Economic And Legal System Of Elections And Characteristics Of Electoral Legislation In Germany

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Annotation. This article explores the economic and legal system of elections and specific aspects of German electoral law. It was also revealed that an important condition for the establishment and development of a democratic state governed by the rule of law is the need to develop a legally guaranteed electoral system. In addition, as the basis and primary source of the German electoral system, the specific aspects of electoral legislation and development trends were first analyzed. In addition, conclusions and recommendations on the economic and legal system of elections and specific aspects of German electoral legislation are given.

Keywords: economic and legal system, German electoral legislation, democratic rule of law, German electoral system.

1. INTRODUCTION

An important condition for the establishment and development of a democratic state governed by the rule of law is the inevitable holding of legally guaranteed elections. Elections are a way for the people's government to make a legitimate decision. In democracies, voters decide the future distribution of power on election day. Elected by the electorate shall exercise their powers for a limited period of time. Citizens not only decide the division of political

power, but also legitimize them. So, elections legitimize political domination, control the rulers. In this sense, the government is politically accountable to the electorate. Today, raising public control to a new level, in particular, the effective use of its opportunities in the fight against corruption, has become a priority of state policy. This is because the expansion of public control in all areas will undoubtedly have a great impact on the social, economic, political and humanitarian spheres of society's development. It is fair to say that this phenomenon is an important trend in current social development [1]. It is noteworthy that the President of the Republic of Uzbekistan Sh. Mirziyoyev paid special attention to this issue, noting that: we can not form. Not only law enforcement agencies, but every team must seriously fight this scourge. Therefore, each government agency must have its own internal anti-corruption programs. "[2] In foreign countries, openness and transparency have already become the standard of governance, lawmaking, law enforcement and other activities.

In particular, the Law on Combating Corruption defines openness and transparency as one of the principles of combating corruption. At the same time, civil society plays an important role in the fight against corruption, as a measure to combat corruption - public control. The results of the study conducted by the Center for Development Strategy show that the use of forms of public control and the achievement of concrete results are unsatisfactory. In particular, norms such as public hearings, public monitoring, public expertise are almost not implemented [3]. Also, the practice of hearing reports of executive authorities, other organizations and institutions by mahalla citizens' assemblies has not yet been established. The term "electoral system" also refers to the definition of election results in terms of who nominates candidates, how many votes are needed to elect a deputy, and how parliamentary seats are distributed among the political parties that nominate candidates. In this sense, the electoral system is a method of allocating seats in an elected state body in relation to the results of voting. The electoral system is a system of state-social relations that arises in connection with the election of state representative bodies in civil society [4]. The electoral system is an integrated structure based on a combination of many different elements. The electoral system is a set of rules that ensure a certain order of organization of government, public participation in the organization of state representative, judicial and executive bodies.

In a given country, the electorate is made up of people who exercise their right to vote. The maximum active participation of the electorate in the elections is an indicator of the political activity of the electorate. The high level of citizen participation in the elections is positive. Voters determine the composition of parliament, the formation of government, and political programs by electing the appropriate persons to be deputies. So the impact of voter turnout is multifaceted. The struggle in the election process is essentially a struggle of ideas, a struggle of views. These are the views of different parties on a point from different angles. The struggle in the election process is a struggle of proposals, a struggle of solutions. Voting for a party or candidate means that the solution put forward by the relevant party or candidate is found to be acceptable. Elections are a democratic way of forming a representative body of the people. But at the same time, elections may not be a mirror of democracy at any time. As long as a voter is invited to participate in an election, he or she must have the freedom to participate in the election (the right to vote) and the opportunity to choose. Only a voter who has the opportunity to choose one of at least two proposals can choose and he must be able to freely choose between the proposals, otherwise it is not an election or the election will not be democratic in nature. At the same time, freedom of choice and the ability of the voter to choose should not be limited to paper. They must be legally guaranteed [5]. It is only when these and a number of other conditions are met that the election is valid.

In the Mehrheitswahlsystem, individual candidates from different parties compete in constituencies. The number of candidates corresponds to the total number of deputies. This system provides ample opportunities for strong, versatile parties. One of the brightest examples of this electoral system is the United Kingdom. Representatives of small parties are almost non-existent in parliament here. In doing so, candidates will be very close to their constituents. This electoral system can also be called the "individual electoral system".

In a majoritarian electoral system, the candidates who receive the most votes in a given constituency are elected to parliament.

A party that collects, say, ten percent of the vote in the entire constituency cannot have its own deputies in parliament because it failed to get a majority in the relevant constituency. The majoritarian electoral system can be manifested in other options as well. If the majoritarian electoral system is applied to the entire constituency, the party with the most votes will be elected, and the rest will go to the polls.

