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A Problematic Part of the Renewed Hungarian Parliamentary Law: The Parliamentary Representation of Nationalities**

I. Introduction

The new Hungarian constitution – called Basic Law – came into force on the 1 January 2012. It declares that the nationalities shall participate in the Parliament’s operation. A new act on the election of the members of parliament contains the detailed rules of this kind of participation. The point of the regulation is the positive discrimination of the candidates of the nationalities: they need fewer votes for a mandate than the regular candidates.

Till 2012 nationalities did not come in for an affirmative action on this field, but the new constitutional system changed this regulation. Although the preferential mandate is a really new institution in the Hungarian legal system, there was a huge debate on this topic since the change of regime in 1989. The new regulation – as the prior one, too – bursts experts and politicians into two groups: either supports this type of representation and the other one is absolutely against that.

This paper tries to highlight the basic issues of the nationalities’ representation and the main pro and contra arguments and it also would like to share the questions concerning the new rules.

II. Sources of law concerning to nationalities’ parliamentary representation

The relevant sources of law concerning to nationalities’ parliamentary representation are found on the top of the legal system¹: we have to examine the constitution, the level of the statutes/acts and a special source, the Standing Orders².

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** A kutatás a TÁMOP 4.2.4.A/2-11-1-2012-0001 azonosító számú *Nemzeti Kiválóság Program – Hazai hallgatói, illetve kutatói személyi támogatást biztosító rendszer kidolgozása és működtetése konvergencia program* című kiemelt projekt keretében zajlott. A projekt az Európai Unió támogatásával, az Európai Szociális Alap társfinanszírozásával valósul meg.

¹ Article I. subparagraph (3) of the Basic Law says, that „rules related to fundamental rights and obligations shall be defined by statutes”. The active and passive suffrage and right to equal treatment – included the affirmative actions and the prohibition of discrimination on the ground of belonging to a nationality – are declared by the Basic Law, so they are “fundamental rights”.

Constitution mentions the nationalities in several aspect, and also deals with the operation of the Parliament as well as with the legal statutes of the representatives:

- The nationalities living with us form part of the Hungarian political community and are constituent entities of the State. (National Avowal)
- We undertake to preserve and safeguard [...] the languages and cultures of nationalities living in Hungary [...]. (National Avowal)
- Nationalities living in the territory of Hungary shall be constituent parts of the State. Every citizen belonging to a nationality shall have the right to freely declare and preserve his or her identity. [...] (Article XXIX., subparagraph (1))
- Nationalities in Hungary shall have the right to form local and national self-governments. (Article XXIX., subparagraph (2))
- The detailed regulation concerning the nationalities living in Hungary, as well as the regulations concerning the election of their local and national self-governments, shall be defined by cardinal statute. (Article XXIX., subparagraph (3))
- Members of Parliament shall be elected by universal and equal suffrage and by direct and secret ballot ensuring the free expression of the voter's will, in a manner defined by cardinal statute. (Article 2. subparagraph (1))
- The participation in the Parliament's operation of the nationalities living in Hungary shall be defined by cardinal statute. (Article 2. subparagraph (2))
- Rights and obligations of the Members of Parliament shall be equal; they shall perform their activities in the interest of the public, and they shall not be instructed in this respect. (Article 4. subparagraph (1))
- The deputies [of the Commissioner of the Fundamental Rights³] shall ensure the protection of the future generations and the rights of nationalities living in Hungary. (Article 30. subparagraph (3))

In accordance with the Basic Law the following cardinal statutes⁴ define the participation of the nationalities in the Parliament's operation:

- Act CLXXIX of 2011 on the Rights of the Nationalities⁵
- Act CCIII of 2011 on the elections of the Members of Parliament⁶
- Act XXXVI of 2012 on the operation of the Parliament⁷

Last but not least the Resolution of the Parliament 46/1994 (IX. 30.) on certain rules of the Standing Orders⁸ must be also mentioned.

