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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

HUNGARY

**ACT CCIII OF 2011 ON THE ELECTIONS OF MEMBERS OF
PARLIAMENT
AS OF 21 DECEMBER 2020**

Act CCIII of 2011 On the Elections of Members of Parliament

The Parliament

- relying on Hungary's legislative traditions based on popular representation;
- guaranteeing that in Hungary the source of public power shall be the people, which shall primarily exercise its power through its elected representatives in elections which shall ensure the free expression of the will of voters;
- ensuring the right of voters to universal and equal suffrage as well as to direct and secret ballot;
- considering that political parties shall contribute to creating and expressing the will of the people;
- recognising that the national minorities living in Hungary shall be constituent parts of the State and shall have the right ensured by the Fundamental Law to take part in the work of Parliament;
- guaranteeing furthermore that Hungarian citizens living beyond the borders of Hungary shall be a part of the political community;

in order to enforce the Fundamental Law, pursuant to Article XXIII, Subsections (1), (4) and (6), and to Article 2, Subsections (1) and (2) of the Fundamental Law, hereby passes the following Act on the substantive rules for the elections of Hungary's Members of Parliament:

1. Interpretive provisions

Section 1 For the purposes of this Act:

Residence: the residence defined by the Act on the Registration of the Personal Data and Residence of Citizens; in the case of citizens without residence, their current addresses.

Political party: any organisation founded and registered under the Act on the Operation and Financial Management of Political Parties.

2. Suffrage

Section 2 (1) The exercise of suffrage shall be based on the free will of voters.

(2) Suffrage in the election of Members of Parliament may be exercised by voters enrolled on the electoral register.

(3) A person serving imprisonment under an absolute sentence or subject to forced medical treatment in an institute as decreed in criminal proceedings shall not be eligible to stand as candidate in any election of Members of Parliament.

3. Number of Members of Parliament

Section 3 (1) The number of Members of Parliament shall be one hundred and ninety-nine.

(2) One hundred and six Members of Parliament shall be elected in single-member constituencies and ninety-three from national lists.

4. Single-member Constituencies

Section 4 (1) In each single-member constituency one Member of Parliament may be elected.

(2) Single-member constituencies shall be established in a manner that

a) they not cross county boundaries or the boundaries of Budapest;

b) they form contiguous areas,

c) the number of voters will be approximately identical.

(3) The districts of Budapest and any town or village may be subdivided into two or more single-member constituencies, if the number of voters exceeds the average number of voters in the single-member constituencies.

(4) The number of voters in any single-member constituency may only deviate from the national arithmetic mean of voters in single-member constituencies by any rate above fifteen percent in

order to enforce the provisions of Subsection (2)a) and b), also in consideration of geographical, ethnic, historical, religious and other local characteristics and of any migration of the population.

(5) The number of single-member constituencies in counties and Budapest shall be contained in Annex 1, and their serial numbers, seats and territorial division in Annex 2.

(6) If the deviation referred to in Subsection (4) exceeds 20%, Parliament shall amend Annex 2. Annex 2 may not be amended during the period between the first day of the year preceding the general election of Members of Parliament and the day on which the general election of Members of Parliament is held, with the exception of any election held due to the voluntary or mandatory dissolution of Parliament.

(7) In the event of any change in the name of any town or village, the name of any public area, any title number or any building number, the territorial division of the constituencies listed in Annex 2 shall remain valid.

(8) The rate of deviation laid down in Subsections (4) and (6) shall be determined in comparison with the number of voters as of the day of the preceding general election of Members of Parliament.

(9) When deciding to change the boundaries of counties or Budapest, Parliament shall concurrently arrange for delimitation of single-member constituencies.

5. Nominating Candidates in Single-member Constituencies

Section 5 (1) A candidate in any single-member constituency may run for election as

a) the candidate of any political party or

b) an independent candidate.

(2) One candidate may be nominated by two or more political parties.

(3) One person may only accept nomination in one single-member constituency.

Section 6 (1) Nomination in any single-member constituency shall be subject to a minimum of five hundred recommendations signed by voting citizens.

