

ABSTRACTS*

Heynckes, Heinz-Willi: Committee procedures according to the Standing Orders of the German Bundestag.

There is a close correlation between a democratic majority-based system and respect for minority rights. This also applies to tensions between the majority and the minority in committee procedures. The development of Standing Orders in a typical legislative committee like the Bundestag's Internal Affairs Committee shows that constructive committee work necessitates a broad consensus on procedural issues. This holds especially true for committees that scrutinize ministries very closely. Benchmarks for committee deliberations are the principle of proportionality, a ban on abuse of rights and fairness as well as honesty. In some cases, determining whether a process conflicts with the Standing Orders means weighing up many different points of view and circumstances. Disputes about the Standing Orders – in particular the modalities for the conduct of deliberations – in the Internal Affairs Committee show no significant differences at present compared with previous election periods and demonstrate that these are fundamental issues of key importance, also when the governing majority is slim. [ZParl, vol. 39, no. 3, pp. 459 ff.]

Hoppe, Tilman: A case for two: Investigating committee and special investigator.

For the first time in the history of the Bundestag, an Investigating Committee named a special investigator to examine evidence connected to possible CIA prisoner flights over German territory. This has proven to be an efficient pre-inquiry. The committee itself now only has to deal with a fraction of all potential witnesses and presented files. For its further inquiry, it can basically rely on the protocols of hearings and other files of the investigator, since the principle of examination in person does not apply. However, to ensure public proceedings, the committee must hear the deciding witnesses in person. The two most controversial questions – which both should be answered in the affirmative – are whether the investigator himself can be heard as a witness in public, and whether he needs permission to testify from the President of the Bundestag only if his testimony concerns confidential matters. [ZParl, vol. 39, no. 3, pp. 477 ff.]

Bartels, Hans-Peter: Constituency relations. Data from a member of the German Bundestag.

The work of members of the German Bundestag in parliament itself and, above all, their campaigning behavior are frequently the focus of both academic documentation and analysis. By contrast, their constituency relations are less often in the center of public interest and empirical research. On the basis of data collected by the MP himself, the scope of the

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member's contact with citizens via correspondence, surgeries, visits to workplaces, events held by political parties, unions and clubs, and via the internet and the media can be grasped. Further empirical studies of the subject should add to the so far predominantly anecdotal evidence in the field and, ultimately, lay a better foundation for an understanding of the work actually carried out by members of parliament. [ZParl, vol. 39, no. 3, pp. 487 ff.]

Wolf, Sebastian: Is parliament obstructing the fight against corruption? On the protracted reform of the criminal offence of bribery involving members of parliament.

Germany signed the UN Convention against Corruption in 2003. Ratification failed so far because the members of the Bundestag have not yet reached a consensus on the necessary reform of the lax criminal offence of bribery involving parliamentarians. The current German regulation would need to be amended in accordance with international criminal law provisions. Single parliamentary party groups have initiated several reform proposals but so far a parliamentary majority has not approved any one of them. That shows, too, that it is difficult to legally delimit between adequate political behavior and condemnable acts by members of parliament. [ZParl, vol. 39, no. 3, pp. 493 ff.]

Jutzi, Siegfried: Benefits prohibited by law to members of parliament. The decision of the Higher Administrative Court of Lower Saxony of March 13, 2008 – 8 LC 1/07 –.

In the state of Lower Saxony, members of the state parliament have been under a legal obligation since 1978 not to accept benefits granted by an employer without providing any kind of service in return. In case of violation of the law, the subsidy must be turned over to the state. In the case at hand, the Higher Administrative Court of Lower Saxony had to rule over payments made by Volkswagen AG to an elected MP who formerly worked for the corporation. Payments for the then MP continued for several years without him having rendered appropriate labor for the Volkswagen AG. The state sued him for € 343,519.92. The court adjudged that the legal provisions do not offend the constitutional order but that they failed to take sufficiently into account the principle of certainty. For that reason the court reduced the sum due by almost half (taxes and social security taxes). This ruling should give the parliament of Lower Saxony occasion to amend the bill defining rights and duties as clearly and precisely as possible. Other states ought to give positive consideration to creating a comparable legal situation. [ZParl, vol. 39, no. 3, pp. 503 ff.]

