

УДК 340.133

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**MPS' RIGHTS IN LEGISLATION A MERE FORMALITY
ON THE CHANGING ROLE OF PRE-FINAL VOTE AMENDMENT PROPOSALS**

When I started working with this topic, I did not search for studies on amendment proposals by myself. I asked for the help of the Information Services for Representatives at the Library of the National Assembly. We failed to find any. There were numerous studies on legislation in general, but only a few mentioned this genre of amendment proposals, and they did so purely descriptively. Of course, this is not a surprise. Which writer would be inspired by a genre which is aimed at correcting grammar and fixing incoherence? This aspect of lawmaking is meant to eliminate technical legislative inaccuracies. At the most, it is only worth considering this tool in its relation to the analysis of lawmaking. Lengthier pre-final vote amendment proposals signal original proposals of poor quality. Furthermore, it would have been possible to analyze the correctness of decisions by the Committee on Constitution, Justice, and Order of Business (from hereon constitutional committee) which blocked opposition initiatives related to this, and – unwittingly or on purpose – qualified proposals which were not in accordance with House Rules as legitimate. The previous parliamentary cycle also featured plenty of such errors. So, it is understandable that no one felt the desire to conduct such a study.

However, in the past year and a half, pre-final vote amendment proposals became the most important elements of lawmaking. We can safely declare, that this is the first parliamentary cycle in which completely rewriting legislations by the application of pre-final vote amendment proposals has been made into standard practice, even to a degree where they are also used to substantially amend unrelated laws. Final debates are conducted similarly to general debates in style, length, and content. This process led to an instance when the Constitutional Court struck down a $\frac{2}{3}$ majority law precisely due to the application of pre-final vote amendment proposals which went against the House Rules. Almost coincidentally, the governing parties modified the House Rules accordingly.

According to the House Rules, a pre-final vote amendment proposal can only be submitted «... if the accepted provision is incompatible with the Constitution, other laws, an already accepted provision of the proposal, or a provision of the legislative proposal not affected by the amendment»¹. This was applicable until December 31, 2011.

Parliamentary Practices

1. Debates at Committee Sessions

After these initial thoughts, it is worth taking a look at the committees' practices related to pre-final vote amendment proposals. This type of amendment proposal, which can be submitted a single hour before the day's session starts, is never put in front of a professional committee. It is simply discussed by the Constitutional Committee. After this, MPs can offer 6 minute statements per debate sections in the final debate during plenary sessions (in case only a single debate section is held, the time limit is 15 minutes). These amendment proposals are thus not taken to professional committees, there are no professional debates at the plenary sessions, and parliamentary groups, cabinets, and party experts have no opportunity to examine them. If we believe in the importance of judgement, during the course of this unconstitutional method of proceedings, the Constitutional Committee's members (who are lawyers) should be expected to be experts in the fields of agriculture, energy, religion, healthcare, environmental protection, policing, social politics, etc. But even if the membership of the committee consisted exclusively of polymaths, they would still need to develop superhuman reading abilities, because committee sessions usually start between 9.30 am and 11 am on days on which final votes are held – no matter how extensive the daily agenda is. Plenary sessions start at 1 pm. This means that the deadline for pre-final vote amendment proposals is noon². Usually, the practice is that they don't hand them in before that time. This means that amendment proposals are handed out during the committee's session. Thus, the committee's member can decide whether he/she wants to read the proposal and ignore the other points on the agenda, or vote on it «blindly». Sometimes even this situation is not applicable, as committee members receive the proposals just prior to the vote. During preliminary final vote agen-

das, the committee votes on documents which can be exceed a hundred pages. Opposition members often yell out inquiring whether the governing parties' MPs know what they are voting on. Their responses are usually faint smiles.

