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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

HUNGARY

Act L of 2010
on the Election of Municipal Representatives and Mayors
as of 21 December 2020

CHAPTER I GENERAL PROVISIONS

1. Suffrage

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- (1) Voters exercise the right to vote of their own free will.
- (2) Voters may vote at their domicile or – if they established a temporary place of residence beside their domicile until the 30th day before the date of calling the elections – at their registered place of residence.
- (3) Voters may be elected in any constituency.
- (4) In elections of Municipal Representatives and Mayors, a citizen is disfranchised if s/he serves a term of imprisonment with final effect or undergoes forced medical treatment ordered in the course of a criminal procedure.

2. Explanatory provisions

Section 2

When applying this Act, number of inhabitants shall mean the number of the persons whose domicile, in the absence of domicile, place of residence included in the register containing citizens' personal and address data is located on the administrative territory of the given settlement (capital district), the capital, the county, or whose domicile contains the name of the given settlement (capital district) only.

CHAPTER II CONSITUENCIES, POLLING DISTRICTS

Section 3

The number of the members of the body of representatives of the settlement municipality, the capital city assembly and the county assemblies shall be determined on the grounds of the number of inhabitants as of 1 January of the year of the general elections of Municipal Representatives and Mayors.

Section 4

Settlements with 10 000 or less inhabitants – in an “individual list” election system – constitute one constituency, in which the number of representatives shall be:

- a) 2 persons up to 100 inhabitants,
- b) 4 persons up to 1000 inhabitants,
- c) 6 persons up to 5000 inhabitants,
- d) 8 persons up to 10 000 inhabitants.

Section 5

(1) At settlements with more than 10 000 inhabitants and in the districts of the capital representatives will obtain mandates in a mixed election system, in single member constituencies and on compensatory lists.

(2) The number of mandates of single member constituencies and compensatory lists shall be:

- a) 8 single mandate constituency and 3 compensatory list mandates up to 25 000 inhabitants,
- b) 10 single mandate constituency and 4 compensatory list mandates up to 50 000 inhabitants,
- c) 12 single mandate constituency and 5 compensatory list mandates up to 75 000 inhabitants,
- d) 14 single mandate constituency and 6 compensatory list mandates up to 100 000 inhabitants.

(3) The number of representatives elected in a single member constituency will increase by one person for each further 10 000 inhabitants, and the number of representatives elected on compensatory list will increase by one person for each further 25 000 inhabitants.

Section 6

Mandates for the capital city assembly will be awarded as follows:

- a) 1 mandate resulting from the election of the Lord Mayor,
- b) 23 mandates based on the results of the district mayor elections
- c) 9 mandates from the capital city compensatory lists.

Section 7

(1) County assembly representatives will be elected by voters on county lists. With respect to the election, each county constitutes one constituency, which does not include cities with county rights and the capital.

(2) The number of the representatives of the county assembly shall be determined based on the number of inhabitants of the county in such form that

- a) up to 400 000 inhabitants, 1 representative for each 20 000 inhabitants but at least 15 representatives,
- b) up to 700 000 inhabitants, 20 representatives, and 1 representative for each further 30 000 inhabitants exceeding 400 000,
- c) over 700 000 inhabitants, 30 representatives, and 1 representative for each further 40 000 inhabitants exceeding 700 000 may be elected.

CHAPTER III PROPOSAL

Section 8

(1) A voter may propose multiple candidates or lists per nomination type but may accept nomination only in one settlement, capital district, and county.

(2) In the individual election system a voter may accept maximum one mayor, one individual list and one county candidacy simultaneously.

(3) In the mixed election system a voter:

- a) may accept maximum one single mandate constituency, one compensatory list and one county list candidacy simultaneously, outside the capital,
- b) one single mandate, one compensatory list and one capital city compensatory list candidacy simultaneously, in the capital,
- c) if the candidate obtains a mandate in Budapest both from the capital city compensatory list and the district compensatory list, then in 3 days from the election the candidate shall make a statement which one s/he accepts. The candidate shall be deleted from the list from where s/he did not accept a mandate.

(4) In the mixed election system a candidate for mayor:

- a) may accept one single mandate constituency, one compensatory list and one county list candidacy simultaneously, outside the capital,
- b) one single mandate constituency, one compensatory list and one capital city list candidacy simultaneously, in the capital

(5) Candidates for Lord Mayor may accept only capital city compensatory list candidacy.

(6) Voters shall not be candidates on capital city list and county list simultaneously. Voters shall not be candidates on county list and in a city with county rights simultaneously. Voters shall not be candidate on county list and candidate for mayor in a city with county rights simultaneously.

