the history of the HZDS led by Vladimír Mečiar, which achieved 37.26 % in 1992 and dropped to 0.93 % in 2012 parliamentary elections. Even a program-based party like SDĽ, which in 1998 received 14.66 % of the votes, disappeared from the Slovak parliament in 2002 after receiving only 1.36 % of the votes. Some political parties were represented in the NR SR only once and afterwards disappeared or disbanded. Such was the case of ZRS, ANO, and partly KSS and SOP as well. Whilst in the Czech Republic the political parties became divided along left-right lines in the first half of the 1990´s, in Slovakia the concept of politics as a battle between left and right has been relevant only since the parliamentary elections in 2002[56].

(New Citizen´s Alliance); **SaS** - Sloboda a solidarita (Freedom and Solidarity); **OĽaNO** – Obyčajní ľudia a nezávislé osobnosti (Ordinary People and Independent Personalities); **SZ** – Strana zelených (Green Party).

54 Law nr. 15/1990 (Zákon č. 15/1990 Zb. z 23. januára 1990 o politických stranách).

55 P. Ondria, B. Kováčik, I. Kosír, *The System of Political Parties of the Slovak Republic*, Politické vedy, issue 2, 2010, p. 92.

56 V. Hloušek, L. Kopeček, *Cleavages in Contemporary Czech and Slovak Politics: Between Persistence and Change*, East European Politics and Societies, vol. 22, issue 3, pp. 518-552.

**Table 2.** Results of the elections to the Slovak National Council (1990, 1992) and to the National Council of the Slovak Republic (%)[57].

| | 1990 | 1992 | 1994 | 1998 | 2002 | 2006 | 2010 | 2012 |
|---|---|---|---|---|---|---|---|---|
| **VPN** | 29,30 | | | | | | | |
| **KDH** | 19,21 | 8,89 | 10,80 | | 8,25 | 8,31 | 8,52 | 8,82 |
| **DS** | 4,40 | | | | | | | |
| **DÚ** | | | 8,57 | | | | | |
| **SDKÚ-DS** | | | | 26,33 | 15,09 | 18,35 | 15,42 | 6,09 |
| **SDĽ** | 13,35 | 14,70 | 10,41 | 14,66 | | | | |
| **ZRS** | | | 7,34 | | | | | |
| **KSS** | | | | | 6,32 | | | |
| **SOP** | | | | 8,01 | | | | |
| **Smer-SD** | | | | | 13,46 | 29,14 | 34,79 | 44,41 |
| **HZDS** | | 37,26 | 34,96 | 27,00 | 19,50 | 8,79 | | |
| **SNS** | 13,94 | 7,93 | 5,40 | 9,07 | | 11,73 | 5,07 | |
| **SMK** | 8,66 | 7,42 | 10,18 | 9,12 | 11,16 | 11,68 | | |
| **Most-Híd** | | | | | | | 8,12 | 6,89 |
| **ANO** | | | | | 8,01 | | | |
| **SaS** | | | | | | | 12,14 | 5,88 |
| **OĽaNO** | | | | | | | | 8,55 |

The level of continuity with the party system of pre-war Czechoslovakia and the short post-war era of a semi-competitive regime is very low. The attempt to restore the "historical" political parties failed, and they generally weren't able to pass into parliament, like in the case of Social Democratic

