Széchenyi István University
Multidisciplinary Doctoral School of Social Sciences

Peter Smuk

Rights of Opposition in Parliamentary Law

– Summary –

Győr
2007

Contents (summary)

I. The aim of the dissertation and the research

This dissertation studies the legitimate political opposition in parliamentary systems, describing and analyzing its rights, role and functions. In the Hungarian literature any monograph concerning especially the rights and the functions of the political opposition has not been published so far, albeit the problem of the political minority was in the centre of the political science already in the 19. century, and in the Hungarian history – in the periods of limited parliamentary governments, and also following the system changing of 1989/1990 – plenty of cases concerning the opposition were discussed. Moreover, the issue has been of great importance in the German and English literature.[1]

In the Hungarian literature, we can find only two articles specially dedicated to the political opposition, those from *József Petrétei* in 1990 – based on the approach of the political sciences, i.e. notion, functions, etc. – and from *István Kukorelli* in 1995 – analyzing the position, the rights and the means of the opposition in the light of the parliamentary law and standing orders.[2] Other works have overviews on the parliamentary law and the position of the parliament – they make mention of opposition also at the organization and the actors of the legislature, but only as an additional issue.

The topic of the dissertation has a special actuality regarding the long lasting reform of the recent standing orders of the Hungarian Parliament. The Constitutional Court has adjudicated over important provisions of the standing orders a several times, mostly concerning the rights of the opposition as well. Accordingly, this research was to draft also *de lege ferenda* proposals.

The research was looking for the answers for the following questions:

a) Where are the limits of the majority rule in constitutional democracies?
b) Is it possible to define the concept and the rights of opposition?
c) How can parliamentary law balance between the principles of efficiency and democratic functioning, with special regard to the institutions and methods regulated by the law pertaining to political parties and the standing orders?
d) How can parliamentary law regulate the institutions that are supporting the functions of oppositions, taking into deeper consideration the standing orders? Where the shortcomings of the regulations are, is it possible to find any solution to these problems in the comparative analysis?

II. The structure of the dissertation and the methodology of the research

The dissertation is divided into 3 main parts, according to the approaches suitable for studying the rights of the opposition. In the first part, the functions and the notion of the opposition are introduced by the majority rule – which is a general start-point understanding the role of the opposition –, and complemented by the

[1] See for ex. *Political Opposition in Western Democracies*. Ed.: ROBERT A. DAHL. New Haven and London., 1966., Yale University Press.; BEYME, KLAUS VON: *Die parlamentarische Demokratie. Entstehung und Funktionsweise 1789-1999.* (3. Aufl.) Opladen/Wiesbaden, 1999., Westdeutscher Verlag GmbH; *Parliaments and Majority Rule in Western Europe*. Ed.: DÖRING, HERBERT. Frankfurt, 1995., Campus; HABERLAND, STEPHAN: *Die verfassungsrechtliche Bedeutung der Opposition nach dem Grundgesetz.* Berlin, 1995., Duncker & Humblot.

[2] PETRÉTEI, JÓZSEF: *Ellenzék a parlamentáris demokráciában. [Opposition in parliamentary democracies.]* In: *Elvek és intézmények az alkotmányos jogállamban. [Principles and institutions in constitutional state of law.]* Ed.: ÁDÁM, ANTAL – KISS, LÁSZLÓ. Bp., 1991 és KUKORELLI, ISTVÁN: *Kormány és ellenzéke az új házszabályban. [Government and its opposition in the new Standing Orders.]* In: K.I.: *Az alkotmányozás évtizede. [Decade of constitution-making.]* Bp., 1995., Korona.

constitutional guarantees pertaining to political pluralism and political parties – which is necessary regarding the opposition outside the parliament. Secondly, from the main structuring principles of political systems (and also of the parliaments), the principle of efficiency is studied. Inside this, the party discipline and the political norms of the parliamentary groups are taken into special consideration. Following the efficiency, *a contrario,* the provisions supporting the functions of the opposition shall be taken into account – in the third part. Summarizing the research, I look over the analyzed results in a new cross-section of the opposition-behaviors.[3]

I use primarily the English, German and Hungarian literature, but the constitutions and standing orders of the model-systems have counted most, while their practice and experiences are introduced mainly by the judgments and cases of the constitutional courts.

