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**Nationality representation in the light of the analysis of
domestic house rules**

Doctoral thesis

Theses

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1. Rationale for the choice of topic

Research on the functioning of the Parliament has always played a significant role in the social sciences. Numerous researchers deal with studying the Parliament and exploring its deeper interrelationships. A less researched part of this is the rules of the House, which are not only intended to regulate the work of Parliament, but are also of outstanding importance in bringing political struggles into the constitutional, legal arena.

They become tools during the activities of political actors in parliament, and Act XXXVI of 2012 on the National Assembly provides for the state-building capacity of nationalities as enshrined in the Fundamental Law, declaring the institution of the nationality speaker and nationality representative. The legislation has made up for decades of backlog, and several studies on the advocates have been published during their ten-year existence.

The aim of the choice of topic is to examine national minority representation in a theoretical framework that has not been studied before, along the lines of the rights and obligations conferred by the constitution, and to use quantitative and qualitative methods to arrive at an answer to the central question of the thesis, which is whether national minority representation is fulfilled in Hungary.

The choice of the topic is also motivated by personal involvement, a professionally decisive point in my career was the internship at the Office of the Parliament, a year spent as a trainee at the Committee on Human Rights, Minorities, Civil and Religious Affairs. In addition, the almost three years of work, experience and academic career in the National Roma Self-Government have all given me the motivation to examine the representation of national minorities within the framework of parliamentary activity. My interest in the subject is also due to my role in the Roma national community. My involvement in my community includes mentoring the next generation, developing, and organising talent programmes, passing on the values of the Roma community and last but not least, shaping the Roma collective through the examples of my life's journey. In recognition of all this, I was nominated for the 2019 Golden Band Award (Aranypánt-díj), one of the most prestigious Hungarian civil awards, during my doctoral studies, organised by the Roma Press Centre.

The importance of the house rules

"The importance of the rules of the House lies in the fact that they lay down predictable 'rules of the game' at all times," reads the website of the National Assembly (Parliament's Office n.d). Members of Parliament must work within these rules in order to carry out their democratically assigned duties as effectively as possible.

The rules of the House are particularly relevant to the professional staff who assist the work of Members of Parliament, the parliamentary officers, the professional and administrative staff, whose role, knowledge, and experience are extremely important to the smooth functioning of Parliament. Not only during a parliamentary term, but also in between terms, to ensure that everything runs smoothly and continuously.

Citizens themselves are also important, albeit indirectly, because it is through their mandate that Members of Parliament can work in the service of their country, in the work of Parliament. The laws made by Parliament are based, among other things, on the provisions of the rules of the House, which in turn apply to the citizens themselves.

The most important task of the Rules of Procedure is to provide a set of rules that are clear and transparent, thus ensuring the protection of the rights of the parliamentary majority and of minorities. These provisions are available to all parliamentary actors, in order to clarify processes, procedures and obligations. (OGY website, 2020) The House Rules are therefore a set of provisions that clearly set out the rules governing parliamentary work for all parliamentary actors: that is, for Members of Parliament, their expert staff, parliamentary staff, and members of government.

The rules of the House may also be customary law, a set of precedents which have developed in the course of history and later become practice in the course of parliamentary work (Barabási, 1907). To confirm this, the concept of parliamentary law is "the body of laws, legal customs, customary laws, constitutional conventions and precedents which define the functions and powers of parliament as a legislature, its constitution, dissolution, organisation, operation, disciplinary arrangements and the status of its members." (Mezey & Szente, 2003, p. 583)

House rules are an internal source of parliamentary law, which is a technical instrument for the formation of political will. The procedures and organisational units it contains show how the basic functions of parliament are fulfilled and to what extent it is able to carry out its duties. Thus, significant conclusions can be drawn about the nature of the political institutional system from the rules of the house and, indirectly, from the functioning of parliament (Pesti, 2002). In

all cases, the amendments to the rules of procedure were linked to 'changes in political power' and they also provided for important amendments to constitutional law (Pesti, 2002, p. 84).

István Somogyvári sees the importance of the Rules of Procedure in ensuring the freedom of action of the deputies, in protecting the efficiency and organisation of the Parliament, and in providing the "solutions" that contribute to the effective work of the deputies (Somogyvári, 1991, p. 61).

Somogyvári's ideas are still influential in the House rules today and will therefore play a significant role in my thesis: organisation, efficiency, and freedom of operation. Kornél Pikler considers the house rules to be the backbone of parliamentary law (Pikler, 1968).