Although all the legal sources listed above are effective, no MP of nationalities is working in the National Assembly, because the first elections based on the new regulation will be held after the end of the present Parliament's mandate. Accordingly we do not have experience of these rules, so we can study only the rules: in a Weberian approach just the "Sollen", not the "Sein".

² The legal form of the Standing Orders is a resolution of the National Assembly. This normative resolution is situated on a very low level of the hierarchy of the legal sources. Despite of it, Standing Orders are held as a source standing between the Basic Law and the statutes, because it regulates the statute-creating process.

³ The Commissioner of the Fundamental Rights is the Hungarian name of the ombudsman.

⁴ Cardinal statutes shall be statutes of the Parliament, whose adoption and amendment require a two-third majority of the votes of the Members of the Parliament present. Basic Law Article T. subparagraph (4)

⁵ hereinafter: Nationalities' Act

⁶ hereinafter: Electoral Act

⁷ hereinafter: Parliament Act

⁸ hereinafter: Standing Orders

III. Pre-question: What are the nationalities and who belongs to them?

As we could see above, the Basic Law deals a lot with nationalities but it does not define it. The Nationalities' Act ensures the meaning of this expression. The Nationalities' Act appoints "nationality" in two ways: on the one hand it lays down the criteria of being a nationality and the Appendix No. 1. lists the nationalities, which meet these criteria. There are 13 nationalities according to Appendix No. 1.: Bulgarian, Greek, Croatian, Polish, German, Armenian, Roma, Romania, Ruthenian, Serbian, Slovak, Slovene and Ukrainian. Criteria qualifying a minority are the following:

- (a) all ethnic groups⁹
- (b) resident in Hungary for at least one century
- (c) which are in a numerical minority amongst the population of the State,
- (d) are distinguished from the rest of the population by their own language, culture and traditions
- (e) and manifest a sense of collective affiliation that is aimed at the preservation of these and at the expression and protection of the interests of their historically established communities.¹⁰

Due to the Nationalities' Act's listing of nationalities, an ethnic group which suits the criteria above, become nationality only in that case, if the Parliament modifies the act. This is a political decision because there is no constitutional obligation for the Parliament for admitting a group as a new kind of nationalities.

The second question is about the affiliation with a nationality. The 11 § of the Act says that declaring affiliation with a minority is the individual's exclusive and inalienable right. This is called in the jurisprudence "free choice of identity".¹¹ Based on this right everyone can decide on his or her affiliation with a minority and about which minority he or she wants to affiliate with. Neither the state nor the minority chosen by the citizen can forbid or refuse the affiliation of the citizen. The affiliation with a minority is in the territory of a human's identity, which has no objective criteria (e. g. command of the language of the chosen minority).

IV. The place of the preferential mandates of nationalities in the electoral system

It is recommended to know the basic rules of the elections of the MPs if we want to depict why the mandates of the nationalities are preferential. The new electoral system is still a mixed one, where is 199 mandates at all. 106 mandates can be obtained in single constituencies and 93 mandates on national list. There are two types of national lists: party list and nationality list.

⁹ I must note that the phrasing of the Basic Law is quite false because of two reasons. On the one hand I would like to mark that "nationality" has a quite similar meaning with "citizenship", although the first signs a group of persons – and its synonym is "minority" – and the second one means a special relationship between a person and a state. On the other hand it can be highlighted that minority has a broader content than the nationality. Nationality used to mean such minority which has an own state different from the one the given nationality living in. According this widespread and general approach, the Roma minority does not belong to the nationalities, it is an ethnic minority.

¹⁰ Nationalities' Act 1. § (1)

¹¹ Eiler, Ferenc – Kovács, Nóra: Minority Self-Governments in Hungary. in: Gál, Kinga (ed.): Minority Governance in Europe, LGI Books, Budapest, 2002. p. 175

A candidate in any single member constituency may run for election as the candidate of any political party or an independent candidate. In both cases a person belonging to any nationalities¹² can run but he/she does not meet any preferential rules.