The rights and the role of opposition can be analyzed in the parliamentary systems, where the political responsibility of the government is provided by the constitution. As *Walter Bagehot* noticed, 'critical opposition is the consequence of Cabinet Government'.[4] I mainly focus on the European parliamentary governments, in comparison with the Hungarian political system, so the presidential systems – where the legislature is clearly divided from the executive – remain in the background, although keeping them in mind while defining the types and models of the opposition.

The methodology used by the research is fitting to the diffuse phenomenon of the Opposition. The legal provisions and the political practice should be studied as well. So the constitutional *norms*, the *structures and functions* of legal institutions are the subjects of *comparative* and *historical* analyses.

III. Summary of the research results

1. The majority rule and the notion of opposition

In democratic societies, majority rule is a generally accepted solution for matters discussed. This principle is often justified by the result of not leaving a minority or a person to tyrannize the society, and furthermore, as the costs of reaching the optimal unanimous consensus, the majority rule supports the efficiency. Still, the reputation of the rule is not obviously good. Its critics emphasize that the defenselessness of the minority from the tyranny of the majority is at least as unjust as the tyranny of a minority. According to *Sartori*[5], we can study the majority rule in 3 contexts. By the *constitutional* dimension, we can observe the majority rule as the servant of the secure and predictable order of law making procedures and functioning of the state organs, but the par excellence political considerations should be separated from the professional fields (for ex. the professional administration)[6]. Analyzing the *electoral* context reveals the difficulties of the majority rule at the composition of representative bodies. For those who remain in minority, the different electoral systems can give only limited compensation. The *social* context was brought into discussion already in the 19. century, for ex. by *Tocqueville*[7], but we should see that majority rule is wide-spread method also at non-political, non-governmental organizations, therefore the protection of minorities is desirable also at this level.

The fields of majority rule can be overviewed also by *Lijphart's* models of majority and consensual democracies[8]. The latter bring wide scale of obstacles for the rule, and during the parliamentary procedures, *Beyme's* criteria[9] for judging the opposition's positions can be used:

at the plenum:	participation in the presidium minority veto regarding the standing orders minority veto regarding the amending of the constitution more than 100 plenary sessions per year, to leave enough room for the opposition to express its views
in the commissions:	system of commissions fitting to the system of administration, in order to improve the parliamentary control proportional distribution of seats for the coalition and the opposition opportunities to call the administration into account right to summon witnesses right to obtain documents right for minority reports

[3] Accepting Smith's approaches, see: SMITH, GORDON: *Party and protest: the two faces of opposition in Western Europe*. In: *Opposition in Western Europe.* Ed.: EVA KOLINSKY. New York, 1987., St. Martin's Press. p. 64.

[4] cited by POTTER, ALLEN: *Great Britain: Opposition with a capital „O".* In: *Political Opposition in Western Democracies*. Ed.: ROBERT A. DAHL. New Haven and London., 1966., Yale University Press. p. 6.

[5] SARTORI, GIOVANNI: *Demokrácia. [Democracy.]* Bp., 1999., Osiris. p. 77-79.

[6] BIHARI MIHÁLY – POKOL BÉLA: *Politológia. [Politology.]* Bp., 1998., Nemzeti TK., p. 66-74.

[7] TOCQUEVILLE, ALEXIS DE: *A demokrácia Amerikában. [Democracy in America.]* Bp., 1983., Gondolat. p. 222.

[8] ENYEDI, ZSOLT – KÖRÖSÉNYI, ANDRÁS: *Pártok és pártrendszerek. [Parties and Party Systems.]* Bp., 2004. Osiris. p. 45-50.

