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## **”A BRIEF BREATH OF DEMOCRACY”. THE FIRST CZECHOSLOVAK REPUBLIC FROM THE FALL OF HABSURG EMPIRE TO THE NAZI OCCUPATION**

*Nel corso del 2020, è caduto il centesimo anniversario dell’entrata in vigore della Costituzione della Prima Repubblica cecoslovacca (1918-1938) approvata dall’Assemblea costituente il 29 febbraio 1920. Con il presente saggio, si coglie l’occasione della ricorrenza per ripercorrere i passaggi che portarono alla nascita del nuovo stato, a seguito della dissoluzione dell’Impero Asburgico, e per analizzare succintamente il sistema istituzionale delineato dalla prima Carta costituzionale a prevedere, con alcuni mesi di anticipo rispetto a quella austriaca dello stesso anno, una Corte costituzionale informata al modello Kelseniano.*

di **Nando Ganassi**

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## Abstract ENG

*The year 2020 marks the centenary of the entry into force of the Constitution of the First Czechoslovak Republic (1918-1938), approved by the Constituent Assembly on February 29th, 1920. We desire to get this chance by retracing the steps that marked the birth of the new state, following the dissolution of the Austro-Hungarian Empire, to briefly analyse the institutional system outlined by the first Constitution that provided, with some months ahead of the Austrian one, for a Constitutional court shaped by the Kelsenian model.*

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## 1. Premise

In the recurrence of the 100th anniversary of the entry into force of the Czechoslovak Constitution of 1920, this essay aims to conduct an overview of the First Czechoslovak Republic institutional context (1918-1938). From a brief analysis of the historical itinerary that led to the fall of the Habsburg Empire and the consequential birth of an independent State among the areas of the Czech lands and of Slovakia, to the institutional changes in the newly born State, which intends to show strengths and weaknesses of a constitutional system particularly advanced for that time in the European context.

## 2. The Dissolution of the Austro-Hungarian Empire

Even though the fall of Austria-Hungary is considered as an inevitable outcome of WWI from a contemporary perspective, the perception that was passing through the territories of the Habsburg monarchy in the period before the conflict was quite different. With the exception of the irredentist aspirations which were characterising the Italian provinces, although in veiled way yet, and Serbia in a stronger and explicit way, the Empire seemed clearly united and cohesive, even in the beginning of the second decade of

the 20th century. A passage of a speech given in 1913 in the Vienna Parliament by the Czech politician Tomas Mašárik, who then from the exile became not only the main character of the Czechoslovak independence but, once he returned in his homeland, even the President of the newly established Republic, is particularly interesting in this regard: «Rightly, I have never dreamed about the end of Austria, because I know that [...] this Austria must last and it seems my duty to do something. Our projects of public law and administrative reforms must not weaken the other Countries but reinforce the whole (State)»<sup>[1]</sup>. Unfortunately, the murder of the heir apparent Archduke Franz Ferdinand at the hands of a Serbian irredentist, on June 28th, 1914, was the fuse that sparked the outbreak to of a war that quickly assumed dimensions which were never seen before then. What happened later on is well known. Austria's flattening on the aggressive policies of the German Empire and, further, the transformation of the structure of the conflict from a war of movement to a trench warfare led the country towards a relevant economic crisis that pulled the trigger on a more important internal clash between the various souls of the Empire. As historians like John W. Mayson clarify, the issues regarding the nationalities put into second place all the other problems within the Habsburg monarchy, and the inability to solve them was the decisive cause of the collapse of the Empire<sup>[2]</sup>.

### **3. The Building of a Nation**

#### **3.1. The Pre-war Situation in the Czech lands**

Despite the long domination of Czech lands by the Habsburg dynasty, which dated back to the first decades of the 16th century, the country and the people were able to maintain their national identity<sup>[3]</sup>. For instance, in the years shortly before the war the bureaucratic administration in Bohemia was composed of more than 94% by Czechs, while only about the 5,5% were from German origins<sup>[4]</sup>. The sentiments regarding the monarchy were quite conflicting. The people did not appreciate the monarchy, even though they were not showing irredentist feelings (the issue regarding the so called “German-Bohemian rivalry” was already present and the Czechs knew that their claims would not find an open interlocutor in it). The opinions among the Czech politicians were also different: the majority of them was not against the monarchy. Even the social democrats believed that their instances could find an easier path under the umbrella of the system in force at that time. The idea of a new nation, independent from the leverage of Austria, was initially proposed by a small group of politicians (considered radicals) among whom a leading role was played by Tomas Mašárik. After the start of WWI, Mašárik strongly changed his positions regarding the situation in the Czech lands and the monarchy. From his seat in Vienna he started to attack the alliance with Germany and the repressive policies of the Austria-Hungary against the other nationalities of the Empire<sup>[5]</sup>.

