

The Political Systems of Eastern Europe

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WOLFGANG ISMAYR (ed.), *Die politischen Systeme Osteuropas*, 2nd updated edn., Opladen: Leske + Budrich 2004 966 p. ISBN 3810040533

This hefty volume on the Eastern and South-Eastern European political systems complements the first volume on the Western-European political systems compiled by the same editor.¹ Together the two volumes cover the whole of Europe. The countries included in the second volume range from Estonia in the north to Turkey and Cyprus in the south, the Czech Republic in the west and the Russian Federation in the east. This geographical area is immense, as is the variety of political systems. Quite a few countries have an already well-developed constitutional system guaranteeing democracy and the rule of law, but in other countries these features are almost non-existent or of dubious quality (Belarus, the Russian Federation, Ukraine). Cyprus is split-up into two parts, one internationally recognized, the other a pariah: both parts are discussed in the book. The countries formerly belonging to Yugoslavia are very diverse: Slovenia has a political system that functions properly, and Croatia's democracy is being consolidated since 2000, but Macedonia's existence as a state is uncertain in the long run. The flaws in the political systems of Serbia-Montenegro and Bosnia-Herzegovina have led the authors to structure their contributions differently from the others, which to some extent results in a *corpus alienum* in the book. Moreover, in the survey of the latter country's political system, the local leaders as well as the international community are severely criticized, in contrast with the rather detached, scholarly approach in the rest of the book. This is justifiable in view of the situation on the ground, of course. More problematic, but equally understandable, is the fact that Bosnia's system is extremely difficult to understand for the uninitiated.

The twenty-five contributions have similar structures, with slight variations, except those about the two ex-Yugoslav countries mentioned above. The issues discussed are (in the following order): establishment and transformation of the

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¹ Wolfgang Ismayr, Hermann Groß, *Die politischen Systeme Westeuropas* (Opladen: Leske + Budrich 1997) 745 p., ISBN 3810014575; a third edition was published in 2003, ISBN 3825280993.

state, constitutional development and principles, the state president, parliament, government and administration, the legislative process, the electoral system(s), the party system, interest groups, mass media, political culture and participation, the legal system and constitutional review, regional and local administration, international relations including policy towards the European Union, and future perspectives. This enumeration shows that the book is of interest both to the constitutional lawyer and the political scientist. The lawyer would, of course, like to find greater detail and more references to constitutional provisions, e.g., concerning the procedure for revision of the constitution or constitutional review, but this is no real criticism in the case of a book of this nature and size. All expositions contain references to websites, although – strangely – there is no reference to the extremely useful website of Constitution Finder <<http://confinder.richmond.edu/index.php>>. Incidentally, the constitutions of Latvia, Ukraine and Macedonia cannot be found on that web site.

The book begins with a comparative survey of the political systems of the Eastern European countries by Wolfgang Ismayr. Understandably, Serbia-Montenegro and Bosnia-Herzegovina are left aside. The exclusion of Turkey and Cyprus from the introductory essay is not explained, apart from the observation in the preface that the political situation in these countries could have justified their inclusion in the first volume on Western Europe. The comparative introduction, which, therefore, confines itself to the ex-communist countries of Eastern Europe, is very useful.

The differences between the political systems are great, as mentioned before, but there are also striking similarities. All countries formerly under Soviet domination, as well as the Russian Federation itself, have new constitutions, except Hungary and Latvia. In Hungary the Constitution of 1949 is still valid, though amended, and in Latvia the Constitution of 1922 has been revived, also with important amendments. Only in a minority of ex-communist countries was the population asked to either accept or reject the new constitution, and the referendums held to that end were not always free from manipulation. It is interesting to note that the influence of Western constitutions was not overwhelming: only in six countries can such influence be clearly pointed out. France and Germany have been followed the most frequently. In the sphere of constitutional review, the influence of Germany and Austria (and Italy in the case of Macedonia) has been considerable.

The constitution of Turkey dates from 1982; it was framed during the military regime at the time and adopted by a referendum marked by irregularities. The Constitution of the Republic of Cyprus consists of four international treaties of 1960 and subsequent unilateral Greek Cypriot legislation. The Constitution of the Turkish Republic of Northern Cyprus (TRNC), which is only recognized by

Turkey, was adopted by a referendum, but this is not mentioned in the book.

Of all constitutions in Eastern and South-Eastern Europe (so including Turkey and Cyprus), only seven have unalterable basic features. The Russian and Bulgarian constitutions have them as well, but they also contain a procedure for making a totally new constitution by way of a special constituent assembly.

The procedures for amending the constitutions vary considerably, from amendment by parliament only (in a small minority of countries) to obligatory referendum concerning all amendments (Romania, TRNC). Most constitutions provide for obligatory popular participation in case of the revision of specific provisions, or only on the initiative of public authorities (including parliament) or of a certain number of citizens.

As to the form of government, it is remarkable that the presidential system of the world's only superpower has not been copied in Eastern and South-Eastern Europe, except in the Republic of Cyprus. In all other countries there is a president, but next to him there is also a government which is responsible to parliament. If the presidential powers are merely of a formal nature, the system is described as 'parliamentary', but if substantive executive power belongs to both the president and the government, the term 'semi-presidential' system is used. Within the 'semi-presidential' systems a further distinction is made between 'presidential-parliamentary' and 'parliamentary-presidential' systems, depending on whether executive power primarily lies with the president or with the government. It is relevant in this regard whether or not the president has the power to dismiss the government against the wishes of the parliamentary majority, or has power of veto concerning legislation which is difficult to overrule by parliament. Direct election of the president should not be taken as the decisive criterion: in some countries the directly elected president does not have important executive powers, with the result that the political system must be typified as 'parliamentary' or (at the most) 'parliamentary-presidential'. This is as true in Eastern Europe as it is in Western Europe. The following sentence concerning Slovakia can serve as an ironic example: 'It could be said that with the introduction of direct election of the president his democratic legitimacy became stronger while his political role was reduced' (p. 289)!