There are two types of majoritarian electoral systems: absolute and relative. Under a majoritarian electoral system, each voter has only one vote and a candidate who receives more than 50 per cent of the vote (absolute majoritarian electoral system) or more than his or her opponent (relative majoritarian electoral system) is a member of parliament. This is a shortcoming of the majoritarian electoral system: minority members are not elected to a representative body. But at the same time, the candidate who receives the majority of votes becomes a deputy. However, there is also an advantage of this system: the parliament consists of a stable majority. This is because if any party wins 51 percent of the votes in the country, it will get 100 percent of all the votes in parliament. Because all other votes are not taken into account. The implication is that we need to win in as many constituencies as possible.

In a majoritarian electoral system, the constituency is divided into constituencies according to the number of seats in parliament, ie the constituency is divided into as many constituencies as the number of deputies to be elected. For example, if the number of legitimate representatives of the people in the parliament is set at 250, then the entire constituency is divided into 250 constituencies. Candidates are nominated by the relevant local parties or a certain number of citizens in the constituency. Candidates nominated in the constituency will be voted on directly. The candidate who receives the most votes is considered elected.

Summarizing the advantages of the majoritarian electoral system, we can say the following:

➢ Representatives are elected from all districts;
➢ candidates will be closer to their constituents;
➢ The candidate is in a sense independent of his party (in the sense that the election process takes into account the role of the candidate in society, rather than the party).

The shortcomings of this electoral system are as follows:

➢ attention will be paid to the candidates who have the most impact on the public;
➢ Minority voters or, more precisely, their candidates are ignored.

This electoral system leads to a two-party system and one-party rule, in which the formation of a government is very easy, a strong government is formed, a one-sided government policy is pursued.

In the case of a proportional electoral system (Verhältniswahlsystem), the number of deputies sent to parliament by a party depends on the number of votes cast on the party's list of candidates. This electoral system can also be tentatively referred to as a "list-based electoral system". One of the advantages of this system is that each political direction finds its place in parliament according to the level of support from the electorate.

In a proportional parliamentary election, the party that wins 10 percent of the vote, or 10 percent of the seats in parliament, is elected. Even in a proportional electoral system, only one vote is cast. However, only the representatives of the party that received the most votes are included in the parliament as deputies. The advantage of this system is that minorities also have their own representatives in parliament. However, this system leads to an unstable majority in parliament and many parties, as even a small number of votes will be enough for each party to have its own representatives in parliament. In this system, the constituency is unique and is not divided into constituencies and so on. Each party submits a single list of territories or provinces in which its candidates are nominated. Voters vote on a country-by-party list.

Analysis of the relevant literature

The percentage of votes cast for the party corresponds to the number of their seats in parliament. This contribution is distributed to the candidates according to their position on the list. As the seats in the parliament are distributed on a proportional basis, a counting process will be necessary. There are a number of possibilities. The most common of these are two, the first of which is the high number process and the second is the quota process. One of the most famous of the high number processes was developed by the Belgian mathematician, Professor Victor d'Gondt, and so this calculation process is called the d'Gondt method after him. The quota process of the calculation was developed by British scientist Thomas Gare and German scientist Niemaer. This computational process is therefore called the Gare-Niemaer method [6].

The advantage of a proportional electoral system is that it takes into account the votes of all voters and the parties elected. This electoral system is not without its shortcomings. These are[7]:

➢ regional disparities;
➢ there is no need for voters to communicate directly with candidates;
➢ Dependence of the electoral process on party list elections.

This electoral system allows many, even small parties, to be elected. This could lead to an increase in the number of small parties in parliament. That is why forming a government is a bit difficult. A weak government emerges as it is formed as a government with a majority consisting of small parties. This can be seen in the example of the Weimar Republic. At that time, there were even small groups of three deputies. Between 1919 and 1933, 21 different courts of the empire were established.

In the elections to the parliaments of most Western European countries, a proportional electoral system (in various forms) is applied.

2. RESEARCH METHODOLOGY

During the study, it was observed that in order to develop a theoretical basis for the economic and legal system of elections and specific aspects of German electoral legislation, induction and deduction, dynamic series, analysis and synthesis, monographic research, systematic analysis, comparison and other methods were used.

3. ANALYSIS AND RESULTS

These two electoral systems differ from each other in how votes cast by voters win seats. A comparison of majoritarian and proportional electoral systems reveals that the electoral process, although recognized as mathematically correct, can produce results that do not exactly

reflect the wishes of the electorate. Consider the following example. Suppose five deputies are to be elected to parliament. The country is divided into five constituencies. Each constituency covered 100 voters. This means that there are a total of 500 voters and accordingly 500 votes (each voter has one vote). Candidates were nominated by only two parties, A and B [8].

Assume that all voters participated in the election. Party A won in three constituencies, with 51 votes in each constituency. Party B won the remaining two of the five constituencies, with 99 votes in each constituency (see Table 1) [9].