[9] BEYME, KLAUS VON: *Die parlamentarische Demokratie. Entstehung und Funktionweise 1789-1999.* (3. Aufl.) Opladen/Wiesbaden, 1999., Westdeutscher Verlag GmbH. p. 187-188.

"If the rules of procedure of parliamentary practice provide the minority with certain rights and veto powers, government-opposition relations will tend to be consensual, because the government is interested in securing the minority's cooperation. Majoritarian parliaments with few minority rights, a high degree of unilateral government control over the parliamentary agenda and strong party cohesion, both on the majority and minority side, provide little incentives and bargaining. The minority will concentrate its resources on the public clash on the floor of the parliament."[10]

Defining political opposition, we can set out from the majority rule, while the modern democratic political systems prefer the protection of the political minority even against the majority rule and the effective decision-making. As basic condition for that: political pluralism must be established, the opposing political forces should be recognized as legitimate actors, and the fact of the multi-party system should be not only tolerated but organized[11] as well.

As for a scientific definition for the opposition, *I regard the political parties as oppositional that do not take any part from the responsibility of the government, so they oppose the governmental power, and those who using their constitutionally established rights and fulfilling their special functions in parliaments take part in the political willing-building process and also in legitimating of the whole political system.* We should be aware of the parties that are outside the parliament, although constitutional law can regard them as opposition only through political pluralism. Legal provisions pertaining to political pluralism and to maintain multi-party-system support also the political forces that have only the chance to get inside the legislature. As *Grube* noticed, parliamentary parties take part also in the non-parliamentary political debates, so, the government/opposition distinction appears on this 'outer' field as well.[12] *László Sólyom* argues in a different, stricter way: the opposition and the coalition is divided by the vote on the election of the Prime Minister and on the passage of the Government's program – the parties outside the parliament can not take part or even influence this voting, so they are out of this sphere of concept.[13]

The following task is to describe the concept of the rights of the opposition. *These rights are those that are necessary to fulfill the opposition's special functions (such as: political will-building and mobilization; critical function; offering alternatives, initiative and innovative function; controlling function; counterbalancing and being successor of the governmental power); and also those institutional guarantees that are to maintain political pluralism. Exercising these rights shall not be dependent on the will of the governmental majority, as 1) they are provided for every single political parties or members of the parliament, or for a certain (but obviously less then 50%) part of the representatives (the so called 'qualified minority'), or 2) political opposition is expressly entitled to exercise them*.

Although we defined carefully the diffuse phenomenon of opposition and its rights – we hardly can step over the procedural aspects toward a material concept. It is not so difficult to understand from the democratic constitutions that they – still omitting the explicit mentioning – count with the presence of the opposition, but its rights can be read in the standing orders. These rights are provided for the political minorities. However, the legal capability of the opposition as such can not be conducted from these rights. The qualified minority is still an uncertain phenomenon: while we can find certainly only one majority, it is not possible to circumscribe minorities as a legal subject. If parliamentary means are provided for the 1/3 of the members of the parliament, logically a party, with for ex. 1/10 seats in the legislature, but outside the coalition should not be regarded as an oppositional party? So, the opposition remains the subjects of certain functions, as *Haberland* defined, the opposition is not a constitutional institution, but rather a function.[14]

2. Guarantees pertaining to political pluralism

The wider concept of the opposition needs studying the law pertaining to political parties, from the viewpoint of establishing and maintaining of political pluralism. The period of 1989-1990, and post-communist systems seem to be appropriate field for this: the transition from the one-party system to the democratic and pluralistic state of law could be followed up relative to the development of the law pertaining to the political

