ANALYSEN UND BERICHTE

Constitutional Reform in Argentina

By *Brigitte F.P. Lhoëst*

It was only last summer that the three hundred and five members of the Argentinian Constitutional Convention were ruminating about a major revision of the Argentinian Constitution, which dated from 1853 (Arg. Const.[1]), in order to meet the demands of the twenty-first century. Yet, the direct motive of this monumental project seems to be more down to earth; President Menem's wish to be reelected to office, a feat prohibited by the 1853 Constitution. On the threshold of the coming presidential elections, this article aims to describe the constitutional reform process and the actual constitutional changes in Argentina and to offer an analysis of their possible consequences for the future political and legal structure of the Argentinian State.

1. Political setting

Since the 1930s Argentina has made short pendular swings between authoritarian and democratic regimes[2] in which electoral fraud and coup d'états proved to be favourite mechanisms to gain power. From 1930 to the reestablishment of democracy in 1983 there were six major military coups (1930, 1943, 1955, 1962 and 1976) and numerous minor ones. In the same period there were twenty-five presidents: though one administration (Juan D. Perón's) lasted ten years (1946-1955). There were twenty-two years of military rule (1930-1931, 1943-1946, 1955-1958, 1966-1973, 1976-1983); thirteen years of Peronism, a regime with a populist-corporatist ideology; and nineteen years of restrictive demo-

1 With the term 'Argentinian Constitution' or the abbreviation Arg. Const. I refer to the 1853 Argentinian Constitution, including the minor reforms made in 1866, 1898 and 1957. Regarding the Argentinian Constitution as reformed in 1994 I will allude to the term 'Reformed Argentinian Constitution' or abbreviated, R. Const.

2 In Heady's words: "a pattern has been established swinging the political system periodically back and forth between bureaucratic elite (e.g. law and order regimes) and polyarchal competitive regime categories", *Ferrel Heady*, Public Administration, a Comparative Perspective, 4th. ed. 1991.

cracy (1932-1943 and 1958-1966).[3] During these periods of restrictive democracy constitutional forms were preserved, the President and the other executive officials were elected and Congress and other representative assemblies functioned, but the majority parties[4] were excluded from electoral participation and otherwise restricted in their activities.

Strangely enough, despite all the often violent changes of regimes[5], Argentinas official state structure as laid down in the 1853 Constitution remained virtually unchanged. Thus, since 1853 there has been a presidential system in which the President in his dual capacity as Head of the State and Head of the Administration (Art. 74 Arg. Const.) has occupied a dominant position in the state structure. As safeguards against a too powerful Executive, constitutional clauses provided Congress[6] and the Judiciary[7] with controlling powers. Another safeguard against excess of presidential power was the constitutional provision that the President could not be immediately re-elected after the expiration of his term of office of six years. An interval of at least one term had to pass before he was allowed to run again for the presidency (Art. 77 Arg. Const.).

However, to put things in their proper perspective, although the Constitution was not formally amended during the different types of regimes, it was not obeyed either; not during the periods of so-called restricted democracy, not during the corporatist-populist Perón administration[8] and certainly not during the military Juntas. Under the various military dictatorships in Argentina the 1853 Constitution was even officially reduced to a second plan by the so-called 'Revolutionary Statutes'[9]. Although the Military formally pledged their loyalty to the Constitution, in reality important parts of the Constitution

3 See *Carlos H. Waisman*, Autarchic Industrialization and Illegitimacy, in: Democracy in Developing Countries, Vol. 4 Latin America, 1989, p. 69.

4 The majority parties consisted of Radicals in the 1940s and Peronists in the late 1950s and early 1960s.

5 From 1955 to 1983 there were eighteen presidents, and all those elected were overthrown except one, Perón, who died less than a year after his election for a third term in 1973.