Opposition politicians have often asked the administration or the initiating politicians to explain how their actions are legal under House Rules³. Answer to these questions were scarce. Once, the deputy state secretary representing the government openly refused to answer, something which I have never seen during my six years as a representative⁴. The committee's chair often responded to the opposition's frequent criticism by saying that this is the result of an ill-conceived house regulation, but until it is altered, he will continue to apply it. One can ponder how true that statement is, but it is certainly important to note that when they worded this rule, the authors surely did not think the most prestigious parliamentary committee will exploit it. The Constitutional Committee would have had to declare amendment proposals which were not primarily aimed at correcting incoherence as incompatible with House Rules⁵. In that case, these proposals would not have been voted on by the committee and they would not have made it to the Parliament floor. To correct grammar mistakes, fix internal contradictions, and eliminate unconstitutionality, the committee would only have to take a five minute break. In my opinion, MPs with law degrees would have no problem seeing these issues through. This, of course, supposes that we are talking about well prepared laws, and there is no need to waste pages to correct mistakes due to poor professional conduct. It is my sincere belief, that laws do not need to be amended based on an ineffective practice, but a poor and harmful practice itself needs to be changed. After a committee meeting, a journalist asked: shouldn't the possibility of appeal be guaranteed – for example to the Constitutional Court – in relation to the committee's decision on House Rules⁶? I don't believe this is necessary. If the National Assembly's Constitutional Committee abuses its powers, then we must conclude that this is a sign of a dysfunctional state and a general democratic deficit. This is the way the problem has to be addressed and not by rewriting procedural rules.

2. Debates at the Plenary Session

After this, the proposal makes its way to the plenary session, where MPs have 6 minutes to offer their opinions on it.⁷ It is often the case, that opposition politicians interrogate members of the Constitutional Committee prior to the final vote to find out what exactly changed. After this come the generic *I-have-no-clues, this-isn't-what-we-agreed-ons*, and *this-completely-changes-the-points*. Then, huddled over a bench in the hall, commences an ad-hoc cabinet meeting, where anyone who isn't interpellating or inquiring something from ministers can participate. Although, this is all pointless. If my memory serves me right, not once has a pre-final vote amendment proposal been rejected based on an opposition initiative during the governing coalition's reign. Treating the Parliament as a reality show must be entertaining. But when the stakes affect millions, when the question is whether world religions will be considered legitimate in Hungary or how much heating will cost, one can become quite grim.

The Most Heated Final Debates of the Current Cycle

Let us cite a few examples where opposition politicians discovered conceptual and content-related changes in amendment proposals during debates in the Constitutional Committee. We must note, that in cases where they asked for a specific vote on the proposal's legitimacy under House Rules, the quite heterogeneous opposition has always voted «no», while the governing parties always voted «yes». As such, these proposals were legitimized in this manner. So, let us record a few concrete examples:

- When amending a law on the legal statuses of MPs and decreasing the pay of the Prime Minister's spokesperson, they submitted a pre-final vote amendment proposal seriously affecting the energy and natural gas industries. The amendment was not even half a page long, including its explanation. The amendment proposal – not incidentally – resulted in the most cynical National Assembly debate known to me⁸.

- Adjudicating secretaries never got the payment bonus intended to be distributed by the basic proposal⁹.

- 20 minutes prior to the vote on the legislation pertaining to certain laws establishing the budget (while the committee was discussion other proposals), committee staff handed out a 38 pages pre-final vote amendment proposal jam-packed with significant modifications¹⁰.

- Bearing an uncanny resemblance to this latter endeavor, a 30 page pre-final vote amendment proposal was handed out prior to the vote on the amendment of certain tax legislations intended for the stability of the national budget¹¹. We can also mention another case, when at the start of the committee meeting tens of pages of pre-final vote amendment proposals were handed out¹².

- One of the most remarkable instances was when during the late-night (dawn) session of December 19, 2011, the Assembly discussed 240 pages of pre-final vote amendment proposals submitted by the governing parties. On average, this means 22 pages per legislative proposal, but some reached 75 pages. With the aid of these, they basically rewrote entire legislations. The majority of these documents were received, according to usual practice, that morning by the members of the Constitutional Committee. Thus, reading the proposals was impossible in this instance as well¹³.

- A new record was set by the final debate of the legislative proposal pertaining to the services of public water-works¹⁴. The Constitutional Committee handed in 4 pre-final vote amendment proposals which were not included in the basic proposal. In the case of the health care law, they inserted an entire chapter into the legislation on catastrophe health services. The law pertaining to the handlers of mutual funds and forms of collective investment featured altered regulations on special taxes levied on financial institutions. In the law about the amendment of certain legislation related to the Constitution, they changed the regulations for the salary of the President of the Republic. Finally, in the law pertaining to certain regulations for the protection of nonsmokers and tobacco product consumption, they allowed smoking in casinos¹⁵.

