

## EMÍLIA RYTKÓ: NATIONAL REFERENDA IN HUNGARY

According to the Constitution of the Republic of Hungary, the people exercise their power through elected representatives indirectly and through referenda directly. As construed by the Constitutional Court, the exercising of power through representation is primary, while referenda are only of exceptional nature, however, are given priority when implemented, the Parliament must execute decisions adopted through referenda and such decisions are binding for three years.

The Constitution stipulates that referenda may only be held in matters falling within the scope of authority of the Parliament, and precludes referenda in several subject matters. Thus, no referendum may be held on

- a) the budget, the implementation of the budget, central tax types and stamp duties, customs duties and on the scope of laws on the central conditions of local taxes;
- b) obligations arising from international treaties in effect and the scope of laws containing such obligations;
- c) the provisions of the Constitution pertaining to referenda and people's initiatives;
- d) personnel and organisational restructuring (conversion or termination) matters falling within the scope of authority of the Parliament;
- e) the dissolution of the Parliament;
- f) the Government Agenda,
- g) declaration of state of war, announcement of state of emergency;
- h) deployment of the Hungarian Army home or abroad;
- i) dissolution of the local council of municipal representatives;
- j) exercising of general pardon.

The institution of referenda has been of exceptional character so far since only six referenda had been held since the democratic transition in 1989.

In 1989, the so-called four-yes referendum played a major role among the events of the change of regime, which contributed greatly to the demolition of the single party regime. Voters had the opportunity to decide four matters: the method of election of the president of the republic, party organisations in places of work, the accountability of the state party and the dissolution of Workers' Guard. The majority of voters opted

for yes in all matters, while the large number of participants in the referendum provided particular weight to the outcome.

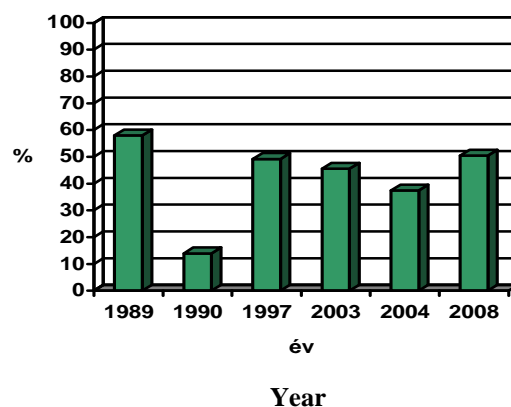
The next referendum held in 1990 did not mobilise voters to such an extent – possibly due to its mid-summer date and several election incidents. Barely 14% found it important to declare an opinion repeatedly on the method of election of the president of the republic thus, the referendum became invalid.

The subsequent two referenda opened a new chapter in the history of referenda. While in 1997, we had the opportunity to vote on Hungary's accession to the NATO, then in 2003, on Hungary's accession to the European Union. These two referenda ended successfully, with the majority of yes votes.

The referendum held in December 2004, however, was unsuccessful on the subject matter of keeping hospitals in state ownership and on granting preferential Hungarian citizenship.

On 9 March 2008, the last national referendum was held in Hungary, in which voters declared their opinion on the abolition of outpatient care fees, inpatient care fees and tuition fees.

The following chart illustrates the participation figures of referenda.



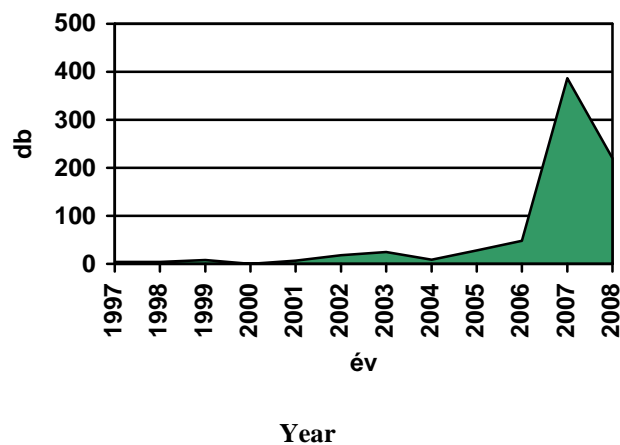
At the first two referenda, validity was subject to at least half of eligible voters participating. In 1997, the Constitution was amended prior to the NATO-referendum, owing to which it had already been sufficient for a successful referendum to have one fourth of eligible voters answering identically.

The referendum of 9 March 2008 was administered lawfully and professionally. Since the referendum process is characterised by only 43 days being available to the election administration to prepare everything from the setting of the date of the referendum to

the day of the voting, this called for the coordinated and disciplined efforts of several thousand civil servants.

Although the election panels and civil servants fulfilled their responsibilities in exemplary fashion, we have to conclude that referendum regulations have become obsolete. The first referendum act (Act XVII of 1989) had served Hungarian direct democracy for 9 years and the act currently in force (Act III of 1998) indeed entered into effect 9 years ago and thus has become ripe for an upgrade.

The rapid increase in the number of referendum initiatives represents the biggest issue. While in the first 15 years, the number of initiatives was insignificant, they multiplied in the last two years as shown in the diagram below.



Not only the number of submissions represent an issue, but also initiators express the hollow, indeed, sometimes even obscene questions, thus not only rendering the work of the National Election Panel difficult, but also denouncing the institution of referenda considering that its resolutions are published in the Hungarian Bulletin.

Another issue is that almost 18 months elapse between the submission of an initiative and the holding of a referendum. The main reason being the lengthy legal remedy process during the certification of a question in which the Constitutional Court plays a significant role. The referendum held on 9 March this year, for example, was initiated on 24 October 2006, exactly 18 months earlier.

It appears from this as well that a question featured on the voting-paper may lack any reason or the general public might have no interest in it anymore.

There are several other regulatory shortcomings as well, such as no action being prescribed for several initiatives received in the same subject matter.

As apparent, the process needs to be reconsidered in several aspects as already established by the Constitutional Court when suggested in a resolution in 2007 for the legislator to review referendum regulations comprehensively.

The work before the legislator is facilitated to a great extent by such international conferences offering opportunities to familiarise with and gather experiences from other countries.

*September 2008 in Constanza*