6 Legislative power was vested in a bicamaral Congress composed of a Chamber of Deputies of the Nation, and a Chamber of Senators of the Provinces and the Capital (Art. 36-54 Arg. Const.). Deputies were elected directly by the people in proportion to the population for a term of four years and could be re-elected. The Senate consisted of two Senators from each Province and two from the Capital. Senators served nine-year terms and could be re-elected indefinitly.

7 "The Judicial Power of the Nation is vested in a Supreme Court and in such lower courts as established by Congress", Art. 94 Arg. Const.

8 Between 1946 and 1955 power was slowly but surely centralized by Perón. Opposition leaders were harassed, exiled or imprisoned, the judiciary was purged and freedom of the press virtually destroyed. See *Peter G. Snow / Gary W. Wynia*, Argentina: Politics in Conflict Situations, in: *Howard J. Wiarda / Harvey F. Kline* (Eds.), Latin American Politics and Developments, 1990.

9 The 'Revolutionary Statutes' consisted of Declarations of the Military Junta in which they formally took control of the state administration and dictated the structure of their government.

were suspended by the Statutes.[10] Congress was in most cases dissolved and the Judiciary reduced to a rubber stamp for the Junta.[11] It was only after the fall of the last Military Junta in 1983, that the Statutes were revoked and Congress and the Judiciary formally regained its power.

The only two substantial reforms of the 1853 Constitution regarding the state structure concerned the issue of presidential re-election.[12] In March 1949 during the first presidency of Juan Perón the Constitution was changed in such a way that immediate re-election became possible.[13] The legitimacy of the reform was questionable, because the declaration of the necessity of reform had not been approved by the required two third majority of *all* members of the Congress (Art. 30 Arg. Const.), but only by two thirds of the members present at that particular session.[14] Nevertheless, the result was that after free and honest election president Juan Perón was elected for a second consecutive term in 1951.

However, Perón did not complete this term, as he was deposed in 1955 by a 'Revolutionary' military regime headed by General Pedro E. Aramburu. In 1956 without much ado the constitutional reforms of 1949 were annulled by military decree. The 1853 Constitution was restored and immediate presidential re-election was prohibited again. Thus, ironically the legitimacy of the second reform and the return to the original Constituion of 1853 was questionable as well; even if the reforms of 1949 had some faults, it was clearly not the right procedure to remedy this by military decree.

[10] In most Revolutionary Statutes the status of the Constitution is described as follows: "The national and provincial governments shall conform their actions to the basic objectives outlined by the Military Junta, to this Statute and to the national and provincial constitutions to the extent that these are not contrary to the said objectives and statute". See Statute for the Process of National Reorganization, published March 31, A.L.J.A. 1976-A, p. 23.

[11] In spite of constitutional guarantees of life tenure for its members there were major purges in 1946, 1955, 1966 and 1976. Consequently the Supreme Court generally acquiesced to military coups and judges routinely accepted the validity of decisions made by technically illegal rulers. For more information on the role of the Judiciary during the Military Juntas see the excellent article of *Wolfgang Spoerr*, Richterliche Legalisierung von Staatsstreichregierungen: Das Beispiel Argentinien, VRÜ No. 22, 1989, pp. 3-22.

[12] There have been some minor reforms in 1866, 1898 and 1957.

[13] Furthermore some new clauses about civic rights, government intervention in the economy and the administrative structure were included in the amendment.

[14] See *Rafael A. Vaggione / Guillermo Butler*, Propuesta para la Reforma Constitucional, Córdoba, Argentina 1994.

It is remarkable that just when the ominous swing of the pendulum seems to have halted and Argentina has returned to a fairly stable democracy[15], the third reform of the Constitution is induced again by the issues of presidential re-election. President Carlos Menem, leader of the peronist Judicialist Party (PJ), tried to find a legal means to continue his office after expiration of his first term. The first step to this end was the reform of Art. 77 Arg. Const., which prohibited immediate re-election.