### 3.2. The Inter-war period and the Independence

The radical ideals of an independent nation started to circulate among the territories of the Czech lands and, as in the other part of the Empire where there were hard self-determination claims, the policy adopted by Austria-Hungary in response was strongly repressive. Censorship of the press and prohibition of public debates were commonly used. People who were charged with disloyalty or anti-Austrian activities were incarcerated. Several leaders of the independence movement followed this destiny and others, such as Mašárik and Edvar Beneš, chose exile from which they nonetheless played a fundamental role in the achievement of independence. The Czechoslovak National Council was established in Paris during November 1915 by Mašárik, his collaborators and Slovak representatives who meanwhile joined and shared the purpose. Furthermore, Tomas Masaryk is considered as the inventor of Czechoslovakia, which did not have any clear historical foundations before then. The British periodical "The New Europe"<sup>[6]</sup> contributed in the spread of the projects of Council that found the support of the Allies (which also viewed as a strategic interest the establishment of a Czechoslovak independent state). With the support of the Allies, an Act of political union between Czechs and Slovaks was finally signed<sup>[7]</sup>. While the Council was transformed in the Czechoslovak Provisional Government in Exile, its homeland representative was also constituted: the Czechoslovak National Committee<sup>[8]</sup> (composed by member of political parties according to the last Austrian Parliamentary election of 1911). Subsequent to the Declaration of Independence of the Czechoslovak Nation issued in Washington by the Provisional Government, after 10 days on the 28th October 1918 Czechoslovakia was solemnly proclaimed as a new independent State by the National Committee. **3.3. Early issues of the New State**

From a legal point of view, after the enactment of the Provisional Constitution (on November 13th, 1918), which instituted a parliamentary republic form of government, another important act of the National Committee was adopted: the so-called "Reception Act" with which the principle of juridical continuity with Austria-Hungary imperial laws was declared. The latter originated a dual legal system for the newly established State, with several dissimilarities among areas of the same country: the Czech lands during the imperial period were under the influence of the Austrian legal traditions, while Slovakia was part of the Hungarian juridical tradition. With few exceptions (for instance, the explicit incompatibility of Austrian laws which contradict to the fact of the independence), Czechoslovak juridical system remained under the leverage of the previous regime until the 1950s<sup>[9]</sup>. In the same way that national minorities constituted a serious problem for the Empire, Czechoslovakia also had to deal with that and, in particular, with the German minority which represented a relevant destabilizing element over the years. The Germans were the highest represented minority in the country: according to data of the early 1920s they were over 3 million, while people of

Czechoslovak origins were nearly 9 million (a sort of State in the State)<sup>[10]</sup>. After the proclamation of independence, the German minority claimed to refuse the new authority of Czechoslovakia in a strong way. Among the border regions of Bohemia and Moravia, where the concentration of German population was higher, four provinces who claimed to be autonomous were constituted by a secessionist movement. Those actions led to a serious clash with the State. At the end of 1918, even by military interventions and with the support of the Allies, the secessionist movement was defeated. In the years following, the contrasts seemed to calm down but they inflamed again in the late thirties when, in a country crossed by economic issues and by tensions even with the Slovak part, the German minority fight for self-determination caught the attention of Nazi-Germany and consequently in Adolf Hitler's vindications of a "vital-space" (Lebensraum) for the Reich. Those events first led to the Munich Agreement firstly and to the occupation of the country by the Nazis afterwards.

#### **4. Constitutional Organs in the Republic**

The Czechoslovak Constitution was eventually adopted in 1920<sup>[11]</sup>, replacing the provisional one (but based on its fundamental aspects)<sup>[12]</sup>. The Constituent Assembly was not a body directly elected by the people but composed of appointed representatives from Czechs and Slovak parties. A representation of the German minority was not included in the constituent process partially due to the reluctance of the Sudeten representatives to legitimate the constituent body<sup>[13]</sup>.