Since there is no prohibition to establish a party for the representation of a nationality's interest, it is imaginable that a party obtains mandate(s) on a party list. But we need to note that in a case like this the "nationality-party" shall struggle for the mandates as a regular party.

The only way to gain a mandate preferentially is to draw up a nationality list. The "differentia specifica" between the regular party list and the nationality list is the entity which draws up the list: nationality list shall be drawn up by national nationality self-government.¹³ Each nationality has national-level self-government, but only one. The nationality self-government is a legal, state entity, and it has public power. Members of national nationality self-government may have different political orientation, so it is similar to the Parliament. I find really strange that a politically divided body shall draw up a unified list. I think that the list will not be able to represent the will of the members of the nationality, just the will of the national nationality self-government. This is why the nationality MP's cannot represent the whole population of the given nationality. Another problem arises, too: each nationality has only one national-level self-government, and only the national-level nationality self-government shall draw up list. So the result: one nationality – one list. But if there is only one list can be voted to, the whole election becomes redundant: it means that the elective kind of elections' nationality part will decrease and its delegation-like kind will be increased.

V. The preferential quota

The distribution of the mandates in a single member constituency follows the rules of plurality electoral model, so that candidate will obtain the mandate, who received the majority of the valid votes.

The mandates on the party list shall be distributed by the so called d'Hondt-method. Distinctly the distribution method of the mandates on nationality lists is the following:

$$\frac{\text{votes on the party lists} + \text{votes on the compensation lists} + \text{votes on the nationality lists}}{93 \times 4}$$

The base of this way of mandate-distribution is the Hare-formula, the simplest mandate-distribution method, wherein the quota is the following:

$$\frac{\text{total votes}}{\text{number of mandates}}$$

So the preferential quota means the quarter of a regular quota. The comparing is quite difficult, because of the different base of the two types of mandate-distribution. However, it is also difficult to determine the absolute number of votes which is enough for gaining a

¹² A person who belongs to a given nationality has the right to run as an independent candidate. It is on his/her decision to declare his/her affiliation with any nationality or keep it quiet. It is also possible to establish a party for the representation of the interests of a nationality, and this „nationality-party” can also run a candidate in single constituencies.

¹³ Nationality self-governments have three levels: local, regional and national. Nationality Act regulates their elections and competence.

preferential mandate. The difficulty is caused by the compensation list, because the number of the votes getting onto this type of lists cannot be counted.¹⁴ Just for an example, we can count with 8 million voters and an average – 60% – participation rate¹⁵, that means 4,8 million votes without votes on compensation list. We can count, that the 70% of the votes given in single constituencies gets on the compensation list, which means 3,36 million votes. Summing up all the votes come to the national list we get 8,16 million votes. This number must be divided with 372, so the preferential quota means about 22 thousand votes. This is a really high number regarding to the population of the nationalities. The following chart shows the data of the 2001 census¹⁶:

Nationality	Population
Bulgarian	1.358
Roma	190.046
Greek	2.509
Croatian	15.620
Polish	2.962
German	62.233
Armenian	620
Romanian	7.995
Serbian	3.816
Slovakian	17.692
Slovenian	3.040
Russian	1.098
Ukrainian	5.070

The chart shows the total population of each nationality, so the number of the persons who belong to a nationality and have the right to vote must be lower. Comparing the 22 thousand votes demanded for the preferential mandate and the population of nationalities it can be declared that only two nationalities – the Roma and the German – have the mathematical chance to gain a mandate. If less votes will get to the compensation list, maybe two more nationalities will have parliamentary representation: Slovakian and Croatian. The conclusion: the preferential mandate is not preferential enough for ensuring the general parliamentary representation of nationalities.