According to my current research, the house rules in written form in Hungary appeared as early as the 1700s. They have governed the provisions of the Hungarian Parliament for centuries, in keeping with the times and political systems. Thus, as political power changed and parliamentarism developed, the rules of the parliament changed, so the rules of the parliament are a kind of imprint of the political conditions and parliaments of the time. My present research concerns written house rules in Hungary, those rules that were enacted after the change of regime, all of which were recorded in the form of resolutions or laws. The first amendments after 1989 laid the foundations for the establishment of a democratic parliamentary system, the start of the permanent sitting of parliament, the creation of political tools and techniques for effective parliamentary work. After all this experience and consultation, the first post-change of regime statute was created in 1994. However, the Constitutional Court drew the attention of Parliament to several shortcomings, and the Rules of Procedure were amended accordingly.

First, in 1997, a 53-paragraph amendment was made to clarify the provisions relating to the functioning of Parliament and its committees. These included the regulation of the Rules of Procedure, the setting of deadlines, the inclusion of certain motions in the agenda, and the strengthening of the exercise of minority rights. Including independent members, for whom the 1997 amendment also made provision. In addition, the procedure for speeches before the agenda has been changed, which has led to a more delimited and simplified planning of the sitting. From then on, only the member of the government could respond to pre-plenary speeches, because until 1997, the chairperson of the relevant committee could do so, as well as any leader of a political group other than the member of the government (Soltész, 2018, p. 139). In the next term, 1998-2002, the ruling parties were unable to amend the house rules, so at this stage they mostly referred to the Constitutional Committee's interpretation of the house rules. The importance of this culminated in the management of the conflict between the governing parties and the opposition, because an interpretation, such as the convening of a special period,

was subject to a resolution adopted by the committee with a majority of the governing parties, which was voted on by the National Assembly when the opposition appealed to Parliament. The same thing continued in the 2002-2006 term, in the sense that these resolutions were not repealed, but they were not applied. However, in this term, the accession to the European Union made it necessary to amend the House Rules. First, Parliament adopted a law on cooperation between the Government and Parliament on European matters, and then the details of this were incorporated into the Rules of Procedure.

During the 2010-2014 term, the above-mentioned resolutions were enshrined by the Government, with a two-thirds majority, in Act XXXVI of 2012 on the National Assembly, and also in the Resolutions of the House of Representatives, in OGY Resolution 10/2014 (24.II.). (Soltész, 2018) In recent years, the House Rules of the Hungarian National Assembly have been enshrined in both statutory and resolution form. All of these amendments allow for the creation of rules that apply to everyone, i.e., it becomes mandatory at the statutory level to enforce a rule even for citizens outside the National Assembly. And the resolution form only lays down binding provisions for parliamentary actors.

Overall, it can be seen that changes in the rules of the House are a regular and recurrent feature of the organisation of parliamentary work, and it is therefore possible to draw significant conclusions about the political conditions of the time (Pesti, 2002):

- OGY Resolution 8/1989 (8.VI.)
- OGY Resolution 46/1994 (IX.30.)
- OGY Decision 5/2001 (15.II.)
- OGY Decision 47/2004 (18 May 2004)
- OGY Decision 103/2007 (6.12.2007)
- Act XXXVI of 2012 on Parliament
- OGY Decision No 10/2014 (II. 24.) on certain provisions of the Rules of Procedure

Nationality representation

Act XXXVI of 2012 on the National Assembly, referring to a previous AB decision (Szabó, 2014), established the institution of national minority representation, thus ensuring the participation of nationalities in the work of the National Assembly.

The issue of the House rules and nationalities was already under discussion in the late 1980s, yet the Minorities Act was only published in 1993, while the House Rules Decision was issued in 1994. Loud debates and negotiations by parties and organisations, round table discussions,

six-party talks, National Assembly sittings and by 2012 the National Assembly Act provided for the representation of nationalities, which is one of the sources of today's House Rules.

2. Structure, aim and methods of the thesis

There is a wealth of research on parliamentary law among international scholars, and one Austrian research group has even made the rules of the House the subject of its study. They created a model on the basis of which they examined the rules of procedure of the countries of Europe. Using parts of this model, the thesis includes a macro- and micro-analysis of house rules. At the macro level, the dissertation presents the Hungarian house rules from the change of regime to the present day. From 1986-89, a rethinking of the house rules started in order to ensure that the 'new' system was based on a more efficient regulation. The new house rules had to wait until 1994, when many negotiations, discussions and bills became known. There was also a lot of press coverage, with several newspapers reporting on the work of Parliament and the development of the new rules.

