Rights and Functions of Opposition – A Comparative Analysis

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1. Introduction

This paper examines legitimate political opposition in parliamentary systems, describing and analyzing its rights, role and functions. Opposition is an essential element of democratic political regimes. As Prof. *Salvatore Valitutti* pointed out: "democracy breathes by two lungs, by the lung of the majority and the lung of the opposition",[1] thus confirming that must undeniably be part of democratic political regimes.

The role played by parliamentary oppositions is one of the most essential factors of modern democracies. All political forces which are represented in Parliament have a strong interest in actively participating at every stage of the legislative process by influencing the content of governmental bills, presenting amendments and own initiatives not for obstructive objectives but for being able to introduce real alternatives. This capacity and its evolution are determined by the institutional framework, the political conditions of every system and the qualitative and quantitative features of the opposition.

For years, it has been general to strengthen Government at the expense of Parliament in European parliamentary systems. Parallel to this tendency, the role and importance of the parliamentary opposition have become more determinant, because of the necessity to continuously control and counterbalance the developing executive dominance in the Parliament. Furthermore, a strong government does not necessarily imply a weak opposition. As *Morgenstern*, *Negri* and *Pérez-Linan* (2008) have noted, it is possible to have a strong executive and a solid parliamentary opposition at the same time.

The paper examines the development of institutionalising opposition rights with regards to legislation and parliamentary control, and draws attention to

[1] Cited by Luciano Violante at the Seminar on the Rules of Procedures and forms of government of the 1990s, 20 April 2011. *Centro di Studi sul Parlamento*, LUISS Guido Carli, Rome, Italy.

the rules of procedures, standing orders,[2] unwritten laws, conventions and precedents from the 1980s, mainly from Hungary, Italy and the United Kingdom focusing on the lower Houses.

In our paper we highlight the delicate balance between efficiency and democratic functioning in parliamentary work. Presenting as many opinions as possible, we study by what means and instruments it is possible to ensure both the efficiency of the Assemblies and the active participation of the opposition in the procedures.

Based on parliamentary statistics, we also look at results generated by practical adoption of institutionalized instruments attributed to the opposition in the processes of legislation and at parliamentary control from the 1980s to the present. The study analyses whether oppositions hold the necessary tools and resources to counterbalance and control the growing influence of the executive in the Parliaments of the selected countries and whether they use these instruments efficiently in everyday parliamentary work.

2. Concepts of the opposition

In Hungarian and German or English literature, issues of the opposition have been of great importance as the principle of legitimate opposition is one of the basic components of liberal democracies.[3] As *Ian Shapiro*[4] has recorded 'democracy is an ideology of opposition as much as it is one of the governments'.

Opposition is a complex phenomenon. It stipulates, but that it may encompass very different phenomena. According to the *Enciclopedia del Diritto,* parliamentary opposition is not a simple parliamentary minority but a qualified minority which opposes the policy of the majority. The *Enciclopedia* also determines that the principle objective of the opposition's political act is the substitution of the majority.[5]

[2] We use the words standing orders and rules of procedures as synonyms in the paper.

[3] See Dahl, Robert (ed): *Political Opposition in Western Democracies*. Yale University Press, New Haven and London, 1966., Von Beyme, Klaus: *Die parlamentarische Demokratie. Entstehung und Funktionsweise 1789-1999.* (3. Aufl.) Westdeutscher Verlag GmbH, Opladen/Wiesbaden, 1999., Döring, Herbert (ed): *Parliaments and Majority Rule in Western Europe*. Campus, Frankfurt, 1995., Haberland, Stephan: *Die verfassungsrechtliche Bedeutung der Opposition nach dem Grundgesetz.* Duncker & Humblot, Berlin, 1995., Kolinsky, Eva (ed): *Opposition in Western Europe.* St. Martin's Press, New York, 1987., Kukorelli István: Az alkotmányozás évtizede. Korona, Budapest, 1995.
Smuk Péter: *Ellenzéki jogok a parlamenti jogban.* Osiris, Budapest, 2008., Smuk Péter: *Magyar közjog és politika 1989-2011.* Osiris, Budapest, 2011.

[4] Compare Shapiro, Ian: *Democracy's Place*. Cornell University Press, Itacha, 1996. 51.

[5] De Vergottini, Giuseppe: *Opposizione parlamentare*. In: *Enciclopedia del Diritto,* XXX, Milano, 1980.

In this paper we study the so-called specific type of 'constitutional opposition', the parliamentary opposition. The 'constitutional opposition' is described as a complex of bodies that accepts legitimacy of the state and is ready to work within structures and processes determined by the Constitution. The opposition may disagree with the actual government but it seeks to affect its activities.[6] To affect the government's activity the opposition needs to have parliamentary opportunities and resources.

The rights and the role of opposition can be analyzed in the parliamentary systems, where political responsibility of the government is provided by the constitution. As *Walter Bagehot* noticed, 'critical opposition is the consequence of Cabinet Government'. We mainly focus on the European parliamentary governments, so the presidential systems – where legislature is clearly divided from the executive – remain in the background, although, we find it necessary to keep them in mind when defining types and models of the opposition.

We argue that a research pertaining to oppositions has to look for the answers for the following questions:

a) *Where are the limits of the majority rule in constitutional democracies?*
b) *Is it possible to define the concept and the rights of opposition?*
c) *How can parliamentary law balance between the principles of efficiency and democratic functioning, with special regard to the institutions and methods of standing orders?*
d) *How can parliamentary law regulate institutions that are supporting the functions of oppositions, taking the standing orders into deeper consideration?*

We give a short overview on the functions and the notion of the opposition, that are introduced by the majority rule – which is a general starting point to understand the role of the opposition –, and complemented by the constitutional guarantees pertaining to political pluralism. Among the main structuring principles of political systems (and also of parliaments), principle of efficiency is helpful to understand, *a contrario,* provisions supporting the functions of the opposition.

2.1. Majority rule and the concept of the opposition

In democratic societies, majority rule is a generally accepted solution for issues discussed as it supports efficiency. The *raison d'étre* of this principle

[6] Norton, Paul: Making Sense of Opposition. *Journal of Legislative Studies*, 2008/1-2, 236-251. and 236-237.

is that it makes impossible for a minority or a person to tyrannize society and that reaching an optimal consensus has too high costs.

Although, reputation of the rule is not completely good. Its critics emphasize that the defenselessness of the minority from the tyranny of the majority is at least as unjust as a minority tyranny. According to *Sartori,*[7] we can study the majority rule in three contexts. At the *constitutional* dimension, we can observe the majority rule as the tool of the secure and predictable order of law making procedures and functioning of state organs, but the par excellence political considerations should be separated from the professional fields (for example the professional administration).[8] Analyzing the *electoral* context reveals the difficulties of the majority rule at the composition of representative bodies. For those who remain in minority, different electoral systems can give only limited compensation. Although, the *social* context of the majority rule was discussed already in the 19th century by *Tocqueville*,[9] this rule continued to be a wide-spread method also at non-political, non-governmental organizations.

