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Károli Gáspár University of the Reformed Church in Hungary

Postgraduate Doctoral School of Law and Political Sciences

Thesis booklet

A special branch of the electoral system - the electoral law on the representation of minorities in the parliament in Hungary and abroad

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Thesis recommendation for the doctoral thesis of György Tamás Farkas, "A special branch of the electoral system - electoral law regulations on the representation of minorities in Hungary and abroad"

The author had already shown a keen interest in electoral law and nationality law during his law school studies. After graduating from law school, he began his doctoral studies and research in these fields under my supervision. The thesis the reader is now holding in hands is the result of many years of thorough research, which reflects the author's innovative and unique vision, his original findings of scientific rigor and his in-depth and detailed study of the Hungarian and international literature.

In itself, I consider unique and innovative the author's approach to the question of minority representation in parliament as a special area of electoral law and to examine it through this lens. This may sound simple, but in my strong opinion it has not been presented so clearly and unambiguously in the literature on nationality law or electoral law.

Regarding the author's work, I would like to draw the attention his international outlook, in which he has elaborated the electoral systems of several countries in such a detailed form which was not previously available in Hungarian literature, based on original legal sources. In addition, from a scientific point of view, I consider it very important and remarkable that the author has created a new and independent dogmatic systematization by analyzing many specific electoral regulations in an abstract manner.

The author in the paper demonstrates that he is well versed in the literature, but at the same time draws his conclusions on electoral systems primarily from the original source, the legislation, which are thus fully original and holds high scientific quality.

All in all, I consider the author's paper to be fully suitable for a discussion, I support its submission and recommend that the workshop be held.

Budapest, 25 May 2021.

Prof. Dr. Csaba Cservák

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I. Outline of the research objective

"*No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined*."[1]

The quotation above - cited from a court's opinion of the great state of Montana, United States of America - is, in my opinion, an excellent illustration of the importance of electoral law, a subset of which, i.e., the special electoral law for minorities, gives the subject of this study.

Electoral law in several states in the world applies special, more favorable than general regulations to favor the parliamentary representation of minorities living in the country, so I would like to examine the legal solutions and their integration into the electoral system in the context of a broad international perspective. The aim of this thesis is therefore to examine the representation of minorities in parliament from an electoral law perspective. My point of departure is that we are basically dealing with a question of electoral law, in which the general rules of the electoral system are supplemented by special electoral rules that favor the representation of minorities in parliament. I will explore the links between these special electoral rules and the general rules, and their deviations from them, with the intention of drawing up a general taxonomic grouping and drawing scientific conclusions from examples of international electoral law in practice, based on a representative sample.

The subject of the research is the representative bodies of the people based on direct suffrage and the electoral law regulations governing their election. In order to do it, it was necessary to define the corner points that are excluded from the research as follows:

- Type of bodies of local governments for minorities, i.e., the Hungarian national minority self-government system, and in addition to this, some few others like the National Councils in Serbia and the Sami Parliament in Norway.
- The distribution of legislative competences between certain autonomous areas (with minority-like status) and the central state level. In several European countries, territorial autonomies exist which grant certain legislative competences in certain areas to minorities living in concentrated areas, or more precisely, to bodies elected by them in

[1] Larson v. State, 2019 MT 28, fl 81, 394 Mont. 167, 434 P.3d 241.

the autonomous area. In these cases, however, from a minority point of view, it is not the electoral rules but the division of competences between the elected bodies provides the dominant issue, so the electoral law of the elected bodies of the autonomous areas - unless a special minority-specific regulation exists- is not the subject of our analysis. On the other hand, if a directly elected body has even partial legislative competences - for example, legislature of individual state or realm of a federal state - and its electoral law contains special minority electoral regulations (e.g., the Land of Schleswig-Holstein), the electoral law of that body constitutes the subject of research.