The so-called Soltész bibliography - considered a parliamentary bibliography as a compilation of studies in specialist journals, volumes of studies, articles in daily and weekly newspapers - also details all these articles, and the thesis seeks to recall these contemporary writings in order to provide a complete picture of the circumstances in which the legislation was drafted, alongside the literature. Thus, after the historical introduction, the dissertation focuses on the development of the Hungarian Parliamentary Rules of Procedure from the change of regime to the present day. From the macro-analysis, the chapters lead steadily to the micro-analysis, which focuses on the representation of nationalities. Since 2012, the rules of the parliament have provided for the institution of the nationality speaker and nationality representative, which was introduced by Act XXXVI of 2012 on the National Assembly, referring to the creed of the Fundamental Law: 'the nationalities living with us are part of the Hungarian political community and state-building factors'.

The central question of the thesis is: "Is the representation of nationalities in Hungary actually achieved?" Within this framework, I will examine how the rules of the House provide a framework for nationalities to do their work as efficiently as possible. To this end, it is essential to know the rules of the parliament and their development from the change of regime to the present day, since during this period, many issues were discussed in the legislature and in the continuous consultations and committee meetings that preceded it.

The new political and economic system that emerged after the regime change brought with it a number of issues that needed to be amended and resolved, including the Constitution, the Electoral Act, the amendment of the parliamentary rules and the issue of representation of nationalities. Since the late 1980s, the issue of the house rules and nationalities has been on the political agenda. The dissertation examines the process of their interconnection and how the process of achieving nationality representation is taking place in Hungary.

My analysis is done in several steps.

1. The first is the possibilities offered by the constitution, what are the rights and obligations of nationality advocates and nationality representatives. All this through the Act XXXVI of 2012 on the National Assembly and the OGY Decision 10/2014 (24.II.) on certain provisions of the House Rules.
2. The second step covers the activities of advocates and MEPs, how many times they have spoken and on what issues.
3. The third step analyses nationality issues through the parliamentary diary entries, but also appears in several other chapters of the thesis to support what is said. Through the analysis of a specific motion of the House of Assembly, the amendments before the final vote, it examines how many times and in what way this amendment was used in the nationality bills.
4. Step 4 uses these amendments to show the extent to which Members have used this option in their parliamentary work. I will also attempt to indicate the discourses associated with the bills on nationality issues.
5. As a fifth step, I examine the amendments tabled by the nationality MPs before the final votes.
6. The sixth and last step goes beyond the examination of the framework of the Nationality Representation in the House. I will analyse how the representation of nationalities is perceived by the citizens concerned. For this purpose, I have prepared an online questionnaire survey. The questionnaire asked people belonging to a nationality community and, as a control group, people not belonging to a nationality community, how familiar they were with the legislation itself, i.e., whether they were aware of the legislation on nationalities. Do they know the difference between a nationality spokesperson and a representative and are they satisfied with the representation of nationalities? The survey was mainly targeted at the groups with the largest population in Hungary, so the Roma and

German communities were considered as target groups. The questionnaire was completed by 300 people after the local elections in the summer of 2024.

Taken together, the multi-step analysis provides a possible answer to the fundamental question of how nationality representation is implemented in Hungary. The thesis concludes with a conclusion and public policy recommendations.

3. Research questions and results of the thesis

The central question of my dissertation is whether national minority representation is implemented in Hungary, and whether the rules of the Hungarian Parliament provide an adequate framework for the national minority advocate and national minority representative to carry out their work. The thesis examines the Hungarian housing rules at the macro and micro level, from the macro level to the micro level of national minority institutions. The questions posed in the thesis were answered through a multi-step analysis, as described above.

Research questions in the thesis

1. To what extent have housing rules changed in Hungary? To what extent can the reasons for their changes be traced back to historical processes and rational decisions of parliamentary actors?
2. Is nationality representation a reality in Hungary?
3. Do the Hungarian parliamentary rules provide nationality advocates and nationality representatives with adequate tools to serve their communities?
4. To what extent are the national minority communities aware of the existing legislation and to what extent do they feel represented?

1. To what extent have housing rules changed in Hungary? To what extent can the reasons for their changes be traced back to historical processes and rational decisions by parliamentarians?

HP1: The reasons for the changes in the Hungarian house rules can be traced back to historical and rational decision-making processes.