The fields of majority rule can be overviewed also by *Lijphart's* models of majority and consensual democracies.[10] The latter brings wide scale of obstacles for this rule. During the parliamentary procedures, *Beyme's* criteria[11] for judging the opposition's positions can be used:

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

[7] Compare Sartori, Giovanni: *Democrazia:cos'é.* Rizzoli, Milano, 1993. 77-79.
[8] Compare Bihari Mihály – Pokol Béla: *Politológia*. Nemzeti Tankönyvkiadó, Budapest, 1998. 66-74.
[9] See Tocqueville, Alexander: *Democracy in America.* Penguin, New York, 2003. 222.
[10] Compare Enyedi Zsolt – Körösényi András: *Pártok és pártrendszerek.* Osiris, Budapest, 2004. 45-50.
[11] Beyme: *op. cit.* 187-188.

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

Defining political opposition, we can set out from the majority rule, while modern democratic political systems prefer protection of the political minority even against the majority rule and the effective decision-making. As basic condition for that: political pluralism must be established, opposing political forces should be recognized as legitimate actors, and the fact of the multi-party system should not be only tolerated but organized, as well.[12]

As for the opposition's scientific definition, we regard political parties as oppositions that do not take any part from the responsibility of the government, so they oppose governmental power, and those who – using their constitutionally established rights and fulfilling their special functions in parliaments – take part in the political will-building process and also in legitimating the whole political system. We should be aware of the parties that are outside the parliament, although, constitutional law can regard them as oppositional only through political pluralism because the force of standing orders does not comprise the extra-parliamentary opposition. Legal provisions pertaining to political pluralism and maintaining multi-party-system also support political forces that only have the chance to get inside legislature. As *Grube*[13] noticed, parliamentary parties also take part in non-parliamentary political debates, so, government/opposition distinction appears on this 'outer' field as well. *László Sólyom*[14] argues in a different, stricter way: opposition and coalition is divided by vote on the election of the Prime Minister and on the passage of the Government's program – parties outside the parliament cannot take part or even influence this voting, so they are out of this sphere of concept.

The following task is to describe the concept of the opposition's rights. These rights are necessary to fulfill the opposition's special functions and those institutional guarantees that exist to maintain political pluralism.

Exercising these rights shall not be dependent on the will of the governmental majority, as i) for every single political parties or members of

[12] Compare Kukorelli: *op. cit.* 140-141.

[13] Grube, Konrad Dieter: *Die Stellung der Opposition im Strukturwandel des Parlamentarismus*. Köln, 1965. 4-5.

[14] See Sólyom László: *Pártok és érdekképviseletek az Alkotmányban*. Rejtjel, Budapest, 2004. 137.

the parliament, or for a certain part of representatives they are provided the so called 'qualified minority', which is obviously less than 50 per cent of the MPS, or ii) because political opposition is expressly entitled to exercise them. The opposition's special functions are political will-building and mobilization, criticizing, presenting alternatives, initiating bills, controlling the government's activity, counterbalancing and being successor of governmental power.

Although we carefully (tried to) define the diffuse phenomenon of the opposition and its rights – we can hardly step over the procedural aspects toward a material concept. It is not so difficult to understand from the democratic constitutions that they – still omitting explicit mentioning – count with the presence of the opposition.

For example, the Italian Constitution in force, approved in 1948, determines the form of government but does not contain any direct notes regarding the opposition. Although, some Articles of the Constitution are vital for the parliamentary opposition as they have indirect effects on its structure, institutionalization and significance. On the basis of Articles 49 and 95 the Constitution emerges problems of the parliamentary opposition, its relation with other factors of the political system, guarantees of the parliamentary minorities and of their powers in political decision-making. In favour of the minorities, the Constitution has indicated several institutions of guarantee such as qualified majority voting, general limits on the legislative power of the government, reserve of the Assembly and referral.

The rights of the opposition are generally defined and described in the Standing Orders. Although, in some parliamentary systems Standing Orders are only temporary documents. Such as in the United Kingdom, where some Standing Orders are temporary and only last until the end of a session or a parliament. For this purpose, there are around 150 Standing Orders relating to parliamentary business and public bills and about 250 relating to private business. The other interesting fact about the British practice on determining and defining opposition's rights by Standing Orders is that a huge part of the parliamentary procedures is not written into the Standing Orders but exists as customs and practices of the Parliament. Some stem from the Speaker's ruling in the House, other procedures are followed because that is the way things had been done in the past, so a precedent has been set. One of the most well-known practices is that bills are being read three times in both Houses.

However, even the Standing Orders do not contain always the expression of the opposition. As in the case of Italy, where only after the reforms of 1999 are nominated the groups of the majority and groups of the opposition for the first time, so the phrase of opposition, distinguished from the simple minority, emerged at the normative level.

However, legal capability of the opposition as such cannot be conducted from these procedural rights. Qualified minority is still an uncertain phenomenon: while we can certainly find only one majority, it is not possible to circumscribe minorities as legal subjects. If parliamentary means are provided for the one-third of the members of parliament, logically, a party, with for example one-tenth of the seats, but outside the coalition should not be regarded as an opposition party? So, opposition remains the subject of certain functions, as *Haberland*[15] defined, opposition is not a constitutional institution, but rather a function.

From the viewpoint of establishing and maintaining political pluralism, wider concept of the opposition needs to study the law pertaining to political parties. We note that the factors that determine multiparty-system, like electoral thresholds and state-financing of political parties contest the principle of equality and harm fair-competition. Both thresholds and subvention are based on the effectiveness of political parties. Nonetheless, they extensively prefer political parties in the Parliament, so they can be seen as being designed to protect the current parliamentary political elite and work against the renewal of the party-system.[16]

2.2. Provisions dedicated to the principles of efficiency and democratic function

The aim of the parliamentary work and debates is the decision-making, but the way to reach this goal is not completely clear as not all members are interested in it. Rules of procedures and debates are not exclusively promoting negotiations; parliament is a political 'arena' as well, where political parties can express and clash their opinions. Standing orders try to balance between the principles of efficiency and democratic functions.[17]

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

Legislatures have to fulfill their constitutional functions, which could be realized only by effective decision-making. The Hungarian Constitutional Court declared efficiency as a constitutional principle (Res. 4/1999. (III. 31.) of the Hungarian Constitutional Court (HCC)). However, from the principle

[15] Compare Haberland: *op. cit.* 147-149. and 181.

[16] Sólyom finds that it is also difficult to argue that regarding the thresholds, whether 4 or 5 or any other percents of the votes is constitutionally suitable provision for preventing us from the fragmentation. See Sólyom: *op. cit.* 114., Pokol Béla: *A magyar parlamentarizmus.* Cserépfalvi, Budapest, 1994. 44.