- The administration supported the legislations mentioned in the footnotes in a manner which didn't even allow them to justify their support despite several questions by MPs¹⁶.
- Amending a comprehensive legislation on electric energy and natural gas supplies for a second time was done through pre-final vote amendment proposal submitted for armed security guards, environmental protection, and field guards¹⁷.
- To supplement the law on the National Public Service University and the higher education of public servants, the police, and the military, an MP from the governing parties submitted a barely 2 page pre-final vote amendment proposal which put forth the rules for the new rules for the dissolution of public foundations in a law related to the national budget. During the committee debate, neither the state secretary nor a single governing party MP discussed the proposal's content. In the final debate, all opposition MPs asked for a justification of the proposal – in vain. Neither the governing party's representative, nor the administration's representative took the floor¹⁸.
- To amend a law on person's whose ability to work has been altered, the Constitutional Committee submitted a pre-final vote amendment proposal to supplement the peculiar rules of excise taxes and the sale of excise products with the alteration of excise taxes on tobacco products¹⁹.
- 54 pages were submitted to amend a law on the national budget. The amendment proposals rewrote the main numbers of the budget in a manner unparalleled since the democratic transition²⁰.
- They submitted a pre-final vote amendment proposal containing significant changes spread over hundreds of pages to a law amending legislations on taxes²¹. The Constitutional Committee discussed it around noon, but the Parliament's web page only displayed it around 7 pm. Thus, representatives had about an hour to read and evaluate the proposal. However, this was only a theoretical possibility as there was a vote in the National Assembly at that time. Naturally, discussions by parliamentary groups or professional cabinets were out of the question. A Jobbik MP asked to delay the discussion²². The governing parties threw out the proposal, though the opposition supported it. Another opposition recommendation stated that the economic committee's chair should convene a meeting of the economic committee for the discussion of the proposal, thus suspending the parliamentary debate²³. There wasn't even a response to this initiative. After voting unfavorably on a proposal on the agenda, LMP did not participate in the vote or the debate. The other two opposition parliamentary groups tried to voice other substantial concerns besides the violation of House Rules²⁴. The economic committee's chair (an MP from the governing parties) listed the alterations in the proposal for three minutes, and managed to unwittingly prove the proposal's incompatibility with House Rules. He then stated, that the opposition politicians could have read about the changes in the press, adding «my fellow representatives, you should work instead of complaining»²⁵. Here, I would like to note that they did not have to vote during this time.
- The presiding president over the final debate of laws amending legislation on Hungary's 2012 budget had to call a 45 minute break, because the National Assembly staff was unable to proceed with the minutes due to a pre-final vote amendment proposal handed in at the last minute. After 45 minutes, the session continued, but one of the MPs pointed out that the material is unavailable to parliamentary groups, so his comments have to be based on already submitted amendment proposals. Statements did not address proposals doctoring incoherence, but substantial amendments submitted contrary to the House Rules²⁶.
- The Chief Justice of the Supreme Court was removed from his office before his mandate expired. This was made possible by the amendment of three laws. One of these amendments pertained to the organizational and management of the judiciary. The provision became part of the legislation through a pre-final vote amendment proposal. The session saw a heated, one hour debate on the proposal²⁷. It is not without precedent, that he current administration removes someone from office through a pre-final vote amendment proposal prior to the expiration of that person's office. The Budget Council's president was removed through a pre-final vote amendment proposal submitted to a health care law²⁸.
- Perhaps the most serious debate on the compatibility of a pre-final vote amendment proposal with the House Rules occurred in relation to the legislative proposal on regulated real estate firms. To my inquiry, which included questioning how this related to social insurance and other laws in question, the deputy state secretary for the National Economy Ministry simply refused to answer. To my knowledge, this has been unprecedented since the democratic transition. I have to admit that he was in a tough situation, because he would have required extensive rhetorical abilities to prove the connection²⁹.
- The most outstanding such instance was the final debate of the law pertaining to the freedom of thought and religion and the legal statuses of churches, religious denominations, and religious communities. It is worth it to spend some time on this. The Constitutional Committee debated it on three instances. One of these had to be delayed, because the amendment proposal was not yet completed. It was incomplete because Fidesz and KDNP could not come to an agreement. The final vote, however, fell on the same day. During the plenary session, the consultation continued. Prior to the final vote, Fidesz's parliamentary group asked for a break, while the Constitutional Committee's chair convened a meeting. The initiative was not completed even on the third session. The chair asked for three consecutive breaks, and asked members to occupy themselves but don't go too far. After a half hour wait, committee staff handed out the amendment proposal which formally became the Constitutional Committee's recommendation. This was followed by a ten minute break for reading. After this, Fidesz's parliamentary group leader asked to speak: «My fellow representatives, since the initiator can acquaint you with the details of the alterations which we propose, I would focus on conceptional questions». Thus, he openly admitted, that there are no issues of coherence, it is the proposal's concept which has been changed. This was true. Only to mention the most important modification: with

