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Role of the Police in the election procedure

A cornerstone of constitutionality is the public and local government organization based on the real popular representation, which is unthinkable without a democratic election system. In the democratic states the right of vote is such a basic constitutional right which – with some narrow exceptions, defined exclusively by law – shall be due to each citizen equally, without any discrimination.

This entails very divergent tasks on the public organs where some kind of duality can be observed. On one hand, the state – especially those political forces possessing the actual governmental power – should show self-control; it may not “subjugate” its own citizens. On the other hand, in favour of the full enforcement of this basic right, it has to establish by its legislative activity that guarantee system which guarantees also in practice for the citizens to express their will in a free way, exempt from any unauthorized influence. Otherwise, it should give help for those through the executive power, the election organs and the courts who suffered insults in practicing these rights.

Freedom of speech and opinion, and in narrow connection with it the right of vote have been part of the catalogue of human rights for centuries so most of the states have established the organizational and legal background of the free and independent elections by now.

However, in the new democratic states of Central and Eastern Europe this question is still emphasized because, although their election systems basically meet the expectations of the international law but – mainly because of the well-known historical events of the 20th century – the democratic roots are not as strong as in the traditional civic democratic states.

Such deficiencies can be found also in the details of the legal regulations which raise problems of interpretation and give possibility to beat certain regulations. This happened clearly in Hungary in connection with the parliamentary elections of 2002 which shifted significant work charge upon the police as well.

Perhaps these experiences started that initiative in virtue of it the participants of the conference of the Association of Central and Eastern European Election Officials (having consultative status in the Council of Europe) held in Moscow on 26-28 September 2002, approved the draft Agreement on the Standards of the Elections and on the Right of Vote. The draft was elaborated inter alia with the purpose that a legally binding international legal document should summarize the experiences concerning the laws and their performance related to the democratic elections, collected by the Council of Europe and by different countries, and that it should determine the characteristics of the modern democratic election procedure in the new, unified Europe.

Impact of the suffrage reform in Hungary

New regulation of the Hungarian electoral law was outlined on the negotiations of the National Round Table and the results achieved there were included in the Act XXXIV of 1989 without any significant amendment by the Parliament elected in 1985. In virtue of the agreement of the parties, the first round of the parliamentary elections was called on 25 March

by the speaker of the Parliament (as temporary president of the republic). By that time, those laws were already elaborated and approved by the Parliament which led Hungary from the one-party regime to a competition based multi-party system.

The political multi-colour has appeared since that time in the election campaigns as well, which indicated new challenge for the police. Mass meetings unseen for a longtime – organized not by the state – were organized where the public order and the public security had to be maintained without jeopardizing the effectiveness of the right of assembly. The Hungarian police had not have enough practice in the tasks of this kind. It was emerged as a problem that even the legal regulation suffered with “children’s diseases” for the lack of experience.

Regulation on the election meetings got originally place partially in Act III of 1989 (hereinafter called: Gytv.) on the right of assembly, partially in Act XXXIV of 1989 on the election of the parliamentary deputies and on Act LXIV of 1990 on the election of the local government representatives and mayors.

The necessary profile-cleaning was taken place by adoption of Act C of 1997 on the election procedure; the substantial provisions were left in the above mentioned legal norms and the procedure was regulated uniformly by the new law. Adoption of statements of facts of criminal and minor offences sanctioning offending actions against the cleanness and the order of the elections was performed as well.

Following the proclamation of the Hungarian Republic, general parliamentary and local government elections were organized in five cases (1990, 1994, 1998, 2002 and 2006) up to present. Besides the above mentioned significant election events, the Parliament took initiative of referendum for joining the NATO for 16 November 1997, and for joining the European Union for 12 April 2003, and a decisive referendum was taken place in our country in 9 March 2008 in connection with the reforms of the government.

Observance of lawfulness, prevention and interruption of the disturbances during the implementation of police tasks in connection with the elections required increased attention. It was necessary to definitely intervene against those persons who obstructed, disturbed the elections and those preparations unlawfully. It was particularly significant that police activity in connection with the elections should be free from party politics in each case.

Provisions of law regulating primordially the elections

- Representative form of exercise of power, the fundamental election principles and the right of vote as basic political right was laid down by the Act XX of 1949, the Constitution of the Hungarian Republic;
- Substantive legal norms of the election system are involved in Act XXXIV of 1989 on the election of the parliamentary representatives and Act LXIV of 1990 on the election of the local government representatives and mayors;
- The referendum is regulated by Act III of 1998 on the national referendum and popular initiative;
- Regulations of the election procedure are determined – for all types of elections – by the comprehensive procedural code, the Act C of 1997 (hereinafter called: Ve).