6. Drawing up National Lists

Section 7 National list may be drawn up as a party list or national minority list.

Section 8 (1) Party list may be drawn up by any political party which nominated candidates independently in at least twentyseven single-member constituencies within at least nine counties and in Budapest.

(2) Two or more political parties may draw up joint party list with the participation of the same political parties that nominate joint candidates in the single-member constituencies.

(3) One political party may only participate in drawing up one party list, whether independently or jointly.

(4) A party list may include no more than three times as many candidates as the number of mandates which can be won on the national list.

Section 9 (1) National self-governments of national minorities may draw up national minority lists.

(2) Drawing up any national minority list shall be subject to recommendations by at least one percent of voters on the electoral register as national minority voters but to no more than one thousand and five hundred recommendations.

(3) A national minority list may include candidates who are on the electoral register as voters of the particular national minority.

(4) A national minority list shall include at least three candidates.

(5) Joint national minority list may not be drawn up by two or more national self-governments of national minorities.

Section 10 (1) One person may only accept candidacy on one national list.

(2) A person nominated by any political party in any single-member constituency may only appear on the party list of the same political party.

(3) If a candidate drops out of any national list, he shall be replaced by the next candidate on the particular national list.

7. Voting

Section 11 The elections of Members of Parliament shall be held in one round.

Section 12 (1) Voters with residence in Hungary may vote for

- a) one candidate in any single-member constituency and
- b) one party list.

(2) Voters with residence in Hungary who are enrolled on the electoral register as national minority voters may vote for

- a) one candidate in any single-member constituency and
- b) the list of their national minority or, in the absence thereof, for one party list.

(3) Voters without residence in Hungary may vote for one party list.

8. Determination of Election Results

Section 13 The candidate who received the majority of valid votes shall be the Member of Parliament for the particular single-member constituency.

Section 14 (1) No mandate may be won by a party list which failed to reach at least five percent of all valid votes for party lists and national minority lists.

(2) No mandate may be won by a joint party list which failed to reach at least ten or, in the case of a joint party list drawn up by more than two political parties, fifteen percent of all valid votes for party lists and national minority lists.

(3) No mandate may be won by a national minority list which failed to reach the number of votes required for winning a preferential national minority mandate (hereinafter: preferential quota) determined by Section 16d).

Section 15 (1) Surplus votes in any single-member constituency shall include:

- a) votes cast for any candidate who failed to win the mandate and
- b) the number of votes remaining after deducting the number of votes for the runner-up candidate plus one from the number of votes for the candidate who won the mandate.

(2) If two or more candidates receive the majority of votes with an identical number of votes in any single-member constituency, the votes for every candidate in the particular single-member constituency shall qualify as surplus votes.

(3) The surplus votes for any independently drawn up party list shall be the surplus votes for the candidates of the particular political party in the single-member constituencies.

(4) The surplus votes for any joint party list shall be the surplus votes for the joint candidates of the participating political parties in the single-member constituencies drawn up with the participation of the same political parties.

Section 16 Mandates which may be won from a national list shall be distributed in the following procedure:

a) Pursuant to Section 15, the surplus votes for any political party entitled to win a mandate under Section 14(1) and (2) shall be added to the number of party list votes for the particular political party (hereinafter: number of votes for party list);

b) The number of votes for party lists shall be aggregated (hereinafter: total number of party list votes);

c) The total number of party list votes and the votes for national minority lists shall be aggregated (hereinafter: total number of national list votes);

d) The total number of national list votes shall be divided by ninety-three, and the result shall be divided by four; the preferential quota shall be the integer of the resulting quotient;

e) If the number of votes for a particular national minority list exceeds or is identical to the preferential quota, the particular national minority list shall win one preferential mandate; one national minority list may win one preferential mandate; the number of allocated preferential mandates shall be deducted from the number of mandates which may be won on the national list;

f) Mandates remaining after the procedure described in Paragraph e) shall be distributed among