the acceptance of the law, the government would only recognize 15 churches instead of 45. With the acceptance of pre-final vote amendment proposal, all Muslim and Buddhist churches would cease to exist, as well as some Jewish and Christian ones. The disbanded churches were notified the next day through the media. Despite their consultations with the government, they were no longer recognized as official churches. The legality of the procedure was challenged by all opposition parties. Among them, LMP's parliamentary leader, who was a member of the committee, said that it is possible to rape the House Rules as it has happened before, but then it is unnecessary to maintain the parliamentary props. This was one of the most important laws according to the Basic Law, it could only be accepted by a $\frac{2}{3}$ support of National Assembly representatives. It was one of the so-called $\frac{2}{3}$ majority laws³⁰.

Public Law Invalidity and Unconstitutionality Due to the Application of Pre-Final Vote Amendment Proposals

After this latter law, many turned to the Constitutional Court. The body declared the law unconstitutional on December 19, 2011 due to invalidity under public law. The Constitutional Court determined that the House Rules' provision on pre-final vote amendments are guarantees for the democratic exercise of power and the public good-related activities of MPs, thus their violation is such a serious offense that it causes the law to be invalid by public law standards, partially or entirely. The organ did not change its practices and consolidated that procedural errors on their own do not qualify a legislation as unconstitutional. This is only the case if the violation of the provision violates a right which can be traced back to the Constitution. At the same time it highlighted, that serious procedural irregularities result in invalidity under public law. Guarantees are derived from the principles of rule of law and legal security. The body examined the submission of the proposal in terms of its compatibility with House Rules in detail. It determined that it did in fact violate those rules. This was not doubted by justices who constructed the minority opinion either.

The Court inspected whether the violation of the House Rules led to a violation of a right which can be traced back to the Constitution. In this regard, they decreed that the House Rules' provision relating to legislation *«allow National Assembly Representatives to participate in the National Assembly's decision-making process in a well-prepared and professionally sound manner. Thus they are such guarantees of the representative's activity for the interest of the public which, with regards to the Constitutional Court's practice, are constitutional requirements of the democratic exercise of power. They are closely related to the representative exercise of power declared in paragraphs (1) and (2) of Article 2 of the Constitution (...). In this process, preparation for decisions and the debate of legislative proposals (the right of a representative to speak) are definitive in their importance»*³¹.

The Constitutional Court's decision goes past this law substantially, as the body declared the application of pre-final vote amendment proposals to be against House Rules and the Constitution in general. From this, we can conclude that several, if not all, of the above mentioned laws are unconstitutional. The question is, how the replacement of the Constitution with the Basic Law will affect the Court's opinion in this regard. Presumably, there it will not change.

Fundamentally, the Basic Law adapts the Constitution's provisions on the Constitutional Court. Article 2 paragraph (1) of the Constitution can be found in Article B paragraph (1) of the Basic Law. Article 2 paragraph (2) has been relocated to Article B paragraph (4), while Article 20 paragraph (2) is now Article 4 paragraph (1). Based on recent statements, the body will continue to conduct its activities in harmony with the new Basic Law's provisions. But even considering this, it would be bold to predict how the interpretation of these provisions will change in the context of the application of the National Creed and the historical constitution, a concept outline in Article R paragraph (3).

In my opinion, not only does the decision go past this legislation, but it also extends beyond the generic practice related to pre-final vote amendment proposals incompatible with House Rules. It would be beneficial to examine whether the National Assembly's operation is constitutional, or whether it suffices the requirements for the rule of law. According to the Constitutional Court, *«preparation for decisions and the debate of legislative proposals (the right of a representative to speak) are definitive in their importance»*. Besides this, I must quote the text of another Constitutional Court decision: *«Informing representatives about legislative proposals and related amendment proposals which are put to debates and votes, thus enabling parliamentary debate to be conducted rationally, belongs to the field of predictable legislative process»*³². In sharp contrast with this, irregularities can be detected on a regular basis. As such, these can affect the constitutionality of accepted provisions. The lack of time for preparation and debate is a trend. It is now common practice that proposals of hundreds of pages are handed out on Friday and are voted on in committees on Monday. The plenary session then begins on that very day. It is common that debates closed by order-of-business recommendations or that debates are conducted under timeframe in the National Assembly. It has happened, that amendment proposals to the Constitution were voted on on the very same day they were submitted. The combination of general and detailed debates has become commonplace. Expedited debate procedural incompatible with House Rules are everyday occurrences, inquiries by opposition politicians are often ignored. MPs from the governing party often only announce the contents of the legislation or they often boycott debates all together. Legislations discussed in general debates – perhaps during social and professional consultations – are rewritten through amendment proposals. The mandatory consultation decreed by the legislative law is circumvented by submitting comprehensive initiatives affecting a large portion of the population as independent initiative by representatives – despite their really being motions by the government. This practice has already been qualified as unconstitutional³³. This custom hollows out the constitutional powers of the most important representative body and, in essence, introduces a practice of governance by decree. I agree with one of the Constitutional Justices, who stated that the constitutional difference between a decree and a law is that the decree, unlike a law, is introduced without preliminary open debate. *«Thus, laws are not simply legislations. They are previously justified norms in political representation and in front of public opinion»*³⁴.

