

КОНСТИТУЦІЙНЕ ПРАВО

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UNICAMERALISM AS A FEATURE OF ESTONIAN PARLIAMENT

J. Ciechanowska

*University of Rzeszów,
16C, Tadeusza Rejtana al., Rzeszow, 35001, Poland,
e-mail: justyna.mokrzycka@gmail.com*

This article aims to present the parliament of the Republic of Estonia. In the article the analyse of legislative regulations and practices of Estonian parliament with the emphasis on the typical features of unicameral parliaments was made. Riigikogu has a strong position and competences which enable it to be engaged in reality and functioning of other authorities. As a unicameral parliament it holds all the legislative power, performs a scrutiny function towards the government as well as a formative function. Examining the function and internal structure of Estonian parliament it can be concluded that unicameralism encourages the speed of legislative process. Important function of the parliament is the scrutiny function, which reveals quite strong position the parliament has towards the executive power. This enables the parliament to influence the composition of the most important authorities. Riigikogu is a strong and independent body which fosters political stability.

Keywords: parliament, The Republic of Estonia, authority, legislative power.

Unicameralism (single chamber legislature) is an element of political system, where the country's parliament includes only one chamber. It is mainly a domain of small and unitary countries without a social need for the second chamber which would e.g. represent other state bodies. Usually unicameralism occurs in the political systems of countries with no tradition of parliamentarism. Since the first legislatures of this type in Europe developed in the second half of the 20th century, the phenomenon is considered to be quite new. Unicameralism has been adopted in 1953 in Denmark, in 1974 in Sweden, in 1975 in Greece and in 1976 in Portugal. Unicameral legislature is also a feature of Baltic countries, i.e. Lithuania, Latvia and Estonia [1].

The aim of the following article is to analyse legislative regulations and practices of Estonian parliament with the emphasis on the typical features of unicameral parliaments.

The Republic of Estonia has adopted parliamentary-cabinet system of government. The legislative power is held by Riigikogu, a one-chamber parliament. Executive power is held by the president and the government, and the judicial power is vested in independent courts. In this system legislative and executive branch closely depend on each other and the competences of the president are very limited [11].

Political position of the parliament is mainly determined by factors such as the range of legislative exclusiveness, role of referendum in the decision process, authority over the executive and judicial power, and the status of the parliament's members [14].

Riigikogu, the parliament of Estonia, consists of 101 deputies with four-year term of office. The parliament has a strong position and competences which enable it to be engaged in reality and functioning of other authorities. Riigikogu has a great autonomy when it comes to deciding its structure and the work style. This makes the parliament an effective authority fostering political stability.

The issues of Estonian parliamentarism should be discussed in reference to basic political principles included in Chapter I of the Constitution (*General Provisions*). The chapter begins with stating that the republican form of government, independence and sovereignty of the country are timeless values, integral to the political system. Likewise to other countries, basic rules include the principle of national sovereignty, division and balance of powers, the principle of legality, representation and separation of powers. In accordance to the principle of separation of powers, important functions in the country, such as lawmaking, executing the law and administration of justice are assigned to particular authorities. An important principle concerning the system of state authorities is the rule of law. According to § 3 of the Constitution, the state authority of the government is exercised only in accordance with the Constitution, acts and recognized norms of international law [11].

Among other state authorities, an important role is ascribed to the parliament. Its strong position is reflected in e.g. decisive voice in legislative process, scrutiny function towards the executive power, exercising formative function through influencing the appointment of the most important offices in the state.

The position of Estonian parliament shall be presented in the first place through the analysis of its functions.

The most important function of the parliament is a lawmaking function. According to § 104 of the Constitution, the procedure of the passage of laws is standardized in the Riigikoku Procedure Act. Bills are considered in at least two readings. Only draft state budget, draft supplementary budget and budget strategy are considered in three readings.

Legislative process begins with legislative initiative. According to Constitution, the right of initiative is shared by deputies, factions and committees of Riigikoku, the government and -in cases concerning Constitution amendments – the President of the Republic. The parliament may ask the government to introduce certain bill. In this case the draft resolution of the Parliament must be accepted with the majority of votes from all deputies.

The Bill is submitted to the President of Riigikoku during the plenary session. The board designates a lead committee and sends them the bill. If the bill has been submitted by a deputy, political faction or committee, the President of Riigikoku ask the government of the Republic no later than on the following working day. The Government may refuse to present an opinion. In other case, they are obliged to transmit their opinion within five weeks after the bill reception [12].