57 Statistical Office ….

Party of Slovakia. Even the Democratic Party as the successor of the Democratic Party working in the years 1945 – 1948 couldn't restore its previous influence. Although the SNS proclaims itself the oldest party of Slovakia with a continuous existence since the 19th century[58], its program, ideology and target audience contradict this claim[59]. In the first stage of the formation of the party system, during the political changes in autumn 1989, the main dividing line within society was the conflict between the anti-communist democratic movement of Public against Violence (VPN) and the Communist Party of Slovakia which was the regional branch of the centralized Communist Party of Czechoslovakia (KSČS). However, already at this time ethnic divisions appeared as the political parties and movements representing the Hungarian minority were established (Hungarian Independent Initiative, later Hungarian Civic Party; Coexistence and the Hungarian Christian Democratic Movement). The other important cleavage within the Slovak society became the conflict between the centre and the periphery caused by the unfinished process of the national consolidation. For all of these reasons, the Slovak party landscape very soon became different to the Czech, and even before the first free and competitive elections, the main dividing lines were not formed around the competition between post-dissident pro-democratic movements and communists, like it was in Poland or the Czech Republic. For this reason the party landscape of Slovakia was not bipolar but pluralistic.. There was no influential political party with widespread electoral support in both parts of the federation of Czechoslovakia after 1989. The last federal organized party was the Communist Party of Czechoslovakia, which was transformed into the federation of the Czech and Slovak communist parties. The Communist Party of Slovakia completed its ideological transformation in 1990 – 1991 and subsequently cut its ties with the Communist Party of Bohemia and Moravia which refused to break with its communist past[60]. Later SDĽ joined the Socialist International and became an associate member of the Party of European Socialists. In spite of the high religiosity of the Slovak population, the Christian Democratic Movement (KDH) didn't became the most influential centre-right party till 2012.

58 See: Slovenská národná strana (Slovak National Party) – official website: http://www.sns.sk; L. Lipták, et al., *Politické strany na Slovensku 1860 – 1989*, Bratislava 1992, p. 35-48 and 105-108.

59 See for example: L. Kopeček, *Politické strany na Slovensku 1989 – 2006*, Brno 2007, p. 414.

60 L. Kopeček, *Strana demokratické levice*. In: V. Hloušek, – L. Kopeček (eds.), Rudí a růžoví. Transformace komunistických stran. Brno, Masarykova univerzita v Brně – Mezinárodní politologický ústav 2002, s. 135.

In spite of the high level of the public discontent with the impact of the socio-economic transformation a cleavage over nationalist issues became dominant instead of the socio-economic cleavage. Therefore the transformed post-communist party (Party of the Democratic Left, SDĽ) wasn't able to achieve similar results to its Polish and Hungarian counterparts, SLD and MSZP. An important role was played by the personal charisma of Vladimír Mečiar who was the Prime Minister of Slovakia in 1990 -1991. After his dismissal he split with VPN and founded the national-populist Movement for Democratic Slovakia (HDZS) which later could be described as the predominant political party in Slovakia[61]. This party became the main representative of the nationalist cleavage within Slovak society and in this role replaced the SNS and even KDH, which supported more gradual independence for Slovakia. HZDS promoted the replacement of the federation by a confederation, but after the parliamentary elections 1992 this party successfully caused the controlled division of Czechoslovakia. The significant polarization around national and social issues caused the disappearance of the post-material[62] cleavage from the Slovak politics, which in 1990 – 1992 was represented by the Green Party.

After the parliamentary elections in 1992 the minority government of the HZDS with the unofficial support of the SNS was established. The consequence of this election was the dissolution of Czechoslovakia. However, the tendencies of Vladimír Mečiar to the centralization of power, which reached its peak after the early elections in 1994, caused the emergence of a new political conflict on the character of the regime[63]. However, such trends, particularly the weakening of the public control over the executive power, were apparent even during the second Mečiar government (1992 – 1994). In consequence of such behavior, the HZDS at that time could be considered as the anti-system party in power[64]. In 1992 – 1994 this party was in power without any coalition partner. That was the reason of the rapprochement between the centre-right and centre-left political parties which established the "broad coalition" supporting the government of Jozef Moravčík. The authoritarian methods of the leaders of HZDS and SNS led to the secession of groups of parliamentarians from these parties in 1993 - 1994, who established a new political party, the Democratic Union, which adop-

61 G. Sartori, *Strany a stranické systémy. Schéma pro analýzu*, Brno, CDK 2005, p. 208.

62 R. Inglehart, *The Silent Revolution in Europe: Intergenerational Change in Post-Industrial Societies*, The American Political Science Review, vol. 65, No. 4 (Dec. 1971), pp. 991-1017.