- Similar to the previous point, I do not consider the relationship between the two chambers of a state legislature, the division of powers - whether or not either chamber has special electoral legislation for minorities - to be a matter of electoral law. However, whether there is a special electoral law for minorities in either chamber, regardless of whether it is the first or the second chamber, the electoral law of that body is relevant to the research
- The essay focuses on the representatives with voting rights in the national assembly i.e., the legislators and the electoral rules governing the election of those legislators. However, the rules applicable to non-voting participants[2] in the legislative power and the comparison of the rights and obligations conferred by the mandate are not discussed, given their non-electoral nature.
- However, I shall not discuss the rules applicable to other non-voting participants in the legislative power[3], or the comparison of the rights and obligations conferred by the mandate, given their non-electoral nature.
- Last but not least, I have not reviewed the electoral law of those states where the minority electoral legislation is of a segregationist-exclusionary nature (e.g., the creation of a separate personal constituency), i.e., minority voters have the possibility to participate only in the minority branch of the electoral system.[4] Moreover, I do not pay attention to electoral arrangements where, although elements of the electoral system

[2] Examples include the nationality advocate in the Hungarian Parliament, the Indian legislative representatives elected in the US state of Maine, the religious minority representatives elected in the Cypriot legislature, and the Sorb representatives elected in the Brandenburg state legislature in Germany.
[3] Such countries are Belgium, Bosnia and Herzegovina and Lebanon.
[4] For example, the electoral law of Iran, where according to Article 28 of the electoral law, there is no possibility for members of religious minorities to exercise the passive right to vote, who can only stand for election in the personal constituency reserved for them, i.e., standing in the special minority electoral law is not an option, but the only possible way for members of religious minorities to exercise the passive right to vote.

that may ultimately be considered minority in character (e.g., territorial constituencies), but their purpose is clearly not to promote minority participation in public affairs, but the opposite, through the use of certain electoral instruments, such as gerrymandering or the determination of district core size.

In the light of the above, this thesis aims at reviewing the special minority electoral rules, which differ from the general ones and are intended to favor the representation of the minority(ies) in parliament, and which apply to the election of representatives of the people's representative bodies (i.e. parliaments) directly elected by the people and having legislative competence.

In the course of the research, I paid special attention to the results published in the literature, as well as to the sources of international soft law, among which, with regard to our continent, the opinions of the Advisory Committee for the Protection of National Minorities (ACFC), prepared in the course of the monitoring procedure and the documents of the Venice Commission are of particular importance.

In addition to this, in order to draw authentic conclusions, especially in the context of the international perspective, I concentrated on the analysis of the primary source itself, the electoral law and the constitution. In the review of Hungarian electoral law, special attention was paid to the antecedents of the existing legislation and the unimplemented draft of laws as primary sources, which allow to identify recurrent "traditional" elements of electoral law in the relatively new legislation that has existed for a decade.

With regard to the structure of the study, it was necessary to define the concept of minorities, given that minorities are subject to the special electoral rules under consideration. In addition, the relevant rules of international law were of particular relevance, i.e. what norms - whether positive or soft law - are contained in relation to minorities and electoral law.

This will be followed by a discussion of more general theoretical issues related to our topic, such as the notions of democracy and equality, the place of minorities in politics, and the relationship between minority representation in parliament and the principle of the free mandate. The latter is particularly relevant because, in my view, it clearly shows that there are two distinct layers of minority parliamentary representation: representation in the political sense and representation in the public law sense.

The "special part" of the thesis consists of a detailed analysis of some foreign examples of electoral law and a general systematic analysis of electoral law focusing on active and passive

suffrage, as well as an exploration of Hungarian electoral law and its legal-historical antecedents.