##### **4.1. The Legislature: the National Assembly**

The Czechoslovak Constitution provided for a bicameral parliament called the National Assembly; It consisted of two Chambers: the Chamber of Deputies (composed of 300 members) and the Senate (composed of 150 members)<sup>[14]</sup>. The members of each chamber were elected directly by the People in a universal, equal, direct and secret ballot. The universally recognised right to vote for both men and women, was a relevant step forward in the achievement of gender equality and an institution that made Czechoslovakia an advanced country in the democracy field, in comparison to other Nations in Europe at that time<sup>[15]</sup>. Nevertheless, the vote was compulsory. Even though the parliamentary system of the State was explicitly criticized, in particular for the structure of the Senate which was often defined as a useless duplicate, it was not a completely egalitarian bicameral system<sup>[16]</sup>. The Government was accountable only to the Chamber of Deputies in regard to the vote of confidence in it. The predominance of the Chamber over the Senate was also clear in the legislative procedure. Despite each deputy or senator having the right to legislative initiative before his chamber of reference, the Chamber could override the Senate within the rules provided by the Constitution (§ 44 in particular). That was not

possible in case of constitutional laws or in the other cases for which the consent of both Chambers was explicitly required, ex § 42 of the Constitution. In addition, the Government bills on the State budget or regarding the military field had to be submitted to the Chamber of Deputies first (ex § 41.3 of the Constitution). However, the issues that led to criticism to the bicameral parliament (referred to early) were related to the electoral system, which was based on the rules of proportional representation. Thus, after the elections the Parliament was always composed of several parties (so, the Government also had to have expression of coalition of some political forces represented in the chambers) and the necessity of political compromise between many different positions was a constant in the life of the Republic. Considering that the achievement of such compromises was necessary in both chambers (at least, to avoid prolonging of parliamentary procedures), it brought authors such as Edvard Táborský to criticise the parliamentary structure and to affirm that the iter legis: «was in fact nothing but a duplication of party procedure»<sup>[17]</sup>. Furthermore, despite the different lengths of the mandates for the two branches (6 years for the Chamber and 8 years for the Senate when the general elections were called), both the chamber were usually dissolved in order to foster a distribution of seats among the parties as homogeneous as possible. Although the system worked pretty well on the level of political stability, mainly after the first years of the 1920s, when majority party coalitions were now almost stabilized in their relationships, proposals about reforming the bicameralism, by the abolishing of the Senate or its transformation in something else, were often present in the political debate of Czechoslovakia, even while such a reform was never enacted. Among those who supported this type of project it is relevant to mention Edvard Beneš (the Prime Minister firstly, and then the Second President of the Republic)<sup>[18]</sup>.

#### **4.1.1. The Electoral system and the so-called "Czechoslovak clause"**

Focusing on the electoral legislation may reveal some traits of peculiar interest. The fulcrum of the Wahlordnung was in the election statute enacted by the Constituent Assembly with Act no. 123/1920<sup>[19]</sup> on the same day of the Constitution approbation and provided for a proportional representation list vote system of election in compliance with the constitutional provisions (§§ 8 and 13 Section II). The reasons that brought to the prescription of the electoral formula directly in the Constitution were based, by a significant margin, on the need for better-representing diversities in a multi-ethnic nation such as Czechoslovakia<sup>[20]</sup>. Especially two factors emerged from such a complex electoral system and refined framework: the intense role recognized to the political parties and the related provision for a sort of imperative mandate on the elected Members of Parliament (MPs). First of all, only the parties had recognized the prerogative to submit lists of candidates in the elections. The leadership of the parties decided the order of candidates on the list; the law did not admit the expression of preference votes. Secondly, the reference for a restriction of the parliamentary mandate was in article 13 of Act 125/1920

on the Electoral Court even though the Constitution declared in § 22 about the MPs: «They shall not receive orders from anybody». Pursuant mentioned article 13, the Electoral Court had the competence to adjudicate the loss of the parliamentary seat due to the MPs expulsion from the party they were elected with based on unworthiness and dishonourableness grounds. The interpretation of the rule given by the Court in its case-law scrutinizing those unworthy and dishonourable motives included indiscipline of MPs from the official party line<sup>[21]</sup>. The representatives designated by the parties during the election had recognized the legitimacy to appeal the Electoral Court to obtain the loss of parliamentary seat declaration and the subsequent appointment of the next candidate in the list. Scholars commonly refer to that provision as the so-called "Czechoslovak Clause"<sup>[22]</sup> such as a relevant example in history for a democratic system that provided for an MPs party-mandate legally bound, in debating changes and possible reforms of the parliamentary system, thus confirming the originality of the provision<sup>[23]</sup>. Nevertheless, the merit of the Czechoslovak clause as a guarantee for political parties' cohesion in Parliament and the appropriateness of a legal transplant in other European national systems had been controversial among prominent scholars during some constituent processes of the last century<sup>[24]</sup>.

