

***ANALYSIS OF THE LEGISLATIVE PROCEDURE IN THE BICAMERAL  
PARLIAMENTS. CASE STUDY: UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND AND FEDERAL REPUBLIC OF GERMANY***

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*Abstract: Abstract: Comparative research of various state legislative procedure presents a considerable theoretical and practical significance. It allows, on the one hand, the identification of legislation governing this legal institution and its analyzing and, for the other hand, the identification of the similarities and differences between these procedures.*

*In this paper we analyze the stages of the legislative procedure United Kingdom and Germany, countries with bicameral parliaments, but different political regimes.*

*From the analysis that we do, we demonstrate that the structure, functioning and the roles of the two cameras are very different. House of Commons and the Bundestag have broader powers regarding the legislative process to the House of Lords or Bundesrat.*

*Keywords: legislative procedure, bicameralism, parliament*

*JEL Classification: K33*

## **INTRODUCTION**

Comparative research of legislative authority of different countries presents a considerable theoretical and practical importance. It allows, on one had, the identification of legislation that rule this authority and its analysis, as to later identify similarities and differences between these authorities.

The basic idea of democracy is that of consent. Starting with this idea, citizens are the most important actors of a democracy, considering that they chose representative to the Parliament, and later, a group formed out of these representatives compose the Government.

## **THE ANALYSIS OF LEGAL PROCEDURE IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

The political evolution of Great Britain offers a classical example of passing from absolute monarchy to a constitutional one, being considered one of the typical countries for the parliamentary type governing system.

The Parliament is the essence of the British regime and the foundation of its political stability, being characterized by a conciliatory spirit, although its bipolar nature, political decisions are the fruit of a laborious process of conciliation.

Legislative function entails voting laws of parliamentary or governmental origin. British legal system recognizes two categories of laws: public and private.

Public laws determine the measures whose object is to change the general law or the distribution of budgetary amounts, administration of justice, etc. Public laws are initiated by the Government or members of the House of Commons who are members of the Government(Ionescu:2008, 102).

The private laws are to establish subjective rights belonging to individuals or legal entities. They are introduced in Parliament in the form of a petition submitted by the persons or entities, most often promoted by local authorities (Ionescu:2008).

As regards to the legislative process, almost all of the UK legislation is proposed by the Government and most of it results from the promises made during the election campaign of the political party that won the last elections.

Britain's commitments in the European Union may lead to new legislation. Also, campaigns or interest groups, citizens can notify the Government of problems, most often through the media. Moreover, certain events, such as unexpected crises, acts of terrorism, natural disasters, etc. can generate the need to amend the legislation.

Identifying a problem is one thing, and deciding what to do to solve them is another thing. Thus, not all the problems necessarily lead to new legislation. Most times, no matter where a political idea comes from, it does not go far if it does not enjoy the support of a minister. Even

a minister is not enough support for an idea to become law because they have the opportunity to consult with experts, interest groups and the ability to communicate with people directly affected by those plans. Most often, they are invited to express their views on the idea that in a "green paper".

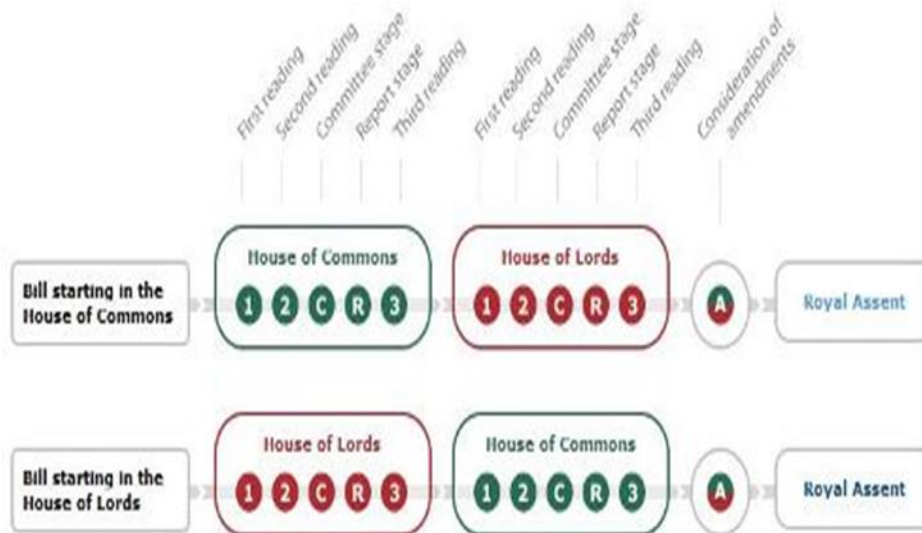
After consultation, the ministers aim at convincing government colleagues to support this idea. The ideas are discussed in the cabinet committee composed of ministers of the entire government and chaired by a senior member of the cabinet. Even with the approval of the cabinet, a proposal should be selected by the committee responsible for drafting the Government's legislative program. Legislative Committee makes the final decision on whether a proposal will be submitted to Parliament for consideration.