Development of internal norms in connection with the elections

The head of the national police department (or his public-security deputy) issued measures before each election for the homogeneous implementation of police tasks in connection with the parliamentary and local government elections. In virtue of these measures, leaders of the county (capital) police departments determined the tasks to be executed relating to their field of competence.

At the beginning, measures issued for the elections discussed in detail the tasks to be accomplished in case of accidentally occurring events, in several places citing word by word the concerning acts. During the following elections, the obtained experience and practice made it unnecessary so the internal norms prepared for these cases regulated strictly professional questions.

The civil guard organizations were also involved in the implementation of tasks in connection with the elections; they participated in the external guarding of the polling-stations during the night before the elections, and the police performed the returning control.

Police tasks in connection with preparation of the elections

Preparation of persons co-operating in conducting the elections already began in the spring of the year preceding the elections, organized by the Ministry of the Interior from 1998. In the course of this preparation, the Minister of the Interior, the head of the national police department, university lecturers, and some leader officer of the Ministry of the Interior gave talks. As closing procedure of the preparation, in the course of activity in groups, solving a practical task was taken place which constructed models of problem situations that could occur during the elections.

In the election campaign period, the main attention should have been turned towards the prevention of violation of the laws in connection with the collection of the candidate supporting signatures, the placement of the election billboards, and the immediate reaction of the occurred violations of the laws, furthermore protecting order of the election meetings. It can be determined that while previously in several cases police intervention occurred purely in case of violation of the election law, in 2002 the police had to intervene only in those cases where such kind of actions were accompanied by other offences or criminal acts as well, in other cases we informed the competent election organs in order to take the necessary measures.

Police activity during the day of the elections

Control of surroundings of the polling-stations and protection of different transports in connection with the elections was a stressed task during the voting. Leaders of the police organs – in virtue of agreement with leaders of the election offices – provided tasks for supply of the necessary protection, accompanying the documents forwarding from the election districts. Order of measures in the polling-stations was determined on the daily briefing for each policeman, being in service on day of the elections.

Besides the above mentioned ones, the measures determined tasks in connection with voting of the police force and persons kept in custody. In favour of more complete practice of rights of the arrested persons, voting of those kept in custody was organized in accordance with the recommendation of the ombudsman issued in 1998.

In each case, protection of the stressed sites of the election – national and regional election committees, election offices – was organized by the police. The national and regional staffs,

which kept constant contact with the election organs of the same level, operated in favour of the harmonization of the tasks, the quick, correct evaluation and forwarding of information.

Evaluation of events in connection with the elections

By evaluating the periods of the elections from police point of view, it can be determined that until the elections of the year 2002, the police had mainly protection tasks and making possibility of practicing the right of vote for persons kept in the police custody that needed to take measures, so the force of the public order and traffic were mainly charged.

Elections of the year 2002

Most events occurred in connection with the elections were bomb alerts and violation of campaign silence. Because of the significant number of explosive criminal acts preceding the elections of 1998, the police treated as outlined task the decreasing to the smallest possible size of these kind of threat. That is why the polling-stations were scrutinized before the day of voting which were given to the heads of the election offices just after that, who took charge of their further guarding.

In accordance with the parliamentary elections of the year 2002, because of the intensified competition and the tense atmosphere, several unlawful acts happened which had not been observed before and laid considerable charges on the criminal service. Difficulty of the task was increased by the fact that – because there has not been such kind of legal practice up to present – classification of the activities has not been unambiguous in each case. It had to decide for example, if the different kinds of violations of the collection of supporting signatures are qualified as criminal acts, are there any possibility for legal remedy for those persons on behalf of whom illegal support had already been given and that is why his legally given signature became invalid as well etc. In favour of forming the suitable procedure practice of the homogeneous and the effective provisions of law, we asked for the opinion of the competent election organs in each case where the classification of the given act was not unambiguous.

In 2002 the police organs received all together 241 announcements relating to violation of law; in accordance with these ordering of investigation occurred in 93 cases; 19 guilty persons became known against whom criminal procedure was conducted. During the 31 procedures of breaking of law, 7 guilty persons became known; they were holding responsible by the competent authorities in charge of minor offences. Further 31 announcements were revealed as breaking the measures of the Ve. – which did not belong to the competence of the police so the election organs took measures in connection with them – and in 86 cases the registered act did not fulfill any breaking of law.