63 V. Hloušek, – L. Kopeček: *Cleavages ...*, pp. 518-552.

64 G. Sartori,: *Strany a stranické systémy. Schéma pro analýzu*, Brno 2005, p. 135-151.

ted a liberal orientation. Therefore since 1994 a new political demographic of liberal voters emerged in the Slovak political landscape, representing a political outlook not present among the Slovak political parties before 1948.

The polarization of the Slovak society increased during the third government of Vladimír Mečiar, when HZDS established a coalition with the radical left Union of Workers of Slovakia (ZRS) and the radical right SNS. The centre-right parties (KDH, DU, DS) established the Slovak Democratic Coalition (SDK) together with two minor left-wing parties (Social Democratic Party of Slovakia and Green Party of Slovakia). The SDĽ and the newly-emerged Civic Understanding Party didn't join the SDK and preferred to stand as independent opposition parties. A significant impact on the party landscape of Slovakia was the modification of the Law on the Elections to the NR SR which was introduced by the government of V. Mečiar in 1998. Under the new law each party which was a member of an electoral coalition had to overcome the 5 percent threshold. Subsequently the member parties of SDK established the single party SDK, whose members however were only their election candidates, but the member parties became independent. Meanwhile, parties of the Hungarian minority merged into the Hungarian Coalition Party, which was initially divided over the officially recognized platforms (national, Christian-democratic and liberal); however these issues lost their importance very soon. The establishment of the broad right-left coalition of SDK, SDĽ, SMK and SOP after the parliamentary elections in 1998 shows that the restoration of democracy and acceleration of the integration of Slovakia with the EU and NATO were, according to the political elites, the crucial priorities. The fact that these issues were of more importance than the right-left division is shown by the longevity of the coalition, which survived till the elections in 2002 in spite of its programmatic incoherence. The establishment of the SDK and later its crisis and decomposition brought the decomposition of the SDK founding parties as well. The Prime Minister Mikuláš Dzurinda, who was the leader of the SDK in 2002, split with the KDH. He, together with the majority of the former members of the DÚ, established a new political party – SDKÚ. This party is, together with the KDH and SMK, a member party of the European People´s Party (EPP), although in many respects the SDKÚ supports liberal principles as well[65]. Subsequently DU became a marginal political party and in fact disappeared from the political landscape of Slovakia.

65 J. Marušiak, *Analýza volebného programu: Slovenská demokratická a kresťanská únia* (SDKÚ), Volebný infoservis, 3. 6. 2004, http://www.infovolby.sk

However, the participation of the SDĽ in a government controlled by the centre-right parties caused the decline of its electoral support. Subsequently the party lost its representation in the parliament. However, the former first vice-chairman of SDĽ Robert Fico withdrew from the party and established the new political formation of "Smer" (Direction). Initially this party was established as non-ideological, but after the failure of SDĽ and other minor center-left parties Smer proclaimed its social-democratic orientation. In 2004 this party merged with SDĽ and other minor social--democratic parties and joined the Socialist International and PES. Subsequently Smer changed its name to Smer-SD (Direction – Social Democracy). Another new element of the Slovak system of political parties was the new liberal party ANO (New Citizen´s Alliance) led by the the owner of the influential commercial TV station Markíza. The ANO party became a part of the coalition after the elections in 2002; however in 2005 this party disintegrated. Only in one term (2002 – 2006) was the radical-left Communist Party of Slovakia (KSS) represented in the NR SR. The presence of the radical left in the Slovak parliament after the elections in 1994 (ZRS) and 2002 (KSS) was the consequence of the failure of the centre-left parties. Since 1994 we can observe the gradual decline of the support of HZDS. This party was pre-dominant in the Slovak politics till 2002, but in spite of its electoral victories the coalition potential of HZDS was so low that this party was not able to regain the power as the former leading political force. After several splits within HZDS this party dropped from 19.5 % in 2002 to 8.79 % in 2006.