## 4.2. A Dualist Executive Power

The reference for a divided executive power by the President of the Republic and the Government is clearly in the articles of the Section III of the 29th February 1920 Constitution of Czechoslovakia<sup>[25]</sup>. The main reason for a division of the prerogatives associated with the exercise of the Executive Power was connected not just with the necessity to remain in compliance with the parliamentary system chosen by the constituent fathers but even to avoid any possible concentration of too much power in the hands of a sole constitutional body. Put another way, the choice of a presidential system too similar with the U.S. model was considered too risky, and in a State which was finally able to reach a democratic independence after several centuries of external monarchic domination, the fear of a possible regress from citizens to servants was really felt. Hereinafter, a brief overview of the fundamental aspects of each part of the Executive.

### 4.2.1. The Government

As in every constitutional model based on the separation of powers, the Government was the head of the State Administration. It was accountable for its actions only to the Chamber of Deputies. The Prime Minister and all the ministers were appointed by the President of the Republic, who also determined their ministries of reference. Such an appointment was only politically-bound by the composition of the chambers. The

President of the Republic would have to choose among the personalities those most capable of keeping the support of the Parliament as stable as possible and to reflect the internal balances of the latter. In accordance to the system provided by the constitutional norms, it is possible to define the Prime Minister as *primus inter pares*. The Constitution also mentioned the normative powers of the Government, by recognizing to it the function of adopting Governmental Decrees during its sessions. Those decrees could be enacted only under the law and their contents was bound by it. No constitutional rule contemplated a possible Governmental law-making function. To deal with an emergency situation in order to absolve the law-making function while the chambers were not summoned (or were dissolved), legislative functions were compensated by the Permanent Committee. Such a Committee was responsible to enact those acts submitted to it by the Government and approved then by the President of the Republic<sup>[26]</sup>. The Permanent Parliamentary Committee was elected by an approving vote of both Chambers composing the National Assembly (choosing from its members); It was a peculiar institution of the Czechoslovak parliamentary system, although its real impact during the Republican period was quite marginal<sup>[27]</sup>. However, in practice, a delegated function of legislation was utilized by the Government during periods of difficulty. The legitimacy of those acts is still controversial among scholars<sup>[28]</sup>. In any case, the right of legislative initiative was recognized by the Government by submitting draft bills to the Parliament<sup>[29]</sup>. In case of rejection by the Parliament of a bill presented by the Government, the possibility of the latter calling for a national referendum on the bill was recognized in respect of § 46 of the Constitution. Such a possibility was never used due to the absence of an implementation law. Nevertheless, just the presence of such an instrument of direct democracy is another reason to consider the Czechoslovak Constitution of 1920 particularly advanced for its time<sup>[30]</sup>.

#### 4.2.2. The President of the Republic

The powers of the President in the executive field were only those expressly provided by the Constitution, in the exercise of which he was bound only by the latter. The relevant and strong position of the President in the republican context may be comprehended just by looking at his more relevant functions. He represented the State in foreign affairs, and he had the power to negotiate and also ratify international treaties in subjects for which a vote of the Parliament was not required by the Constitution. About the relationship with the Parliament, the President was elected by a joined session of the chambers and he could be prosecuted before the Parliament in case of high treason (procedure of impeachment: incrimination by the Chamber of Deputies, adjudication before the Senate, see §§ 34 and 67 of the Constitution) . The sessions of the Parliament were summoned by the President (at least, twice a year: § 28.1 of the Constitution) who also had the right to declare the dissolution of the chambers. Another important element to mention was the right of veto on law enacted by the Parliament. The latter could overvote



the veto only by an absolute majority of the members of both chambers. Regarding the Government, besides what has already been specified in paragraph 4.2.1, the President had the right to preside over Cabinet sessions in case he was present. Other important functions were the appointment of State Officials, university professors, ordinary judges and his participation in the appointment of the justices of the Constitutional Court. He was also the commander of the Army. The mandate of the President was for a 7-year term of office, renewable only once as § 58.4 Const. prescribed for. However, Tomas Mašárik stayed in office from 1918 to 1935, before 1920 as the Provisional President and then he was re-elected for three times in dispensation to the constitutional norm.