In the macro analysis, **I concluded** that historical processes have largely determined the

evolution of the house rules over the last 30+ years. A good example is the huge change in the rules of procedure of the current parliament, which was brought about by the change of regime. It is of paramount importance that rules are made that can serve the effective functioning of Parliament and lay the foundations for the newly built democratic state. Further changes to the rules of the House were also due to the above reasons, as the accession to the European Union (2004) also generated further changes to the rules of the House, as well as a series of rational decisions. Since 1990, the Constitutional Court has shaped the development of the domestic house rules with several decisions, such as the three-week session [Decision 4/1999 (III. 31.) AB] or the rights of deputies to propose and control motions [Decision 50/2003 (XI. 5.) AB] (Smuk, 2016) It can be said that domestic house rules are also influenced by external and internal influences, so that during the regime change no new rules of procedure were drawn up, but the existing ones were modified according to the situation. The accession to the European Union in 2004 also played a role in the modifications, as well as the elections that take place every four years, after which new parliaments and governments were formed. As a consequence, the procedures and their institutions have also changed.

2. Is national minority representation being achieved in Hungary?

HP2: In Hungary, the necessary legislation to establish national minority representation is in place, but it does not provide equal access for all communities.

I conclude that the hypothesis is confirmed by the studies, as the legal environment provides the basis for nationality representation: 'We promise to preserve the spiritual and mental unity of our nation, torn apart by the turmoil of the last century. We declare that the nationalities living with us are part of the Hungarian political community and are state-building factors.' (Fundamental Law, National Declaration of Faith) Based on the Fundamental Law, Act XXXVI of 2012 on the National Assembly is the first to provide for the representation of nationalities. As a result, the institution of the nationality advocate and the nationality representative with the creation of the preferential mandate were established. However, the preferential mandate (20-25 thousand votes) is not available to all nationalities due to the number of communities. "Show me, for example, a Ukrainian community, or any other minority group of equivalent size in Hungary, which can produce so many votes, significantly exceeding the number of their community." (Kállai 2014; p. 5) So far, the institution of nationality representatives has only been available to the German community, but given the total number of nationalities in

Hungary, this is not possible for all groups. In 2022, the Strasbourg-based European Court of Human Rights (ECtHR) ruled that the majority of nationalities in Hungary could only obtain a preferential mandate as a matter of principle (Bakirdzi and E. C v. Hungary; Council of Europe; 03.04.2023).

The current situation is that the nationalities do not participate in the Parliament in an equal capacity, the German nationality has obtained a mandate as a member of parliament by reaching a preferential quota, while the Roma community cannot represent the Roma as advocates. This fact is also highlighted by the Serb Alexov Lyubomir, who believes that it was fairer to allow all nationalities to participate in the parliament as representatives. He therefore suggests that the speakers should be allowed to speak before the agenda, in addition to emphasising national aspirations and goals, in order to widen the political scope of the speakers.

3. *Do the national parliamentary rules provide nationality advocates and representatives with adequate tools to serve their communities?*

I have concluded that the capacity of a representative can elevate the issues of a community, in this case the German community, from the level of a nationality advocate. As a result, there is a need to extend the powers of advocates in order to reduce the differences between 'representation and representation'. Imre Ritter proposed amendments to the German nationality representative to broaden the powers of the advocates. And communities that cannot achieve national representation, such as the Roma at present, cannot even be represented in their capacity as state-builders, which further deepens the already existing differences, both between members of society and between nationalities.

The narrow scope of the house rules therefore does not necessarily provide the necessary tools for the representation of nationalities. Historical processes and the necessary solutions to the issue of nationalities have led to the fact that nationality representation is (also) currently regulated by the rules of the House. The thesis has discussed the processes that have been discussed in the past in the creation of nationality representatives and/or advocates. However, in the midst of the many tasks brought about by the change of regime, all this was pushed into the background, as one of the other nationalities also pointed out.

The Committee of Nationalities of Hungary (NEB) has become an outstanding "working forum" in the activities of nationalities, as it has become obvious that most of the petitions are submitted through it. It also emerged from the statements of the advocates that all issues are

discussed there, and a common position is reached and presented to the National Assembly. This is a sign of a high degree of cooperation, but it also means that the nationality issues and opinions of some of the advocates are anonymous. Furthermore, for those nationalities that are unable to achieve nationality representation, the legislation does not offer a possible alternative (currently the Roma community), and thus their state-building capacity is not asserted. In other words, not all nationalities are able to make sufficient use of the rights conferred by the constitution, not least because of its narrow regulation.

4. *To what extent are national communities aware of existing legislation and how well do they feel represented?*

Two preliminary hypotheses for the last sub-question were formulated in the thesis:

- a) **HP3:** Nationalities are not aware of the existing regulations on nationality representation.
- b) **HP4:** Nationalities basically do not feel adequately represented.

a) **HP3:** Nationalities are not aware of the current regulations on national representation.