VI. Legal status of a nationality MP and its political risks

Here I need to quote the Basic Law: *“Rights and obligations of the Members of Parliament shall be equal; they shall perform their activities in the interest of the public, and they shall not be instructed in this respect.”*¹⁷ Regarding to the constitution we can declare two basic theory of an MP’s status:

- a) MPs are equal in the legal sense

¹⁴ Compensation votes in any single member constituency shall include:

- a) votes for any candidate who failed to win a mandate and
- b) the number of votes remaining after deducting the number of votes for the runner-up candidate plus one from the number of votes for the candidate who won a mandate.

¹⁵ source: National Office for Elections www.valasztas.hu (12 October 2012)

¹⁶ The last census in Hungary was organized in 2011 but its data is still not available. Source of the chart: National Statistics Office: http://www.nepszamlalas2001.hu/hun/kotetek/04/04_modsz.pdf

¹⁷ Basic Law Article 4. subparagraph (1)

b) their mandate is “free”.

ad a)

There should not be any discrimination between the MPs in legal aspect. This anti-discriminative regulation covers the way of the mandate’s gaining (from party list or in a single member constituency and the number of the votes needed for the mandate).¹⁸ Following this logic I have to lay down that nationality MP is absolutely equal with other “regular” MPs. What is more there are no “nationality” or “regular” MPs, there are only “MPs”.

ad b)

The freedom of the mandate was rendered from the text of the Constitution by the Constitutional Court. There are several decisions of the Constitutional Court concerning this principle, now I would like to show its very essence. The free mandate is the base of the MP’s legal status. It means that the representative becomes independent from his/her voters after his/her return; the MP should act and vote according to his/her conscience – morality – and the MP shall not be displaceable.¹⁹

Accordingly the MP – without regard to his/her way of return (national or regular one) – has to support those proposals which are good for the whole society not only for his/her nationality. It may cause a moral crisis for the MP who was returned from the national list: he or she is in the parliament for supporting his/her nationality’s interest but – if he/she thinks that is wrong for the whole society – he/she has to vote against his/her nationality. I have to admit that there are not too many situations like this but it cannot be questioned that there could be a situation within the “nationality” MP has to choose between the two issues. Nationality MP cannot decide right: if he/she supports his/her nationality’s interest he/she breaks his/her oath on the service of common good. If the nationality MP follows his/her duty as an MP, his/her nationality would be easily disappointed.

The theory of the free mandate contains that an MP represents the whole society. It follows from the prohibition of the displacing. If it is true, we have to admit that “regular” MPs represent not only the “regular” persons, but also those ones who belong to any nationality. It means, that the nationality-affiliated persons have doubled representation which cannot be explained by the need for positive discrimination.²⁰

The free mandate covers the freedom of the vote, too. It can cause another problem: put the case that there is a parliament wherein the difference between the number of the governmental and oppositional party or fractions is extreme small, e. g. one or two votes. In a situation like this, a “national” MP’s can decide on the success of the proposal. There cannot be an “appropriate” vote, because the public opinion shall identify the “nationality” MP’s vote to the whole nationality’s political direction. If a “nationality” MP votes against the governmental side the whole nationality condemned as an oppositional nationality. This system cannot show the political fragmentation of the nationality.

¹⁸ see also the decision of the Constitutional Court No. 27/1998. (VI. 16.)

¹⁹ decision of the Constitutional Court 27/1998. (VI. 16.)

²⁰ See also: Szente, Zoltán: *Egy- vagy kétkamarás Országgyűlést? [Uni- or Bicameral National Assembly?]* In: Téglási, András (ed.): *Szükség van-e kétkamarás parlamentre az új alkotmányban? [Is a Second Chamber Needed in the New Constitution?]* Országgyűlés Alkotmányügyi, igazságügyi és ügyrendi bizottsága, Budapest, 2011. pp 87-89.