[17] Compare Szente Zoltán: *Bevezetés a parlamenti jogba.* Atlantisz, Budapest, 1998. 237-240.

of the democratic rule of law, we can deduce plurality of the political opinions, and displaying of these opinions. On the other hand, standing orders and other procedural provisions – especially in the case of representative bodies – may be valued by the democratic functions that they establish. The Hungarian Constitutional Court deduced this consideration from Article 20, par. 1-2. of the former Constitution, while the par. 2. refers to the discussion on the issues of public interest as well (Res. 12/2006. (IV. 24.) of the HCC.). [18]

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

Provisions supporting efficiency are procedures of committees, orders regarding the debates of the initiatives, for example organization and economy of negotiations, obstacle against rank growth of representatives' proposals, and also regulation of decision-making, quorums and sanctions of absence.[19]

To demonstrate how it is possible to develop efficiency of parliamentary work by these rules and how these rules can be presented in the standing orders we use the Italian example. The reforms of the Rules of Procedures in the 1980s indicated an attempt to search for a major governability and a modification of the relation among government-majority-opposition, incited by the situation caused by the reforms of 1971, the fact that a small part of the House was able to block the procedures. It was more than necessary to reduce the obstructive instruments and areas, to limit the powers of minor groups, and to reorganize the principle of unanimity. These demands were also reinforced by the exhaustion of the "*solidarietà nazionale*". There were high attempts to establish a functional majority system through the norms of the Rules of Procedure and to strengthen the position of the government in the parliament. As a first step, the latter was realized in the decision-making processes of the state budget and accounts by introducing exact procedural bonds. To delimit the paralyzing obstructive interventions, the reforms have modified the organization of business and the order of business, the

[18] The article 20 par. 1-2 of the former Hungarian Constitution provided: "(1) The general election of Members of Parliament … shall be held in the month of April or May in the fourth year following the election of the previous Parliament. (2) Members of Parliament shall carry out their duties in the public interest." The new Basic Law of Hungary repeats these provisions as well (Article 2 par. 3 and article 4 par. 1).

[19] See Somogyvári István: A hatékony működést biztosító egyes jogintézmények a fejlett demokráciák házszabályaiban. *Magyar Jog*, 1993/5, 269.

deliberative processes and the procedural powers of the group chairpersons, approved several restrictions regarding time limits of the debates and interventions and introduced a *quorum* in the voting system by modifying the principle of equality among groups at the procedural powers. As a guarantee for the opposition, new Rules have disciplined proportional division of times on the base of the numbers of MPs of groups. In the field of scrutiny they have introduced the institution of *question time* in 1983.

Besides standing orders, rules of party-discipline and certain political norms of the parliamentary groups are of great importance for developing efficiency of parliamentary works. Against democratic colorfulness, preferring these groups can radically simplify debates. Tendencies for strengthening parliamentary groups were especially advantageous for the opposition, as *Beyme*[20] noticed. We also argue that besides legal norms, political norms of factions can be regarded as parts of the 'living' parliamentary law.[21]

2.3. Opposition at a wider context

The political system, creation and consequent power of the opposition depend on the Constitution, relations among political actors, especially among political parties, the electoral system, the Rules of Procedures, unwritten customs and the whole polity. As an example we can mention both the British and the Italian system.

In the United Kingdom there is a specific concept of an opposition with a capital 'O'. There is a whole set of sophisticated rules and conventions designed to sharpen the organizational profile of 'Her Majesty's Official Opposition', such as a public salary for the leader of the Opposition at ministerial level, a privileged position in the allocation of parliamentary speaking time and the existence of a 'shadow cabinet', which, since the 1950s, has in fact turned into a full-scale 'shadow government'. On the other hand, there is a notable lack of any major veto or co-governing devices at the disposal of the Opposition from parliamentary agenda-setting to the staffing of the Standing Committees and the majority requirements for passing bills, the whole legislative process is very much government-managed. This special character has had a strong, almost determining impact on the behavioural logic among major political actors.

In contrast to the situation in the other parliamentary systems, the British understanding of parliamentary opposition does not include the expectation that opposition parties launch independent legislative initiatives or struggle to

[20] Beyme: *op. cit.* 36-37.
[21] Compare Smuk: *Ellenzéki jogok...* 93-98. and 112-113.

improve the legislative program of the government. The conviction is that it is better to give the government enough rope to hang itself with.

On the ground of the above mentioned rules and customs, the main focus of the British opposition is to organize itself to maximize the probability of winning the next election.

The other example is the Italian case where in spite of the rigorous Constitution and the immovable constitutional outline, the political system and especially the form of government demonstrated significant transformations in the first fifty years of the Republic and it affected the opposition, too.

The dominant character of the political system in the first phase of the Republic was the conflict between a block of parties of which 'destiny' was to govern and a block of left parties which was totally excluded from the government because of the *conventio ad excludendum* principle. This principle derived from the international status quo which paralyzed the opposition.

The mentioned conflict created an opposition of routine, based on limited spheres and instruments which have been at his disposal: the no vote, the readiness to negotiate and make consensus with parliamentary majority, the possibility to present bills and amendments, to remit bills to the plenary assigned in the Committees, to present motions of no confidence and questions, moreover, obstructive techniques are especially used by the extreme left groups and the radical party.[22]

The history and the situation of the Italian parliamentary opposition demonstrate that it has had a significant and in some cases direct effect on the legislative organ and an indirect effect on the relation between the Parliament and the Government and furthermore on the governability.

Efforts to reorganize the Italian opposition on the basis of the English model have not caused the expected results. I think that the reason of the missed achievement is not only the diversity of the two political systems but also the fact that in the United Kingdom there is a general acknowledgment of the necessity of a well-organized and functional opposition, while it is missing in Italy. According to this principle, the opposition must have adequate instruments at his disposal to be able to present his own proposals and alternatives compared with the governmental ones and there is no need to exploit these instruments for obstructive purposes.

[22] Cerase, Mauro: *Opposizione politica e regolamenti parlamentari*. Giuffré, Milano, 2005. 97-102.

3. Rights of opposition

3.1. Rights of opposition regarding the activity of the Parliament

On the inaugural session of parliaments personal and organizational issues are basically negotiated and bargained by the political parties, just like electing the officials and creating the system and composition of the parliamentary committees.[23] In general, limited seats, positions and rights which are available only in a limited number are distributed upon the following principles:

a) Proportionality

The most generally applied method is proportionality according to the representation of the political parties on the plenum.[24] We can see that rule in the standing orders of the German Bundestag in Article 12., and although it ensures the main positions to the majority coalition, it can be regarded as a guarantee for the opposition to be able to play an active role in some bodies of the House, for example the presidium.

Also in Italy, the method of proportionality is used for the distribution of standing committee and special committee memberships (Articles 19 and 22 of the Rules of Procedure of the Chamber of Deputies).

Although the principle of proportionality is also considered in the House of Commons for the committee memberships and committee chairs, there is a great difference as in the United Kingdom not the parties but the Committee of Selection nominates members of the committees. In the Commons there are restrictions on the number of members of select committees. The Committee of Selection shall nominate not fewer than sixteen, not more than fifty Members for each committee (Standing Orders of the House of Commons (2010) 86).

b) Power ranking

On the basis of the principle of power ranking in Hungary, the biggest coalition party gets the office of the Speaker in the Hungarian Parliament.