I concluded that this is confirmed by the questionnaire survey. Certainly, in the sense that, of the two communities highlighted, the Roma were considered not to be aware of the regulation, while members of the German community were supposed to be aware, but in fact they did not have full and accurate knowledge of the issue. Among members of the Roma group, it appeared that they had no knowledge of the current situation of the lack of Roma representation in the National Assembly. This (also) motivated the online questionnaire consisting of fifteen questions, which confirmed that the self-assessment of the Roma community is far below the self-assessment of the German community in a survey of 300 respondents. In fact, their perceptions are even more modest than those of the citizens defined as the control group, even though the members of the control group did not belong to a nationality.

The Roma community answered these questions similarly to citizens who do not belong to a nationality. The German nationality is currently represented, in a representative capacity, whereas German respondents presumably understand their representation as advocacy. This is because, among the possible answers (German nationality; Roma; both; none), the German group selected the option "both" (i.e., Roma and German community), in response to the

question of which nationality has a representative in parliament. It seems that the German community (the respondents to the questionnaire) are not aware that there is a difference between an advocate and a nationality representative. It is likely that their knowledge of representation is the same as the mixing and possible conflation of the above institutions.

- a. **HP4:** Nationalities basically do not feel well represented.

I concluded that this statement is partially justified. The responses of the Roma community clearly indicate that they are not well represented. This is the case at present, because the Roma community was unable to nominate a representative in the last elections, and therefore the constitutional rights of Hungary's largest ethnic group are not being respected. The Roma self-reflexively mentioned various problems within the community that could be barriers to effective representation, such as commitment, education, and better communication, both with the community and with the government. They expect representation that can deal effectively with the situation of the Roma, with appropriate professional experience and education.

The German community, on the other hand, can derive both from the quality of the work of the national representative, the self-organisation of the German community and effective communication within the group (which could have been the primary help in the campaign).

Overall, based on the testing of hypotheses HP2, HP3 and HP4, I conclude that "In Hungary, the necessary legislation for the establishment of national minority representation is fixed, but it does not provide equal access for all communities." is justified. Changes in the housing legislation have gradually given more and more space and rights to nationality representation. However, the current legislation does not give adequate rights in all respects (see ECJ ruling). The most severe problem is that rights are not equally accessible to all communities. As a result, the state-building qualities of nationalities are not equally asserted, creating a gap between nationalities and their issues.

Public policy proposals

I started my observations in 2013 as a member of the staff of the National Roma Self-Government, where I worked until February 2016. This allowed me to experience the start-up of the national minority advocacy and representative institutions in national minority self-government. The list of nationality advocates is created by the national minority self-governments with any number of members, from which the first-placed candidate can get into the Parliament. The members of parliament who have been elected in the national elections elect the people on the list. The Assembly also decides on the number of members of the list by a vote.

It can be observed that if the members of the assembly are divided, i.e., in terms of parties or independent representatives, the more difficult it is to reach a consensus. This problem also arose during the last elections, as a result of which Hungary's largest community in terms of population was unable to nominate a Roma representative.

This is the motivation (also) behind the *de lege ferenda* proposals of this thesis, which are as follows:

Proposal 1: Modernisation of the voting system of the assembly, i.e., the lists should be drawn up on the basis of automated voting. This will make it possible to finalise a Member's decision (in the event of a repetition of a vote by show of hands, the Member will be able to change his/her vote) and will help to limit long pauses and endless speeches and interjections.

Proposal 2: From the very beginning of the legislation, the Roma community has been pushing for candidates to include not only MPs. It should also be possible to include other prominent, recognised experts and professionals from the representative bodies. It is worth exploring this alternative, because if a person who is recognised and respected by the community is put on the list, a consensus can be reached more quickly.

Proposal 3: In the course of the development of national minority representation in Hungary, as explained earlier in the thesis, there have been examples where the German national minority, after convening a congress, decided to democratically choose the person who would represent them in the National Assembly.

Nevertheless, my suggestion would be that the national minority self-governments should nominate the persons for the list - on a compulsory basis - on the basis of a broad congress. In terms of the composition of the congress, it would also be compulsory to invite NGOs that could also come with a nominee. The selection would be made by secret ballot in two rounds

under the control of an independent committee. The first round would be on the number and identity of the shortlisted candidates, and the second round on the final shortlist.

Proposal 4: The last proposal would be to extend the powers of the nationality spokesperson: he or she would be able to speak without restriction before and after the agenda, in order to ensure that this form of representation is also effective and that the issues of nationalities are also presented in a meaningful way to the members of Parliament and the government. They would also be able to vote on bills affecting nationalities.

4. Publications related to the thesis

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