[10] SAALFELD, THOMAS: *On Dogs and Whips: Recorded Votes*. In: *Parliaments and Majority Rule in Western Europe*. Ed.: DÖRING, HERBERT. Frankfurt, 1995., Campus Verlag. p. 546.
[11] see *Mihály Bihari*'s plenary speech in 1994, quoted by: KUKORELLI, ISTVÁN: *A kormány és ellenzéke az új Házszabályban. [Government and its opposition in the new Standing orders.]* p. 140-141.
[12] GRUBE, KONRAD DIETER: *Die Stellung der Opposition im Strukturwandel des Parlamentarismus*. Köln, 1965. p. 4-5.
[13] SÓLYOM, LÁSZLÓ: *Pártok és érdekképviseletek az Alkotmányban. ["Parties and Interest Organizations as Regulated under the Constitution"]* Bp., 2004., Rejtjel. p. 137.
[14] HABERLAND, STEPHAN: *Die verfassungsrechtliche Bedeutung der Opposition nach dem Grundgesetz.* Berlin, 1995., Duncker & Humblot. p. 147-149. és 181.

parties, which is based on the rules that foreclose the contingent development of unconstitutional political system. We should review the concept of the political party according to the constitutional law, the normative framework of functioning and the regulations of the internal organization of political parties. The provisions of primary importance concern: a) equality of political parties, b) forbidden purposes and instruments, c) rules of incompatibility, d) state subvention. Rules concerning the internal organization require the openness and the prevailing of democratic will-making also inside the political parties, so they contribute to the maintaining the democratic competition of political parties.

I emphasize the factors that determine multiparty-system, and I argue that electoral thresholds and the effective method of state-financing of political parties contest the principle of equality and harm the fair-competition. Thresholds and subvention are both based on the effectiveness of political parties – though being capable to prevent the party system and the parliament from fragmentation. Nonetheless, they prefer extensively the political parties in the Parliament, so they can be seen as being designed to protect the current political elite, and working against the renewal of the party-system.[15] It is also difficult to argue that regarding the thresholds, whether 4 or 5 or any other percents of the votes is constitutionally suitable provision for preventing us from the fragmentation.[16]

3. Provisions dedicated to efficiency and democratic functioning

Parliamentary work and debates are aimed at decision-making, but the way to this goal is not straight, not all the members are interested in it. Rules of procedures and debates are not exclusively to promote the negotiations; the parliament is a political 'arena' as well, where political parties can express and clash their opinions. So the standing orders try to balance between the principles of efficiency and democratic functioning.[17]

Efficiency means the quick and calculable order of the decision-making, while democratic functioning aims to give the floor for as many opinions as possible.

Legislatures have to fulfill their constitutional functions; and this can be realized by the effective decision-making. The Constitutional Court handles the efficiency as a constitutional principle.[18] However, from the principle of the democratic rule of law, we can deduce the plurality of the political opinions, and the displaying of these opinions. So the other basic aspect of judging the standing orders and other procedural provisions – especially in the case of representative bodies – is the democratic functioning. The Hungarian Constitutional Court deduced this consideration from the article 20, par. 1-2. of the Constitution, while the par. 2. refers to the discussion on the issues of public interest as well. [19]

Studying the mentioned principles, we can not declare unambiguously that the principle of efficiency serves for the (governmental) majority, while the democratic functioning supports the political opposition. Fulfilling its functions, the opposition is sometimes interested in the effective working for ex. of the investigative commissions; and the coalition governing based on the majority rule also needs the continuous democratic legitimating.

Provisions supporting efficiency are as follows: regulations of the system and the procedures of committees, the orders of the debates on the initiatives, i.e. the organization and the economy of negotiations, the filtering against the rank growth of representatives' proposals, and also the regulation of decision-making, quorums and sanctioning of absence.[20] The rules of party-discipline and the provisions of standing orders and certain political norms regulating the parliamentary groups are of great importance as well. Against the democratic colorfulness, preferring these groups can radically simplify the debates. Tendencies for strengthening parliamentary groups were especially advantageous for the opposition, as *Beyme* noticed.[21] *Kukorelli* convincingly argues, that besides legal norms, the political norms of factions can be regarded as parts of the 'living' parliamentary law.[22]