(7) One nominating organisation may put forward only one candidate in one single mandate constituency.

Section 9

(1) The voters who have been proposed for candidate by at least 1% of the voters of the given constituency will be individual list or single mandate constituency candidates for representative.

(2) In county constituencies, lists may be set up by nominating organisations that have collected the proposals of 0.5% of voters of the constituency.

(3) Voters who have been recommended for candidate

- a) by at least 3% of voters of settlements with 10 000 or less inhabitants,

b) by at least 300 voters in case of settlements with inhabitants exceeding 10 000 but equal to or less than 100 000,

c) by at least 500 voters in case of settlements with more than 100 000 inhabitants will be candidate for mayor.

(4) Voters who have been recommended by 5 000 voters of the capital will be candidate for Lord Mayor.

Section 9/A

During elections for mayor and for local municipal representatives the – stand alone or joint – candidates of national minority organisation(s) as defined by the act on the rights of national minorities shall be national minority candidates as long as s/he is:

a) properly enrolled in his/her minorities electoral register

b) s/he has not stood for election as a candidate of another national minority during the last two general municipality elections and the following by-elections,

c) s/he testifies that:

ca) s/he is willing to take on the duty of representing the national minority,

cb) s/he speaks the language of the national minority and is familiar with its culture and traditions.

Section 10

(1) At settlements with more than 10 000 inhabitants compensatory lists may be set up by nominating organisations that have put forward candidates in more than half of the single member constituencies of the settlement.

(2) As for the election of the members of the capital city assembly, a capital city compensatory list may be set up by nominating organisations that have set up compensatory lists in more than half of the districts of the capital.

(2a) On a capital city compensatory list the nominating organisation concerned may put forward candidates for Lord Mayor or district mayors as list candidates. On a joint capital city compensatory list the concerned jointly nominating organisations may put forward jointly nominated candidates for Lord Mayor and district mayors as list candidates.

(3) The right of setting up lists shall not be affected by withdrawing or terminating the candidacy of a registered single member constituency candidate.

Section 11

(1) Nominating organisations that have put forward joint individual candidates in more than half of the single mandate constituencies may set up joint compensatory list.

(2) Nominating organisations that have set up joint compensatory list in more than half of the districts of the capital may set up joint capital city list.

(3) Nominating organisations that have collected joint proposal of 1% of voters of settlements located in the county constituency but at least 2000 voters may set up joint county list.

Section 11/A

National minority candidates standing for election in single-member constituencies shall be transferred to separate national minority compensatory lists except for those put forward by national minority organisations that have set up individual or joint compensatory lists according to Section 10 (1) or Section 11 (1).

CHAPTER IV

SYSTEM OF ELECTION AND DETERMINING THE RESULT

1. Election of mayors

Section 12

(1) The mayor and the Lord Mayor will be elected directly by voters of settlements.

(1a) During elections for mayor or Lord Mayor the voters may vote for one candidate on the ballot.

(2) The candidate who has received the most valid ballots will be the mayor, the Lord Mayor.

2. Individual list election system

Section 13

(1) Candidates who have received the most valid ballots in terms of the number of eligible representatives will be representatives on individual list. In the event of a tied vote, it shall be determined by drawing which one of the candidates who have attained an equal number of votes will obtain mandate.

(2) On individual list ballot papers, a voter may cast vote on maximum as many candidates as many individual list mandates may be allocated.

(3) If a candidate from the individual list has been elected mayor, s/he shall be deleted from the individual list, and shall be replaced by the next candidate who has obtained the most ballots.

3. Mixed election system

Section 14

The candidate who has received the most valid ballots will be the representative in the single member constituency. Voters may vote for one candidate on the ballot.

Section 15

(1) The compensatory and the national minority compensatory list will obtain mandates in proportion to the surplus votes aggregated in the constituency.

(2) Each vote cast on the candidate of the nominating organisation in the single mandate constituency by which no mandate has been obtained will be considered as surplus vote.

(3) Votes cast on joint candidates considered as surplus votes will be put on the joint compensatory list of nominating organisations that have put forward a joint candidate.

(3a) Votes cast on single member constituency national minority candidates that have not won a mandate shall be considered as surplus votes transferable to the compensatory national minority list.