Horst, Patrick: The election of the Hamburg state parliament of February 24, 2008: Winner Ole von Beust builds the first coalition of CDU and Greens at state level.

The CDU won a solid victory in the Hamburg state election thanks to a prosperous economic situation and its popular mayor. The SPD reached its second poorest result ever in Hamburg despite a strong showing in the election campaign where it effectively attacked the social policy weaknesses of *Ole von Beust's* administration. In the last week of the election campaign, challenger *Michael Naumann* was confronted with a credibility problem when his federal party leader *Kurt Beck* publicly thought about coalitions with the Left Party on state level which *Naumann* had ruled out before. This discussion did not do much

harm to the Left Party which moved into the fourth West German state parliament in a row. The FDP, on the other hand, once again failed to pass the five per cent-hurdle. So, mayor *von Beust* built the first coalition of CDU and Greens in a German state ever. It was not created as a „model“ for the federal level but is conceived as being a new sort of „supplementing coalition“ not wanting to be identified with „overlapping coalitions“ of the past. As a consequence, Germany’s party system is now more flexible and there are more coalition options than before. The latest one in Hamburg offers an example of a minimum winning coalition with a wide ideological range. [ZParl, vol. 39, no. 3, pp. 509 ff.]

Herz, Hans: Administration of parliaments. Status, organization and functions of the administrations of the German Landtage and their relationships to parliament.

German state parliaments are equipped with administrations of a sui generis kind. They differ from government administrations (civil service and ministerial bureaucracy) by several distinctive features and are solely involved in the fulfilment of parliamentary tasks. To perform their functions these parliamentary administrations have a specific organizational and functional structure to provide support to their parliaments. This legislative construction gives rise to a particular relation between the parliaments and their administrations including various forms of tensions. It can be referred to as “functional legislative cooperation”. [ZParl, vol. 39, no. 3, pp. 528 ff.]

Stallmann, Freia, Friedrich Paulsen and Annette Zimmer: Civic engagement in voluntary associations: The first step into local politics? Facing the nexus of civic engagement and a mandate in local politics in the city of Münster.

Voluntary associations on the local level serve as socialisation agencies for local politicians. Moreover, in some political fields civic engagement helps later local representatives to acquire policy-specific knowledge and competencies. Thus, the results of studies on western German local politics dating from the 1980s, which showed that local voluntary associations were “schools of democracy”, seem to be valid, still. The results of the present survey indicate that local political representatives in Münster engage in local voluntary associations early on and twice as often as the rest of the city’s population. Hence, civic engagement in voluntary organisations seems to activate ambitions of potential local politicians. Taking over jobs and formal positions in local voluntary organisations mostly precedes the candidates’ political function. In most cases, the civic engagement is also closely linked to parents being involved with volunteering. In the face of current difficulties of recruitment in German local politics, civic engagement in local voluntary organisations should be reconsidered as an important resource. [ZParl, vol. 39, no. 3, pp. 547 ff.]

Schmitt-Beck, Rüdiger, Christian Mackenrodt and Thorsten Faas: Determinants of local turnout. The case of the local election in North-Rhine Westphalia 2004 in Duisburg.

Very little has been known about turnout in local elections in Germany so far. To gain some insight into the determinants of participation in local politics, a case study (based on a telephone survey) was conducted in the context of the 2004 local election in the city of

Duisburg in North-Rhine Westphalia. As the results show, turnout is influenced by individual as well as contextual factors. As for the former, perceptions of a lack of competence and responsiveness on the part of (local) parties but also dissatisfaction with democracy lower turnout. In addition, considerations in the sense of instrumentally based rational choices and a sense of duty to vote and a high level of political involvement matter. Concerning contextual influences, an emotional attachment to the city of Duisburg and a high amount of social trust increase turnout. Politically inspired interactions with others prove to be even more important. A commonly shared sense of duty to vote is moreover specifically and genuinely related to local turnout, which (in terms of specificity) is also true for an interest in local politics. [ZParl, vol. 39, no. 3, pp. 561 ff.]