The 1853 Constitution could be amended entirely or in any of its parts by means of a special procedure which consisted of two parts. Firstly, the necessity of the amendment and the exact clauses of the Constitution that could be amended had to be declared by Congress by a vote of at least two thirds of its members; secondly, a Constitutive Convention called for the purpose had to determine the specific contents of the amendment so that it could be put into effect (Art. 30 Arg. Const.). This posed severe problems for Menem as his party did not have a two thirds majority in both Chambers of Congress. Menems predecessor, Raúl Alfonsín, leader of the most important opposing party, the Radical Civic Union (UCR) - which is no more 'radical'[16] than neo-liberal *menemism* is 'peronistic'[17] -, would have been able to help Menem to obtain a two thirds majority in Congress. However, until October 1993 Alfonsín staunchly opposed Menem and declared himself adamant against such a reinforcement of presidential power.

The midterm elections of Octover 1993 - when the PJ consolidated its position, the UCR incurred heavy losses and the small leftist parties gained - signified a turning point in Alfonsín's stand.[18] Unexpectedly, Alfonsín concluded an agreement with Menem[19] about a reform of the Constitution that would allow for presidential re-election on the condition that the proposed amendment would include clauses to strengthen the position of Con-

15 In 1983 Argentines went to the polls for the first time in over a decade. In 1989 again there were free elections which resulted in a new civilian president who even belonged to a different political party than his predecessor, a phenomenon that had not happened since 1928.

16 The term 'radical' derives from the political jargon of the Third French Republic (1871-1940), where radical stood for anticlericalism and loyalty to the republican and egalitarian ideals of the French Revolution.

17 The liberal and anti-statist attitude of President Menem has resulted in a full and spectacular reversal of the line previously advocated by the Justicialist Party which traditionally is anti-liberal in economic matters and strongly labour oriented.

18 In 1983 the two leading parties in Argentinas political history, the PJ and the UCR, still accounted for 85 % of the votes. At the 1993 elections the political scene offered a more pluralistic picture; the PJ and UCR only accounted for 60 % of the votes.

19 Such agreements between the leaders of the most important parties are not new in Argentinas political history. Thus, Vogel remarks about the historical 'Acuerdos' between Roca and Mitre in 1891: "Obschon es angeblich im nationalen Interesse war, wurde das Abkommen von vielen als zynischer Schachzug zweier alter Politiker betrachtet, die sich um jeden Preis an der Macht halten wollten." *H. Vogel*, Argentinien, Uruguay, Paraguay 1830/1852-1904/1910, in: *R. Buve / J.R. Fisher* (Eds.), Handbuch der Geschichte Lateinamerikas 2, 1992.

gress and the Judiciary. The need to augment the power and status of Congress and the Judiciary had become abundantly evident when one looked at their tarnished image. The devastating results of surveys conducted by the Argentine Research Centre "Centros de Estudios de la Nación"[20] about which percentages of the Argentine public had a positive opinion of Executive, Congress and Judiciary speak for themselves.

Positive Opinion	**1990**	**1991**	**1992**	**1993**
Executive	34,4	48,5	35,9	48,3
Congress	15,3	14,2	15,3	12,3
Judiciary	20,9	24,0	18,8	13,1

The agreement between Alfonsín and Menem about the extent and range of the amendment was sealed in the so-called "Pacto de Olivos"[21] .

After the Chamber of Deputies agreed to the proposed constitutional amendment, as worked out in the Pacto de Olivos, on November 29th 1993 the Argentine Senate hesitantly gave her approval and the first hurdle was surpassed.[22]

It is noteworthy that in spite of the claimed strict observance of the Constitution there were some minor flaws in this first phase of the procedure. Thus, the discussion of 1949 about the meaning of the ambiguous phrase "the necessity of amendment must be declared by at least two thirds of the members" revived. In favour of Menem and Alfonsín the phrase was interpreted in the sense that two thirds of the members present would suffice for a valid declaration. Furthermore the Senate had made a small modification in the amendment bill and against rules of formal procedure had not returned the amendment to the Chamber of Deputies for approval but instead had sent the amendment directly to the Executive to be promulgated. This was a transparent attempt to bypass the Chamber of Deputies. The Senate's modification regarded their own position; they did not agree to a reduction of their term from nine to four years and struck this clause from the amendment bill. Instead they proposed a six-year term.