VII. How should we do – theories for the parliamentary representation of minorities

There are three ways of ensuring the minorities parliamentary representation:

- a) through a second chamber of the parliament
- b) through a one-chamber parliament, within:
 - ba) minority parties and candidate can gain mandate by the general rules of elections
 - bb) candidates of a non-minority party which has official relationship with minority institutions can gain mandate by the general rules of elections
- bc) by preferential rules or quota ensured for minorities
- c) through special institutions of legislation.²¹

ad a)

Several country has bicameral legislation, e. g. just in Europe we can find 17 states which has two chambers.²² Accordingly we can lay down that the bicameralism is really widespread and the Hungarian national assembly was also bicameral till 1946. Through more than three hundred years the Hungarian parliament had two chambers. After the change of regime the question of the second chamber arose again – but the National Assembly stayed on the basis of legislation's unity. Since twenty-three years the problem is still often discussed. The question of bicameralism was connected with the minorities' parliamentary representation: a second chamber should be an ideal forum for the representatives of the minorities. This point of view is still quite popular in the legal and state science. Professor István Kukorelli also supports this solution: he emphasizes that the pasting the minority MPs into the parliament – which operates according to the party-pluralism – will cause an alien, illogical institution of the parliament. But these representatives can be integrated into the parliament's work through the second chamber without any problem.²³

On the other hand, the existing of the second chamber let arise several other questions, especially concerning their creation. So the basic challenge is to create a second chamber which is come into being by another way than the first chamber but it saves the principle of people's sovereignty. The first condition is needed for prevention of the first chamber's duplication: it has no point to create a second chamber which is similar to the first one. The second condition comes from the definition of the National Assembly laid down by the basic Law: "Hungary's supreme body for popular representation is the Parliament."²⁴ If the Parliament has to represent the people no other way of creation shall be accepted than the election by people. Accordingly the corporative method of creation of a second chamber should be closed off.

²¹ This type of classification is used by András László Pap. In: Pap, András László: *Identitás és reprezentáció*. [Identity and Representation.] Gondolat, Budapest, 2007. pp 171-172.

²² Following European states have bicameral parliaments: Austria, Belarus, Belgium, Bosnia Herzegovina, Czech Republic, France, Germany, Ireland, Italy, the Netherlands, Poland, Romania, Russia, Slovenia, Spain, Switzerland, the United Kingdom source: Szentpéteri Nagy, Richard: *A második kamarák típusai a világban*. [Types of second chambers in the world.] In: Téglási, András (ed.): *Szükség van-e kétkamarás parlamentre az új alkotmányban?* [Is a Second Chamber Needed in the New Constitution?] Országgyűlés Alkotmányügyi, igazságügyi és ügyrendi bizottsága, Budapest, 2011. pp. 108-110.

²³ Kukorelli, István: *A második kamara mint nemzeti intézmény*. [The Second Chamber as a National Institution.] In: Téglási, András (ed.): *Szükség van-e kétkamarás parlamentre az új alkotmányban?* [Is a Second Chamber Needed in the New Constitution?] Országgyűlés Alkotmányügyi, igazságügyi és ügyrendi bizottsága, Budapest, 2011. p. 72.

²⁴ Basic Law Article 1. subparagraph (1)

ad ba)

From a normative point of view the simplest mode of the nationalities' parliamentary representation is that when a national party gains mandate(s) via the general electoral rules – without any preferential quota. It can be pasted into the logic of the political party-central functioning of the parliaments. There is only one criterion which must be completed: the freedom of the party-establishment. There are several countries which prohibit the existence – and establishment – of ethnical party. So in these countries no party shall be based on ethnical affiliation. Since Hungarians shall establish even ethnical parties, there is no legal shackle to represent a nationality in the parliament via this kind of parties. Although a party like this can gain mandate in a legal sense, from the political point of view, it will not be able to do it. It should be proved easily: since the change of regime there was no ethnical party or MP who was a candidate of an ethnical party in the Hungarian parliament.

ad bb)