In Britain the Speaker is the main officer of the House of Commons and his person is accepted by all MPs. In fact, the government puts forward the name of an MP who is acceptable to all sections of the House only after consultation with the opposition. The most important character of this

[23] Compare Kukorelli István: *Alkotmánytan I.* Osiris, Budapest, 2002. 309. and 311.
[24] See Szente: *op. cit.* 139.

institution is its strict impartiality and one of its most important duties is to protect the rights of minorities and to ensure that their voices are heard. The Speaker must keep apart from his/her former party colleagues. Even after that he/she retires, s/he shall not take any part in political issues.

In the Hungarian Parliament this kind of convention regarding the person of the Speaker does not exist. Ultimately, this problem of the Speaker's neutrality was an issue in Italy, too, when *Gianfranco Fini*, the actual Speaker of the House founded a new party and took an active and significant role in creating a new right wing contrasting *Silvio Berlusconi* and his party.

Another example for the principle of power ranking is the figure of the Leader of Her Majesty's Opposition in the House of Commons as for this position is always elected the leader of the largest oppositional party.

c) Parity

Equal representation of the majority coalition and opposition occurs in some committees in Hungary, and also at the "allotted time of the debates", as the Standing order declares that the members of the government parties and the opposition as a whole shall have an equal share of time at their disposal (Standing Orders of the Hungarian Parliament Article 53. par. 3. a).

In Italy, the Committee on Legislation is composed of ten deputies, selected by the President of the Chamber in such a way as to guarantee the equal representation of the majority and the opposition.

In Italy, regarding time limits of the debates, the principle of parity does not prevail because members of the government have the right to speak every time they request (Article 37 of the Rules of Procedure of the Chamber of Deputies).[25]

Besides the rules respecting the principle of parity, there are some other rules which directly favour the opposition such as that in the House of Commons the chair of the Committee of Public Accounts can only be an MP of the official Opposition (Standing Orders of the House of Commons (2010) 122 (8).

d) Equality of rights

The equality of representatives is provided by the Constitutions. As the Italian Constitution determines that each member of the Parliament represents the Nation (Article 67 of the Constitution of the Italian Republic).

[25] This committee may express an opinion for a request on the quality of the texts of the presented bills with regard to their homogeneity, simplicity, clarity and correctness of wording, and to their effectiveness in simplifying and reorganising the legislation currently in force.

The principle of the equality of representatives can invalidate the preferred situation of the governmental side (its members are in more confidential connection with the executive administration), although, belonging to one or the other side often results in different outcomes, for example by influencing legislative procedures. The equality of the parliamentary groups can generally ensure the opposition's participation in the state's will-building processes.[26] We can see this principle both in the Hungarian Committee of the House and in the Italian Conference of Group Chairpersons. These two institutions are vital in determining the agenda of the two Parliaments.

According to the principle of parity, in the House of Commons each Member may speak up only once in a debate (Standing Orders of the House of Commons (2010) 76).

Regarding the equality of rights, we have to mention another important topic, that is MPs' case, who do not belong to any groups. In the Hungarian Parliament they are not entitled to form a parliamentary group. The standing orders, while preferring the political groups and efficiency, overshadow the equality of the representatives. The Hungarian Constitutional Court resolved this problem by its resolution in which it declares that the independent representatives should be involved in committee works (Res. 27/1998. (VI. 16.) of the HCC.).

In contrast to the Hungarian practice and rules, the Rules of Procedure of the Italian Chamber of Deputies determines that all MPs who did not declare to the Secretary General to which Group they belong shall form a mixed Group. Members of a Mixed Group have the possibility to form further political groupings within it (Article 14 of the Rules of Procedure of the Chamber of Deputies).

e) Other issues of activity

In some respect, the requirement of qualified majority voting is a rule that indirectly ensures the equality of rights. Qualified majority voting is a simple way to take away decisions from the political majority. The requirement of qualified majority voting is essential for the protection of minority interests and it creates an incentive for constructing consensus and convergence between the government and the opposition.

In Italy, qualified majority voting is necessary for decisions about organs and texts of which activity or contents are relevant to the supreme life of the State. On the grounds of this concept, qualified majority voting is obligatory for constitutional revision, approval of the Rules of Procedures, election of the President of the Republic and his impeachment, for declaration of a law

[26] Compare Haberland: *op. cit.* 69-71.

to be urgent in order to abbreviate its promulgation time, for amnesty and pardon laws, for the election of judges of the Constitutional Court and election of lay members of the High Council of Judiciary.

In the Hungarian political system, two-third majority (of members of the Parliament or representatives present) is needed for several legislative issues, electing several high officials (ombudsman, judges of the Constitutional Court, etc.) and passing some resolutions in connection with the activity of the Parliament. The qualified majority rule establishes very strong positions for the political opposition in the Parliament. The government usually does not even propose its initiatives, because the opposition has previously made its contrary standpoint clear. Furthermore, it is a painful obstacle even for the procedure for seeking compromise.[27] In the case of the election of officials with qualified majority, the rule does not serve stability, but rather causes troubles in the functioning of these state organs as it can be seen in the case of the Constitutional Court.[28] We can observe a quite strong veto position of the opposition, without concerning its abilities to govern.

Perhaps the requirement of qualified majority voting is the most important for the constitutional amendments. The Hungarian political-constitutional system has neither the special feature that it is not necessary to involve nor the opposition, nor – via referendum – the people in the constitution making and amending process, a simple qualified majority is enough. That made governing coalitions possible to unilaterally reach the constituent-constitutive power between 1994-1998 (for socialist and liberal parties), and since 2010 (for right wing Fidesz and Christian-democrats). Beyond the constitution, electing of state officials and several fundamental laws are also in the hand of the two-thirds-majority government.

On the other hand, in Italy, the Constitution declares that its revision and the constitutional laws shall be adopted after debates which last at least three months and they may be submitted to a popular referendum if it is requested by one-fifth of the members of House or five hundred thousand voters or five Regional Councils. But if the mentioned laws are approved by a majority of two-third of the members of each House the referendum shall not be held (Article 67 of the Constitution of the Italian Republic).

It is necessary to note that if the government has the qualified majority at the plenary, the veto right of the opposition does not exist.

[27] Compare Balogh Zsolt – Holló András – Kukorelli István and Sári János: *Az Alkotmány magyarázata*. KjK Kerszöv., Budapest, 2003. 91-92.

[28] See Sajó András: *Az önkorlátozó hatalom.* KJK-MTA Állam- és Jogtudományi Intézet, Budapest, 1995. 109.

3.2. Rights supporting direct political functions of the opposition

Political functions permeate all parliamentary activities, when the Legislative exercises its powers and performs political activity. The direct political functions of the opposition are: criticizing and proposing alternatives to government bills. The Hungarian Constitutional Court held that the possibility of debating issues of public interest is the most important right of the opposition in parliamentary democracies (Res. 12/2006. (IV. 24.) of the HCC.).