20 Published 24th of February 1994 in the national newspaper La Nación.

21 The Pact was named after the presidential residence were the negotiations were concluded.

22 Congressional Declaration as set forth in Law 24.309.

2. The Pacto de Olivos

In the Pacto de Olivos the Constitution was divided into three parts: Firstly, there were those constitutional clauses that were not to be modified, the "parte dogmática", which consisted of the fundamental rights and guarantees (Art. 1-35). Yet, the Constitutional Convention was allowed to complement these articles with new clauses regarding, for instance, the environment as a new social right. Secondly, there were the constitutional clauses upon whose exact new contents Menem and Alfonsín had agreed, the "núcleo de coíncidencias básicas". The núcleo básico contained clauses about the federal balance of power (Art. 35-103). As these clauses formed the heart of the proposed constitutional amendment Menem and Alfonsín had prescribed the exact contents of the modifications regarding the Executive, Legislative, Judiciary and the Auditor's Office. The Constitutional Convention was not allowed to change the clauses in the núcleo básico separately, they would only be allowed to approve or to reject the núcleo básico in its totality. Thirdly, there were those clauses and themes that were still open to debate and that could be amended or included by the Constitutional Convention. The range of topics was quite wide. One theme was the strengthening of the local autonomy of provinces and municipalities. Another theme was the inclusion of new instruments for the exercise of participatory democracy such as the plebiscite, the referendum, people's initiative and consultation. Furthermore, an Ombudsman for citizens complaints could be created as well as an Economic Social Council with consultative functions to institutionalize the participation of the various sectors of the community when fundamental decisions concerning the distribution of wealth and the improvement of social conditions would have to be made. Other possible topics were environmental protection, the protection of the ethnical and cultural identity of indigenous people and the status of international treaties.

3. Contents and Consequences of the Constitutional Reform

With the election of the three hundred and five members of the Constitutional Convention on April 10th, Argentina entered the second phase of the amendment procedure. Within the framework as established by Congress, the Convention had to decide within ninety days of their installation about the definite contents of the amendments. As mentioned before, their freedom knew one major limitation: they were forbidden to change the clauses of the núcleo básico; they had either to accept it or to reject it in its totality.

At the time it was uncertain whether Menem and Alfonsín would be able to get their amendment as laid down in the núcleo básico accepted by the Convention.There had been strong discord within the Radical and the Judicialist parties. Dissenting voices had been raised during the running-up period to the elections. The top of the PJ as well as the top of the UCR had to exert strong pressure on its regional candidates for the Constitutional

Convention, to get them to promise support for the partyline and to adhere themselves to the Pacto de Olivos. The Judicialist Party had even completely disregarded the autonomy of their regional departments and centrally nominated all candidates in order to make sure that there would be no dissenting votes. Furthermore at the elections of the Constitutional Convention they had only obtained a small majority of 58 %. Thus, it was only with the support of affiliated regional parties that Menem could count on receiving a sufficient number of votes to pass the amendment.

In the end party discipline indeed prevailed and consequently the constitutional reforms that were proposed in the núcleo básico were approved in their totality. Thus, the most important consequence of the constitutional reform in the short run is that Menem has realized his immediate goal and, in all probability, will govern for a second consecutive term.

In the long run it is not that clear what the political costs of Menems venture will be for democracy in Argentina. A positive sign is the way in which changes in the state structure were achieved, not by a coup d'état but by a democratic constitutional procedure. This is a major achievement and could be considered a proof of the consolidation of democracy in Argentina, even if some parts of the followed procedure were not beyond criticism.