At the beginning of each annual session of the Parliament, the Queen announces in a speech at the opening session, the main bills (the Bills) to be considered.

The legislative process is the result of collaboration between the two chambers, whereas all legislation must be approved by both chambers. But the most important role is held by the House of Commons.

In the British system, the legislative procedure comprises several steps to be taken so the House of Commons and House of Lords (see Fig. no.1).

**Figure no. 1** Steps of legislative procedure in the UK



Source: Parliament of UK, <http://www.parliament.uk/about/how/laws/passages-bill/commons/coms-commons-first-reading/>, last visited on 20.10.2015

a. First read

In this stage, a bill is inserted by simply reading its title by a minister and made available to all MPs.<sup>1</sup>

It also sets the date for the next reading and the bill is first published as a work of the House of Commons.<sup>2</sup>

b. Second read

The second reading involves debate of general principles of the bill by all members of the House (of Commons or Lords). The House of Commons votes at the end of this stage whether or not the bill can proceed to the next step. In the House of Lords the bill goes to the next stage without being voted.<sup>3</sup>

c. The Commission Phase

If the most important provisions are approved in their essential lines, the project is referred to the Committee of the entire room or to a committee (Standing Committee) for a thorough discussion of each article / clause and amendments. The minister responsible for the project is a committee member. Any member may make amendments. Also, the opposition may require modification of articles or propose amendments.

The final form of the Commission is subject to detailed examination by all members of the House of Commons. In this case they can make new amendments that are then voted. To avoid unjustified delays of the procedure for adoption of the project by endless discussion from the opposition, the government may propose a motion to limit the duration of the work, voted by the whole House. This is called "guillotine" (Ionescu: 2008, 480).

If the bill was amended, before going to the next stage, it is reprinted.

d. Report Phase

Any changes made by the Commission is reported and discussed by the Chamber, which is invited to consider the bill as a whole, to approve changes made by the Commission and consider any proposed changes. Also, new amendments may be proposed.

e. Third read

A bill began in the House of Commons and approved in the previous stage, is sent to the House of Lords, which follows the same steps above.

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<sup>1</sup> Parliament of UK, <http://www.parliament.uk/education/about-your-parliament/how-laws-are-made/> visited on 21.10.2015.

<sup>2</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-commons-first-reading/>, visited on 21.10.2015.

<sup>3</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-commons-second-reading/>, visited on 21.10.2015.

Unlike the House of Commons, amendments can be made in the framework of the third reading in the House of Lords. In this case, the bill began in the House of Commons and House of Lords amended returns at the first to analyze the new amendments. If no amendments have been made, it proceeds to the next step.

A bill began in the House of Lords, is transmitted to the House of Commons to proceed with the first reading.

f. Taking into consideration amendments

Once the bill has passed the third reading in both chambers is transmitted to the first Chamber to consider the proposed amendments.

If the House of Commons made amendments, the House of Lords must review and approve or reject them or make new amendments. If it does not approve the amendments made by the House of Commons or propose new amendments, the bill is returned to the latter.

A bill can be sent from one room to another until both chambers reach agreement on the final form<sup>4</sup>. This process is called "Ping Pong"<sup>5</sup>.

If both chambers fail to reach a mutual agreement, the bill does not enter into force. In certain circumstances, the House of Commons can use an Act of Parliament to approve the bill without the consent of the House of Lords in the next session.

g. Royal Agreement

Before publication, the Crown must promulgate the law. All this establishes if the project becomes law immediately, at a later date specified in the law or on a date fixed by the Crown (Commencement Order).