The Hungarian Constitutional Court declared that public political debates as means of parliamentary control are of constitutional importance. Free and public parliamentary debates are basic conditions for citizens to be able to form an opinion on the activity of the representatives and other high officials. Only these debates can provide information for citizens to consciously participate in public affairs and decision-making. The means and fields for debates are the motions of confidence and no-confidence, debates on the bill of the annual budget and its implementation, the Hungarian institution of 'political debate', media-preferred speeches before proceeding with the orders of the day and the so-called Opposition Days in Italy and the United Kingdom.

The right to speak before the House is the most vital condition to the opposition to work and survive. Besides the requirement to have the right to speak as a basis of democracy, it is also important to note that the rules ensure that debates will end in time and resolutions will be passed are as important as the preceding requirement because these provisions may eliminate paralyzing obstructions in parliamentary works.

In Italy, the obstruction of the opposition and especially the obstruction of the radical parties caused huge problems in the parliamentary works after the reforms of the Rules of Procedure in 1971. But the Italian parliamentary opposition did not made a frequent recourse to the obstructive tools not only because the Standing orders made these kind of means at his disposal but also because the opposition and especially radical parties and the communist party did not have the opportunity to enter the government and represent a real alternative force in the Assembly. The only tool for these parties to survive and have an adequate visibility was to detain fluent work by presenting a huge amount of amendments (the majority of which did not contain any real additional proposals to the bills), obstructing votes by the rule of the quorum etc.[29]

[29] Compare Mandák, Fanni: The Signs of Presidentialization of the Italian Parliamentary Systems – Rules of Procedure of the Chamber of Deputies from the 1980s. *Southeast Europe, International Relations Quarterly*, 2010/4, 1-9.

The Resolution of the Hungarian Parliament 46/1994 (IX.30.) on the Standing Orders of the Parliament of the Republic of Hungary established the institution of the political debate. The political debate could be requested by the government or at least one fifth of the MPs. This debate had to last for minimum four hours. Although, this could have been a popular mean of the opposition's political functions such as criticizing the government's activity and inquiring information, there was not a frequent recourse to it as it is showed by Table1 below. Between 2006 and 2010 in the last three years of the V Legislation the opposition did not initiate any political debates and from 2009 not even the government did it.

Table1: Initiated political debates in the Hungarian Parliament

	1990-1994 (I Leg.)	1994-1998 (II Leg.)	1998-2002 (III Leg.)	2002-2006 (IV Leg.)	2006-2010 (V Leg.)	2010-2011 (VI Leg.)
Political debates	5	11	15	27	10	4
Debates initiated by opposition	2	10	11	22	5	3

Source: For the data from 1990 to 2010, see *Kukorelli and Smuk* 2010. 127, the data regarding the actual Legislation is own elaboration on the ground of parliamentary statistics.

According to Table1, in Hungary, the institution of political debate is adequate for the opposition to present the most relevant topics judged by them.

In the House of Commons twenty days are allocated for the discussion of subjects chosen by the Opposition in each session. From these twenty days seventeen are at the disposal of the Leader of the Opposition and three at the Leader of the second largest opposition-party (Standing Orders of the House of Commons (2010) 14. (2)).

In the Italian Chamber of Deputies reforms of the Rules of Procedure in 1999 ruled that opposition is guaranteed fifth of the subjects to be covered, or the overall time available for the business of the House and that subjects other than bills, proposed by the opposition for insertion in the order of business, shall be entered as a rule, as the first item on the agenda of the sittings is devoted to them. Moreover, the reforms ruled that not more than half of the overall time available shall be devoted to the consideration of bills confirming decree-laws of the government (Article 24, paragraph 3 of the

Rules of Procedure).[30] These innovations attribute a more solid visibility to the opposition at the parliamentary work.[31] The new Rules of Procedure of the Senate followed the same principle as they reserve minimum four sittings in every two months exclusively for the topics proposed by the opposition; these are the so-called Opposition Days (Article 53, paragraph 3. of the Rules of Procedure of the Senate).

Besides the guaranteed time for the opposition in debates, we also have to pay attention to the statistics regarding the division of the time dedicated to different kind of parliamentary activities. As for example in the Hungarian Parliament these data present that the proportion of the control functions is always less and less.

Table2: Time dedicated to different parliamentary activities in the Hungarian Parliament.

Type of activity	1994-1998 (II Leg.)	1998-2002 (III Leg.)	2002-2006 (IV Leg.)	2006-2010 (V Leg.)	2010-2011 (VI Leg.)
Legislation	1766:35 min (68,5%)	1640:49 min (72,68%)	1721:15 min (68,44%)	1362:49 min (64,18%)	1246:44 min (75,98%)
Controlling	460:36 min (18,3%)	296:31 min (13,14%)	456:06 min (18,11%)	345:45 min (16,28%)	166:41 min (10,16%)
Other	342:34 min (13,3%)	320:12 min (14,18%)	338:18 (13,45%)	414:47 min (19,53%)	227:37 min (13,87%)
Total	2579:35 min (100%)	2257:32 min (100%)	2515:39 min (100%)	2123:21 min (100%)	1640:59 min (100 %)

Source: Own elaboration on the ground of parliamentary statistics.

As we can see from Table2, time dedicated to the controlling function is around 10-18 percent. In three of the examined Legislation more time was dedicated to other activities than to the controlling function. The actual Legislation, besides that it belongs to this group has another special character, that is, the time dedicated to the controlling function is very low, only 10 per cent of the total time. The explanation is that in the actual Legislation the Parliament dedicates much more time to its legislative function than the previous ones. In only two years the time passed by legislative activities is almost the same as the time passed by this activity in four years in

[30] The limit on the consideration of bills confirming decree-laws is very important because it aims to roll back indirectly the more and more frequent recourse of the government to decree-laws. The special procedure regarding the decree-laws ensures the government to approve these acts without a parliamentary debate and the opposition's participation.
[31] See Mandák: *op. cit.* 61.

Legislation V. For this reason, proportions were shifted as the time at the disposal of controlling activities was not changed.

3.3. Rights of opposition in the legislative procedure

The active participation in the legislative procedure is a basic right of the opposition. Its active participation is attained by presenting initiations of bills, proposing amendments and presenting minority reports. The provisions pertaining to the rights of proposals in the Hungarian Parliament are balancing between the individual and collective nature, establishing some privileges for the parliamentary groups.[32]

The Italian Constitution determines that legislation may be initiated by the government, each member of the Parliament, regional councils and by the National Council for Economics and Labour. Also, people may initiate legislation by proposing a bill drawn up in sections and signed by at least fifty-thousand voters.

In the United Kingdom public bills can be introduced by a government minister or by an ordinary member of the Parliament, private members' bills can be proposed by private members of the Parliament, while private bills can be introduced by local authorities, statutory bodies through a petition presented to the Parliament.