The Modification of Procedures Related to Final Votes in the House Rules

On December 15, 2011, a few MPs from the governing parties submitted a recommendation to modify the House Rules³⁵. The independent initiative advocated the modification of a previous institution, the so-called special expedited procedure, which allows a final vote on a legislative proposal to be conducted on the same day they are submitted if such a motion is supported by $\frac{2}{3}$ of MPs present (instead of the previously applicable). General and detailed debates have to be combined, while amendment proposals can be submitted for 3 hours after the procedure has been initiated. The debate is limited to 30 minutes per parliamentary groups. Independent MPs receive 8 minutes³⁶. Here, I would like to note that original timeframe was half of this, it was doubled by an amendment proposal³⁷. Six such procedures can be undertaken per session cycle. As my topic is pre-final vote amendment proposals, I would only offer two brief thoughts on the proposal's passages. The first one is that it is in complete accordance with what I stated above pertaining to the marginalization of the National Assembly as a formality and raises questions of constitutionality for provisions passed in this manner. The second thought is related to eliminating a threshold in the House Rules by a $\frac{2}{3}$ majority. Their explanation for this is once again defined by the desire to «speed up» processes and the increased simplicity and transparency of expedited legislation. One of the initiators used the following witty reasoning: «*Basically, I could say that a computer made in '94 cannot fulfill its role in today's fast-paced world. This is the purpose of amending the House Rules*»³⁸.

The second part of the independent initiative recommended the modification of final voting procedural. According to this, the initiator, the initially designated committee, and the constitutional committee can introduce pre-final vote amendment proposals without content-related limitations, but the amendment proposal cannot extend to provisions of laws unaffected by the uniform proposal³⁹. As such, reregulating the energy industry will continue to be impossible (according to House Rules) through pre-final vote amendment proposals submitted in relation to the salary of the PM's spokesperson. However, if, for example, a proposal pertains to the amendment of a technical rule related to a tax law, any tax related legislation showcased in the initiative can be rewritten. A – stylistically characteristic – pre-final vote amendment proposal would move the previously unrestricted final debate within a strict timeframe. The timeframe would be determined by the house committee for each debate⁴⁰. On the first day after the provision took effect, the timeframe was determined to be 5 minutes per parliamentary group⁴¹. The result of the amendment was the legalization of a process previously outlawed by House Rules.

In my opinion, the accepted National Assembly directive⁴² The principles highlighted by the Constitutional Court in relation to the church law are applicable here as well. The legislation is not unconstitutional primarily because it violates procedural rules, but it is unconstitutional because it violated Articles 2 and 20 of the Constitution. If such measures are permitted by a law lesser than the Constitution – or, today the Basic Law –, then not only is the law in question unconstitutional, but the law which allows its existence is too.