Last but not least, the hypotheses related to the research outlined and delimited above are as follows:

- On the basis of the domestic law of some states and international soft law, it can be stated - including Hungary - that electoral law regulations promoting the representation of minorities in parliament are an existing, applied, and recognized element of electoral law and are not an alien body in relation to electoral systems based on direct suffrage, representation of the people and, as a rule, ideological-political fault lines, but a special area of electoral law.
- The principle of equality of electoral rights is not in itself violated by the application of special electoral legislation by a state to promote the parliamentary representation of minorities. There are several dimensions of equality, and special electoral legislation to promote the parliamentary representation of minorities reflects the principle of so-called moral equality.
- It can be deduced from the principle of the free mandate that the representation of minorities in parliament means, in the public law sense, the electoral rules that facilitate the political representation of minorities.
- Political science is the science of knowing and researching the phenomenon of minority-based politics. Although different from classical ideological-political trends, the political representation of minorities is not alien to the political arena and, in some cases, may even mix minority and classical ideological-political features.
- By examining in detail and comparing, on the basis of a representative sample, the special electoral regulations in practice in each country, based on active and passive suffrage, a new and independent doctrinal classification can be established, going beyond the widespread distinction of guaranteed mandate versus preferential mandate, which is grouped according to the outcome of the election.

II. Methods and sources used in the research

The thesis uses several scientific methods, according to the specificities of the topic covered in each chapter. In some chapters, such as the chapter on international law or the chapter on Hungarian electoral law, a legal-historical focus is applied, outlining the development of the area of law relevant to the research.

Chapters IV, V, VI and IX, which are theoretical in nature, typically employ a dogmatic, analytical and constitutional theoretical approach, focusing on academic positions, including the author's own findings.

The chapters on international and Hungarian electoral law apply the comparative and normative-descriptive methods, focusing on the primary source, the electoral law itself, comparing and analyzing the different regulations.

At the same time, it is important to emphasize that the special part of the thesis aims to go beyond the abstract, dogmatic approach of the description and comparison of individual electoral law regulations and to create a new taxonomic grouping of special electoral law regulations concerning minorities.

The sources used in the preparation of the thesis are adapted to the topic of each chapter, presenting the relevant national and international literature. In the course of my research, I have consulted monographs, book chapters, journal articles, doctoral theses, university textbooks, among other sources, i.e. almost all forms of scientific literature. The scientific literature used in the writing of this thesis is presented in a separate chapter at the end of this thesis and in this thesis, with separate references to the literature in Hungarian and in foreign languages.

In addition to the academic literature, other types of sources have also been used in certain parts of the thesis, according to the specificities of the topic. In Chapter III, in the context of international law, it is particularly important to present international soft law, which, due to its relatively less detailed academic treatment, is highlighted by the opinions of the Advisory Committee for the Framework Convention for the Protection of National Minorities (ACFC), which were researched in the context of the examination of European international law in the context of the monitoring procedure of the individual states.

Chapter VII focuses on the constitution and electoral law of the respective states as a source in the comparative and analytical study of the electoral systems of foreign states, which I have

attempted to process and draw authentic conclusions from in a level of detail has not been seen in Hungarian literature so far. With regard to the legislation of foreign states, it is important to note that in each case the legislation is downloaded from the website of an official public body of the country concerned (e.g. constitutional court, parliament, electoral commission, head of state, government), which I have made available via a link in each case. In addition, the legislation referred to is also referred to in footnotes, in each case in the language of the country concerned or in English - depending on the language of the legal source found - in the text for the sake of traceability and transparency. It is important to highlight this because the collection and research work that has been done to identify these sources can serve as a starting point for further comparative research in the future.

In Chapters IV, on the equality of the electoral right, and V, on the issue of the free mandate, and in Chapter VIII, on the issue of constitutional omission in the Hungarian legal system in connection with the representation of national minorities in parliament, the review, analysis and comparison of the decisions of the Constitutional Court were the primary sources of information, in addition to the positions appearing in the legal literature.

III. Summary of the research, thesis-style summary of new scientific findings

The representation of minorities in parliament has been discussed many times and by many people, but the author of this study has also attempted to shed light on this area from a different perspective, by taking an electoral law approach, according to which minority representation in a parliament is nothing more than a special electoral law regulation in the public law sense.

