

The dissolution of the Bundestag under Article 63 IV of the Basic Law of the Federal Republic of Germany particularly considering an obstructing parliament"

The Starting point of the investigation is the dissolution of the Bundestag on 21 July 2005 after Federal Chancellor Schroeder's lost vote of confidence. In the following discussions the admissibility of the dissolution orientated conduct of the government parties was questioned and the introduction of a parliamentary self dissolution right was repeatedly demanded. In the context of the debate the option of a dissolution orientated election of the Federal Chancellor was occasionally considered. In order to reach the desired early elections, the parties could set up no candidates for the office of the Federal Chancellor or nominate a mere „token candidate“, who, as agreed beforehand, does not receive the necessary majority in the ballots. Federal Chancellor Schröder rejected this possibility with the words „the procedure under Article 63 Basic Law requires several unsuccessful ballots and is extremely complicated and therefore does not comply with the dignity of the high house “ and referred thereby to a statement of the same content made by Chancellor Kohl.

Since this overall refusal does not appear convincing, this thesis deals with the question whether the procedure under Art.63 Basic Law would have been more appropriate in the present situation and thus represents an alternative constitutional procedure to Article 68 Basic Law. Before a decision can be taken on the introduction of a self dissolution right by constitutional amendment, first and foremost the existing constitutional rules must have been exhausted. The basis for the evaluation of this problem is the discussion of the conditions for dissolution under the Article 63 IV sentence 3 Basic Law. The reproach of a manipulation of the constitution would be impossible, if the chancellor election procedure could be conducted for dissolution purposes. Therefore the conditions of the second legally regulated dissolution possibility are examined with special consideration of a Bundestag abstaining from voting. The second part of the work concentrates on the necessity of a constitutional reform, whereby in particular the effects of a parliamentary self dissolution right are highlighted.