The parliamentary debate began interestingly. After the initiator's expose, the speaker could not allow the largest governing party's president to speak, because he wasn't in the room. Out of the 263 governing party MPs, 2 were absent. The governing party MPs justified submitting the proposal by relying on an argument favoring speedy processes. They believed that the country's situation required this. Another reason they recorded was obstruction by the opposition. During the parliamentary debate, we could hear some very surprising explanations as well. After the continued offenses described above and regulations which clearly allow for more maneuvering room for the governing parties, it is difficult to analyze the comments of the largest governing party's parliamentary leader. «*The current proposal is a measure of strict self-control. It is a measure of strict self-control from the perspective of the majority, because it clears up the practice of the past year and a half: it clears up the situation of pre-final vote amendment proposals. It finally ends this debate in a manner obviously affected by the decisions of the Constitutional Court*»⁴³. Notably, the proposal was submitted four days before the Constitutional Court's decision. Similarly interesting are the suggestions according to which the goal of the proposition is to protect the assembly's reputation. Perhaps it is beneficial to quote a passage from the chief orator of the largest governing party: «*Basically, the opposition parties are protesting against pre-final vote amendment proposals since September. They want to restrict the majority and the government in expedient decision-making*»⁴⁴. So, the problem is not that the practice violated the House Rules, but that the opposition calls attention to this and attempts to break the governance's momentum in this manner. I agree with the opposition statement which declares that it is not right to codify a practice violating the House Rules. Besides this, opposition arguments centered around highlighting illegal practices, criticizing the curbing of the opposition's rights, and claims of unconstitutionality also mentioned by yours truly above⁴⁵.

Besides constitutional concerns, it would be difficult to pinpoint decent legislative intent in the modifications related to pre-final vote amendment proposals. Until the close of the detailed debate, it is possible to hand in relevant amendment proposals. The House Rules even allow the speaker presiding over the closing proceedings to extend the deadline for pre-final vote amendment proposals. Due to their $\frac{2}{3}$ majority, the governing parties accept whatever they think best, and the parliamentary debates will be conducted by the same 10-30 MPs. However, suppositions relating to the goal exist. Some believe that the reasoning for the alterations is to prevent the evaluation of a proposal's background submitted in the last second, because these proposals – like the one related to public waterworks mentioned above – often affect certain economic actors. If this is true, the problem is not only related to constitutional law. But let us abandon suppositions. The result of the modification is that, interestingly, the standards for pre-final vote amendment proposals have been lowered, those can be submitted more easily. If the amending and related proposal don't extend over parts of the legislation or decree unaffected by the amendment⁴⁶, then the pre-final vote amendment proposal is only banned from touching on elements not mentioned in the uniform proposal.

This was not identified as a goal for the legislative amendment by the initiators, but based on my knowledge and experience, I believe this was not on purpose, but rather a benevolent side effect for the governing parties.

Closing Thoughts

It was not my goal to cover the entirety of the National Assembly's recent activities in this article. However, we must note that this practice related to pre-final vote amendment proposals and the subsequent amendment of House Rules are part of a process which reduces the National Assembly to a necessary evil. According to this perspective, the Parliament is an institution which is a hurdle for effective governance. The illegal practice and its later legalization signals a simple idea: providing time to representatives for the study and debate of proposals is unnecessary, because their role is only a formality. If we believe in the necessity of democratic government and representative democracy, the administration's mode of governance cannot be considered acceptable.

Translator's Note

ABH is the abbreviation used to refer to a decision by the Constitutional Court.

¹ National Assembly Resolution 46/1994. (IX. 30) pertaining to the House Rules of the National Assembly of the Republic of Hungary Article 107. paragraph (1).

² National Assembly Resolution 46/1994. (IX. 30) pertaining to the House Rules of the National Assembly of the Republic of Hungary Article 107 paragraph (1).

³ e.g. minutes of the Committee on Constitution, Justice, and Order of Business: July 22, 2010; December 13, 2011; June 27, 2011; July 4, 2011; July 8, 2011; July 11; 2011.

⁴ minutes of the Committee on Constitution, Justice, and Order of Business: July 8, 2011.

⁵ National Assembly Resolution 46/1994. (IX. 30) pertaining to the House Rules of the National Assembly of the Republic of Hungary Article 143 paragraph (3).

⁶ http://hvg.hu/itthon/20110708_barandy_gergely_orszagyules_alkotmanyugy, <http://www.nepszava.hu/articles/article.php?id=448114>

⁷ National Assembly Resolution 46/1994. (IX. 30) pertaining to the House Rules of the National Assembly of the Republic of Hungary Article 50 paragraph (5).

⁸ Plenary session of the National Assembly, June 6, 2011 (95th day of session) Statements 216-261. Furthermore, legislative proposal T/2224.

⁹ Legislative Proposal T/580, Pre-final vote amendment proposal T/580/24, minutes of the Committee on Constitution, Justice, and Order of Business: July 22, 2010.

¹⁰ Legislative Proposal T/1665, Pre-final vote amendment proposal T/1665/103, minutes of the Committee on Constitution, Justice, and Order of Business: December 13, 2010.