### 4.3. Some aspects of the Judiciary

The Czechoslovak Constitution of 1920 in its Section IV provided for the fundamental features of a judicial power in compliance with a democratic regime. Judges were appointed for life by the President of the Republic, their independence was set forth by § 98, which also prescribed that they were bounded only by law in their decision-making. Furthermore, many provisions regarding a fair trial were also present as the guarantee of public proceedings before the courts and the principle which states that no one should be tried by a judge other than that assigned by law. The peak of the ordinary judiciary was the Supreme Court, which was established for the whole country. For matters related to the administrative, the jurisdiction was presided over by the Supreme Administrative Court. However, also a special Electoral Court was established according to § 19 of the Constitution which gave to it the authority to adjudicate on the validity of parliamentary elections. Act no. 125/1920 set forth and specified the rules on the Electoral Court. The President of such a specialized court was the President of the Supreme Administrative Court<sup>[31]</sup>.

### 4.4. The Constitutional Court

The Constitution of the Czechoslovak Republic is also well-known to have been the first which provided for the establishment of a centralized, specialized and distinct from the ordinary judiciary body deputized for constitutional adjudications. The model of the Court was in compliance with those theorized by Hans Kelsen (who, even though his connections with Austria are more known, was born in Prague to a family of German origins). A decisive role in the constitution of the Czechoslovak Constitutional Court was played by František Weyr, a lawyer and politician who had a professional relationship with Kelsen and who agreed with his theories related to the Normativism<sup>[32]</sup>. The Court was entitled to judge the compliance of statutes enacted by the Parliament with the Constitution (also the legislative acts enacted by the Permanent Committee were part of

his competence)<sup>[33]</sup>. In case a contrast was found, it declared the unconstitutionality of the act. The decisions of the Court had efficacy *ex nunc*; from the day of their publication in the Official Gazette of the Republic. However, the Court could only judge upon the cases brought before it by the subjects entitled, which were: each chamber of the Parliament, the Electoral Court, the Supreme Court and the Supreme Administrative Court. The Constitutional legitimacy of a law could be questioned within 3 years from the promulgation of it. Regarding its composition, the Court consisted of 7 justices appointed by a mixed system of nominations. Two were appointed by the Supreme Court and another two by the Supreme Administrative Court (each Court chose among its members). The last two justices and the Chairman of the Court were appointed by the President of the Republic (which chose the justices among lists approved and submitted to It by the Parliament). Even though the Court came into existence in November 1921, just a year later than the Austrian Constitutional Court<sup>[34]</sup>, its operations during the life of the Republic was not as relevant and lucky as the latter. Due to a very small amount of cases brought before it by the entitled subjects, its role was quite marginal (in practice, it judged only acts enacted by the Permanent Committee).

## 5. The End of the Czechoslovak Republic

Starting from the 1920s, the State appeared to be capable of managing the issues related to the national minorities. Even the frictions with the Sudeten Germans seemed to calm down when they eventually accepted to collaborate in the political life of Czechoslovakia. Unfortunately, the events were destined to precipitate in the second half of the 1930s. The tensions of the Czechs with the Slovaks whom claimed for more autonomy were another important element of weakening for the Nation. In the same period, Sudeten Germans resumed their claims for independence from Czechoslovakia. The Sudeten German Party was founded in the early 1930s and by enjoying close connections with the National Socialist German Party, it did not have any intention to compromise. Subsequently, the Nazis started to expressly support the claims of the Sudeten Germans in order to obtain the annexation of their territories in compliance with Hitler's planning for a Greater Germany.

### 5.1. The Munich Agreement

In the late 1930s, Germany was at the peak of its economic and military powers and its aggressive policies did not find any strong opponent among the other leaders of the European nations. In April 1938 the Anschluss was accomplished but the vindications of Adolf Hitler were not finished yet. On October 30th of the same year, the leaders of the greater European Powers, the Italian dictator Benito Mussolini, the UK Prime Minister Neville Chamberlain, the French Prime Minister Édouard Deladier and the Führer signed

the Munich Agreement which allowed the annexation of the territories of Sudeten Germans to the Reich. They wrongly believed that the agreement would satisfy Hitler's appetites for a "vital-space" for Germany. The Munich Agreement was a breach of the Czechoslovakian sovereignty which was forced to accept it without having an active role in the agreement. The protests of the country and of its President Edvard Beneš were not taken in consideration.

