

György Kolláth:

Fool's draw

A man is pushed from the top of a 150-story building and he tells himself at every 20 floors: 'so far, there is no big problem'. This example illustrates the current Hungarian rule of law as well as the upcoming elections. The sine qua non of the constitutional rule of law is the free, fair, transparent elections of equal opportunities. This is what results in democratic legitimacy, which is generated by lawful and fair elections, and guarantees confirmation or dismissal (both born from popular sovereignty) in a peaceful way. Parliamentary, governmental authority, tied to accountability and the system of checks and balances, is given for 4-5 years. It is nothing more. It is not a 'winner takes it all' situation for the majority and the opposition are not backstage actors, not props. The rivalry is between constitutional bodies, but it is also a mutually sincere cooperation as there could be a reversal of fortune. It is a domestic issue of why and how people vote. However, it is an issue that also concerns the allies, the EU partners, to see whether the universal fundamental principles, the rules of the game are adhered to.

Hungary is a defiant Hunnia (*a reference to heightened historical anachronism in a poem by 20th century Hungarian poet Endre Ady – editor*) which is motivated by one aspect: the interest of holding on to power at any price. Hence, contrary to the axioms of states adhering to the rule of law, the end sanctifies (or rather prostitutes) the means. From the summer of 2010, this is the mainstream of Hungarian public policy. That is why the consensus-seeking parliamentary solution – in issues requiring a two-thirds majority – was replaced by the unilateral will of the prime minister. This is how the parliamentary *de jure* system came to be replaced by a *de facto* presidential system, and that is also why the correlated system of electoral regulations became biased. This is how the parliamentary 2/3 mandate became government business – not leaving the opposition with even 1/3.

If the intention had been to halve the 386-member unicameral parliament in a correct way, there would have been a proper method to create – with the preservation of values and principles – a new 199-strong parliamentary system. It did not happen this way. Experts summarize the selfish adversities of the electoral reform in 8-10 points. The government imposed new election rules that favor itself, the opposition is pushed to the margin. The latter could have –should have – boycotted, from the start, these more and more extreme specifications. Signal buoys: the distorted setting of constituencies, the destruction of proportionality, the self-interest of a one-round vote (as the government forces are teamed up while the opposition is disorganized), the guarantees as one of the procedural principles are eliminated (for fraud prevention, for impartial reviews, for fast and reliable assessment of the results as objectives and as standards) are all self-revealing. The same is true for the limited methods of campaigning, the destruction of election funding, as well as the bias in the electoral bodies. There is not a single measure, which would favor the opposition.

The fundamental principles of suffrage are the generality, equality of nature, directness and confidentiality. In the absence of an American type electoral system, directness is intact, but the other three principles are under threat. This fundamental right is general if citizens of legal age have the right to exercise it. However, if you have the right, but have no – or hardly any – fair chance, the fundamental principle may be damaged.

Half a million citizens live abroad. If they have to travel a long distance at their own expense, and then stand in a line to vote at the Hungarian Embassy or consulate in their country of residence, it can result in foreclosure. This is in contrast with the situation of the new Hungarian citizens who may vote by mail. The EU and Strasbourg legal aid bureaus are not indifferent towards the 'conditions' of free voting. It is not the essence of equality, either, if citizens resident in Hungary receive two ballots, while Hungarians living abroad, or those voting on specific ethnic voters list, receive only one. Whatever!

Criminal law prohibits various forms of electoral fraud, however, almost no one is willing to take these seriously. Although, violation of the secret ballot would be punishable by imprisonment, manipulation with empty ballots brought out from the voting place, that is, the so-called chain-voting, is common practice. Typically, the democratic opposition's argument for participation in the vote is that confidentiality can still be assured in the voting booth. The election challenges and prospects from the constitutional point of view are like when a blackjack player – in order to win 21 – draws on 19.

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