As a starting point, by reviewing the concept and types of minorities, the group of persons to whom the special electoral rules apply could be defined. In this context, it was established that minorities are, in general, groups that constitute a numerical minority within a given state in relation to the majority society; they have a long-standing relationship with the state and share a common linguistic, cultural, or religious bond. Accordingly, a distinction can be made between linguistic, national, and religious minorities, but in many cases these categories are merged, and a minority may be a religious and linguistic minority[5].

The word "nationality" as currently used in Hungarian law is not the same as "minority without any attribution". The latter covers a broader range, including national minorities. The word "nationality" can be used to refer to this category of national minorities. The previous Hungarian legislation used the term "national and ethnic minority" instead of "nationalities", which essentially covers the same group of persons, i.e., the same as the group of persons of national minorities.

The starting point for the research is the concept of minorities as used in international law, i.e. not only national minorities, i.e. nationalities, but also the parliamentary representation of religious, linguistic and minority groups are part of the topic under study. In addition, the category of indigenous persons, which also falls under the umbrella of the concept of minorities in international law, is also included, so that the parliamentary representation of indigenous persons and the special electoral rules applicable to them also fall within the scope of the topic.

Briefly defining the group of persons to be investigated, it can be stated that the representation in Parliament and the specific electoral rules applicable to them are all related to the research, which is covered by Article 27 of the International Covenant on Civil and Political Rights.

[5] For example, the three constituent minorities of Bosnia and Herzegovina: Croatian, Serb and Bosnian

Given that in Hungary the definition of nationality is the applicable one, it was necessary to compare how it relates to the international legal concept of minority, which resulted in the fact that the circle of persons defined by the term nationality in Hungary is identical to the concept of national minority in international law.

In view of the above, the consensus in the use of the term “minority” in the chapters on international law or other foreign law, and the term “nationality” in the chapters on Hungarian law, is that I will use the term minority in the chapters on Hungarian law, in view of the Hungarian law in force and the centuries-old history of the term nationality.

Examining the international legal background, it can be concluded that the promotion of minority representation in the legislative power function was not a cornerstone of the system of minority protection of the League of Nations between the two world wars, but at the same time certain international conventions contained provisions on this - not very specific ones - which suggests that this issue had already appeared in international law and in international conventions of a specific nature and in a narrow scope, which is certainly or at least noteworthy as a historical background.

Looking at the international law in force, it can be said, on the whole, either from examining the universal or European regional international law, that international law does not contain any source that would prescribe or make mandatory parliamentary representation, but it does recognize, encourage and take a positive attitude towards special, preferential electoral rules that promote the participation of minorities in public affairs, including parliamentary representation.

It should be stressed here that participation in public life is not the same as representation in parliament, as the former can mean, among other things, self-government, autonomy, but also representation in parliament. Thus, the issue of parliamentary representation is situated within the category of participation in public affairs, which means that the examination of the sources of international law on the representation of minorities in parliament is a prerequisite for the examination of the participation of minorities in public affairs.

International law has declared that it is not contrary to the majoritarian approach to democracy to support the parliamentary representation of minorities through special rules, but considers it a factor that promotes international peace, stability, and pluralism.

In universal international law, the issue of parliamentary representation of minorities and, in this context, the issue of preferential or special electoral arrangements is typically mentioned

in broader terms, but an examination of European regional international law shows that it contains relatively detailed positive solutions for minorities.

Concretely, parliamentary representation is seen as only one way to participate in public affairs, but the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE) encourage states to do so through a range of soft law sources.

In addition, the country-specific reports monitoring the implementation of the Framework Convention, as well as several electoral rights-related and country-specific documents of the Venice Commission of the Council of Europe, contain very concrete and specific electoral proposals, which clearly encourage specific electoral solutions to promote the representation of minorities in parliaments.

In any event, it can be said that, at the level of international law, the guarantee of parliamentary representation of minorities, even through the application of special electoral arrangements that are preferential to the general electoral arrangements, is an existing, recognized and positive factor. In international law, electoral solutions that promote minority representation do not function as a kind of alien body, but as a kind of optional, potential complement to the democratic, party-based model of popular representation in the legislature.