## **ANALYSIS OF LEGISLATIVE PROCEDURE IN FEDERAL REPUBLIC OF GERMANY**

The German Parliament is of bicameral type, consisting of the Bundestag and Bundesrat. The German Parliament formula is asymmetrical, the two houses of the Parliament are differentiated between them from the point of view of its election method, and of their duties.

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<sup>4</sup> Parliament of UK, <http://www.parliament.uk/education/about-your-parliament/how-laws-are-made/> , visited on 21.10.2015.

<sup>5</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-consideration-of-amendments/>, visited on 21.10.2015.

However, cameras asymmetry, i.e. the division of power within the parliament, does not result in the Bundesrat in a second room, powerless in relation to the other room. In fact, it can be considered the most powerful of the second rooms in the world. German second room doesn't use its influence nor to popular election nor to absolute legislative veto, but that is a unique federal chamber, composed of representatives of the executive to the states - usually cabinets' ministers of these states (Lijphart: 2000, 193).

In terms of the legislative function, Bundestag members may have legislative initiative, but all these are those considering and voting on bills. The legislative initiative may belong to the members of the Bundesrat or the Federal Government<sup>6</sup>.

The legislative procedure is the result of collaboration between the federal governments, Bundestag and Bundesrat (see Figure no. 2).

According to the Basic Law, the Federal Government, members of the Bundestag and Bundesrat, can exercise legislative initiative (Lijphart: 2000).

If the legislative initiative is exercised by the federal Government, it must first send the bill to Bundesrat, and within six weeks it may make comments on it. In exceptional circumstances this deadline can be increased to nine weeks. If the federal government says the bill is urgent, within 3 weeks or 6 if the extension can transmit it Bundestag even if the Bundesrat has not submitted its views. Subsequently, the Federal Chancellor transfer the bill together with observations by the Bundestag to Bundesrat<sup>7</sup>.

The same procedure applies to the legislative initiatives of the Bundesrat. After the majority of its members voted in favor of the bill, it is sent to Federal Government. And it has a period of six weeks to make certain observations on the bill and then send it to Bundestag. Rules for extension or early transmission applies in this case.

If the legislative initiative is introduced by the Bundestag, the bill must be supported by at least one parliamentary group or at least 5% of the members of the Bundestag.

Before the bill is to be deliberated in the Bundestag, it must be sent to the President of the Bundestag, recorded and printed, as later it reaches the hands of the members of the Bundestag, the Bundesrat and the federal ministries.

According to the Regulations Bundesrat and Bundestag, the legislative procedure comprises three phases.

In the first reading debate controversial bills or those of public interest most special, takes place only if it has been approved by the Council of Elders or debate was requested by one of the parliamentary groups.

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<sup>6</sup> Art. 76 of the Fundamental Law

<sup>7</sup> Bundestag [http://www.bundestag.de/htdocs\\_e/bundestag/function/legislation/passage/245704](http://www.bundestag.de/htdocs_e/bundestag/function/legislation/passage/245704) , visited on 02.10.2015.

The first reading involves a formal examination and formulation of general principles of the future Act. The most important purpose of this lecture is to appoint a committee or more committees to prepare the bill for second reading.

If more than one committee is appointed, the committee which will be responsible for the Bundestag through all the stages of the bill is established. The other committees are only asked to express their views on the bill.

The committees are comprised of members of parliamentary groups. Within these, members become familiar with the bill and invite different interest groups or experts to find out their opinions. They examine in detail the project and may propose amendments. Any change to the project must be voted on by committee members.

At the end of this phase, a report is made that notes the will be the conclusions of the debate and the definitive shapes of the texts agreed in committee, report that the committee with overall responsibility submits in plenary.

The second reading implies a debate on the report assumed by members of the Bundestag, and finally voting on the bill in its entirety. Bundestag members can propose amendments in plenary that are treated immediately. If the plenary adopts amendments, the new version of the bill is printed and distributed again. This procedure can be removed with the approval of 2/3 of the members present.

The third reading involves the final approval of the project as a whole. Within that debate may take place if this is requested by a parliamentary group or at least 5% of the members of the Bundestag. At this stage only a parliamentary group or 5% of Bundestag members may propose amendments but only on the amendments adopted in the second reading.

At the end of this stage, the final vote takes place. Voting takes place by lifting the seats.