The lead committee is obliged to prepare the opinion on the bill. At their proposal, the Board of Riigikoku includes bill in the agenda. The first reading begins with a report from the committee and the report from the submitter of the bill. The members of Riigikoku may ask questions. If the committee puts the motion for passing the bill for the second reading and none of the political factions or committees puts motion for rejecting the bill, the first reading ends without voting which means that the bill passes for the second reading [12].

If the lead committee doesn't put such motion and it doesn't put a motion for rejecting the bill, the floor is opened for the debate. If no motion for passing the bill to the second reading is submitted until the end of the debate, the bill is rejected. After the end of the first reading, members of standing committees and factions may submit amendment motions within ten working days. Other deadline for submitting the motions to amend the bill may be set by the President of Riigikoku at the proposal of the lead committee.

The first reading should end within seven working weeks of the Riigikoku plenary assembly.

The second reading of the bill is included in the agenda at the proposal of the lead committee no later than three months after the end of the first reading. Until the second reading begins, the lead committee has time to comment on amendment motions proposed during the first reading, prepare a new amended text of the bill and send it to the members of Riigikogu. In the second reading, the body or the person who submitted the bill and the lead committee present their reports on the bill. Then the floor opens for the plenary debate and the amendment motions are voted. The second reading may be suspended at the proposal of the submitter of the bill or the lead committee. If the second reading is suspended, deputies may submit their amendment motions for the bill. The lead committee is obliged to take a stance on the submitted proposals and to send the new materials to the Riigikogu members. Motions to amend the bill are voted at the proposal of deputies. In case where submitted amendment motions cause financial changes in executing of the bill, the Finance Committee must take a stance on them. Amendment motions are considered as accepted if the majority of deputies voted for them. After the bill is voted down, if deputies didn't put the motion to suspend the second reading or to pass the bill to the third reading, the final vote is conducted [12].

The bill is passed to the third reading (at the proposal of lead committee, political faction, standing committee, the submitter, deputy) and Riigikogu has to adopt an appropriate resolution for the case. The bill may be passed to the third reading without voting if the motion to pass the bill was submitted by the body or person who submitted the bill or by the lead committee. When the motion is submitted by political faction, standing committee or a deputy, and the lead committee objected to it, the vote is conducted.

The third reading begins no later than a month after the end of the second reading. Amendment motions may be submitted only by political faction and standing committees. The right to vote is shared only by authorized representatives of each political faction and standing committee. Voting on amendment motions is carried out in the same manner as in the second reading.

The bill is accepted if two or three readings were carried out and more deputies voted for accepting the bill than against it. Art. 104 of the Constitution enumerates the exceptions, i.e. the Citizenship Act, the Riigikogu Election Act, the President of the Republic Election Act, the Local Authority Council Election Act, the Referendum Act, the Institution of Court Proceedings against the President of the Republic and against Members of the Government of the Republic Act, the National Minorities Cultural Autonomy Act, the National Budget Act, the Bank of Estonia Act, the National Audit Office Act, the Courts Act and acts governing court procedure, acts pertaining to foreign and domestic borrowing, and to financial obligations of the state, the Emergency State Act, the Peace-Time National Defence Act and the War-Time National Defence Act, the Remuneration of the President of the Republic and of Members of the Riigikogu Act, the Riigikogu Rules of Procedure Act and the Riigikogu Standing Orders Act. For the acts listed above, the Constitution requires the majority of votes from the members of parliament [14].

According to the art. 107 of the Constitution, the President of the Republic promulgates the laws. He or she can use the right of veto, which means that he or she can refuse to promulgate the law. In such cases the President sends the law to Riigikogu for reconsideration, along with his or her reasons. That law may be returned within fourteen days since the reception. If the parliament promulgates the law again, the President may transmit it to the Supreme Court in order to examine its conformity with the Constitution. If the Supreme Court confirms that the law is in conformity with the Constitution, the President is obliged to promulgate this law. According to art. 108 in the Constitution, the

law enters into force ten days after its publication in the official journal «Riigi Teataja», unless the provisions of the law specify a different term [7].

Considering the law-making function of the parliament and its unicameral character, the advantages of the legislative process may be pointed out. On one hand, only one chamber is needed to promulgate laws, which results in a faster legislative process. There is no need to reach a compromise between the views of the deputies from two chambers. On the other hand, a heavy responsibility of the whole legislative process is placed on the action of one body.

Another function of the parliament is the scrutiny function, which reveals quite strong position the parliament has towards the executive power.

