

ELECTORAL LAW

Contribution to the course from the perspective of constitutional theory and comparison of laws

Contents

Preliminary remark: At the Faculty of Law of Universitas Gadjah Mada the courses are shared by several lecturers. This table informs about the contents of my lectures on 01.09., 08.09., 15.09., 10.11. and 17.11.2022. They complement those of my colleague *Andi Sandi Antonius Tabusassa Tonralipu* with a special focus on constitutional backgrounds, general principles of electoral law and political party funding in German law and the topical issue of gender parity in parliamentary representation.

§ 1 The principle of democracy as a fundamental value and constitutional principle and the role of the electoral law in a democratic constitutional state

- I. Democracy as one among several fundamental values and ideas in the modern constitutional state
- II. The vague politico-philosophical concept of democracy
- III. Fundamentals of democracy
- IV. Direct (representative) and indirect (plebiscitarian) democracy
- V. Parliamentary and presidential democracy
- VI. The role of political parties in the democracy
- VII. The protection of democracy against its enemies
- VIII. The special problem of maintaining and implementing democracy within the process of supranational European integration

§ 2 Principles of electoral law in a democratic state - the example of Germany

- I. The legal significance of the principles of electoral law
- II. The principle of general elections
- III. The principle of direct elections
- IV. The principle of free elections
- V. The principle of equal elections
- VI. The principle of secret elections
- VII. The principle of public elections
- VIII. Honesty and fairness in German electoral law

§ 3 Special focus: Political parties and their funding - the example of Germany

- I. The constitutional and legal basis of the political parties in Germany
- II. The changeful history of party funding in Germany
- III. Private funding of political parties
- IV. The partial public funding of political parties
- V. The financial accountability of the political parties

§ 4 Special focus: Approaches to promote gender parity in parliamentary representation in Germany and France

- I. Backgrounds
- II. Constitutional standards limiting measures to promote gender parity in parliamentary representation (explained by the example of Germany)
- III. Effective but unconstitutional without a specific constitutional basis: mandatory gender quotas for electoral lists
- IV. A milder alternative: making public funding of political parties contingent on gender parity in elections
- V. Helpful but insufficient: voluntary self-commitment of political parties to gender parity
- VI. Flanking measures to encourage women's participation in politics

More information on this course contribution at www.thomas-schmitz-yogyakarta.id. For any questions, suggestions and criticism please contact me in my office (Building A, room A.IV.11) or via e-mail at tschmit1@gwdg.de.