Schmidt, Carmen: Local voting behavior. An analysis of the 2006 local elections in Osnabrück.

At national elections in Osnabrück (Lower Saxony), the Social Democrats usually secured above-average majorities whereas the Christian Democrats performed always well below the national average. However, at local elections the Christian Democrats have obtained the greatest share of the vote since the beginning of the 1980s. At the 2006 local election the Social Democrats failed again to secure a majority and only became the second strongest party. These differences are sought to be explained by comparing the voting behavior in the 2005 national election and the 2006 local election in Osnabrück. Regardless of the political level, the same social and structural variables such as density and movement of population, religion, age and family structure are influential in shaping citizens' voting behavior. Differences in national and local voting behavior are caused mainly by a significantly lower voter turnout in local elections rather than by a distinctive local voting behavior. [ZParl, vol. 39, no. 3, pp. 581 ff.]

Niclauff, Karlheinz: Parliament and second chamber in the West German constitutional debate from 1946 to the Parliamentary Council.

The papers of the Parliamentary Council, which 60 years ago formulated the Basic Law, have been published almost entirely now. Although the genesis of the articles of the Basic Law may easily be reconstructed, the political intentions of its authors remain rather vague. The reasons for this were the political situation of the Parliamentary Council as well as its debating style. Since the Basic Law had to be approved by the occupying powers, administrative and judicial arguments seemed to be appropriate. Apart from this, the politicians in the Parliamentary Council had to curb their temper in order to reassure a broad majority for the provisional constitution. Therefore, the motivations of the authors can only be understood by analysing the debate on constitution making and democracy since 1946. The "parents" of the Basic Law intensively contributed to this debate. The position of the elected parliament was the salient issue of their discussion. At this point the different versions of democracy confronted each other. The outcome was the questionable compromise of a "semisovereign state" which until now has been subject of various constitutional reform projects. [ZParl, vol. 39, no. 3, pp. 595 ff.]

Schultze, Rainer-Olaf: Chances of democratic governance in post-national multi-level systems. Lessons from Canadian federalism.

In the globalized world of today the liberal-democratic nation state, federal and unitary alike, is faced with several challenges. For one, democratic governance has to cope with accommodating “old” multinational identities and / or “new” multicultural interests and claims. The nation states’ embeddedness into systems of multi-level governance yields a re-shuffling of policy competences, renders transparency problems and aggravates democratic deficits – first and foremost in the European Union. The Canadian experience is a valuable starting point in deriving answers to the question what type of federalism is likely to provide viable solutions to democratic governance in the context of the post-national constellation. [ZParl, vol. 39, no. 3, pp. 612 ff.]

Zeh, Wolfgang: Legitimation problems in early media absolutism: power to norm without duty to adhere?

The functioning of mass media in favor of both development and dissemination of parliamentary democracy is highly significant, historically as well as currently. Such as in other media societies of the western world, in today’s Germany parliamentarism is vitally dependent on mass media’s role. Therefore, they have become an integrating component of the system of democratic institutions. They exercise political power, on the one hand by cooperating with state institutions as well as, on the other, by competing with those. Since the historical era of absolutism has come to an end, the exercise of state power requires particular political legitimacy. The mass media have not yet met this challenge, although they intensively take part in both producing and changing social standards. They lay claim to a public assignment of keeping a check upon all other players of the political game, while for themselves deny any public responsibility. This way, the media’s political position approaches that one which was occupied by “absolute” rulers in ancient times. [ZParl, vol. 39, no. 3, pp. 633 ff.]