The other non-preferential way of ensuring the minority-representation in the parliament is the co-operation between a minority organization and a “regular” – non-minority or ethnical – party. This co-operation shall be positive for the minority organization and also for the political party, because the minority can canalize its issues into the highest political decision-making process; the political party can win extra votes from those voters who affiliated with the minority and just their minority's interest can incite them for voting. Despite this win-win situation the last 23 years of the Hungarian political history was not rich in this type of co-operation. Maybe Flórián Farkas was the most known Hungarian politician who gains his mandate by this manner. He is a Roma politician and his organization, the Lungo Drom contracted with the members of the governmental right-wing coalition, Fidesz²⁵ and MDF²⁶ in 2002.²⁷ But the Fidesz-MDF-Lungo Drom alliance lost the 2002 parliamentary elections, Flórián Farkas won a mandate on the joint party list.²⁸ This co-operation was not long-lived: after a few months the vice-president of Lungo Drom declared that the Roma organization shall co-operate with the biggest left-wing party, MSZP^{29,30}.

ad bc)

Ensuring a preferential quota for the minority party is the point of the new electoral regulation and this paper dealt with it and its question above.

ad c)

Special institutions of legislation contain several methods which aim the canalization of the minorities' interests. András László Pap listed in his book such special institutions: ensuring the right to initiate a bill – or a parliamentary debate – for minority self-governments or other minority institutions, ombudsman specialized for the minority affairs, or an informal agreement between the parliamentary parties on the quotes maintained for minority MP's.³¹

²⁵ Fialat Demokraták Szövetsége (Alliance of Young Democrats)

²⁶ Magyar Demokrata Fórum (Hungarian Democratic Forum)

²⁷ The contract is available at the website of Fidesz: <http://www.fidesz.hu/index.php?Cikk=54> (3 November 2012)

²⁸ source: official website of the National Assembly

http://www.parlament.hu/internet/plsql/ogy_kpv.kepv_adat?p_azon=f015&p_ckl=39 (3 November 2012)

²⁹ Magyar Szocialista Párt: Hungarian Socialist Party

³⁰ source: <http://www.origo.hu/itthon/200211132006ban.html> (3 November 2012)

³¹ Pap, András László: *Identitás és reprezentáció.* [Identity and representation.] Gondolat, Budapest, 2007. pp. 172-173.

The renewed Hungarian parliamentary law also knows an institution which belongs here: the national spokesperson. According to section 18 of the Act CCIII of 2011 “Any nationality which drew up a nationality list but failed to win a mandate by such list shall be represented by its nationality spokesperson in Parliament. The nationality spokesperson shall be the candidate who ranked first on the nationality list.” So the act on parliamentary elections creates this institution but it does not lay down the nationality spokesperson’s rights and obligations. These questions are regulated in the XXXVI Act of 2012. Section 29 of the Parliament Act deals with the legal status of the national spokespersons: they shall have the floor in such debates concerning the nationalities’ rights or interests. The House-committee decides whether the topic concerns the nationalities or not. Regardless the initiative debated by the Parliament concerns the nationalities or not, nationality spokespersons shall not have the right to vote.³²

Spokesperson has the right to vote only at the sitting of the nationality-representing committee.³³ Nationality-representing committee is a special committee of the Parliament: it must be created, so it belongs to the compulsory committees and its composition is also special: only the nationality spokespersons and those MPs who won their mandates on the nationality list are its members. This committee plays initiative, proposer, opinant and controlling role in questions concerning the nationalities.³⁴

Another cornerstone of the nationality spokesperson’s legal status is the immunity. This is the same right that MPs have. It shows – due the very essence of the immunity³⁵ – that the Parliament cannot operate well without the contribution of the nationality spokespersons. What is more, nationality spokespersons are professional politicians³⁶ because they exercise politics as a profession: they get payment for their work. The amount of this payment is regulated by the rules concerning the MPs. The same incompatibility rules are concerned to the nationality spokespersons as to the MPs. According to the MPs’ legal status, these institutions – immunity, payment, incompatibility – serve for the ensuring of the MP’s independence. And the independence is the point of the legal status of the MP: he/she should act and vote according to his/her conscience – morality – and the MP shall not be displaceable. As we could see above, this is the meaning of the free mandate. I tried to point out, that the classic theory of the free mandate can cause a moral crisis for a “nationality” MP. Parliament Act prevents this discrepancy: it declares that “nationality spokespersons’ rights and obligations shall be equal; they shall perform their activity in *the interest of public and their nationality* and they shall not be instructed in this respect.”³⁷