(4) Form of calculation of compensatory mandate:

a) a table shall be compiled, in which a column of figures shall be made under the name of each list. The first number in the column of figures will be the number of votes of the given list. The following numbers of the column of figures will be the number of votes of the given list divided by three, five, seven, by turns, the new divisor will be the value of the previous divisor increased by two.

b) The greatest number in the list shall be found, and the list in the column of figures of which we find it will be given one mandate. After that, the next greatest number shall be found. The list in the column of figures of which we find it will be given one mandate. This procedure shall be continued until all of the mandates have been allocated.

c) If in searching for the greatest number occurring in the table there are equal greatest numbers, then mandate will be given to the list that has not obtained any mandate yet, or that has been given less mandates, finally, that has been given a lower serial number in drawing the list.

(5) If a compensatory or national minority list receives more mandates than the number of the persons included in the list, the mandate will remain unfilled.

16. Section (1) Candidates will be given mandates from the compensatory list in the order of notification. Candidates eliminated will be replaced by the candidate following him in order.

(2) If the candidate of the compensatory list has been elected mayor, or representative in the single mandate constituency, s/he shall be deleted from the compensatory list and will be replaced by the next candidate in the list.

(3) No mandate will be given to

a) the compensatory list of the nominating organisation if the candidates of the nominating organisation that has set up such list have not reached five percent of compensatory votes aggregated at settlement level, or

b) the compensatory list if the joint candidates of nominating organisations that have set up a joint list have not reached ten per cent of compensatory votes aggregated at settlement level, or fifteen per cent thereof, in the case of joint compensatory list set up by more than two nominating organisations.

(4) Candidates from national minority compensatory lists will be awarded mandates according to the number of votes gained in single member constituencies . In the case of equality of votes, the mandate will be decided by drawing lots.

(5) Subsection (3) shall not be applied to national minority compensatory mandates.

4. Election of the non-district mayor and Non-Lord Mayor members of the capital city assembly

Section 16/A

Section 17

(1) Capital city compensatory lists will be given mandates in proportion to the surplus votes cast on the candidates for district mayor and aggregated on the level of the capital city.

(2) Surplus votes shall be all votes cast on the district mayor candidate of a nominating organisation not resulting in a successfully elected district mayor. Surplus votes shall be transferred to the capital city compensatory list of the nominating organisation.

(3) Surplus votes shall be all votes cast on the district mayor joint candidate not resulting in a successfully elected district mayor. Surplus votes shall be transferred to the joint capital city compensatory list of the jointly nominating organisations.

(4)

(5) Form of calculating capital city compensatory mandates:

a) a table shall be compiled, in which a column of figures shall be made under the name of each list. The first number in the column of figures will be the number of votes of the given list, the following numbers of the column of figures will be the number of votes of the given list divided by three, four, five, by turns, whole numbers following each other.

b) mandates may be allocated by using the table. The greatest number in the list shall be found, and the list in the column of figures of which we find it will be given one mandate. After that, the next greatest number shall be found. The list in the column of figures of which we find it will be given one mandate. This procedure shall be continued until all of the mandates have been allocated.

c) If in searching for the greatest number occurring in the table there are equal greatest numbers, then mandate will be given to the list that has not obtained any mandate yet, or that has been given less mandates, finally, that has been given a lower serial number in drawing the list.

(6) If a capital city list is given more mandates than the number of the persons in the list, the mandate will remain unfilled.

Section 18

(1) Candidates from the capital city compensatory list will be given mandates in the order of notification.

(2) If the candidate of the capital city compensatory list has been elected Lord Mayor, s/he shall be deleted from the capital city list and will be replaced by the next candidate in order.

5. Election of the members of county assembly

Section 18/A

During elections for county assemblies voters may vote for one list on the ballot.

Section 19 (1) County lists will obtain mandate in proportion to ballots cast, based on the form of calculation set out in Section 17 (5).

(2) No mandate will be given to

a) the county list of the nominating organisation if it has not reached five per cent of the valid votes cast on county lists, or

b) the joint county list if it has not reached ten per cent of the valid votes cast on county lists, or fifteen per cent thereof in the case of joint county list set up by more than two nominating organisations. In this respect, solely valid votes cast on joint county lists compiled by the same nominating organisations may be aggregated.

(3) If the list is given more mandates than the number of persons in the list, the mandate will remain unfilled.

CHAPTER V

RULES TO BE APPLIED IN THE EVENT OF TERMINATION OF THE MANDATE OF REPRESENTATIVES, MAYORS, THE LORD MAYOR

1. By-election

Section 20

(1) If on the individual list fewer candidates run than the number of eligible representatives or there was no candidate or candidate for mayor or Lord Mayor in the single mandate constituency, the election shall not be held, and by-election shall be called.

(2) If in a single mandate constituency the most votes have been attained by two or more candidates with equal number of votes, by-election shall be called.

(3) If two or more candidates for mayor or Lord Mayor have received the most votes of equal number, by-election shall be called.