¹¹ Legislative Proposal T/4049, minutes of the Committee on Constitution, Justice, and Order of Business: September 9, 2011.

¹² Minutes of the Committee on Constitution, Justice, and Order of Business: July 4, 2011.

¹³ Legislative proposals T/4365, T/4919, T/5000, T/4856, T/5002, T/4998, T/4992, T/4839, T/4864, T/4997, T/5066. Minutes of the Committee on Constitution, Justice, and Order of Business: December 19, 2011.

¹⁴ Legislative proposal T/5206.

¹⁵ Pre-final vote amendment proposals T/5206/89, T/5206/90, T/5206/91.

¹⁶ Legislative Proposal T/2428, Pre-final vote amendment proposal T/2428/9. Legislative Proposal T/4122, Pre-final vote amendment proposal T/4122/12. Minutes of the Committee on Constitution, Justice, and Order of Business: March 16, 2011 and October 10, 2011.

¹⁷ Legislative Proposal T/3288, Pre-final vote amendment proposal T/3288/37. Minutes of the Committee on Constitution, Justice, and Order of Business: June 27, 2011.

¹⁸ Legislative Proposal T/4122, Pre-final vote amendment proposal T/4122/12. Minutes of the Committee on Constitution, Justice, and Order of Business: October 10, 2011. Minutes of the plenary session of the National Assembly, October 10, 2011 (117th day of session) Statements 213-229.

¹⁹ Legislative Proposal T/5000, Pre-final vote amendment proposal T/5000/100.

²⁰ Legislative Proposal T/4365, Pre-final vote amendment proposals T/4365/752-762.

²¹ Legislative Proposal T/4662, Recommendation T/4662/197 to the final debate.

²² Statement by Janos Vollner (Jobbik): minutes of the plenary session of the National Assembly: July 21, 2011 (138th day of session) Statement 301.

²³ Statement by Gergely Barandy (MSZP): minutes of the plenary session of the National Assembly: November 21, 2011 (138th day of session) Statement 332.

²⁴ See Statements by Tibor Kovacs (MSZP) (Statements 312 and 328), Istvan Tukacs (MSZP) (Statements 308 and 310) Nandor Gur (MSZP) (Statements 314, 318, 324) Tamas Gaudi-Nagy (Jobbik) (Statement 344), Istvan Gondor (MSZP) (Statement 350), Janos Vollner (Statement 352) : minutes of the plenary session of the National Assembly: November 21, 2011 (138th day of session).

²⁵ Statement by Antal Rogan (Fidesz): minutes of the plenary session of the National Assembly: November 21, 2011 (138th day of session), Statement 322. <http://www.nepszava.hu/articles/article.php?id=493646>

²⁶ Legislative proposal T/4656: minutes of the plenary session of the National Assembly: November 28, 2011 (142nd day of session), Statements 186-209.

²⁷ Legislative proposal T/4743: minutes of the plenary session of the National Assembly: November 28, 2011 (142nd day of session), Statements 210-256.

²⁸ Pre-final vote amendment proposal T/1668/73.

²⁹ Legislative proposal T/3538, Pre-final vote amendment proposal T/3538/13: minutes of the Committee on Constitution, Justice, and Order of Business: July 8, 2011.

³⁰ Legislative proposal T/3507, Pre-final vote amendment proposal T/3507/98: minutes of the Committee on Constitution, Justice, and Order of Business: July 11, 2011.

³¹ 1279/B/2011 ABH. see also: 11/1992 (III. 5) ABH, 39/1999. (XII. 21.) ABH, 29/1997. (IV. 29) ABH, 8/2003. (III. 14.) ABH, 63/2003. (XII.15) ABH, 109/2008. (IX. 26.) ABH, 12/2006. (IV. 24.) ABH.

³² 65/B/2008. ABH.

³³ 8/2011. (II. 18.), 1149/C/2011. ABH.

³⁴ 1279/B/2011. ABH Explanation by Andras Bragyo.

³⁵ Resolution proposal T/5273.

³⁶ Resolution 46/1994. (IX. 30.) pertaining the House Rules of the National Assembly of Hungary Articles 128/A-128/D.

³⁷ Amendment proposals T/5273/14 and T/5273/15.

³⁸ Statement by Imre Vass (Fidesz): minutes of the Committee on Constitution, Justice, and Order of Business: December 16, 2011.

³⁹ Resolution 46/1994. (IX. 30.) pertaining the House Rules of the National Assembly of Hungary Article 107 paragraph (1).

