

# Act CCIII of 2011

## on the election of the Members of the National Assembly

The National Assembly

- relying on Hungary’s legislative traditions based on popular representation;
  - guaranteeing that in our country the source of public power is the people, which primarily exercises its power through its elected representatives in elections which 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 contribute to the formation and expression of the will of the people;
  - recognising that the national minorities living in Hungary are constituent parts of the State and have the right ensured by the Fundamental Law to take part in the work of the National Assembly;
  - guaranteeing furthermore that Hungarian nationals living beyond the borders of Hungary are a part of the political community;
- for the purpose of implementing the Fundamental Law, and on the basis of Article XXIII (1), (4) and (6), and Article 2 (1) and (2) of the Fundamental Law, to lay down the substantive rules governing the elections of Members of the National Assembly, adopts the following Act:

### 1. Interpretative provisions

**Section 1** For the purposes of this Act:

domicile means a domicile within the meaning of the Act on the registration of personal data and address of citizens; for a citizen not having a domicile, it refers to the place of residence;

political party means any organisation established 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 a decision freely taken by the voter.

(2) Voters recorded in the electoral register may exercise their suffrage in the election of the Members of the National Assembly.

(3) A person who is serving, under a final and binding judgment, a sentence of imprisonment or subjected to compulsory psychiatric treatment in an institute ordered in a criminal proceeding shall not be eligible to stand as a candidate at the election of the Members of the National Assembly.

### 3. Number of the Members of the National Assembly

**Section 3** (1) The number of the Members of the National Assembly shall be one hundred and ninety-nine.

(2) One hundred and six Members of the National Assembly shall be elected from single-member constituencies and ninety-three from national list.

#### **4. Single-member constituencies**

**Section 4** (1) In each single-member constituency, one Member of the National Assembly may be elected.

(2) Single-member constituencies shall be arranged in a manner to ensure that

*a)* they do not extend beyond county boundaries or the boundaries of the capital,

*b)* they form contiguous areas,

*c)* the number of eligible voters be approximately the same in each of them.

(3) The capital districts and the settlements with a number of eligible voters higher than the average number of eligible voters in single-member constituencies may be divided into two or more single-member constituencies.

(4) The number of eligible voters in a single-member constituency may not deviate from the arithmetic mean of eligible voters in single-member constituencies at national level by a rate exceeding fifteen per cent unless this is required to comply with the provisions of paragraph (2) *a)* and *b)*, taking into account the geographical, national minority, historical, religious and other local characteristics and the demographic changes.

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

(6) If the deviation referred to in paragraph (4) exceeds twenty per cent, the National Assembly shall amend Annex 2. Annex 2 shall not be amended during the period between the first day of the year preceding the general election of the Members of the National Assembly and the day on which the general election of the Members of the National Assembly is held, except for elections held due to the National Assembly dissolving itself or to it being dissolved.

(7) In the event of any change in the name of a settlement or public space, or in a parcel identification number or house number, the territorial division of the constituencies listed in Annex 2 shall remain unamended.

(8) The rate of deviation referred to in paragraphs (4) and (6) shall be determined in relation to the number of voters who were eligible to vote on the day of the preceding general election of the Members of the National Assembly.

(9) When deciding to change the boundaries of counties or the capital, the National Assembly shall concurrently arrange for changing the boundaries of single-member constituencies.

## **5. Nominating candidates in single-member constituencies**

**Section 5** (1) A candidate in a single-member constituency may stand for election as

*a)* the candidate of a political party or

*b)* an independent candidate.

(2) Two or more political parties may nominate a joint candidate.

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

**Section 6** Nomination in a single-member constituency shall be subject to recommendations by at least five hundred voters.

## **6. Drawing up national lists**

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

**Section 8** (1) A political party may draw up a party list if it has independently nominated candidates in at least seventy-one single-member constituencies within at least fourteen counties and in the capital.

(2) Two or more political parties may draw up a joint party list of their joint candidates in single-member constituencies, featuring the same political parties.

(3) A political party may draw up only 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 from national list.

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

(2) Drawing up a national minority list shall be subject to recommendations by at least one per cent of the voters recorded in the electoral register as national minority voters or to one thousand and five hundred recommendations, whichever is less.

(3) Candidates on a national minority list may be only voters recorded in the electoral register as voters of that particular national minority.

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

(5) The national self-governments of two or more national minorities may not draw up a joint national minority list.

**Section 10** (1) A person may accept nomination on only one national list.

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

(3) If a candidate drops out of the national list, his place shall be taken by the candidate ranked next on the national list.

## **7. Voting**

**Section 11** The Members of the National Assembly shall be elected in a single round of voting.

**Section 12** (1) A voter with domicile in Hungary may cast a vote for

*a)* one single-member constituency candidate and

*b)* one party list.

(2) A voter with domicile in Hungary and recorded in the electoral register as national minority voter may cast a vote for

*a)* one single-member constituency candidate and

*b)* the list of his national minority or, in the absence thereof, one party list.

(3) A voter with no domicile in Hungary may cast a vote for one party list.

## **8. Establishing the election result**

**Section 13** In a single-member constituency, Member of the National Assembly shall be the candidate who received the highest number of valid votes.

**Section 14** (1) No mandate shall be allocated to a party list that did not receive at least five per cent of the total of valid votes cast for party lists and national minority lists.