(4) If in the individual list election less representatives are elected than the number determined in this Act, by-election shall be called for the representative seats not filled.

(5) If the mandate of the single mandate constituency representative or the mayor, the Lord Mayor terminates, by-election shall be called.

(6) If the body of representatives of the municipality has been dissolved or has dissolved, by-election shall be called.

2. Filling the mandate of representatives eliminated

Section 21

(1) If the seat of a representative elected from individual list has become vacant, s/he shall be replaced by the next candidate who has obtained the most votes.

(2) If a representative elected from county, compensatory or capital city list is eliminated, s/he shall be replaced by the candidate notified by the nominating organisation from the list originally notified. If a representative elected from a capital compensatory city list is elected as mayor or Lord Mayor during a by-election, s/he shall be replaced by the candidate notified by the nominating organisation from the list originally notified. If the nominating organisation does not notify the candidate by the deadline determined in Section 207/A of Act XXXVI of 2013 on Electoral Procedure, the vacant seat will be taken by the candidate coming next in the list.

(3) If there is no more candidate in the individual list, compensatory list, county list or the capital city list, then no by-election shall be called, the mandate will remain unfilled until the next general elections

(4) If the number of representatives elected on individual list, county list or capital city list becomes less than necessary for operating the body of representatives or the assembly, then by-election shall be called for the vacant seats.

Chapter V/A

Preferential national minority mandates

Section 21/A

(1) During general municipality elections and by-elections for re-electing an entire local body of representatives national minority candidates may gain mandates under preferential conditions if at least 50 per cent of the voters enrolled at the time of the setting of the election are voters of the concerned national minority.

(2) If no candidate of a national minority manages to obtain a mandate for mayor or from an individual list, it has to be determined how much votes take up the 2/3-rd of the minimal amount of votes needed to obtain a mandate. Preferential mandates will be awarded for those national minority candidates that have gained more votes than this calculated number. If a national minority has multiple candidates surpassing this limit, the candidate with the most votes shall

obtain the mandate, in case of equality of votes drawing lots will determine the allocation of the mandate.

(3) The composition of the body of representatives as per Section 4 shall be supplemented with preferential mandates as described in (2).

(4) If a preferential mandate of a national minority becomes vacant, the next candidate in line of the same national minority with the most votes shall fill the seat if s/he has also managed to pass the required threshold as per (2).

(5) If the vacant seat according to Section 21 (1) gets filled by a representative with the most votes elected under preferential conditions, then s/he shall keep his/her mandate based on Section 21 (1) but the preferential mandate of the given national minority shall terminate.

(6) If the candidate of the same national minority gets elected as mayor or via a list, the preferential mandate shall be terminated.

Section 21/B

(1) During general municipality elections and by-elections for re-electing an entire local body of representatives national minority candidates may gain mandates via compensatory lists under preferential conditions if at least 25 per cent of the voters enrolled at the time of the setting of the election are voters of the concerned national minority.

(2) If none of the candidates of a national minority manages to obtain a mandate for mayor or from an individual or (national) compensatory list:

a) the sum of $2/3^{\text{rd}}$ of the average of valid votes required to obtain mandates in single member constituencies has to be determined,

b) if a national minority compensatory list obtains more votes than the number calculated according to a) shall receive a preferential mandate. The mandate shall be allocated to the candidate according to Section 16 (2).

(3) The number of the representatives of the municipal body as defined in Section 5 shall be supplemented with the preferential mandate as per (2).

(4) If a mandate of a national minority obtained from a national compensatory list becomes vacant, the next candidate in line of the same national minority with the most votes in the single-member constituency shall fill the seat.

(5) If during a by-election the candidate of the same national minority obtains a seat as mayor or single member constituency representative, his/her the preferential mandate shall terminate.

CHAPTER VI CLOSING PROVISIONS

Section 22

Section 23

This Act shall enter into force on the day it is promulgated; its provisions shall be applied on the first occasion in the 2010 general elections of municipality representatives and mayors.

Section 24

Provisions of this Act stipulated by Act CLXXIX of 2011 on the rights of national minorities shall be applied on the first occasion in the first general municipality elections after the coming into force of Act CLXXIX.

Section 24/A

Chapter I-V/A, Section 22, Section 24 shall be considered based on Article XXIII and Article 35 (1) of the Fundamental Law as cardinal provisions.

Section 25

This Act serves compliance with the Council's Directive of 19 December 1994 94/80/EC declaring detailed rules on exercising suffrage and eligibility of Union citizens having domicile in a Member State other than their state of citizenship, in municipal elections.

Section 26