The early parliamentary elections in 2006 were notable not only regarding the significant marginalization of HZDS, but also because of the first electoral victory of a social democratic party in Slovakia since 1920. Also notable was the fact that these were the only elections when no new party entered parliament. After the failure of the ANO, the liberal political demographic was not represented in the Slovak parliament. On the other hand, Smer-SD established a coalition just with the HZDS and SNS. The consequences of this step were not only the conflict between Smer-SD and the PES which temporarily suspended its membership in the European party association, but also the deepening of the polarization between the Slovak political parties. The reason for the suspension of Smer-SD membership in PES in 2006 – 2007, which was the first such case in the history of the PES[66], was the cooperation with the SNS, which was considered by PES to be a ra-

66 M. Havran ml., *Európski socialisti potrestali Smer*, Pravda, 13. 10. 2006.

dical-right party. Accordin to the resolution of the PES Congress in Berlin, member parties have to „refrain from any form of political alliance or co-operation at any level with any political party which incites or attempts to stir up racial or ethnic prejudices and racial hatred."[67] However, after 2007 the membership of Smer-SD in the PES was restored. Since 2006 the socio-economic cleavage became the dominant dividing line in Slovak politics.

In 2009 the new right-liberal party Freedom and Solidarity (SaS) led by Richard Sulík was established. After the split within the SMK in 2009 the new liberal party Most-Híd led by Béla Bugár emerged. This party proclaims as its aim the promotion of cooperation between the moderate Slovak and Hungarian politicians. These parties joined the coalition of the centre-right parties established after the 2010 elections. In 2010 the HZDS for the first time didn't reach the electoral threshold and remained outside parliament. Although the winner of the elections was the Smer-SD party, which achieved 34.79% of the votes, (more than twice the 15.42% gotten by the second largest party, SDKÚ-DS), like the HZDS in 1998 and 2002 Smer-SD was unable to establish the coalition. As a result there arose a governing coalition of four centre-right parties (SDKÚ-DS, KDH, SaS, Most-Híd), and Iveta Radičová (SDKÚ-DS) became the Prime Minister. The financial crisis of the EU caused the emergence of a new dividing line within Slovak society over atttidues towards European integration. While in October 2011 the majority of the ruling coalition as well as Smer-SD supported an increase of liabilities in the European Financial Stability Facility (EFSF), the SaS party assumed a soft Euro-skeptic position. This crisis within the governmental coalition led to the early elections in March 2012 which resulted in the establishment of the first single-party government in the recent history of Slovakia since 1989, controlled by the Smer-SD party. This party achieved 44,41 % of the votes but seized 83 seats in the NR SR. The other consequence of the parliamentary elections in 2012 is the establishment of the new conservative political movement Ordinary People which had its origins in the voting list of the SaS in the 2010 elections. This movement could also be classified as the protest movement, as its leader Igor Matovič sharply criticizes not only R. Fico and the Smer-SD, but also the present leaders of the centre-right political parties. This movement opened its slate to the independent, non-partisan candidates as well, even including left-wing environmental activists like Mikuláš Huba. The KDH and SDKÚ-DS are expe-

67 *For a modern, pluralist and tolerant Europe*. Party of European Socialists, The 5th Congress of the PES. Berlin, 7-8 June 2001. http://www.pes.org/content/view/102

riencing a certain political crisis since the elections in 2012. The founder and leader of the SDKÚ-DS, Mikuláš Dzurinda, was replaced by the more conservative politician Pavol Frešo. The potential successor of the current chairman of the KDH, Daniel Lipšic, withdrew from the party in June 2012 with the aim of founding his own party.