The possibility to propose amendments due to its long time, obstructional misuse of presenting amendments in the Assembly is restricted in the Italian Chamber of Deputies. The Rules of Procedure of the Chamber of the Deputies declare that new additional sections and amendments, and those rejected at Committee stage, may, however, be tabled in the House, up to the day preceding the sitting in which the debate on the sections is to begin, only if they fall within the context of the subjects already considered in the text or in any amendments tabled and declared admissible at Committee stage (Article 86, paragraph 1 of the Rules of Procedure of the Chamber of Deputies).

This kind of modification considerably favoured the principle of efficiency. As we see from Table3, the total number of the presented amendments has dramatically reduced. Although, it is also true, that the rate of the approved amendments is very low, in the actual Legislation it is only 24,5 percent regarding the voted amendments and 2,27 percent regarding the presented ones.

[32] See Kukorelli: *op. cit.* 148.

Table3: Presented amendments in the Italian Chamber of Deputies.

Legislation		XIII	XIV	XV	XVI
Presented amendments	Total	374 627	124 531	38 253	37 500
	Monthly average	6 244	2 111	1 594	852

Source: Own elaboration on the grounds of data provided by the House. Table is finished the 11 May 2012.

Table4: Detailed statistics on the presented amendments in the Italian Chamber of Deputies.

Legislation	Presented amendments	Voted amendments	Approved amendments
XVI	37 500	6 309	1 540

Source: Own elaboration on the grounds of data provided by the House. Table is finished the 11 May 2012.

Although the reforms have attributed a counterbalance in favour of the opposition, too as they have prevented that an extreme use of presidential powers eliminates all of their amendments and have guaranteed to vote their most significant amendments.

Table5: Legislative production according to the initiators of bills in the Hungarian Parliament.

Legislation	Bills	Initiated by Government	Initiated by Committees	Initiated by government MPs	Initiated by oppositionMPs	Mixed initiation	Total
1990-1994	Presented	622	195	no data	no data	604	1426
	Approved	506	116	no data	no data	173	796
1994-1998	Presented	470	16	no data	no data	290	776
	Approved	435	11	no data	no data	53	499
1998-2002	Presented	442	34	no data	no data	377	853
	Approved	399	21	no data	no data	44[33]	464
2002-2006	Presented	520	23	170	236	19	968
	Approved	470	17	68	8	10	563
2006-2010	Presented	519	37	127	236	44	963
	Approved	476	24	49	15	29	593
2010-2011	Presented	229	15	176	216	0	636
	Approved	217	14	133	0	0	364

Source: For the data from 1990 to 2010, see *Kukorelli and Smuk* 2010. 23., 40., 55-56., 73. and 97., the data regarding the actual Legislation is own elaboration on the ground of parliamentary statistics.

From Table5 we can see that there is a growing proportion of bills initiated by government MPs, both in the case of presented bills and approved ones. In the actual Legislation the government "moves forward" its MPs because the procedure of bills presented by an MP is much faster and easier than the procedure of bills presented by the government, hence, it can save time.

[33] The data regarding the mixed initiations between 1990 and 2002 comprise all the bills which were initiated by neither the government, nor a Committee, so not the bills as a mixed initiation on the basis of the cooperation between the government and the opposition as it is from 2002 till 2011.

Table6: Approved laws according to the initiators of bills in the Italian Chamber of Deputies.

Legislation	Laws initiated by government		Laws initiated by parliament		Mixed laws		Total
	Total	Per month	Total	Per month	Total	Per month	
X (1987-1992) -57 months and 20 days	704	12,2	284	4,92	85	1,47	1076
XI (1992-1994) – 23 months and 21 days	231	9,7	75	3,16	8	0,34	314
XII (1994-1996) – 24 months and 23 days	261	10,54	28	1,13	6	0,24	295
XIII (1996-2001) – 60 months and 20 days	697	11,5	170	2,8	39	0,64	906
XIV (2001-2006) – 60 months and 23 days	423	6,96	95	1,56	7	0,12	525
XV (2006-2008) – 24 months and 4 days	99	4,1	13	0,54	0	0	112
XVI (2008-25/05/2012) – 47 months and 15 days	246	5,18	53	1,12	9	0,2	308

Source: Own elaboration on the ground of parliamentary statistics.

The data of Table6 show that there is a solid predominance of the government at the initiation of bills and that in the Italian Chamber of Deputies there are very few bills of mixed initiatives which shows the low or in the XV Legislation, the absence of the cooperation between the government and the opposition.

In the Hungarian Parliament recent amendments made it possible to bring amendments to the bills under discussion even only hours before the final

voting, this is the so-called exceptional urgent procedure (Article 128 paragraph A-D of the Law XXXVI of 2012). Although the recourse to this procedure raises efficiency of the parliamentary work, it is contrary to the principle of democracy as MPs do not have enough time to discuss public issues tabled in this kind of procedure. Its consequence is that information cannot reach public opinion. We believe that because of the absence of adequate time for debates this new rule is anti-constitutional.

Similar to the Hungarian regulation, in the Italian Chamber of Deputies the Committees and the Government also have the possibility to table amendments, sub-amendments and additional sections until the start of voting on that section or amendment they refer to. Although the Rules of Procedure declare that these amendments and sections have to fall within the context of the subjects already considered in the text or in any amendments tabled and declared admissible at Committee stage. Thirty deputies, or one or more Chairpersons of Groups, separately or jointly, account for at least the same number, may table sub-amendments to each of these amendments and additional sections, including during the sitting, within the time limit laid down by the Chairperson. Furthermore, each minority rapporteur may table, within the same time limit, only one sub-amendment relating to each amendment or additional section tabled by the Committee or by the Government (Article 86, paragraph 5 of the Rules of Procedure of the Chamber of Deputies).

The right for minority reports and minority rapporteurs is essential for the parliamentary opposition because they may bring up committee debates to the openness of the plenary sitting. In Italy, the institution of minority rapporteur was introduced by the reforms of 1999. The Rules of Procedure in force assure minority rapporteurs in the legislative procedures a quantity of time in the debates on the basis of the numerical consistency of its nominating groups. This innovation attributes an important role in the phase of formulating alternative proposals and amendments to the opposition since the rapporteurs shall express their opinion on the amendments before they are voted on. In doing so, rapporteurs may ask the Government to reply to specific questions regarding the consequences of the measures it has proposed (Article 86 of the Rules of Procedure of the Chamber of Deputies).

The legislative function is the privilege of the Parliament, but in some cases this right is delegable to the government with special requirements. It is very important that also in these cases the possibility to participate at the legislative procedure shall be ensured to the opposition.

Article 76 of the Italian Constitution declares that the Parliament may delegate the legislative function only for a limited time and for specified purposes and only if the principles and criteria have been established. These

conditions and limits regarding the delegated power are the guarantees for parliamentary oppositions.

