

I. THE SYSTEM OF THE REFERENDUM

I.1 Direct democracy in Hungary

The Constitution of the Republic of Hungary stipulates that in the Republic of Hungary citizens shall take part in conducting the affairs of the country primarily through elected representatives. It is, however, also part of democracy that the people may directly take part in either deciding or influencing issues of overriding importance of public interest. Hungarian law knows two forms of this: the referendum and the popular initiative. In national referenda decision is made on the strength of voters' direct ballot on some issue that falls within the competence of the Parliament. The aim of popular initiatives is that the Parliament put their subject on the agenda.

Neither referenda, nor popular initiatives may take place unless certain conditions (set forth in the acts attached) are met. A national referendum can be either binding or non-binding. A binding national referendum is conclusive solely on condition that more than half of the voters voting validly, but at least more than one-fourth of all voters have given the same answer to the question asked.

I.2 Rules of law pertaining to referenda

The binding national referendum on the accession of the Republic of Hungary to the European Union is ordered in Article 79 of Act XX of 1949 on the Constitution of the Republic of Hungary; furthermore, the Constitution contains basic provisions with regard to suffrage as a fundamental political right and national referenda.

The rules of substantive law pertaining to national referenda are set forth under Act III of 1998 on National Referendum and Popular Initiative (Referendum Act).

The rules of procedure of national referendum are stipulated under Act C of 1997 on Electoral Procedure (Procedural Law).

The responsibilities of election offices and the order of aggregating ballots are regulated under Decree 34/2002. (XII. 23.) of the Minister of the Interior on the Implementation of the Procedural Law at National Referendum.

The procedural terms and deadlines of the referendum called for 12 April 2003 calculated according to calendar days are set forth under Decree 33/2002. (XII. 23.) of the Minister of the Interior.

I.2.1 Major changes in laws since the last referendum

We call the attention of our guests to the fact that the legal framework of the recent referendum in Hungary (Referendum on NATO Membership, 16 Nov

1989) was still regulated by Act XVII of 1989. With regard to the present referendum, however, Act III of 1998 and Act C of 1997 shall apply.

Chapter IV includes rules of law concerning the referendum.

I.3 When do referenda take place?

Because of the overriding importance of the issue of the accession to the EU, the present binding referendum and its date is ordered by the Constitution itself. In other cases, national referendum is ordered by the Parliament, its date is appointed by the President of the Republic.

Referenda may take place in one of two ways:

- a) on the initiative of at least 200,000 voters the Parliament shall order a referendum regardless of the fact whether the Parliament agrees with calling the referendum or not. Such a referendum is always binding deciding the case, subsequently its result is binding on the Parliament,
- b) In the events determined by law, the Parliament is obliged solely to consider whether to order the referendum, to deliberate on whether to call the referendum or not; this is called facultative referendum. Facultative referenda may be either binding deciding the case or non-binding voicing voters' opinion.

Facultative national referenda may take place on the initiative of:

- a) voters (if more than 100,000 but less than 200,000 voters support the initiative),
- b) the President of the Republic,
- c) the Government,
- d) minimum one-third of the elected Members of Parliament.

It is important that those initiating the referendum shall also formulate the question put to referendum.

I.4 Who may take part in referenda?

Any person who has suffrage pursuant to the provisions of the Constitution and Act XXXIV of 1989 (Electoral Law Act) on the Election of Members of Parliament shall have right to vote in a national referendum. The conditions of having right to vote are as follows:

- Hungarian citizenship
- legal age
- domicile, or, for lack of it, residence in Hungary.

Anyone who:

- is under guardianship limiting or excluding his/her ability to act;
- is subject to a final judgment barring him/her from exercising public affairs;
- is serving his/her final sentence of imprisonment;

- is under compulsory therapy at an institute ordered in a criminal procedure with legal force.

shall not have right to vote.

Anyone who stays abroad on the day of the referendum is hindered from voting in the national referendum.

I.5 Election bodies operated in referenda

Election committees and election offices represent two large groups of election bodies.

I.5.1 Election committees:

They are voters' independent bodies subject exclusively to the law, whose key responsibility is to ensure impartiality, fairness, legality of the referendum and, if necessary, to restore the legal order of the referendum.

In national referenda the following election committees are operated:

- ***ballot-counting committee:*** ballot-counting committees arrange for lawfully conducting voting in the electoral district under their control. At settlements having one electoral district, the responsibilities of the ballot-counting committee are fulfilled by the local election committee. The tasks of ballot-counting committees will be described in detail in the chapters below.
- **Territorial Election Committee (TEC):** it adjudges reserves against decisions that fall within the competence of the ballot-counting committees acting in its territory of competence, complaints about violating the electoral law. In the event of any infringement of the law made known to it, it initiates the proper procedure.
- **National Election Committee (NEC):** it approves of the data content of the ballot-papers of the national referendum. Ascertains and publishes the result of the referendum aggregated nationally, or annuls the result if it finds any infringement of the law which has influenced it on the merits. In the event of any violation of the law made known to it, it initiates procedure. It decides reserves submitted.

I.5.2 Election offices

The responsibility of election offices is to prepare, organise, conduct the referendum, inform voters free from any party bias; handle and provide referendum data; ensure the technical conditions of the referendum; check compliance with legal conditions and professional rules.

In national referenda the following election committees are operated:

- 1.) a local election office at each settlement (LEO);

- 2.) a territorial election office in each county (TEO);
- 3.) the National Election Office at country level (NEO);
- 4.) and, fulfilling tasks of co-ordination and recording, parliamentary single mandate constituency election offices (PSCEO).

I.6 Ascertaining the results

The ballot-counting committee takes minutes of the electoral district result of the referendum. Forwards the minutes to the head of the local election office, which sends the minutes through the territorial election office to the National Election Committee authorised to ascertain the results.

I.7 Election Information Service (EIS)

The key task of the EIS is to provide voters, the media, political parties, domestic and foreign enquirers with information regarding election related professional issues.

The Election Information Services are operated at mayor's offices, or at the office of the county/metropolitan general assembly.

Enquirers can ask their questions by phone, fax, e-mail or mail; and the staff of the EIS will make an effort to give answer to them as soon as possible.

The "Electoral Guidelines" edited by the NEO published so far are available free of charge at the election information service of the National Election Office; they provide information in detail on the present referendum and the elections held earlier in the country. Information on how to access the information service (address, office hours, telephone number, e-mail address) are given in Chapter III.

I.8 National Election Centre

On 12 April 2003 the National Election Office opens the National Election Centre (NEC) at the Duna Palace of the Ministry of the Interior. This is where the National Election Committee (NEC) and the National Election Office will be receiving the representatives of the international and domestic media, foreign election officials and domestic enquirers on the day of the referendum, and on the days preceding and following it (Budapest, V. Zrínyi 5.).

On the informative terminals, the development of turnout, the status of the aggregation of the ballots can be viewed.