Because of the huge number of the events and in favour of homogeneity of the interpretation of law, the national commandant of the police protection was in daily contact in the campaign period with the leader of the Central Data Processing, Registry and Election Office and the National Election Office.

The mass occurrence of abuse with the collection of supporting signatures – and its effect on the public opinion – made increased expectations towards the police, and it could not always meet the requirements because of characteristics of the acts. Suspicion of the abuses raised the necessity of amendment of the legal background, but this does not belong to the competence of the police.

The fact may also be led back to the lack of necessary provision of law that – as according to the principal rule, orders of the Gytv do not concern the election meetings – the organizers indicated several political demonstrations as campaign programs in favour of avoiding their duty of registration. This makes the preparation of the protection of the programs much more difficult. At the moment, it is not precisely defined what is qualified as campaign program, as election meeting and which of them are meetings under ruling of the Gytv, attached to registration.

Finally, it is necessary to mention the specific fact as well that certain groups of the society could not accept the authenticity of the election results and as they did not have any more legal tools at their disposal they intended to force recounting of the votes by illegal demonstrations which we finally had to dissolve. However, these events has induced political discussions for longtime and got great publicity, luckily the escalation of the events and formation of a national civic disobedience action similar to the blockade of the taxi drivers in 1990 could manage to prevent with the strict police intervention.

It happened in several cases – it had not been experienced up to that time – that representative candidates were insulted (which appeared mainly as libel, as attack on honour, as dangerous threat), moreover severe insult of a representative candidate occurred as well.

On the local government representative, mayor, and minority local government elections conducted in autumn 2002, drastic decrease of announcement relating to the violation of law could have been observed. All together 70 cases were registered; investigation had to be ordered in 37 cases of them; 12 procedures of breaking of law (minor offences) were started. During the criminal procedures 16, in the cases of violation of law 5 guilty persons became known. In the remaining 21 cases there were no any violation of law at all or it belonged to the competence of the election organs.

During the decisive referendum of the Hungarian Republic, called on the subject of joining the European Union, besides some campaign silence violation and publication of some billboard representing symbols of autocracy, there were not any other striking violations of law occurred.

Elections of the year 2006

In March 2006, the national secret services took possession of such information of which it could have been determined that, with the intention of destabilize the Hungarian political situation, foreign criminal groups wanted to commit explosion attempts. Planned targets of the actions were mainly the election mass meetings.

In virtue of those mentioned previously, during the protection of elections of the year 2006 some new measures were also necessary compared to the fulfilled tasks of the preceding election (of the year 2002):

- In the period of the election campaign the force providing service of the public places had to take measures in those cases where election billboards were placed on columns of the electric network, on bus stops and on other places not suitable for depositing such kind of announcements.

Article 42 of the Ve determines strictly that on which places it is prohibited placing billboards so different, extending interpretation of the concerning orders of the Ve violates the provision of law. In virtue of those included in the previously mentioned ones we took measures of that the commandants should call the attention of the executive force that placing of billboard is only prohibited on places listed one by one in the Ve. Police measure can not be implemented in those cases where placing of billboards is realized on such establishments the prohibition of which is not regulated by the Ve.

- Measures issued by the Director-general of public safety were issued during the parliamentary elections of the year 2006, for the police protection of working place of the National Election Committee (hereinafter called: OVB), and of the National Election Office (hereinafter called: OVI), which regulated in detail the accomplishing tasks. The Police had to guarantee with every legal tools that the election were not disturbed by any event, and in the course of this it is indispensable that security of the building giving place of head-quarters of the OVB and the OVI, and security of the members of OVB and OVI working there should be guaranteed.
- ORFK Measure of 9/2006 (29. III.) (hereinafter called: ORFK Measure) was issued for the implementation of police protection tasks in accordance with parliamentary elections of the year 2006, in which increased security measures were introduced; among others, examination of bomb disposal squad, repeated control of party presidents nominating candidates on the national list, and their head-quarters etc.

For the evaluation of the election events we compared continuously registered data of the year 2002 and of the year 2006, in accordance with events of the elections. We put events during the election campaigns became known to us in the following main categories, in virtue of experiences of the year 2002:

1. Office breakings;
2. Car breakings;
3. Physical injuries;
4. Damaging, removal of billboard;
5. Acts in accordance with collection of supporting signatures;
6. Disturbance of programs;
7. Other.