According to the rules of parliamentary cabinet system, the existence of the government depends on the support of the parliament. The parliament's most radical mean of controlling the government is expression of no confidence. The government's accountability to parliament is connected with a shift in the balance of power, thus its nature is political. By this means the governing coalition may change the Prime Minister. Motion to express no confidence has no limits within its material scope. However, it should be concerned with the governments' duties or the cases the government works on. The Constitution imposes some procedural restrictions. A motion should be submitted by at least one-fifth of the members of Riigikogu and then supported by the majority of the parliament. Since the day of the vote three days term should be maintained, unless the government insist on it to be shorter. The motion of expressing no confidence based on the same reasons can be submitted again three months after the last submission [7].

The Estonian parliament exercises also a formative function which gives it a great impact on the composition of the state authorities. Riigikogu appoints i.a. the president of the state and gives a direction to form a new government to the candidate for the office of the prime minister. In cases enumerated in the Constitution [7] the parliament nominates the candidate for the prime minister office and appoints members of the Board of the Bank of Estonia, Chief Justice of the Supreme Court, the Chairman of the Board of the Bank of Estonia, the Auditor General, Chancellor of Justice and Chief of the Defence Forces or Commander-In-Chief of the Defence Forces are appointed at the parliament's proposal [7].

In the assessment of the strength and the position of the parliament, the amount of parties it consists of is taken into account. This issue is linked to the election system. Riigikogu elections are free, general, uniform, direct, proportional and the voting is secret. Estonian citizens who no later than at the day of election attained 18 years of age have a right to vote. The exception are citizens incapacitated by the court. According to the law, electoral rights of people who are convicted by the court and imprisoned may be limited. The right to stand may be exercised by citizens who attained 21 years of age no later than the last day of registration of candidate list and exercise full electoral rights [7; 14].

Elections to Riigikogu are held on the first Sunday in March, four years after the previous election. The official date of election is announced by the President of the Republic at least three months before the date. Constitution allows also extraordinary elections which can be held no sooner than twenty days and no later than forty days after they were called. The reasons for calling extraordinary election are enumerated in the Constitution, i.e. not presenting Riigikogu's candidate for the Prime Minister to the president in the third procedure of forming the government (art. 89), expression of no confidence in the government passed by the parliament (art. 97), rejecting the bill by the citizens in referendum (art. 105), not passing state budget by the parliament within two months since the beginning of the financial year (art. 119) [2].

The state is divided for twelve electoral districts. Candidates for deputies can be nominated by parties or coalitions in party lists or as independent candidates in the order specified by the nominating. Independent candidates can be nominated also by individually by citizens. Each party can act within only one coalition and each candidate may stand only from one list of candidates in electoral district, or from electoral district list and national list of candidates in cases where their names are identical. Party or coalition which has registered candidates in more than one electoral district is obliged to submit the national list of candidates. In order to be put on the list, a candidate must have Estonian citizenship, and must agree to stand for the election. Every candidate from the list is obliged to pay a deposit equal to the minimum monthly salary [2]. The deposit is returned to a candidate when he or she will collect a number of votes equal to at least half of the simple quota or when the list of candidates from which he or she stood takes part in the distribution of compensation mandates [6].

Electors vote in electoral districts relevant to their place of residence. In order to confirm their address, every voter should present an identity document. A citizen with the right to vote receives one ballot paper and casts their vote personally. In order to enable secret ballot, electors are provided with voting booths. The National Electoral Committee prepares and distributes ballot papers to voting districts. A voter ballots for a particular candidate by writing a register number of the candidate he or she supports in the designated space on the ballot paper. Consolidated list of candidates with personal data and register number of each candidate in a particular district is placed on the wall of the voting booth. If a voter makes a mistake while writing on a ballot paper, he or she has the right to receive a new one. In this case the first ballot paper should be returned to the member of voting district committee. National elections are supervised by National Electoral Committee which comprises seven members, i.e. two judges, advisors to the Chancellor of Justice, an official of the State Audit Office, an official of the Chancellery of Riigikoku, an official of the State Chancellery (art. 14) [12].

Citizens may vote in a traditional manner, i.e. in polling places or using alternative ways, i.e. postal voting, proxy voting or e-voting.

E-voting is one of the most recent forms of voting. It was applied for the first time during the parliament elections in 2007, when more than thirty thousand from more than a half million of citizens with a right to vote decided to vote on-line. This procedure requires electronic IDs along with PIN numbers. In order to vote electronically, must have certificate for using digital signature which enables identification. Technical arrangements for e-voting begin a few days before the day of standard election [3; 4; 5]. On-line voting begins ten days before the election day at 9:00 and continues without a break until the fourth day before the election at 20.00. Citizen votes on the official website of the National Electoral Committee and confirms his or her choice with a valid certificate compatible with the Digital Signatures Act. An on-line vote may be changed in the same way. Additionally, an electronic vote may be changed by casting a vote personally in a polling place. The Chairman of National Electoral Committee signs a list of voters who voted on-line and delivers the list to the voting district committees no later than two days before the day of elections [3; 4].