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[15] POKOL, BÉLA: *A magyar parlamentarizmus. [Hungarian Parliamentarism.]* Bp., 1994., Cserépfalvi. p. 44.
[16] SÓLYOM (2004) p. 114.
[17] SZENTE, ZOLTÁN: *Bevezetés a parlamenti jogba. [Introduction to Parliamentary Law]* Bp., 1998., Atlantisz. p. 237-240.
[18] Resolution No. 4/1999. (III. 31.) of the Constitutional Court (CC)
[19] Resolution No. 12/2006. (IV. 24.) of the CC
[20] SOMOGYVÁRI, ISTVÁN: *A hatékony működést biztosító egyes jogintézmények a fejlett demokráciák házszabályaiban. [Legal institutions providing effective functioning in the Standing Orders of developed democracies.]* In: Magyar Jog, 1993/5. p. 269.
[21] BEYME, KLAUS VON: *Parliamentary Oppositions in Europe*. In: *Opposition in Western Europe.* Ed.: KOLINSKY, EVA. New York, 1987., St. Martin's Press. p. 36-37.
[22] *Alkotmánytan I. [Constitutional Law, part I.]* Ed.: KUKORELLI, ISTVÁN. Bp., 2002., Osiris. p. 291-292., 312.

4. Rights of opposition in connection with the activity of the Parliament

On the inaugural session of the Hungarian National Assembly, among the organizational issues, the followings are of great importance: formation of parliamentary groups, election of officials (Speaker, Deputy Speaker, Clerks, and also how many of them is elected). These issues are basically negotiated and bargained by the political parties, just like the system and composition of the parliamentary committees.[23] In parliamentary systems, limited seats/positions and rights are distributed upon the following principles:

Order of strengths. The biggest coalition party gets the office of the Speaker in the Hungarian National Assembly, the leader of biggest oppositional party is the Leader of Her Majesty's Opposition in the House of Commons.

Proportionality. The most generally applied method is the proportionality according to the representation of the political parties on the plenum.[24] We can see that rule in the standing orders of the German Bundestag in Art. 12., and although it ensures the majority positions of the coalition, it can be regarded as a guarantee for displaying the opposition in some bodies of the House (for ex. in presidium, as it is missing from the Hungarian standing orders), so *de lege ferenda*, the declaration of this principle could be adopted in Hungary too.

Parity. The equal representation of the coalition and opposition occurs in some committees in Hungary, and also at the debate in time limits, members of the government parties and the opposition as a whole shall have an equal share of time at their disposal (Standing Orders Art. 53. par. 3. a.).

Equality of rights. The equality of the representatives is provided by the Constitution, and this rule can invalidate the preferred situation of the governmental side (its members are in more confidential connection with the executive administration), although belonging to one or the other side often results different outcomes, for example by influencing the legislative procedures. The equality of the parliamentary groups can ensure generally the opposition's participation in the state will-building processes[25], and we can see this principle also in the Hungarian Committee of the House.

In some respects, the situation of representatives not belonging to any groups may be problematic; they are not entitled to form a parliamentary group in Hungarian National Assembly. The standing orders, while preferring the political groups (and efficiency), overshadow the equality of the representatives. The Constitutional Court resolved that the independent representatives should be involved in the work of the committees (still, the provisions that were annulled by the Court have not been replaced so far).[26]

Provided that in several matters resolution shall be passed by qualified majority is a simple way to take away these decisions from the political majority. In the Hungarian political system, 2/3 majority (of the members of the Parliament or of the representatives present) is needed for deciding in several legislative issue, in electing several high officials (ombudsman, judges of the Constitutional Court, etc.), or passing some resolutions in connection with the activity of the National Assembly. The qualified majority rule establishes very strong positions for the political opposition in the Parliament. The government usually does not even propose its initiatives, because the opposition previously has made its contrary standpoint clear; it is a painful obstacle even for the procedure for seeking compromise.[27] In the case of the election of officials with qualified majority, the rule does not serve the stability, but rather causes troubles in the functioning of state organs[28] (as it can be seen in the case of the Constitutional Court). We can observe a quite strong veto position of the opposition, without concerning its abilities to govern.