Following the adoption in the Bundestag, the act is sent to Bundesrat that can adopt it as sent or if consensus cannot be granted, it can request the establishment of a mediation committee. This committee is composed of an equal number of 16 members of the Bundestag and Bundesrat.<sup>8</sup>

For acts affecting administrative and financial powers of the Lander consent is mandatory for the act to become law.

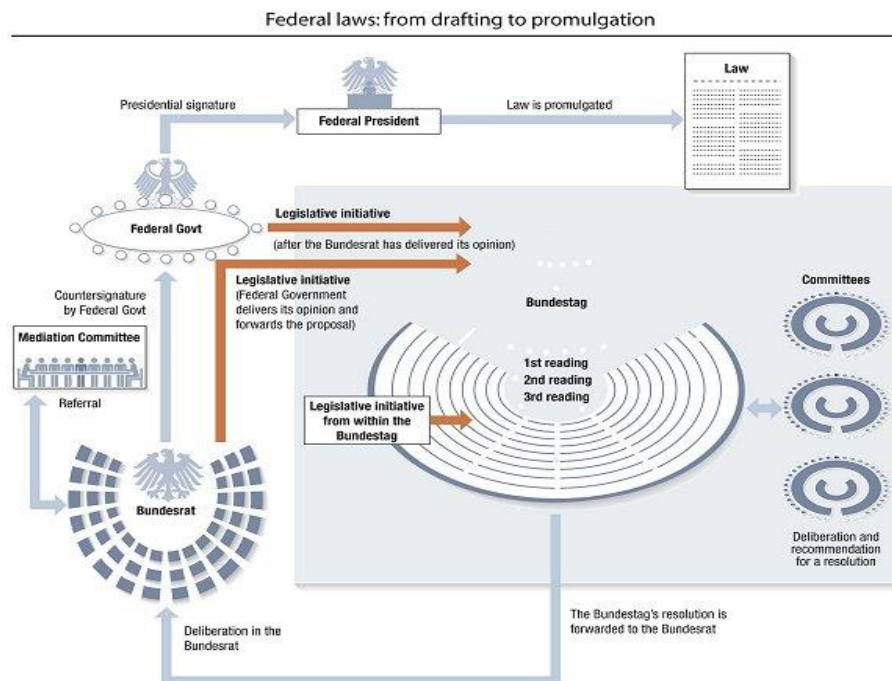
If the committee proposes to amend the draft amendments, they are subject to approval by the Bundestag. After presenting the conclusions by the committee, the Bundesrat may oppose the project voted by the Bundestag. But the veto can be removed if the project is voted again by an absolute majority in the Bundestag. Also, if the law requires the approval of the Bundesrat, the room absolutely can cast their vote, and the bill may not be enacted.

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<sup>8</sup> Art. 77 of the Fundamental Law.

Finally, for the law to be adopted it must still go through a series of steps. The law adopted by both houses is forwarded to the President of the Republic to check whether it complies with the Constitution, signs and sent it for publication. Law promulgated enters into force on the 14th day following its publication in the Federal Official Gazette.

**Figure no. 2. Legislative procedure of Germany**



Source: Official web-site of Bundestag, available at <http://www.Bundestag.de / htdocse/bundestag/function/legislation>, last visited at 03.10.2015.

## CONCLUSIONS

The Parliament is the essence of the British regime and the foundation of its political stability, being characterized by a conciliatory spirit, although it is of bipolar nature, the political decisions are the fruit of a laborious process of conciliation.



How the German Constitution defines and regulates the powers the Parliament and the mechanisms and functions that are established between the state powers demonstrate a parliamentary type system<sup>9</sup>.

Although the Constitution affirms the principle of cooperation between the two houses of parliament in the legislative process, in practice, the Bundesrat role in this area is limited. This role is supported by provisions granting primordially debate and vote in the Bundestag. The first discussion of the contents of a bill takes place in the Bundestag, then in the Bundesrat<sup>10</sup>.

In conclusion, the comparative analysis of the two legislative authorities tend towards the next affirmation. The British government is assumed by most people in his interest. On the other hand, according to the German model governance must be made as much in the interest of many citizens. Thus, in the spirit of these principles, we can observe the involvement of citizens in the legislative process.

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<sup>9</sup> Madalina Cocosatu, *Governance in Europe*, Pro Universitaria Publishing House, Bucharest, 2012, p. 66

<sup>10</sup> In the situation in which the Bundesrat makes amendments to the bill, these need to be approved by the Bundestag