³² Parliamentary Act section 29, subparagraph (2)

³³ Parliamentary Act section 29, subparagraph (3)

³⁴ Parliamentary Act section 22, subparagraph (1)

³⁵ According to the Hungarian interpretation of the immunity, its role is to ensure the unperturbed functioning of the Parliament. The executive power can intervene to the Parliament’s operation via arresting. The freedom from arresting – called inviolability – tries to prevent such cases. The other branch of the immunity is the liability (MP cannot be held accountable for any statements speeches or votes). source: Smuk, Peter: *Parliament*. In: Csink, Lóránt – Schanda Balázs – Varga, Zs. András (ed.): *The Basic Law of Hungary – A First Commentary*. Clarus Press, Dublin, 2012. p. 120.

³⁶ Max Weber distinguished two types of politicians: those, who live *for* politics and those, who live *off* politics. Hobby politicians belong to the first group because these politician must be economically independent of the income politics can bring him. On the other side there are the professional politicians whose earnings come from the politics. Source: Weber, Max: *Politika mint hivatás*. [Politics as a Vocation]

³⁷ Parliamentary Act section 29, subparagraph (1)

VII. Summary

The Basic Law and other statutes concerning to the parliamentary law created a new way for the minorities' parliamentary representation. I tried to depict the "classic" way of representation accomplished via one or more MP's who gain their mandates from nationality lists. Since the legislation recognized that the general rules cannot ensure the minorities' parliamentary representation, it created a model within the leader candidates of the minorities can gain mandate preferentially. This paper does not want to deal with the necessity of the minorities' parliamentary representation; it just wanted to point out the discrepancies of the chosen regulation. In this sense I pointed out that the representation of nationalities is questionable, because:

- we cannot identify the subjects of the preferential rules;
- the politically divided nationality self government shall draw up a unified list for the MP-elections;
- the system of the mandate-distribution creates a rather delegation-like than elective model;
- the preferential quota is not preferential enough: only 2-4 nationalities have mathematical - and only 2 nationalities have real political – chance to win a mandate;
- the free mandate may cause moral crisis for the nationality MP;
- the free mandate may cause moral crisis for the whole nationality if the majority of the society labels it as a right- or left-wing society due to its MP's vote in the parliament.

Although the parliamentary autonomy contains the parliament's right to determine itself (number of MPs, electoral rules, system of the parliamentary organs, rules of the Standing Orders, etc.), it seems that this freedom has immanent boundaries: there are several ways to regulate the parliament's operation but they can collide. This collision should lead as significant problems which are better to be prevented. The best prevention should be the considered legislation creating a coherent regulation by the application of legal issues and principles that harmonize with each other. As we have seen above, this aim was not achieved by the Hungarian parliament in the regulation concerning the nationalities' parliamentary representation. Fortunately the new regulation has positive parts in this aspect, too: it creates the institution of the nationality spokesperson. Due to the consultative – not decisional – rights the spokesperson's status is much more favourable to the logic and system of the parliamentary law, and the Parliament fulfills its constitutional obligation, too: defining the participation in the Parliament's operation of the nationalities living in Hungary.³⁸

³⁸ Péter Smuk agrees with my opinion: via nationality spokespersons the nationalities' appropriate participation in the Parliament's operation shall be ensured. source: Smuk, Péter: A Tisztelt Ház szabályai, 2012. Új törvény az Országgyűlésről. [Rules of the Parliament, 2012. New act on the National Assembly] p. 9. In: Kodifikáció és Közigazgatás, Vol. 1, No. 1, 2012.

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