## 5.2. The establishment of the Protectorate and of the Slovak Republic

At the end of the 1930s the light of the first Czechoslovak Republic democracy was extinguished by the shadow of Nazism. After the signature of the Munich Agreement, President Beneš was forced to leave the country under German pressure. While the effects of the agreement were far-reaching, in March 1939 the Nazi army occupied the entire territory of the Czech lands in complete disregard of the limits of the treaty. On March 16th the transformation of the Czech lands in the Protectorate of Bohemia and Moravia was proclaimed by the Führer. The successor of Beneš, Emil Hácha, was formally appointed as head of state of the Protectorate, which was actually nothing more than a colony of the Third Reich. Meanwhile, in Slovakia, the independence front took advantage of the crisis to gain power. After a failed attempt, the Slovak Republic was established with the help and the assent of Adolf Hitler<sup>[35]</sup>. The newly established state was under the dictatorship of the politician and catholic priest Jozef Tiso until the Fall of Bratislava in 1945. A republic in the name only, a clerical fascist regime in practice.

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## Note e riferimenti bibliografici

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- [1] Reported from the excerpt in: J. BÉRENGER, *Storia dell'Impero asburgico 1700-1918*, Bologna, 1993, 393. However, it is important to keep in mind that Mašáryk was elaborating ideas about a confederation of states.
- [2] JOHN W. MASON, *The Dissolution of the Austro-Hungarian Empire 1867-1918*, London, 2014, 80 et seq.
- [3] It is possible to support a similar assertion also about national identity in Slovakia during those time.
- [4] Data from JEAN BÉRENGER, *Histoire de l'empire des Habsbourg*, Paris, Fayard, 1990.
- [5] Cf. "Tomas Mašárik", *Encyclopaedia Britannica*, last modified March 3, 2020, [www.britannica.com](http://www.britannica.com).
- [6] The *New Europe* was a periodical founded in Britain in 1916 by the historian Robert W. Seton-Watson and the journalist W. Steed. The ideals of an independent Czechoslovakia found in It a valid and useful echo for the West.
- [7] The so-called Pittsburgh Convention signed in the U.S. in 1918.
- [8] About it: «The Czechoslovak National Committee had been regarded as the body with supreme legislative and executive powers for the interim period, i.e. until the Czechoslovakia constitutional bodies were established», cf. J. KUKLÍK, *Czech law in historical contexts*, Prague, 2015, 90.
- [9] *Ibidem*, 61 et seq.
- [10] Data from 1921 national census as reported in: *Slovenský náučný slovník*, I. zväzok, Bratislava-Český Těšín, 1932.
- [11] About the Constitution of 1920, our reference is the English translation in: *The Constitution of Czechoslovak Republic with introduction by J. Hoetzel and V. Joachim*, Prague, 1920, 19 et seq.
- [12] By the National Assembly on 29th February 1920. The document is also well-known as the 29th February 1920 Constitution to distinguish from later Constitutional documents of Czechoslovakia during other regimes.
- [13] J. ROVNY, *Circumstantial Liberals: Czech Germans in Interwar Czechoslovakia*, 2020, available on <https://hal.archives-ouvertes.fr>. About the Czechoslovak constitution, in one of his well-known work the German jurist Carl Schmitt polemically said: «It was selected by an assembly that was comprised only of party delegates from the Czech and Slovak parties. Of the 13.6 million inhabitants of this state, almost 5 million, or all non-Slovak inhabitants, in particular the German portions of the people, were not represented», the Author explicitly wrote of an: «imposed constitution», in *Id.*, *Constitutional Theory*, ed. by Jeffrey Seitzer, Durham and London, 2008, 135.
- [14] The Diet of Sub-Carpathian Ruthenia also existed. It was a body entitled with a peculiar legislative function for Transcarpatia region established pursuant the Treaty of Saint-German (subsequently the annexation of that region to Czechoslovakia). See V. SHANDOR, *Carpatho-Ukraine in the Twentieth Century: A Political and Legal History*, Cambridge, 1998.
- [15] For instance, just to mention two cases, in the Reign of Italy, in the same year 1919 only universal male suffrage was achieved; in the United Kingdom, only the women who attained the age of thirty were allowed to vote from 1918 to 1928 (when the right of vote for women who attained the adult age was eventually recognised).
- [16] To be clear, the current parliamentary system of Italy is a well-known example of egalitarian bicameralism.
- [17] E. TÁBORSKÝ, *Czechoslovak Democracy at Work*, London, 1945, 43-44.
- [18] Cf. E. BENEŠ, *Demokracie dnes a zítřa*, Praha, 1946, 244. Also available with English translation recently edited by Forgotten Books: *Id.*, *Democracy Today and Tomorrow*, London, 2017.