Furthermore, Article 77 of the Constitution determines that the government may adopt provisional measures having the force of law only in extraordinary cases of urgency and necessity and that the government must present the measures on the same day of their approval at the Houses for confirmation. The government measures lose effect from their inception if they are not confirmed within sixty days from their publication. As a consequence, there is a direct practice of the legislative power by the government only at the case of *decreti-legge* (decree-laws). The reforms have contributed the opposition with an instrument for being able to control the government's frequent practice on decree-laws. Paragraph 3 of Article 96-bis determines that within five days from the announcement of the introduction of a decree-law or the transmission of the confirming bill to the House, a Group Chairperson, or twenty deputies, may table a preliminary question referring to the content of the bill or of the decree-law related thereto.

In Table7 we can see that this new instrument became a popular and a used one. As we can see from Table8, the efficiency of this institution is very low because the percent of the approved preliminary questions is very low in respect of the presented and voted ones.

Table7: Presented preliminary questions in the Italian Chamber of Deputies.

Legislation	Decree-laws	Confirming bills	Preliminary questions
XIII	370	174	144
XIV	214	200	216
XV	48	32	56
XVI	95	87	91

Source: Own elaboration on the grounds of data provided by the House. Table is finished the 11 May 2012.

Table8: Detailed statistics on the presented preliminary questions in the Italian Chamber of Deputies

Legislation	Presented preliminary questions	Voted preliminary questions	Approved preliminary questions
XVI	91	87	6

Source: Own elaboration on the grounds of data provided by the House. Table is finished the 11 May 2012.

Also in the United Kingdom there is a possibility to use 'delegated' legislation in some cases. In order to reduce unnecessary pressure on parliamentary time, primary legislation gives ministers or other authorities the power to regulate administrative details by means of secondary or 'delegated' legislation, most of which is known as statutory instruments. These instruments are as much the law of the land as the Act of Parliament from which they derived. To minimise the risk that delegating powers to the executive might undermine the authority of the Parliament, such powers are normally only delegated to authorities directly accountable to the Parliament. Although, the majority of statutory instruments are not a subject to any parliamentary procedure, therefore, they become law on the date stated in them. On the other hand, other statutory instruments are subject to parliamentary proceedings, such as affirmative instruments which have to be approved by both Houses before they can come into force, and negative instruments. Negative instruments come into force automatically unless either House passes a motion annulling them within forty days.

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

Appealing to the Constitutional Court is a right for the opposition, when it is provided for the members of the parliament or the qualified minority, and the object of the appeal is a bill passed but not promulgated yet.

In Hungary, this right had been ensured for 50 MPs till 1998, and there are several other similar European examples, like France and Portugal. The proceeding according to the ex post examination for unconstitutionality of rules of law may be proposed by different actors, but the opposition (for example a qualified minority) may be also entitled to it. In Hungary, for example, one fourth of the representatives may request an ex-post examination. Also in that case, Constitutional Courts often have to decide on political debates. Accepting *Schneider's* views, we can say that although the opposition has nothing to lose in that case, therefore, responsibility is out of question, it is not an obstruction. Resolutions and arguments of the Constitutional Courts are appropriate means of enriching constitutional cultures.[34]

Initiating a referendum is another way to challenge the will of the governmental majority. It can be a proposing initiative, but also an abrogative one, as it has quite old traditions in Italy. The Italian Constitution declares that the referendum is the most important institution of direct democracy. An abrogative referendum may be requested by 500 000 electors or five Regional

[34] Compare Schneider, Hans-Peter: Keine Demokratie ohne Opposition. Buckmiller, Michael – Perels, Joachim (eds): *Opposition als Triebkraft der Demokratie*. Offizin-Verlag, Hannover, 1998. 247-248.

Councils and may abrogate laws totally or partially (Article 75 of the Constitution of the Italian Republic).

In Italy, from 1995 to 2011, 42 abrogative referendums were held, out of which 37 were proposed by an oppositional party or oppositional parties collaborating with civil organizations. In case of 16 referendums the number of the voters obtained the quorum.[35]

As *Beyme*[36] noticed, referenda became means of the opposition – especially advantageous for smaller parties –, by which parliamentary majority faces a competing legislative power. Except the ex ante examination of bills by the Constitutional Courts, the above mentioned rights may not postpone procedures, so they are not obstructive methods.

3.4. The role of opposition in parliamentary controlling

In parliamentary governments, due to the disciplined coalition parties, we can observe the fusion of the legislative and executive power, as the government rules the majority of the representatives. In that case, in the separation of powers, the political opposition plays a very important role. The controlling function of the parliament will be the sphere of authority of the opposition, as it was declared by the *Bundesverfassungsgericht* (BVerfGE 49, 70 (86)) as well. The key issue of the regulation of control is their accessibility for each MP or some qualified minorities. Providing this, the control-means are also accessible for the representatives of the coalition. It is acceptable in theory, while it is to promote the division of the legislative and the executive. But in practice, as we can show, they become obstructive tools of the majority.[37]

Parliamentary controlling is rather a continuous procedure, setting the politics/policies of the executive against the laws, the electoral promises and the 'Government's Program'.[38]

There are several types of direct and indirect means of parliamentary control over the government's activity at the disposal of the opposition. One of the indirect types is the determination of the minimum time of legislative procedures ensuring in this way the opportunity for the opposition to take part in the procedure. In Italy, the Rules of Procedure of the Chamber of Deputies declares that the consideration by Committees acting in a reporting capacity must last for minimum two months (Article 81 of the Rules of Procedure of the Chamber of Deputies).

Studying controlling mechanisms, we should divide our observations into two parts. First, the power of openness, publicity is of great importance.

[35] Statistics are elaborated by *Mattia Collini*.
[36] See Beyme: *op. cit.* 297. and 299.
[37] Compare Smuk: *Az ellenzéki jogok.* 161-162.
[38] See Haberland: *op. cit.* 41-42.

Political publicity can be deduced from the function of the already mentioned discussing of matters of public interest – public opinion can enquire information about the activity of the representatives and parties through the public sittings of the parliament (Res. 50/2003. (XI. 5.) of the HCC.). Publicity of sittings is guaranteed when qualified majority is needed to declare the sitting in camera, or if sittings follow each other in reasonable intervals (Res. 4/1999. (III. 31.) of the HCC.). A special case of this topic occurred in the Hungarian Parliament when the Speaker of the House decided that journalists and reporters may only take place at certain places in the building of the Parliament. Doing so, he restricted commercial media to broadcast plenary sittings. As the broadcast of the plenary is carried out by the official cameras of the House and these cameras do not always see the most interesting moments and parts of the plenary (for e.g. the sleeping MPs).

Secondly, acquiring information about the activity of the government can be the fundament of calling it into account. The right to this information (the right of questioning, the duty of answering) is included in the rights of the representatives; they can exercise their activity if they have enough information about public matters and the activity of administration (BVerfGE 13, S 123. (125)).

In Italy, the Rules of Procedure grants some procedural powers to the opposition formally identifying its alternate role to the majority. In this concept the reforms have determined that 20 percent of the participants of a parliamentary committee have the right to request an opinion from the Committee on Legislation on considering bills. But it is important to note that the opinions of the Committee on Legislation are not binding.