5. Rights supporting the direct political functions of the opposition

Political functions permeate all the parliamentary activities, the legislative exercising its powers exercises political activity. Here, the direct political functions of the opposition are: criticizing and alternative giving, as they generally appear in the parliament (and not in the case of the legislative and investigative procedures). The Hungarian Constitutional Court held that the possibility of debating issues of public interest is the most important right of the opposition in parliamentary democracies.[29]

The right to speak before the House is the most important condition for the opposition to live. Rules of the right to speak in the same time should ensure that the debates will end in time and the resolution will be

[23] KUKORELLI (2002) p. 309, 311.
[24] SZENTE (1998) p. 139.
[25] HABERLAND: o.c. p. 69-71.
[26] 27/1998. (VI. 16.) AB. hat.
[27] BALOGH, ZSOLT – HOLLÓ, ANDRÁS – KUKORELLI, ISTVÁN – SÁRI, JÁNOS: *Az Alkotmány magyarázata*. *[Commentary of the Constitution.]* Bp., 2003., KjK Kerszöv. p. 91-92.
[28] SAJÓ, ANDRÁS: *Az önkorlátozó hatalom. [The Self-Limiting Power.]* Bp., 1995., KJK-MTA Állam- és Jogtudományi Intézet. p. 109. in footnotes
[29] Resolution No. 12/2006. (IV. 24.) of the CC, IV. 3.2.

passed; these provisions should guard against the obstruction, the long-debated phenomenon of the Hungarian parliamentary history.

The Court also ruled that public political debates as means of parliamentary control are of constitutional importance. The free and public parliamentary debates are the basic conditions for the citizens to be able to form an opinion on the activity of the representatives and other high officials. Only these debates can provide the information for the citizens to participate consciously in public affairs and decision-making.[30] The means or fields for the debates are as follows: debating the issues of confidence, the debates of the bill of the annual budget and implementation of the budget, the institution of 'political debate', and the media-preferred speeches before proceeding with the orders of the day.

6. Rights of opposition in the legislative procedure

Opposition's alternative proposals may be basically presented by the initiation of bills, the possibility to propose amendments, the right for minority report. The provisions pertaining to the rights of proposals in the Hungarian Parliament are balancing between the individual and collective nature, establishing some privileges for the parliamentary groups.[31]

It is also necessary to draw attention to further means following the legislative procedure and available for the opposition: the right to appeal to the Constitutional Court, and the forms of direct democracy.

Appealing to the Constitutional Court is a right for the opposition, when it is provided for the members of the parliament or the qualified minority, and the object of the appeal is a bill passed but not promulgated yet. In Hungary, this right was ensured for 50 MPs till 1998, and there are European examples, in France and Portugal. The proceeding according to the ex post examination for unconstitutionality of rules of law may be proposed by different actors, but the opposition (i.e. qualified minority) may be also entitled to it. Also in that case, Constitutional Courts often have to decide on political debates. Accepting *Schneider's* views, we can say that although the opposition has nothing to loose in that case, therefore responsibility is out of question, it is not an "abuse". Resolutions and arguments of the Constitutional Courts are appropriate means for enriching the constitutional cultures.[32]

Initiating a referendum is an other way to challenge the will of the governmental majority. It can be a proposing initiative, but also an abrogative one, as it has quite long traditions in Italy. As *Beyme* noticed, referenda became means of the opposition – especially advantageous for the smaller parties –, by which the parliamentary majority faces a competing legislative power.[33] Except the ex ante examination of bills by the Constitutional Courts, exercising the above mentioned rights have not postponing effect, so these are not obstructive methods.