However, in order to give a more profound analysis of the consequences of the reform it is necessary to go into more detail about the actual modifications, starting with the changes regarding the fundamental rights and guarantees.

As had been agreed in the Pacto de Olivos, the existing fundamental rights and guarantees have not been altered. However, they have been complemented in a new chapter (Chapter Two; New Rights and Guarantees) with eight articles.[23]
The first new article (Art. 36 R. Const.) reflects Argentina's traumatic 'Revolutionary' past; it imposes the supremacy of the Constitution even if it is forcefully suspended or annulled by means of an armed intervention against the institutional order and the democratic system. Furthermore it declares all acts by the offenders which are contrary to the Constitution null and void. It is questionable what the effect of this article will be if the event does occur.
The next four articles aim to strengthen and extend the free exercise of political rights (Art. 37/40 R. Const.). Thus, the status of political parties as fundamental instruments for the democratic system is confirmed by guaranteeing them their freedom in developing and exercising activities within the constitutional system (Art. 37, 38 R. Const.). Furthermore, a more direct participation of the citizens in national politics is facilitated by the introduction of the popular initiative and popular consultation (Art. 39, 40 R. Const.).

[23] The classical fundamental rights and guarantees were already inserted in the 1853 Constitution.

The last three new clauses concern the protection of the citizens in diverse fields of law. In Art. 41 the right to a clean and healthy environment is guaranteed. Art. 42 establishes consumer rights. Art. 43 offers protection against any explicit arbitrary or unlawful of public authorities or private persons that imply a breach of rights and guarantees recognized by the Constitution, international treaties or law. If this is the case, the judge may declare such an act inconstitutional.
The (newly introduced) Ombudsman, or registered interest groups may start a collective action against any form of discrimination or breach of environmental or consumer rights. In case someone is unlawfully deprived of his freedom he, or anyone else in his favour, can go to a judge and demand a due process by imposing a so-called action of '*habeas corpus*', even if a state of emergency has been called.
All in all, political and human rights[24] seem to have been considerably strengthened by the new clauses.

Regarding the heart of the reform - the position of the executive, legislative and judicial branch - the núcleo básico has been followed to the letter, with some important complements. Thus, not only an Auditor's office (Chapter 6, Art. 85 R. Const) has been created, but a Department of Public Prosecution (Art. 120 R. Const.) and an Ombudsman (Chapter 7, Art. 86) as well.

Regarding the Executive, henceforth the President and vice-president will be elected by direct and universal suffrage. President and vice-president may be re-elected immediately after the expiration of their first term for a consecutive term. After the expiration of their second term, at least one term must elapse before they may run again. The term of office is shortened from six to four years (Art. 90 R. Const.). The requisites that the President must belong to the Roman Catholic Apostolic Church and that he must swear his loyalty to God and the Holy Gospels (Art. 76, 80 Arg. Const.) have been repealed.

To streamline the different branches of government and to improve the way they interact, the presidency will be relieved of a number of functions it has at present.[25] Toward that end, a new figure in the Argentine political structure is introduced: a Prime Minister (Jefe de Gabinete) who will take charge of the President's administrative tasks. Furthermore,

24 In some other parts of the Constitution new human rights were introduced as well, thus, for instance in Art. 75 Section 17 the ethnical and cultural identity of indigenous people is explicitly recognized, including the right to a bilingual education.

25 According to transition clauses, these changes will take place after the 1995 elections, when the new President is installed in the office.

the President will relinguish his function as immediate and local head of the Capital of the Nation to a locally chosen mayor.[26]

The Prime Minister will be appointed and may be removed from office by the President (Art. 99 Section 7 R. Const.). He shall have the powers that pertain to the Head of the Administration (Art. 100 R. Const.). This implies that the Prime Minister will appoint the lower government officials, collect the revenues of the Nation and decree their disbursement and fulfil the tasks the President may delegate to him by decree. One of the most important tasks of the Prime Minister will be to keep both Chambers of Congress informed about government policies and developments. For the performance of this task he will be accountable to Congress which, if unsatisfied with his performance, may depose him from the office by a motion of no-confidence (Art. 101 R. Const.). Thus, although the Prime Minister falls under the direct responsibility and authority of the President, he is nevertheless also accountable to Congress.