fa) party lists entitled to win mandates under Section 14(1) and (2), and

fb) national minority lists which won preferential mandates, where the number of votes reaches the number of votes corresponding to the percentage defined by Section 14(1);

g) Mandates defined by Paragraph f) shall be distributed in the following procedure:

ga) A table shall be drawn up where the first line shall include the number of votes for party lists and for national minority lists minus the preferential quota (hereinafter: votes). A column of numbers shall be inserted under the votes for every party list and national minority list, where the first number shall be half of the votes for the particular list, the second number shall be one-third, the next one shall be a quarter, etc.;

gb) The table shall be used to distribute mandates by searching for the highest number in the table; the list shall receive one mandate, in the column of which such number is found ; afterwards, a search shall be made for the second highest number; the list shall receive one mandate, in the column of which such number is found; this procedure shall continue until every mandate is distributed;

gc) If there are equal numbers under multiple lists in the table and such number would involve a mandate but the number of mandates which may be won are lower than the number of lists which has an identical number, mandates shall be distributed in the order of the serial numbers of the lists.

Section 17 (1) Candidates shall win mandates of a national list in the order of their ranks on the national list.

(2) Candidates winning mandates in any single-member constituency shall be struck off the national list.

(3) If a candidate drops out of any national list, they shall be replaced by the next candidate on such national list.

(4) If a national list includes fewer candidates than the number of mandates won by such list, any undistributed mandate shall remain vacant.

9. National minority Spokespersons

Section 18 (1) Any national minority which drew up a national minority list but failed to win a mandate by such list shall be represented by its national minority spokesperson in Parliament.

(2) The national minority spokesperson shall be the candidate who ranked first on the national minority list.

10. Filling Vacated Mandates

Section 19 (1) By-elections shall be held in any single-member constituency if

a) there is no candidate in the election;

b) the majority of votes are received by two or more candidates with an identical number of votes;

c) the mandate of the elected Member of Parliament for any single-member constituency is terminated.

(2) Any by-election shall be subject to the division of constituencies applied to the preceding general elections of Members of Parliament.

Section 20 (1) If the mandate of any Member of Parliament elected from a national list is terminated, his mandate shall be obtained by a candidate among those originally on the national list, appointed by the particular political party (or the affected political parties in the case of a joint party list) or by the particular national minority self-government or, in the absence of appointment, by the next candidate on the national list.

(2) If there are no more candidates on the national list, the mandate shall remain vacant.

(3) If the mandate of the national minority spokesperson is terminated, the new spokesperson shall be selected by the national minorities national self-government from the candidates already proposed on the national list or lack of such the candidate next in line from the national list. If there are no more candidates on the national list, the national minority concerned shall not have a spokesperson until the mandate of the Parliament terminates.

11. Miscellaneous Provisions

Section 21 This Act shall come into force on 1 January 2012.

Section 22 The abbreviation of this Act to be applied in any other law shall be "Vjt."

Section 23 (1) The provisions of this Act shall be applicable for the first time to the general election of Members of Parliament held after the coming into force of this Act, with the exception of Section 2 (3) and Section 4 (6).

(2) Provisions of Section 4 (6) shall be applied before the first general election of Members of Parliament after the coming into force of this Act in such manner that no modification of Annex 2 shall be possible in the timeframe between 15 July 2013 and the day of general election of Members of Parliament after the coming into force of this Act.

Section 24 (1) The provisions of Act XXXIV of 1989 on the Elections of Members of Parliament shall apply until a date is set for the first general election of Members of Parliament after the coming into force of this Act.

(2) If a date is set for any by-election before the first general election of Members of Parliament after the coming into force of this Act, Parliament shall pass an Act to delimit constituencies applicable to such by-election, in consideration of Section 19(2).

(3) Until a date is set for the first general election of Members of Parliament after the coming into force of this Act, suffrage shall only be held by those who have residence in Hungary.

Section 25 This Act, including its Annexes, shall qualify as a cardinal Act pursuant to Articles XXIII (4) and Article 2 Subsection (1) and (2) of the Fundamental Law.

Section 26