In a separate chapter, it is argued that the notion of equality, which is closely linked to democracy, is not only formal but also substantive - or moral - and that the latter can correct the former one. The promotion of the representation of minorities in parliament through special electoral legislation implies, in addition to the main rule of formal equality, at least partial enforcement of substantive or moral equality. The ambiguity of the concept of equality needs to be emphasized because it allows us to state that special (more favorable) electoral legislation does not necessarily contradict the principle of equality and, in this context, democracy, but merely channels or presents another interpretation of the concept of equality, which does not in itself make an electoral system undemocratic.

In the chapter on the political and legal foundations of minority representation in parliament, in the light of the examples presented, it can be said - whether we consider those examples where it is implemented in practice or those where it is explicitly prohibited - that the representation of a given nationality can also function as a political program, alongside or instead of the classical right or left background. Whether a (partly) nationality-based parliamentary representation is conceivable in a given state, or whether this organizing principle sounds alien, is determined by the social, economic, historical and other extra-legal

characteristics of the state in question, rather than by the fact that nationality-based parliamentary representation is fundamentally alien or completely incompatible with a politically organized legislature.

Based on the principle of "everything is connected", the thesis shows that minority-ethnic representation and political representation are not self-evidently and objectively two separate and incompatible categories. The science of political science and the practice of politics have long been familiar with minority-ethnic parties and the representation of minority-ethnic interest as a political agenda. Whether this is accepted and exists in a given country is a factor that is purely a consequence of the historical, political, social and other normative systems of the state in question.

It is therefore not wise to say objectively and in general terms that no ethnic party or minority belongs in the legislature, where only the classic right-wing, left-wing, liberal, green, etc. can sit.

It is clear, however, that whether we agree or disagree, there is a common ground between classical party-based politics and parliamentary representation of minorities in the practice of politics, whether we consider electoral law or political science, so minority representation is not a kind of alien body. This practical fact must be considered in the legal and theoretical groundwork, since law must respond first and foremost to the phenomena, needs and facts of society - and not vice versa.

In addition, if we look strictly at the electoral rules, it cannot be said that it constitutes a kind of "foreign body" of special electoral rules for minorities in the electoral legislation of the classical representative-based legislatures. Whether a state with a unicameral or a bicameral legislature, one can cite examples of special electoral arrangements for minorities being implemented in the lower house of parliament. Considering the wide scope for internal legislative leeway in the design of electoral systems and the support of international soft law, it can be concluded that - although there are obviously many states whose constitutional traditions are alien to special arrangements for minorities in a representative legislature - it is generally not contrary to constitutionality and democracy for a state to have such electoral arrangements. Special electoral legislation for minorities is an optional, but possible additional subset of electoral systems and, as a result, these electoral solutions are certainly suitable and worthy of comparative, dogmatic examination.

The principle of the free mandate was essential for the thesis, as it determines the content of parliamentary representation in public law. In the chapter on the principle of the free mandate, it was possible to clearly delimit the political and public law dimensions of minority parliamentary representation. In my view, this has not yet been clearly done in the literature on the parliamentary representation of minorities. According to this, while the political dimension of parliamentary representation may mean that a given representative or party acts on behalf of the minority and in its interests, the public law concept of parliamentary representation can only be understood as a set of electoral rules which aim to promote the political representation of the minority; the legal status of representatives is uniform, and the principle of a free mandate applies to all representatives in the same way, on the basis of which the representative is legally separated from the community of those who elected him or her.

In the course of the examination of the principle of the free mandate, it emerged that in the Hungarian legal system certain provisions of the current National Minority Act - which are related to parliamentary representation - are contrary to the article of the Fundamental Law on the principle of the free mandate, since the uniform status of representatives requires that the representative who has obtained a mandate from the nationality list must be equally bound by the fact that his/her activity is in the public interest. In addition to this, I have also found that, because of his lack of voting rights, the speaker is an intervener (and not an exerciser) of legislative power and therefore, in my opinion, the principle of free mandate does not apply to him.