To enable the presidency to act with more efficiency in crisis situations, a greater measure of flexibility is allowed during the state of siege (Art. 99 Section 16 R. Const.). If absolute urgency is dictated and extraordinary circumstances render it impossible to follow the regular constitutional procedures, competences which normally are reserved to Congress may be exercised by the government on the condition that the Prime Minister gives his approval (Art. 100 Section 13 R. Const.). Within short notice the Prime Minister must submit the emergency measure to the approval of a special Congressional Commission. In no case may the measure deal with criminal law, tax law, the electoral system or political parties (Art. 99 Section 3). Another restriction is that the authority to intervene in the internal government of the provinces in case of emergency henceforth exclusively belongs to the Federal Congress. In case Congress is in recess, the Executive may decree to intervene, but simultaneously will have to call Congress into session to deal with it (Art. 99 Section 16 and 20).

The Legislative Power will continue to be exercised by the Chamber of Deputies and the Senate (Art. 44 R. Const.). However, the prohibition of Congress to delegate legislative power to the Executive[27] has been partially withdrawn (Art. 76 R. Const.). Congress will be authorized to delegate legislative authority to the Executive regarding administrative issues or in case of need. In all other cases delegation remains prohibited. Legislative

[26] Just like Washington D.C. and Mexico D.F., Buenos Aires, the federal capital occupied a special position in the state structure: It was neither a province nor a municipality but constitutes a separate administrative entity; the President was the head of the administration and local laws were made by the federal Congress (Art. 86 Section 3 Arg. Const.).

[27] See, Art. 29 Arg. Const.

authority may only be delegated for a restricted period of time and both Chambers have the duty to control the measures the Executive has taken.

To enhance the standards of both Houses and to make the passing of laws faster and more efficient, the period of ordinary sessions of both Chambers will be prolonged with two months and will last from the first of March till the thirtieth of November (Art. 63 R. Const.). Furthermore the number of Senators will be increased by one for each Province making a total of three Senators for each Province and three for the Capital (Art. 54 R. Const.). Another important modification concerns the institutionalization of communication between the government and Congress. The Prime Minister is obliged to inform monthly and alternately each of the Chambers of Congress about government policy.

As regards the procedure of passing laws, the practice to consider bills to have passed automatically if they have not been modified or approved, the so-called 'tacit approval', has been prohibited (Art. 82 R. Const.).[28] The last important issue regarding the balance of powers between the Executive and Congress concerns the creation of an independent Auditor's Office. Its main tasks will be to control the accounts of the nation and to inform Congress of its findings. Furthermore it must control the public administration in the exercise of its functions (Art. 85 R. Const.).

One can say that the position of Congress has been strengthened considerably by extending their ordinary sessions, the augmentating of the number of Senators and most of all by institutionalizing the flow of information about governmental policies and activities by introducing a Prime Minister and the Auditor's Office. However, it is the President's attitude to these new institutions that remains of crucial importance. He must allow the Prime Minister and the Auditor's Office to fulfil their tasks and thus give Congress the opportunity to exercise their controlling role in a proper way. If he fails to do that, it is not unlikely that, as has happened in the past, opposition parties will turn to other means of attaining power: supporting or initiating a military coup.[29]

Lastly, to enhance the status and independence of the Judiciary the lower judges will no longer be appointed by the Executive[30] but by a special Council for the Appointment of the Members of the Judiciary, made up of members of Congress, judges, lawyers and

[28] Congress quite often indulged in the practice of tacit approval with regard to the Budget, which they often approved years after date.