7. Role of the opposition in the parliamentary controlling

In parliamentary governments, due to the disciplined coalition parties, we can observe the fusion of the legislative and executive power, as the government rules the majority of the representatives. In that case, in the separation of powers, the political opposition plays a very important role. The controlling function of the parliament will be the 'competence' of the opposition, as it was declared by the *Bundesverfassungsgericht* as well.[34] The key issue of the regulation of the control means is their accessibility for each MPs or some qualified minorities. Providing this, the control-means are accessible also for the representatives of the coalition. It is acceptable in theory, while it is to promote the division of the legislative and the executive. But in practice, as we can see, they become obstructive tools of the majority.

The parliamentary controlling is rather a continuous procedure, setting the politics/policies of the executive against the laws, the electoral promises and the 'Government's Program'.[35]

Studying the controlling mechanisms, we should divide our observations into two parts.

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[30] Resolution No. 50/2003. (XI. 5.) of the CC.

[31] KUKORELLI, ISTVÁN: *Kormány és ellenzéke az új házszabályban*. *[Government and its Opposition in the new Standing Orders.]* p. 148.

[32] SCHNEIDER, HANS-PETER: *Keine Demokratie ohne Opposition*. In: *Opposition als Triebkraft der Demokratie*. Hrsg.: BUCKMILLER, MICHAEL – PERELS, JOACHIM. Hannover, 1998., Offizin-Verlag. p. 247-248.

[33] BEYME (1999) p. 297., 299.

[34] BVerfGE 49, 70 (86) – cited by SCHNEIDER: o.c. p. 246-247.

[35] HABERLAND: o.c. p. 41-42.

First, the power of openness, publicity is of great importance. Political publicity can be deduced from the function of the already mentioned discussing of matters of public interest – public opinion can enquire information about the activity of the representatives and parties through the public sittings of the parliament.[36] The publicity of sitting is guaranteed when qualified majority is needed to declare the sitting in camera, or if the sittings follow each other in reasonable intervals[37].

Secondly, acquiring information about the activity of the government can be the fundament of calling it into account. The right to this information (the right of questioning, the duty of answering) is included in the rights of the representatives; they can exercise their activity if they have enough information about the public matters, about the activity of the administration.[38] Means for acquiring information are regulated in the Hungarian Standing Orders with some problematic feature. The interpellation can be spoken if the official, called into question, finds that issue is in his/her competence – so the questioned person can escape according to his/her own decision… There are time limits for questioning, and if MPs from the coalition's side like to call into 'question' their own ministers, the opposition has less and less time for controlling (that is what I called governmental obstruction).

The procedures of committees of inquiry are in the center of the discussion since Standing Orders are in effect (1994). The problematic issues are as follows.

a) How can an investigative committee be set up? The parliamentary majority should decide on the setting up of the committees. The denial in case of an unconstitutional proposal, and the extension of the matters for the inquiry were discussed also before the *Bundesverfassungsgericht* that tried to protect the opposition, although leaving some room for the influence of the majority as well.[39]

b) Distribution of seats in these committees, the chairman of the committee. The principle of parity seems to be equitable for the opposition, but it might make passing the resolution on the inquiry results quite difficult.

c) Rules for proceedings, hearings, rights and duties of witnesses, publicity. The provision in Art. 21. par 3. of the Hungarian Constitution that set up the obligation for everyone to provide the information requested, and testify before the committee – was declared lex imperfecta by the Constitutional Court itself. The Court called for an other, legal regulation that would be suitable for the proper implementation of the functions of parliamentary controlling.[40]

d) The results of the investigation: reports. Problems arising from the parity in the distribution of seats, could be overcome by minority or partial reports.

[36] Resolution No. 50/2003. (XI. 5.) of the CC.
[37] Resolution No. 4/1999. (III. 31.) of the CC.
[38] BVerfGE 13, S 123. (125), cited: HABERLAND: o.c. p. 90.
[39] Summarized by: HABERLAND: o.c. p. 94-100.
[40] Resolution No. 50/2003. (XI. 5.) of the CC.