Furthermore, the reforms have given every group chairperson the opportunity to present requests for information, clarifications and documents from the competent ministers.

Interpellations and questions tabled for immediate answers are the most important means of oppositional scrutiny power. The problem is that it is not enough to have these kinds of instruments at the disposal of the opposition because their legal regulation does not signify that they can efficiently function in practice, as the Italian example shows. They have revitalized the question time, foreseeing a more continuous recourse, the MP's more frequent participation and a regular broadcasting (Article 63, paragraph 1 of the Rules of Procedure of the Chamber of Deputies). Moreover, they have introduced the ministers' question time (Article 135-*bis* of the Rules of Procedure of the Chamber of Deputies).[39] But these regulations have not had

[39] Moreover, urgent interpellations can be also presented by a group chairperson or by not less than thirty deputies. Each Group Chairperson may sign not more than two urgent interpellations for each month of parliamentary business and each deputy may sign not more

a solid effect in the real life. As the Table9 shows the efficiency of this kind of scrutiny is very low. The statistics regarding the previous Legislations are not at our disposal but it is known that the Prime Minister has never answered to questions tabled for immediate answer since this institution works.

Table9: Question tabled for immediate answer in the Italian Chamber of Deputies.

Legislation	Questions tabled for immediate answers	Questions answered by the PM	Questions answered by the Vice-PM	Questions answered by Ministers
XVI	138	0	0	138

Source: Own elaboration on the grounds of data provided by the House. Table is finished the 11 May 2012.

Means for acquiring information are regulated in the Hungarian Standing Orders with some problematic feature. The interpellation can be spoken if the official, called into question, finds that issue is in his/her competence – so the questioned person can escape according to his/her own decision. There are time limits for questioning, and if MPs from the coalition's side like to call their own ministers into 'question', the opposition has less and less time for controlling (that is what we called governmental obstruction).

than one for the same period. Article 138-*bis* of the Rules of Procedure of the Chamber of Deputies.

Table10: Means of parliamentary control in the Hungarian Parliament.

Legislation	Interpellations				Questions				Instantaneous questions			
	Tabled total	Tabled by opposition	Presented total	Presented by the opposition	Tabled total	Tabled by opposition	Presented total	Presented by opposition	Tabled total	Tabled by opposition	Presented total	Presented by opposition
1994-1998	933	854	804	744 (92,5%)	1531	1229	1457	1173 (80,5%)	1519	1287	1276	1083 (85%)
1998-2002	1225	823	833	524 (63%)	2260	1935	2147	1862 (86%)	745	496	589	396 (67%)
2002-2006	2569	2120	895	676 (75%)	13543	12662	12619	11905 (94%)	1319	938	1164	792 (68%)
2006-2010	1882	1585	776	658 (85%)	7050	6268	6641	6044 (91%)	1204	963	1022	791 (77%)
2010-2012	903	781	416	330 (79,3%)	3281	2784	2722	2289 (84%)	541	449	498	413 (82,9%)

Source: *Kukorelli and Smuk* (2010. 123.) and own elaboration on the ground of parliamentary statistics.

As Table10 shows, the Hungarian government's MPs use these means and take advantage of them in order to reduce the time at the disposal of the opposition.

The procedures of committees of inquiry are in the center of the discussion since Hungarian Standing Orders have been in effect (1994). The problematic issues are the followings:

a) How can a committee of inquiry be set up?

The parliamentary majority should decide on the setting up of the committees. The deny of an unconstitutional proposal, and the extension of the matters for the inquiry has already been discussed, also the *Bundesverfassungsgericht* that tried to protect the opposition, although, leaving some room for the influence of the majority as well.[1] According to the new Rules of Procedure of the Hungarian Parliament, from 2012 for the request of one-fifth of the MPs it is not necessary to establish a committee of inquiry, any more, as one-fifth of the MPs may request that committee, but their motion is not binding.

Table11: Committees of inquiry in the Hungarian Parliament.

Legislation	Committees initiated by the government or by governmental parties	Established committees (initiated by the gov./gov. parties)	Committees initiated by the opposition	Established committees (initiated by the opposition)	Established committees (total)
1990-1994	11	0	13	1	1
1994-1998	2	1	25	5	6
1998-2002	8	4	16	0	4
2002-2006	8	3	20	9	13[2]
2006-2010	3	0	11	1	1

Source: *Smuk* (2011. 418).

b) Distribution of seats in these committees, the chairman of the committee.

The principle of parity seems to be equitable for the opposition, but it might make passing the resolution on the inquiry results quite difficult. Problem

[1] Compare Haberland: *op. cit.* 94-100.
[2] One committee of inquiry is established by the initiation of a standing committee.

arising from the parity in the distribution of seats: the necessary majority to adopt a final resolution about the investigation. This could be changed by minority or partial reports.

c) Rules for proceedings, hearings, rights and duties of witnesses, publicity.

The provision of Article 21, paragraph 3 of the former Hungarian Constitution that set up the obligation for everyone to provide the information requested, and testify before the committee – was declared lex imperfecta by the Constitutional Court itself. The Court called for another, legal regulation that would be suitable for the proper implementation of the functions of parliamentary controlling (Res. 50/2003. (XI. 5.) of the HCC.). It is a disappointing result of the new Law on The Parliament (Law XXXVI of 2012) that still there is not any adequate regulation, although, the provisions on the committees are included in a law that requires supermajority to adopt.

4. Conclusion

In this paper we have analysed the rights, role and functions of the parliamentary opposition. Nowadays, the topic is more than relevant when the executives are strengthening at the expense of the legislatives in the European parliamentary systems as the opposition has (should have) a vital and solid role at the continuous control and counterbalance of the developing government dominance in Parliament.

The rights, function and role of the opposition are determined by the Constitutions (mostly only indirectly), Standing Orders, Rules of Procedures, unwritten laws, conventions and precedents. Although in some countries, like in Italy, the exact expression of opposition was presented in the Rules of Procedures only recently, by the reforms of 1999.

Obviously, the main legal acts which determine and describe the rights of the opposition are the Standing Orders. These rules are revised and reformed regularly - on the ground of the experience of the everyday practice - to find the adequate balance between efficiency and democratic function of the Parliaments. As the statistics regarding the use of the institutions and means at the disposal of the parliamentary opposition show the opposition makes a frequent recourse to them in generally. Although some of these instruments are less efficient because the rules in force do not ensure their adequate function, like at the case of the questions tabled for the prime minister's immediate answer as he has never participated at the presentation of these question and doing so has not answered any of the presented question. A

contrary example is, that is how the institution of political debate and the other controlling means of the Hungarian Parliament are the appropriate.

At the same time we observe that for dismissing the executive there are more efficient and determinant means than the parliamentary ones, as for example the media in Hungary.

Furthermore, regarding the possible success of the opposition we find that it is also very vital how oppositional parties are able to cooperate with each other especially in countries where fragmentation is very high and where the government party or coalition has a solid majority.