Thus the level of consolidation of the political party system in Slovakia and its institutional stability is very low. Personal factors play a high role in the shaping of the political landscape. One of the reasons for this is the electoral reform adopted in 1998 in which Slovakia became a single constituency. A typical feature of the party landscape of Slovakia since 1992 is the presence of a "predominant party" which electoral support is even more than two times higher than the support of the second largest party , which however has quite low coalition potential. Therefore such a "predominant party" was very often in the opposition (HZDS in 1994 and 1998 – 2006 or Smer-SD in 2010 – 2012) and was not able to participate in the governments. The level of political polarization of Slovakia has been rather high in spite of the fact that conflict over the character of the political regime or the foreign policy orientation of the country have not been divisive political questions since 2002. However as the intensity of the political polarization is declining, the conflict between center-right parties and Smer-SD didn't guarantee the unity of the centre-right coalitions under any circumstances in 2006 and in 2012. The presence of so many political parties in the NR SR is the reason why the party system of the country can be described as pluralistic.

## Conclusions

The present character of the political system of Slovakia is the consequence of the high level of the political polarization of the society and weak traditions of the constitutional system. As a result the legal arrangement of the constitutional institutions and state administration were exposed to frequent changes. Many legal and constitutional amendments are thus the result of the political parties' political priorities at the time, rather than the results of a consensus-seeking process within society and / or community of experts in political and legal matters. In spite of the fact that the political system in Slovakia can still be called a parliamentary democracy, there are some tensions between the legislative branch and government on one side and president on the other side, especially when the president and prime

minister come from different political camps. One sign of a trend towards the stabilization of the political system in Slovakia is the marginalization of HZDS (since 2003 ĽS-HZDS) and subsequently, the lack of an influential anti-system political party. In spite of it we can mention the presence of the significant mental barriers which are obstacles to cooperation between Smer-SD and centre-right parties in the eventual "broad coalition". Particularly in the shaping of the party landscape of Slovakia, the personal factor plays a major role. Another major factor in shaping the political system of Slovakia is the ethnic division of the country´s population, which is a factor differentiating Slovakia from the other V4 states.

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# The University of Ss. Cyril and Methodius (UCM) - 1997

- **The Faculty of Social Sciences**

  The Faculty of Social Sciences at the University of Ss. Cyril and Methodius was founded in December 2011 as the youngest among the other faculties at our university. We focus on the research and education in the areas of political science, European studies, public administration and social services and counselling. We are partners of many significant domestic and international scientific projects. Also we have research centres focused on the municipal and regional politics and the centre of volunteering working by the faculty. We cooperate with the major European and world universities and scientific institutions.

- **The Department of Political Sciences**

  This department primarily focuses its activities towards the research of the European integration (political, social and economic challenges of integration) and challenges that new EU member states need to solve. These challenges do not relate only to the countries of Central and Eastern Europe. The department organizes field trips for its students to the neighbouring countries that include visiting of the state organizations and getting to know the functioning of the political system in those countries. The department has signed numerous cooperation agreements with European universities and together they actively co-participate in various international projects.

  The department offers two study programmes in the form of daily studies or external studies: Political Science – Bachelor/Master European Studies – Bachelor.

# The John Paul II Catholic University of Lublin (KUL) - 1918

- **The Faculty of Social Sciences**

  The Faculty of Social Sciences (Wydział Nauk Społecznych, or WNS in Polish), was founded in 1980 and has a central place in the life of the John Paul II Catholic University of Lublin. Both the research carried out here, as well as the teaching, enjoy high levels of interest. The range and diversity of the Departments, as well as the many courses available in the Faculty overall, means that it is very attractive for students who choose to study with us. Within the Faculty of Social Sciences of the John Paul II Catholic University of Lublin there are six Departments: Journalism and Social Communication, Economics and Management, Pedagogy, Psychology, Political Science and Sociology.

- **The Institute of Political Science**

  The Institute of Political Science at the John Paul II Catholic University of Lublin offers a perfect combination of concrete and meaningful academic knowledge with the ambition to prepare the future political and social elites – competent local leaders, civil servants, political operatives and experts. The research carried out at the Institute is concerned with the mental, social, political, economic, and cultural processes which arise in the field of globalisation and European integration.

  Students study full time for three years to achieve a BA in political science (six semesters). Full time studies are free of charge and no fees are collected from the students. The students, after defending his dissertation, obtains a BA in political science and is able to pursue an MA degree in political science (also at our institute).