The nationality feature of a representative elected from a nationality list must be embodied in the special electoral law relating to his election, not in the fact that he is working in the interests of nationalities, which cannot be a legal obligation under the principle of a free mandate, but only a political one.

In the course of the research of international electoral law, the provisions of electoral law of several countries concerning minorities were reviewed, on the basis of which, on the basis of a representative sample, it became possible to establish a new general grouping of specific electoral law provisions concerning minorities.

The literature on special electoral rules for minorities typically either groups the models of some countries on the basis of the guaranteed mandate versus the preferential mandate or highlights a specific electoral instrument (e.g. "preferential threshold") and makes a grouping on this basis.

The abstract analysis and grouping of the minority as a special, beneficiary and electorate designated by the legislator, as well as the points of connection of the electoral system, can provide scientific novelty and new insights for possible further analyses in this much researched topic.

The above-mentioned "well-known" grouping, according to which minorities can be guaranteed or given a preferential mandate, approaches the issue from the point of view of the possibility of obtaining a mandate, the result, i.e., the outcome of the election.

This distinction is similar to the one made in the general analysis of electoral systems, where the electoral systems are distinguished by the fact that there are majority and list (and of course mixed) systems, which also approach the question from the point of view of the acquisition of seats, the result of the election.

Majority systems are often synonymous with individual systems, and proportional systems with the listing one. However, as the relevant literature has shown, these pairings are not synonymous. Although, in most cases, a majority system is also an individual system and a proportional system is also a list system, there are a number of examples in international comparisons which show that a majority system can be a list system and a proportional system can be an individual system.

Individual-list delimitation, as it is known in the general dogmatics of electoral systems, refers to the vote cast, i.e., whether the voter casts his/her vote for a list or for a person, while majority-proportional delimitation refers to the outcome of the election, the representation of the will of the voters.

It can be seen, therefore, that in addition to the grouping of the outcome of the election, the general dogmatics of electoral systems also knows a parallel delimitation with a different logic, which concerns the vote itself. In my view, the grouping of specific electoral law arrangements for minorities can also be carried out along a different logic in general terms than that of the acquisition of a mandate or a specific electoral law solution. It was therefore necessary to identify the specific criteria that constitute the purpose and meaning of special electoral law rules for minorities. This shows which logic, parallel to but distinct from the acquisition of a mandate, can be used as a basis for exploring the links between general and special electoral law for minorities.

Special electoral rules for minorities are designed to help them to be more effectively represented in elected bodies. The target audience of special electoral law is therefore the

minority itself, as a defined electoral community. For this reason, I have approached the issue essentially from the point of view of minority voters, i.e., from the point of view of how minority voters exercise their electoral rights when casting their vote when exercising their right to vote, in comparison with non-minority voters.

On this basis, two main sets of preferential electoral arrangements for minorities can be identified:

In one set, the principle of direct suffrage does not apply when approached from the perspective of active suffrage, such solutions are solutions other than direct suffrage, which typically use the legal instrument of indirect election, delegation, co-optation. These cannot be considered as the main focus of the research - precisely because of the lack of direct suffrage, but they are also presented, since such solutions exist today - although not in many places - in international comparison (and incidentally the Hungarian legislator also created such a regulation in 1990, which was not applied in practice, but was part of the Hungarian electoral system as a law in force for a short period).

The other large group of electoral law solutions are those where the legislator has solved special regulations for minorities within the principle of direct voting. Within this set, we distinguish between two main models, the highlighting (active) and the integrative (passive) models. This set has become the main thrust of the research.

The main specialty of the accentuation systems is that minority voters can cast their ballots separately from non-minority voters in a certain branch of the elections, so the exercise of the active right to vote is the most important specificity of these rules within the right to vote. The purpose of the special rules here is to allow minority voters to vote separately from non-minority voters and thus to be free from the influence of the majority society. The basis for the distinction may be territorial or personal. The former is merely a de facto minority-specific rule, since it is not the minority, but the population of the area that makes the regulation de facto minority-specific. The latter specifically concerns the minority as an electorate and provides the opportunity for the minority to vote within its own electorate, without the influence of non-minority voters.