⁴⁰ Pre-final vote amendment proposal T/5273/23. Resolution 46/1994. (IX. 30.) pertaining the House Rules of the National Assembly of Hungary Article 107 paragraph (4).

⁴¹ see: recommendation for the National Assembly's agenda: February 13, 2012.

⁴² National Assembly decree 98/2011. (XII. 31.)

⁴³ Statement by Janos Lazar (Fidesz): minutes of the plenary session of the National Assembly: December 30, 2011 (161st day of session) Statement 63.

⁴⁴ Statement by Ferenc Papcsak (Fidesz): minutes of the plenary session of the National Assembly: December 16, 2011 (155th day of session) Statement 156.

⁴⁵ minutes of the plenary session of the National Assembly: December 16, 2011 (155th day of session), Statements 139-225. minutes of the plenary session of the National Assembly: December 19, 2011 (156th day of session) Statements 25-29. minutes of the plenary session of the National Assembly: December 20, 2011 (157th day of session), Statements 79-146, minutes of the plenary session of the National Assembly: December 30, 2011 (161th day of session) Statements 44-92.

⁴⁶ Resolution 46/1994. (IX. 30.) pertaining the House Rules of the National Assembly of Hungary Article 94 paragraph (3).

Резюме

Гергель Баранді. Депутатські права, що перетворилися у формальність. Щодо зміни ролі пропозицій перед заключним голосуванням.

Пропозиція щодо внесення зміни до проекту закону перед заключним голосуванням, відповідно до Регламенту належало до такого типу законодавчої пропозиції, що мав за функцію виправити технічні неточності нормативного тексту. Але протягом останніх трьох років такі пропозиції стали відігравати головну роль в правотворчому процесі. Маємо підстави стверджувати, що у перше за часів новітнього парламентаризму у теперішньому скликанні стало за практику змінювати по суті проекти законів шляхом подачі пропозицій перед заключним голосуванням. Це призвело до того, що неконституційність – публічно-правова нікчемність – одного з законів була Конституційним Судом встановлена саме на підставі того, що пропозиція перед заключним голосуванням була застосована у супереч Регламенту. А також тому, що практично одночасно з цим, проурядові партії внесли зміни у положення регламенту стосовно пропозицій перед заключним голосуванням. Дана стаття присвячена аналізу цього процесу.

Ключові слова: пропозиція перед заключним голосуванням, публічно-правова нікчемність, порушення Регламенту.

Резюме

Гергель Баранді. Депутатские права, превратившиеся в формальность. Об изменении роли предложений перед заключительным голосованием.

Предложение относительно внесения изменений в проект закона перед заключительным голосованием, в соответствии с Регламентом относилось к тому типу законодательных предложений, которое имело своим предназначением исправление технических неточностей нормативного текста. Однако на протяжении последних трёх лет такие предложения стали играть ведущую роль в правотворческом процессе. Имеем основания утверждать, что впервые за период нового парламентаризма в нынешнем созыве стало за практику изменять по существу проекты законов путём подачи предложений перед заключительным голосованием. Это привело к тому, что не конституционность – публично-правовая ничтожность – одного закона была установлена Конституционным Судом на основании того, что предложение перед заключительным голосованием была применена с нарушением Регламента. А также по той причине, что практически одновременно с этим, правящими партиями были внесены изменения в те положения Регламента, которые регулируют предложения перед заключительным голосованием. Данная статья посвящена анализу этого процесса.

Ключевые слова: предложение перед заключительным голосованием, публично-правовая ничтожность, нарушение Регламента.

Summary

Barandy G. MPs' Rights in Legislation a Mere Formality. On the Changing Role of Pre-final Vote Amendment Proposals.

The pre-final vote amendment proposals is the aspect of lawmaking, which meant to eliminate technical legislative inaccuracies. However, in the past 3 years, pre-final vote amendment proposals became the most important elements of lawmaking. We can safely declare, that this is the first parliamentary cycle in which completely rewriting legislations by the application of pre-final vote amendment proposals has been made into standard practice, even to a degree where they are also used to substantially amend unrelated laws. Final debates are conducted similarly to general debates in style, length, and content. This process led to an instance when the Constitutional Court struck down a 2/3 majority law precisely due to the application of pre-final vote amendment proposals which went against the House Rules. Almost coincidentally, the governing parties modified the House Rules accordingly. The study analyses this process.

Key words: the Pre-final Vote Amendment Proposals, public insignificance, against the House Rules.

Отримано 18.03.2013