(2) No mandate shall be allocated to a joint party list that did not receive at least ten per cent or, if the joint party list was drawn up by more than two political parties, fifteen per cent of the total of valid votes cast for party lists and national minority lists.

(3) No mandate shall be allocated to a national minority list that did not receive the number of votes required for winning a preferential national minority mandate under section 16 *d)* (hereinafter: preferential quota).

**Section 15** (1) Votes cast in a single-member constituency

*a)* for a candidate who did not win the mandate, or

*b)* that remain 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

shall constitute wasted votes.

(2) If in a single-member constituency two or more candidates receive equal number of votes representing the highest number of votes, all votes cast for the single-member constituency candidates in that single-member constituency shall constitute wasted votes.

(3) The wasted votes cast for the individual single-member constituency candidates of a political party shall constitute wasted votes for the independent party list.

(4) The wasted votes cast for the joint single-member constituency candidates of political parties that were involved in drawing up the joint party list featuring the same political parties shall constitute wasted votes for the joint party list.

**Section 16** Mandates that can be won from national list shall be allocated as follows:

*a)* the number of list votes for a political party entitled to win mandate under section 14 (1) and (2) and the wasted votes for that political party under section 15 shall be added together (hereinafter “number of votes for party list”),

*b)* the numbers of votes for party lists shall be added together (hereinafter “total number of party list votes”),

*c)* the total number of party list votes and the votes cast for national minority lists shall be added together (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 integer of the resulting quotient shall constitute the preferential quota,

*e)* if the number of votes for a national minority list is higher than or equal to the preferential quota, that national minority list shall be allocated a preferential mandate; a national minority list may not be allocated more than one preferential mandate; the number of preferential mandates allocated shall be deducted from the number of mandates that can be won from national list,

*f)* the mandates that remain after the calculation described in point *e)* shall be allocated among

*fa)* the party lists that can be allocated mandates under section 14 (1) and (2), and

*fb)* the national minority lists that were allocated preferential mandate and for which the number of votes cast reaches the number corresponding to the percentage defined in section 14 (1);

*g)* the mandates referred to in point *f)* shall be allocated in accordance with the following provisions:

*ga)* a table shall be drawn up in which the first line shall include the number of votes cast for party lists and the number of votes cast for national minority lists less the preferential quota (hereinafter the “votes”); a column of numbers shall be inserted below 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 one fourth, etc.,

*gb)* using the table, mandates shall be allocated as follows: the list the column of which contains the highest number shall receive one mandate; next, the list the column of which contains the next highest number shall receive one mandate; the same proceedings shall be followed until every mandate is allocated,

*gc)* if the columns of multiple lists in the table contain the same number and this number would allocate a mandate to the lists concerned, but the number of mandates which can be won is lower than the number of the lists with the same number of votes, mandates shall be allocated in the order of the serial numbers of the lists.

**Section 17** (1) The candidates shall receive the mandates allocated to national list in the order of their ranks on the national list.

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

(3) If a candidate drops out of the national list, his place shall be taken by the candidate ranked next on the national list.

(4) If a national list receives more mandates than the number of candidates on the list, the mandates shall not be allocated to any candidate.

## **9. National minority advocates**

**Section 18** (1) A national minority which drew up a national minority list from which, however, it has not won a mandate shall be represented by a national minority advocate in the National Assembly.

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

## **10. Filling a vacancy**

**Section 19** (1) By-election shall be held in a single-member constituency if

*a)* there is no candidate at the election,

*b)* two or more candidates receive equal number of votes representing the highest number of votes,

*c)* the mandate of the elected single-member constituency Member terminates.

(2) At a by-election, the division of constituencies shall be the same as that for the preceding general election of the Members of the National Assembly.

**Section 20** (1) If a Member's mandate won from national list terminates, a new mandate shall be allocated to the candidate that the political party or, in the case of a joint party list, the political parties concerned, or the national self-government of the national minority concerned designated from among those originally included in the national list, or, in the absence thereof, to the candidate ranked next on the national list.

(2) If there are no more candidates left on the national list, the mandate shall not be allocated to any candidate.

(3) If the mandate of a national minority advocate terminates, the new national minority advocate shall be the candidate that the national self-government of the national minority concerned designated from among those originally included in the national list, or, in the absence thereof, the candidate ranked next on the national list. If there are no more candidates left on the national list, the national minority concerned shall not be represented by a national minority advocate until termination of the mandate of the National Assembly.

## **11. Final provisions**

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

**Section 22** The abbreviation of this Act to be applied in any other law shall be “Election Act”.

**Section 23** (1) With the exception of section 2 (3) and section 4 (6), the provisions of this Act shall for the first time apply to the first general election of the Members of the National Assembly held after the entry into force of this Act.

(2) Before the first general election of the Members of the National Assembly after the entry into force of this Act, the provisions of section 4 (6) shall apply with the proviso that Annex 2 shall not be amended during the period between 15 July 2013 and the day of general election of the Members of the National Assembly held after the entry into force of this Act.

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

(2) If a date for by-election is set before the first general election of the Members of the National Assembly after the entry into force of this Act, the National Assembly shall determine the constituencies for that by-election by means of an Act, taking into account section 19 (2).

(3) Until the date is set for the first general election of the Members of the National Assembly after the entry into force of this Act, only those shall be granted suffrage who have domicile in Hungary.

**Section 25** This Act, including its Annexes, qualifies as cardinal on the basis of Article XXIII (4) and Article 2 (1) and (2) of the Fundamental Law.

**Section 26**