In integrative systems, there are no special rules on the active side of the electorate, but on the passive side, i.e., on the side of those who can be elected, special electoral rules are applied, such as a more favorable threshold for entry or special rules on the composition of party lists. In such systems, minority voters are not singled out compared to voters from the majority

nation. The characteristic feature is that minority voters can exercise their right to vote under the same conditions and with the same electoral opportunities as all other non-minority voters. The preferential electoral rule for minorities here therefore does not refer to the definition of the community of those exercising the active right to vote, but to the passive side of electoral law, i.e. the nominating organizations (or part of them, which are minority in character) which can be elected by minority voters are subject to special regulation, and the minority voter's vote can be more effectively exercised from a minority perspective through the special rule for the nominating organization.

Integrating systems have been found in practice in the comparison for list-type electoral systems, so this model can be said to be typically associated with list-type electoral systems. Accordingly, I have carried out a grouping within integrating systems, in which - considering international examples - two sub-types can be identified,

The essence of the solution integrating minority voters into the list system is that minority voters are channeled into the list system and the nominating bodies (parties) which are supposed to represent minorities politically are subject to special regulations, which are mainly reflected in the establishment of an exemption from the entry threshold or even more favorable thresholds.

The other subtype is the party-list integrating subtype, the main characteristic of which is that minority voters are not channeled towards a favored minority nominating organization (party), but towards mainstream – i.e., conventional - political parties. In these models, specific rules are typically set for each party, which affects the composition of the list.

In reviewing international examples and analyzing each system in the abstract, it can be concluded that there are many aspects to consider in determining which model is the most beneficial for the minority and it is important to highlight that the ideal solution may vary from country to country due to different legal-historical-social and, of course, minority circumstances. However, if we approach the question in the abstract, the limited exposure of the special electoral solution to other external circumstances makes the priority systems, and within them the person-based priority systems, the most advantageous models from the minority point of view, as they can effectively ensure the political representation of the minority in the legislature, based solely on the minority vote, regardless of the minority's population and the overall turnout, and without the 'influence' of the majority nation.

In addition to the analysis of international examples, the special regulation of the Hungarian electoral law concerning nationalities was also presented in the thesis. As a historical background, I gave an overview of the period of dualism, when, although there was no special electoral law regulation for nationalities, the impact of the general regulation of the electoral system on nationalities existed as a key issue. This period lacked most of the principles of electoral law that have now become fundamental. From a nationality point of view, universal suffrage, and equality of suffrage (equal weighting of votes) were among the most important regulatory issues in the electoral system. Another important legal historical juncture in the special regulation of Hungarian electoral law for nationalities was the period of the regime change and the three subsequent parliamentary terms, when several unsuccessful legislative attempts were made to create special electoral law for nationalities.

After examining the legal history, it was of course necessary to take into account the special electoral legislation in force for Hungarian nationalities. The characteristics of the special nationality legislation of Hungarian electoral law in the 1990s and the current legislation were identified. Such features include the institution of advocates, the election from a national list of national minorities and the application of a preferential threshold for entry.

When comparing the advantages and disadvantages of the current Hungarian system, the most significant disadvantage is the lack of choice at the time of voting. In order to eliminate this problem, I have formulated a *"de lege ferenda"* proposal that could solve this problem without a significant change to the current system by offering the possibility of casting a preferential vote within the nationality list.

When comparing the advantages and wishes of the current Hungarian regulation, the most significant shortcoming of the current Hungarian system is the lack of choice at the time of the vote. In order to eliminate this, the possibility of casting a preferential vote within the minoritiy list could be a de lege ferenda proposal that could solve this problem without changing the system of the system. My de lege ferenda proposal can be summarized as follows:

1. § The list of each minorities must contain at least as many seat as number of lists won at least one seat in the last general minoritiy self-government election of the given minority.

2. § The list of each minorities shall be compiled in such a way that at least one candidate from each list who won a seat in the last general minoritiy self-government election of the given nationality is included.