In virtue of comparison of the data – regarding the data of the year 2002 as basis – the following tendencies emerged relating to the campaign period:

- **In damaging the advertising billboards, 540 % of radical increase could have been observed** compared to the basis year. Stopping of damaging the advertising billboards and catching the guilty persons is a very difficult task because it is only possible by catching them during the act. There was big significance in the accomplishment of the acts of the fact that the act is represented only as minor offence, so its amount of punishment can be insignificant compared to the reached negative sensation.
- **But number of acts in accordance with the collection of supporting signatures decreased radically, by 66,6% (to one third)** compared to the

basis year. Events in accordance with the collection of supporting signatures are qualified as "ordinary" since the transformation of regime it is a subject of many discussions, numberless abuses were attempted during the previous years as well. The announcements were addressed to their buying by money, the filling and signature of the form on behalf of other persons, and finding them in the refuse dumping ground. Such case also happened that forms with irregular format were attempted to deliver in the National Election Office.

- Also significant decrease could have been observed of events in accordance with physical injuries, number of the cases decreased by 78,3 %, most significance of their accomplishment were that they occurred during placing of the billboards and collection of the supporting signatures. Unfortunately it happened for the first time during the campaign of the year 2006 that the person, accomplishing the collection of the supporting signatures started so severe arguing with a citizen living in the building that he shot him to the head with his gas weapon. The injured person suffered injury recovering within 8 days; the procedure started in subject of light physical injury.
- **Regarding the office breakings, 72 % decrease** could have been observed compared to the basis year, in the two cases registered in 2006 forms of supporting signatures were not appropriated unlawfully in none of the cases, moreover, in one of the cases only the windows were broken.
- **In case of unlawful appropriation of forms of supporting signatures by car breaking**, there was only one announcement, this corresponds to the data of 2002.
- **Facts of disturbances of the election programs** came to our attention only in two cases in the year 2006, this is **one third of the data of 2002**.
- In the **other category** appears e.g. threats hit of the representative candidates, carried out by telephone and letter (e.g. demands for resignation). Compared to data of the year 2002, we could speak roughly of the same proportion; the difference is just one case.

Conclusions:

Tension of campaign of the year 2006 – compared to the one of four years ago – was increased through which stress was turned to the struggle of the two bigger parties (MSZP and FIDESZ) while the other parties fought serious battle for gaining access to the Parliament.

Because of the increased tension of the struggle, the "election military campaign" was not lack of campaign techniques of undermining of authority of discrediting kinds, leaders of the parties could mobilize huge mass of people in order to reach their purposes. The election campaign – in opposite of the year 2002 – appeared much more in fighting among the parties, in declaration wars than in the public places.

Comparing events in accordance with the elections in pro-rata can be determined that we have already registered 62 events two weeks before the first round of the election in 2002, while this number was 57 in 2006 which means 8 % decrease of the events.

But the attitude changed because one part of the sympathizers – not undertaking their opinion in public, staying in illegality – expressed their opinion by damaging billboards of the election advertisements as sending messages to the other voters this way. By confirming their sympathetic political tendency, they didn't deter to writing libelous expressions, or to disfigure the billboards, incidentally they expressed their disagreement by its simple tearing off.

Summary

It should be stated that activity of the police is just a very small piece of conducting the elections, and it is correct like that. Today, already also in our country, its task extends only to the protection of the peaceful functioning of the election organs, to maintaining the public order in place of meetings in accordance with the elections and in the surroundings of the polling-stations, and to conducting the procedure in case of occurring violation of laws belonging to its competence.

That effort of the police could already been observed from the elections of 1990 to avoid even the illusion of influencing substantial questions in accordance with the elections. This purpose was supported by the measures determining the protection tasks during the day of voting; supplying the service without weapon or with hidden weapon, and emphasizing that policeman could enter to the polling-station only by the request of the chairman of the vote counting committee. Narrow organizational tasks were mainly formed with election offices supplying organization-administration tasks in accordance with the elections; we helped activity of the election committees by mainly informing and protecting their working place.

Objection in accordance with the activity of the police did not emerge neither during the campaign programs, nor during the voting; at the end of the elections the election organs gave thanks for the professional and effective co-operation of the police.

During the decades, the Police had also learnt the correct reaction, it takes measures only in cases belonging to its competence, and in events in accordance with the elections – in case of lack of violation of law or criminal act – we inform the election organs.

It can be stated as a whole that parliamentary elections of the year 2006 required the most diverging activity of police since the transformation of the regime. Despite that, the police could fulfill suitable level to the requirements, which is mainly due to that in regard of the basic tasks, practically by 1998 they managed to form a well-functioning system and during the time passed since then those participating in operative execution has obtained the necessary practical experiences as well.