National Electoral Committee verifies the number of votes cast for particular candidates in particular districts. Mandates are distributed according to the proportional representation. Firstly, a simple quota for a particular district is calculated by dividing the number of valid votes cast in the district by the number of mandates assigned to the district. A candidate is elected when the number of votes cast in favour of him or her is at least equal to the simple quota. Compensate mandates are calculated using modified d'Hondt

method. Compensation mandates are distributed among the lists whose candidates received at least 5 % of valid votes in the country. National Electoral Committee is obliged to announce the results of the election in the official journal «Riigi Teataja» [7].

Regardless of whether the parliament is unicameral or bicameral, it always establishes certain formal frames which determine the work of other state bodies and institutions. Advocates of unicameralism claim that the legislative process in unitary systems does not require functioning of two chambers of parliament. If both chambers are formed in the elections, they duplicate the political composition to a greater or lesser extent. It is hard to expect that voters will choose different political parties for different chambers, thus the existence of two representations of the same interest is unnecessary. On the contrary, advocates of bicameralism claim that the second chamber provides an opportunity to introduce amendment motions, especially in the situations of legislative haste. As a result, the second chamber is responsible for the quality of the established law, while the first chamber does not need to pay special attention to the correctness of the bills. However, examining the function and internal structure of Estonian parliament it can be concluded that unicameralism encourages the speed of legislative process. Riigikogu is an independent, strong and effective authority of legislative power, which determines functioning of other constitutional authorities and fosters political stability.

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УНІКАМЕРАЛІЗМ ЯК ВЛАСТИВІСТЬ ПАРЛАМЕНТУ ЕСТОНІЇ

Ю. Цехановська

Жешувський університет,

al. Tadeusza Rejtana, 16C, Жешув, 35001, Республіка Польща,

e-mail: justyna.mokrzycka@gmail.com

Досліджено правову природу парламенту Естонської Республіки, в першу чергу таку рису парламенту, як унікамералізм. Проаналізовано законодавчі норми та практики діяльності естонського парламенту з акцентом на типових особливостях однопалатних парламентів. Незалежно від того, чи є парламент однопалатним чи двопалатним, він завжди встановлює певні формальні межі, які визначають роботу інших державних органів та установ. Прихильники унікамералізму стверджують, що законодавчий процес в унітарних системах не вимагає функціонування двох палат парламенту. Якщо обидві палати формуються на виборах, вони більшою чи меншою мірою дублюють політичну композицію. Прихильники бікамералізму стверджують, що друга палата дає можливість вносити пропозиції про поправки, особливо в ситуаціях законодавчого поспіху. Внаслідок цього, друга палата відповідає за якість прийнятого закону. Проте, вивчаючи функцію та внутрішню структуру парламенту Естонії, можна зробити висновок, що однопалатний процес стимулює швидкість законодавчого процесу.

Вибори до парламенту Естонії є вільними, загальними, прямими, а голосування є таємним. Право голосу мають громадяни Естонії, які не пізніше дня виборів досягли 18-річного віку. Виняток становлять громадяни, визнані судом недієздатними. Відповідно до

закону, виборчі права осіб, засуджених судом до ув'язнення, можуть бути обмеженими. Вибори до парламенту проводять в першу неділю березня, через чотири роки після попередніх виборів. Офіційну дату виборів оголошує Президент Республіки щонайменше за три місяці до дня виборів. Конституція передбачає також позачергові вибори, які можна проводити не раніше ніж за двадцять днів і не пізніше, ніж через сорок днів після їх призначення. Держава поділена на дванадцять виборчих округів. Виборці голосують у виборчих округах відповідно до місця проживання. Громадяни можуть голосувати традиційним способом, наприклад, у місцях голосування або альтернативними способами, тобто голосувати поштою, за посередництвом або шляхом електронного голосування.

Естонський парламент Riigikogu має сильну позицію та компетенцію, яка дозволяє йому значно впливати на функціонування інших органів публічної влади. Будучи однопалатним парламентом, він володіє всіма законодавчими повноваженнями. Важливою функцією парламенту є функція контролю, яка виявляє досить сильну позицію парламенту щодо виконавчої влади. Наведене дає змогу парламенту впливати на склад найважливіших органів влади. Riigikogu є сильним і незалежним органом, що сприяє політичній стабільності держави.

Ключові слова: парламент, Естонська Республіка, влада, законодавча влада.