Table 1
Example: The country is divided into five constituencies, and candidates are nominated by only two parties, A and B

Party	Electoral districts					The number of votes the parties collected against a total of 500 votes in the entire constituency
	I	II	III	IV	V	
A	51	1	51	51	1	155 votes (31%)
B	49	99	49	49	99	345 votes (69%)
Total	100	100	100	100	100	500 votes (100%)

Be careful. Party A won in three of the five constituencies (in constituencies I, III and IV, which we conditionally designated). He received only 155 votes out of a total of 500 voters. Party B, on the other hand, won 345 votes out of a total of 500 voters, but only won in two constituencies (constituencies II and V, which we conditionally designated). Accordingly, he will send two representatives to parliament as deputies. However, whichever party the majority supports, it should have as many representatives in parliament. But in our example, the number of party representatives in parliament (two) who received 345 votes is less than the number of party representatives in parliament who received 155 votes (three). Hence, decisions made by a majority vote in parliament, etc., more represent the will of the deputies elected from Party A. They, in turn, are echoes of 155 votes. Deputies elected from party B must obey the decisions made by deputies elected from party A! This, in turn, means that 345 people are subject to the will of 155 people! This is contrary to the requirements of democracy. And the demand for democracy is this: the minority obeys the majority! In our example, the opposite happened. Such a phenomenon called "bias" ("smooth degree") was observed, for example, in the 1951 and 1974 elections to the lower house of the British Parliament, and in the 1969 and 1980 Bundestag elections. In practice, constituencies can be deliberately organized in such a way that the phenomenon of "bias" occurs[10].

As the basis and primary source of the German electoral system, it is appropriate to first mention the "Basic Law of the Federal Republic of Germany" (Grundgesetz für die Bundesrepublik Deutschland, GG). The AK regulates parties, the composition and powers of the Bundestag, the principles of suffrage, the functions of the Bundesrat, the Joint Committee, the election of the Federal President, the powers of the Federal President, the election of Federal Chancellors and other issues. In Germany, issues related to suffrage and elections in general are regulated by the following legislation in addition to the AQ [11]:

• Federal Election Law (Bundeswahlgesetz, BWG, BwahlG). The law was passed on May 7, 1956. On July 18, 2008, the last amendment to the law came into force. The law consists of 9 sections and 55 paragraphs. It includes the composition of the German Bundestag, the

principles of suffrage, the division of the electoral territory, the district election commission, the division of the constituency, the election in the constituencies, the election on the basis of country lists, the addition of lists, the division of electoral bodies, election commissions, suffrage, suffrage. deprivation, exercise of suffrage, election, election day, voter list, election certificate, right to vote, content and form of district election proposals, nomination of candidates from the party, proxy, admission to provincial election proposals, country lists, ballot papers, transparency of the electoral process, voting by ballot papers, voting by electoral devices, election by letter, determination of the election result at the polling station, determination of the election result by letter, determination of the result of the country list election, delayed election, repeat election, add and delete membership issues such as throwing, election expenses are regulated by law;

- "Federal Electoral Regulations" (Bundeswahlordnung, BWO). This regulation was adopted on April 19, 2002 and was last amended on December 3, 2008. The regulations regulate the formation of federal election commissions, provincial election commissions, district election commissions, election commissions, their activities, general polling stations, special polling stations, voter lists, and a number of other issues;

- Law on Political Parties (Gesetz über die politischen Parteien). This law is abbreviated as the Parteiengesetz. This law was adopted on July 24, 1967. The law was last amended on December 22, 2004. The law provides for the constitutional and legal status and functions of parties, party concept, party charter and program, party structure, party bodies, party congress, rights of party members, state funding, intra-party financial regulation, accountability, implementation of anti-constitutional party ban. regulates issues legally;

- Law on the Legal Relations of Members of the German Bundestag (Gesetz über die Rechtsverhältnisse der Mitglieder des Deutschen Bundestages). This law is abbreviated as the Law on Deputies (Abgeordnetengesetz, AbgG). The law was passed on February 18, 1977. In subsequent years, a number of corrections and additions were made. The most recent amendments and additions were made in accordance with Article 1 of the Law adopted on December 22, 2007. The law consists of 12 sections, 55 paragraphs and 3 appendices. The law regulates the acquisition and deprivation of membership in the Bundestag, membership and profession, legal status of deputies, salary issues, reimbursement of expenses due to illness, care and similar relations, transitional rules, independence of deputies, factions and other similar issues;

- Law on Election Verification (Wahlprüfungsgesetz). The law was adopted on March 12, 1951, and was last amended on April 28, 1995. The law regulates issues such as protests against the election investigation, the election investigation committee, the election investigation process, oral negotiations, and the consequences of invalidating an election;