[29] All Argentina's military governments have been supported at least initially by most of the major opposition parties. See, *Wiarda* id. 6.

[30] The President appoints, with the consent of the Senate, the magistrates of the Supreme Courts and of the other lower federal courts, Art. 86 Section5 Arg. Const.

academics (Art. 114 R. Const.). The magistrates of the High Court will continue to be appointed by the Executive with the assent of the Senate. Furthermore, the impeachment procedure against lower judges will be depoliticized. No longer will the Chamber of Deputies have to bring up an impeachment procedure before the Senate. Henceforth a special Jury consisting of members of Congress, members of the Bar, judges and independent civilians will decide (Art. 115 R. Const.). The impeachment procedure for the members of the Supreme Court remains unchanged. It certainly is a major improvement that lower judges in future will be nominated by an independent commission. Thus, the practice in the past to nominate former politicians as judges to reward them for rendered services will cease. This will certainly enhance the quality and the status of the magistrates. Another important improvement is the institution of a Department of Public Prosecution, an independent organ with functional and financial autonomy, which will serve to promote the performance of justice in defense of the law and the general public interest in coordination with the other public authorities (Art. 120 R. Const.).

In conclusion, one can say that although the new constitution on the one hand strengthens presidential power by making presidential re-election possible, on the other hand it offers plenty of openings for a more democratic way of government. Menem has had to make substantial concessions to the opposition parties by conceding them such negotiation points as the re-enforcement of the legislative and the judiciary, increase of the autonomy of provinces and municipalities[31], and the introduction of more instruments for direct popular participation in national politics, such as the introduction of the plebiscite and popular initiative. However, as the saying goes, the proof of the pudding is in the eating and one still has to see in practice whether the reforms will really lead to a better balance of powers or whether the situation will remain as former Secretary Roberto Dromíso neatly remarked: "There is talk about the triad of power, but no one talks about the percentage each power has of the total power package."[32]

[31] On local sphere the autonomy of provinces and municipalities has been extended, and in Art. 123 the autonomy of the municipalities is explicitly recognized.

[32] "Se habla de triada del poder, pero de lo que no se habla es de qué porcentaje tiene cada uno en el paquete global del poder", *Roberto Dromí*, in a column in the newspaper Ambito Financiero May 24th, 1994.

ABSTRACTS

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By *Brigitte F.P. Lhoëst*

In 1994 the Argentinian Constitution, dating from 1853, was considerably revised in order to meet the demands of the twenty-first century. Yet, the direct motive of this monumental project seems to be more trivial; President Menem's wish to be re-elected to office, a feat prohibited by the 1853 Constitution. This article aims to describe the constitutional reforms and to analyse their consequences for the future political and legal structure of the Argentinian State.

The Constitutional Senate in Costa Rica

By *Norbert Lösing*

Following the Continental-European example, Costa Rica introduced a concentrated and specialized constitutional jurisdiction in 1989. At this time a Constitutional Senate was installed in the Supreme Court. Thanks to the jurisdiction of this Senate the Constitution has gained influence and a great number of laws have been reconsidered and modernized. The "Law of Constitutional Jurisdiction" (Ley de la Jurisdicción Constitucional, LJC) offers for the individual a simple and fast access to the Senate which means fast and efficient legal protection. The terms in which the judges have to decide are very short. The fast and easy procedure are partly the reasons for the popularity of the Senate. The LJC does not require the exhaustion of other legal instruments to lodge a legal remedy before the Constitutional Senate. This is why a great number of litigants choose the direct access to the Senate instead of trying other legal remedies first. This tendency is supported by the Senate itself through his policy of accepting almost any case. Competencies of the Constitutional Senate are the habeas corpus, the amparo, the remedies of inconstitutionality and the conflicts of competence. In the search for exoneration of the Senate several possibilities are being discussed like introducing divisions or even returning to a diffuse constitutional control.