The Russian Federation, Ukraine and Belarus have 'presidential-parliamentary' systems, which do not function satisfactorily. Belarus is called 'an authoritarian police state' (p. 455), Ukraine's system 'a hybrid regime between democracy and autocracy' (p. 510) and the Russian political system is characterized as 'authoritarian ... with democratic elements' (p. 423).

As to the 'parliamentary' or 'parliamentary-presidential' systems elsewhere, there are many differences not only between countries but also between different periods in one country. This shows the limited use of these labels. In quite a few

countries the power of the president has been reduced in favour of parliament, either by constitutional amendment or by constitutional practice. This happened in Poland, Slovakia, Croatia, Moldova, Romania, Bulgaria, and Macedonia. This almost looks like a general trend, but, of course, constitutional practices can change again, making systems more presidential. In the introduction, Wolfgang Ismayr remarks that one should take the constitutional text rather than constitutional practices as the basis for classification, because time has been too short for these practices to gain permanence. But this would deprive constitutional law of much of its substance, and all authors rightly dilate upon political developments. With regard to Moldova, for example, the author mentions that the formal conversion of the 'parliamentary-presidential' system into a 'parliamentary' system in 2000 has not prevented an increase in the real political power of the president!

It is notable that all Eastern and South-Eastern governments and/or prime ministers, except of the Republic of Cyprus, are either elected by parliament or must seek formal parliamentary approval or a vote of confidence. Nowhere is there a tacit assumption of parliamentary confidence, as in some countries of Western Europe. The continued existence of all governments also depends on parliamentary confidence. The German system of 'constructive vote of no-confidence' can only be found in Poland, Hungary and Slovenia. In the Russian Federation, only a repeated vote of no-confidence obliges the president to either dismiss the government or dissolve parliament. In the presidential system of the Republic of Cyprus, of course, there is no formal link between the government and parliament, but presidents usually take parliamentary majorities into account when appointing governments.

The electoral system concerning the ('lower' house of) parliament in all countries, except Belarus, is either full proportional representation or a combination of this with election by majority in constituencies. The introductory chapter makes an interesting observation on this point: the combination of proportional representation with a majority system has resulted in the fragmentation of political parties, instead of preventing it. This is contrary to Western European experience. The explanation lies in the weak structure of political parties. In all countries there is an electoral threshold that must be reached, except in Macedonia. Belarus still has the absolute majority system dating from the Soviet era.

Several forms of direct democracy have been introduced in a number of countries, though practical experience is still limited. In a large minority of countries, citizens can take the initiative to hold a referendum or to adopt legislation by bypassing parliament. In three countries a parliamentary minority has the right to impose a referendum. In other countries the decision to hold a referendum lies with the parliamentary majority or with the president or government. Referendums can serve as a valuable addition to representative democracy, but they can

also be misused. The referendum held in 1996 by the president of Belarus was in fact a 'coup d'état' (p. 451) and the referendum held in 1999 by the president of Moldova, in an attempt to achieve the establishment of a presidential system, was declared unconstitutional by the constitutional court. In a country with an underdeveloped democratic system, there is always the risk that a referendum is used for manipulation.

Specialized constitutional courts are a common feature in all Eastern and South-Eastern European countries, with the exception of both parts of Cyprus and Estonia. In the two parts of Cyprus, there is no separate constitutional court: the respective supreme courts, which are also charged with the highest general jurisdiction, fulfil that function. In Estonia all courts have the power of constitutional review, with a special chamber of the Supreme Court performing further duties of a constitutional court. As mentioned above, it is not always possible to find the details of constitutional review in the book, and constitutions often do not provide answers to one's questions. It seems the constitutional courts usually have the power of *abstract*² and *concrete*³ review, but *constitutional complaints* by individual citizens to the constitutional court are only possible in a smaller number of countries and sometimes, when allowed, restricted. The actual role of the constitutional courts is generally judged positively, but some courts are criticized because they are not independent enough (e.g., Belarus) or are too politicized (Russia in the nineties, Slovenia).

A source of concern is the disappointment among the Eastern European populations in their new political institutions and especially their parliaments. Many authors observe that disaffection goes hand in hand with growing corruption and crime. According to the introduction, any amelioration would depend on an improvement of the economic and social conditions. Hopefully membership or candidate-membership of the European Union helps towards achieving success.

It is ironic that (aspired) entry into the EU also created some constitutional difficulties, because of the enormous bulk of legislation needed for the incorporation of the *acquis communautaire*. In some cases the percentage of bills rushed through parliament by a shortened procedure has increased (Croatia, Slovenia), in others it is doubtful whether parliament still has real control of its own legislative process (Bulgaria), and in yet other cases the amount of delegated legislation has affected the legislative sovereignty of parliament and led to legal insecurity (Romania).

² Constitutional review outside a court case on the request of the president and/or the government or – in most cases – also of a parliamentary minority, in most countries *ex post* of a law already enacted, in some countries (also) *ex ante* before the promulgation of a law.

³ Constitutional review during a court case on the request of a trial court, which in some countries must be the highest court.

To conclude: this book is a scholarly work that will be of great assistance to anyone interested in the constitutional and political developments in Eastern and South-Eastern Europe. The speed of these developments would justify bringing out a new edition within a few years, but one wonders if the editor will be able to induce the 25 authors as well as himself to start working on it so soon! In the past he was successful in this regard, for the first edition dates from February 2002 and the second one from November 2003!