3. § Within the list of each minorities, the voter belonging to the given minority is entitled to cast a preferential vote, on the basis of which he may appoint the candidate on the list which he considers to be the most suitable.

4. § In the aggregation of votes, the order of the candidates shall be determined by the descending order of the number of preferential votes cast for each candidate on the list, on the basis of which the candidate with the most preferential votes shall be ranked first.

In my opinion, one of the advantages of the above mentioned solution we propose is that it does not change the basic features of the current system, it is a relatively small change for the currently operating system. At the same time, it eliminates the biggest shortcoming of the current system, the lack of real choice within the polling station. In my point of view, the possibility of an actual decision that makes the election of a minority representative / spokesperson multi-chance could be a qualitative leap compared to the current system, which is considered by delegates themselves to be delegated, and which could become more popular with application for a national register of each minorities. At the same time, the connection beetwen each minority list and the given minority's general self-government continues to guarantee the actual minority character of the candidates, on the other hand it still "holds" the minority votes, they are not split between several competing minority lists, which is considered a significant factor in achieving the preferential quota.

In the context of Hungarian legislation, a separate chapter focuses on the question of the so-called "constitutional omission", i.e., whether the legislator had a constitutional obligation to ensure the representation of nationalities in parliament from the time of the regime change. This question has essentially been resolved by now and is therefore only a matter for legal theory and legal history. The literature is divided on the issue and by analyzing the relevant Constitutional Court decisions and exploring all the circumstances of the case, I have developed my own position on the issue, the essence of which is that (1) certainly cannot be decided, but in my opinion there was a constitutional obligation of parliamentary representation of nationalities; (2) it seems certain, however, that the constitutional possibility of parliamentary representation of nationalities existed; (3) the legislature in any event established the element of unconstitutionality in the omission, whether or not there was a constitutional obligation to provide for parliamentary representation.

As a conclusion, I have successfully verified and supported the hypotheses raised in the introduction of this thesis, and my scientific theses are as follows:

- On the basis of the domestic law of some states, including Hungary, and international soft law, it can be stated that electoral law regulations promoting the representation of minorities in parliament are an existing, applied and recognised element of electoral law and are not an alien body in relation to electoral systems based on direct suffrage, representation of the people and, as a rule, ideological-political fault lines, but a special area of electoral law.
- The principle of equality of electoral rights is not in itself violated by the application of special electoral legislation by a state to promote the parliamentary representation of minorities. There are several dimensions of equality, and special electoral legislation to promote the parliamentary representation of minorities reflects the principle of so-called moral equality.
- It can be deduced from the principle of the free mandate that the representation of minorities in parliament means, in the public law sense, the electoral rules that facilitate the political representation of minorities.
- Political science is the science recognizes and researches the phenomenon of minority-based politics. The political representation of minorities, although different from classical ideological-political trends, is not alien to the political arena, and in some cases may even mix minority and classical ideological-political features.
- Based on a representative sample, a detailed analysis and comparison of the special electoral regulations in practice in each country, based on active and passive suffrage, has led to a new and independent doctrinal classification, which goes beyond the widespread distinction of guaranteed mandate versus preferential mandate, grouped according to the outcome of the election. According to our systematization, there are:

    1. Indirect voting models

    2. Direct voting models

        - Highligting (active) systems

- Territorial (de facto) highligting subtype
- Personal (de jure) highligting subtype

- Integrating systems
  - into the list system integrating subtype
  - party-list integrating subtype

The issue of special electoral legislation for minorities is a very exciting sub-theme of electoral law, which deserves academic attention, as special electoral legislation for minorities can be found in relatively many states. It should be emphasized that, in my view, the representation of minorities in parliaments (in the public law sense), i.e. special electoral law for minorities, can in no way be regarded as a kind of inappropriate alien body of electoral law, but rather as a special and optional supplementary possibility for the electoral law of democratic, party-based representative legislatures, which is an integral part of both the theory and practice of electoral law.

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V. Author's list of publications

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