- "Regulations of the German Bundestag" (Geschäftsordnung des Deutschen Bundestages). The Regulation was adopted on 25 June 1980 and last amended on 24 November 2011. The regulations regulate the election of the President of the Bundestag, his deputies and secretaries, the election of the Federal Chancellor, the powers of the President of the Bundestag, the formation of factions, the rights and obligations of Bundestag members, holidays, rules of conduct, meetings and their agendas;

- The Law on the Federal Constitutional Court. (Gesetz über das Bundesverfassungsgericht, BVerfGG) This law was adopted on August 11, 1993 and was last amended on July 16, 1998. The law regulates issues such as the status, residence, regulations, composition, qualifications of judges, term of office of judges, election of judges, oath of

office, powers of the FCS, the right to apply, consideration of the party's unconstitutionality, election inspections;

• Law on General and Representative Statistics in the Elections to the German Bundestag and in the Elections to the European Parliament from the Federal Republic of Germany.). This law is abbreviated as the Law on Electoral Statistics (Wahlstatistikgesetz, WstatG). The law was adopted on May 21, 1999 and entered into force on June 1 of that year. It was last modified on January 17, 2002. The law consists of two sections containing 8 paragraphs (the first section consisting of one paragraph and the second section consisting of 7 paragraphs). According to the law, the election result is statistically calculated (evaluated) while keeping the election secret, and the result is announced. The law addresses issues such as the type of statistics, the implementing agencies, the statistical registration of communities, the calculation of results, and the publication of results;

• Regulations on the introduction of electoral apparatus in the German Bundestag and the election of deputies to the European Parliament from the Federal Republic of Germany (Verrordnung über den Einsatz von Wahlgeräten bei Wahlen zum Deutschen Bundestag und der Abgeordneten des Europäischen Parlaments aus der Bundesrepublik. Abbreviated as "Regulations on the Federal Electoral Apparatus" (Bundeswahlgeräteverordnung, BwahlGV). The Statute was adopted on September 3, 1975 and was last amended on April 20, 1999. The statute is in force since November 15, 1979. The use of electronic voting equipment in the 2005 Bundestag elections was found to be contrary to the AQ in a March 13, 2009 decision by the FCS. According to the FCS, the introduction of "election computers" contradicts the principle of transparency of elections. In the 2005 Bundestag elections, an "election computer" was used;

• Legislation on provincial parliamentary elections and municipal elections in force in federal states. Each federal state has relevant laws regarding the organization of provincial parliamentary elections and the conduct of municipal elections;

• The Law on the Election of the Federal President by the Federal Assembly (Gesetz über die Wahl des Bundespräsidenten durch die Bundesversammlung). This federal law was enacted on April 25, 1959, and last amended on July 12, 2007. The law consists of three sections: Section 1 (Federal Assembly), Section 2 (Election of the Federal President), and Section 3 (Final Provisions). The law contains 14 paragraphs. The law stipulates the place and time of the meeting of the Federal Assembly, how many members of the Landtags are elected to the Federal Assembly, the organization of the Landtags, the right to be elected to the Federal Assembly, the consequences of statements of elected officials on whether or not to vote, , ballot papers, the beginning of the term of office of the Federal President, the amount of money received by members of the Federal Assembly are regulated by law [12].

The transfer was first enshrined in the Election Law of the Union of Northern Germany of April 17, 1867, of the Reichstag Election Act of May 31, 1869, and of the Election Law of the German Empire of April 16, 1871. Democratic elections were held only during the Weimar Republic. Note the table below.

Table
2 Electoral system in the Kaiser Empire, the Weimar Republic, and the FRG

Electoral system in the Kaiser Empire, the Weimar Republic, and the FRG	The right to vote	Electoral system
Kaiser Empire (1871-1918)	Universal and equal suffrage	Absolute majority system
Weimar Republic (1918-1933)	Universal and equal suffrage	Proportional electoral system
Federal Republic of Germany (Since 1949)	Universal and equal suffrage	Proportional suffrage taking into account the individual

4. CONCLUSION

In the Bundestag elections, the candidate who receives the most votes in the constituency under the relative majority system (first ballot) is elected, ie the system in which the most votes are determined determines who will be a deputy and the number of seats in parliament by the second ballot. determined [13]. Although the upcoming elections to the Bundestag contain elements of a relative majority system (first ballot), it is essentially built on a proportional electoral system (second ballot). Elections to the German Bundestag are a mixture of two systems - majoritarian and proportional. This means that members of the Bundestag are elected on the basis of a combination of majoritarian and proportional electoral systems. In conclusion, the German Bundestag has adopted a law combining the advantages of the two systems (called individual proportional suffrage). The use of such a mixed electoral system is enshrined in the Federal Election Law.

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