[19] Regarding the text of the law, our reference is the translation in: C. MORTATI, *La Legge elettorale Cecoslovacca*, edited by F. Lanchester, Milano, 2020, 45-79.

[20] *Ibidem*, 26-27.

[21] Cf. Reported case-law in E. PESKA, *Après dix années. Le développement de la Constitution Tchécoslovaque 1920-1930*, *Rèveu du droit public*, 1930, 244-246.

[22] Cf. R. SCARCIGLIA, *Il divieto di mandato imperativo*. Contributo a uno studio di diritto comparato, Milano, 2005, 77-80; F.R. DAU, *Costituzionalismo e rappresentanza. Il caso del Sudafrica*, Milano, 2011, 218; G. DAMELE, *Vincoli di mandato dei parlamentari e caratteri democratici dei partiti*. Spunti a partire dall'articolo 160 della Costituzione portoghese, *Forum di Quaderni Costituzionali (Rassegna 5/2017)*, 4-5; F. LANCHESTER, *Crisi della rappresentanza in campo politico e divieto di mandato imperativo*, *Osservatorio Costituzionale 1/2020*, 114-115.

[23] Analogous rules but influenced by the Czechoslovak context are traceable in article 7 of *Landtagwahlgesetz of Wurttemberg* (April 4th, 1924) and in article 55 of *Tyrol electoral statute* (January 27th, 1933), cf. N. ZANON, *Il libero mandato parlamentare*. Saggio critico sull'articolo 67 della Costituzione, Milano, 1991, 114-116.

[24] As F. Lanchester recently pointed out, legal scholars as the Italian Costantino Mortati and the German Gerard Leibholz observed the relevance in proclaiming the free parliamentary mandate in the Constitution to avoid the risk of an excessive concentration of power in political parties, even though they outlined the worthiness of such a provision in a legal framework where political parties ought to be deeply regulated by law; cf. *Id.*, *Crisi della rappresentanza in campo politico e divieto di mandato imperativo*, in *Osservatorio Costituzionale 1/2020*, 115-116.

[25] In more details see J. HOETZEL, *The Definitive Constitution of the Czechoslovak Republic in The Constitution of Czechoslovak Republic with introduction by J. Hoetzel and V. Joachim*, Prague, 1920, 16.

[26] Article 54 of the Constitution of the Czechoslovak Republic.

[27] Cf. E. TÁBORSKÝ, *Czechoslovak Democracy at Work*, 71-73. The author specified how the Committee: « (...) is a characteristic feature of the Czechoslovak parliamentary system. It is one in which it differs from the Western democracies, though an institution of similar type was introduced into the German, Mexican and Uruguay Constitutions» p. 71.

[28] J. KUKLÍK, *Czech law in historical contexts*, Prague, 2015, 98-99.

[29] Article 81 of the Constitution of the Czechoslovak Republic.

[30] Institutions of direct democracy were also findable in the Weimar Constitution, cf. C. SCHMITT, *Dottrina della Costituzione*, Milano, 1984, 162.

[31] The Electoral Court Act {<https://www.usoud.cz>}

[32] C. PISTAN, *Tra democrazia e autoritarismo. Esperienze di giustizia Costituzionale nell'Europa centro-orientale e nell'area post-sovietica*. Bologna, 2016, 79.

[33] Plus, the laws enacted by the Diet of Sub-Carpathian Ruthenia (*supra*, footnote 14).

[34] On the website of the Constitutional Court of the Czech Republic see the excerpt from T. LANGÁSEK, *Constitutional court of the czechoslovak republic and its fortunes in years 1920-1948*, <https://www.usoud.cz>.

[35] Also known among historians as the First Slovak Republic to distinguish it from the current Slovak Republic even though the latter is not the legal successor of the first.

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