

## Unconventional Electoral Systems – And The Hungarian Solution

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### Preface

There exist a number of well-known and widely employed electoral systems. The most defining principle of plurality systems is individual competition between candidates. Such systems can be broken down into two different types: the relative- and absolute majority vote. The latter of these requires more than half of all votes cast in any given constituency in order for a mandate to be won. In proportional voting systems, citizens cast their ballots on party lists instead, while mixed systems simultaneously encompass the aforementioned characteristics.<sup>1</sup>

Let us take a look at more specific categories now, as they are found in both theory and practice.

Absolute majority electoral systems were created to remedy the shortcomings of the relative majority vote. (Refer to the chapter on voting systems, including the issues of wasted vote and „Condorcet winners”.) According to *Borda*<sup>2</sup>, objectivity and justice would be best served if voters were allowed to rank all of a district’s candidates in their order of preference, with such an order determining the winner after the appropriate calculations. Given the sheer number of candidates, this method, itself never tested at parliamentary elections, might appear difficult to implement; however, it lends great importance to secondary votes, potentially bringing about a „just” form of popular representation based on compromise. The *alternative vote* particular to Australia stands on a similar principal footing, also requiring the ranking of candidates.<sup>3</sup> If the primary preferences fail to yield an absolute winner, the secondary preferences on the ballots cast for the least popular candidate are added to the primary votes, repeated, if necessary, by tertiary and lesser preferences until such time that the first candidate passes the fifty percent mark.<sup>4</sup> (This method bears a certain resemblance to the single transferable vote, distinguished, however, by its lack of proportionality, since alternative voting only awards a single mandate per district.)

It must be highlighted that in theory, alternative voting is more just than absolute majority methods, because the latter only take into account secondary preferences on the two (or more) candidates already having passed into the second round via primary preference votes. By contrast, alternative voting allows for the weighing of *all* preferences, including tertiary or even more distant expressions of support. (*Ad absurdum*, in an absolute-simple majority system, similar to the one previously employed in Hungary, a less rejected candidate eventually claiming victory through secondary and tertiary votes would not even have made it to the second round with just fifteen percent of primary votes!)

What this would mean is that a reserved and less maverick candidate hated by fewer voters than the frontrunners would not even get to the second round in an absolute majority system, even though such a candidate, given all the secondary and tertiary votes received, would be the overall most popular choice.<sup>5</sup> This ties in well with the

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<sup>1</sup> DEZSŐ Márta.: *Képviselőt és választás a parlamenti jogban*. Közgazdasági és Jogi Könyvkiadó, Budapest 1998., p.35. (Hungarian)

<sup>2</sup> Márta DEZSŐ, i.m., p.41. (Hungarian)

<sup>3</sup> Interestingly, the matter of prioritisation never truly emerged in party-list voting systems. The author perceives its significance in two ways. First, the secondary preference of voters could come into play in case a party would prove unable to pass the parliamentary threshold by primary votes alone. Second, if, by one of the existing vote distribution methods (the highest average method in particular), two parties would enter a tie, preference could be given to the party with more secondary votes.

<sup>4</sup> In case no one managed to acquire the absolute majority of primary preferences, the process continues with the candidate possessing the least amount of ballots dropping out, their votes collected into bundles, this time with the secondary preferences in mind, adding these bundles to the ballots of remaining candidates. In the event that an absolute majority winner is still not found, the next-to-last candidate’s vote-bundles are similarly distributed among remaining candidates, and so on and so forth until somebody reaches the absolute majority threshold.

<sup>5</sup> (A similar mathematical dilemma could arise the following way: while even in the second round, the absolute majority method only gives relevance to secondary preferences, it is entirely possible that a candidate would become a representative under the alternative voting system only through tertiary or lower votes — in other words, purely out of a lack of rejection by their opponents.)

argument that a government is not only the government of the voters actively electing it, but of all citizens of the country. Therefore, other than its popularity, its *unpopularity* is also a relevant factor.

### **Types of absolute majority voting**

The aforementioned absolute majority voting systems can be placed into two categories. In one of these, the first and the second place candidate from the first round are entitled to run in the second round, requiring fifty percent of votes plus one to gain a mandate. This method is known as the **absolute-absolute majority** system, restricted, for the most part, to direct presidential elections. Under the rules of **absolute-simple majority**, acquiring a simple majority in the second round is sufficient, naturally allowing more than two candidates to run, although deals struck by the political parties involved often cause such additions to drop out, reducing the actual number of candidates to just the two most popular. The *Hungarian voting system previously in effect followed this method.*<sup>6</sup> (The procedure particular to France is placed under scrutiny in the final chapter dealing with the French system of government and electoral system.)

Experience dictates that due to voter abstention, candidates having attained at least forty percent of the vote during the first round will tend to retain their advantage in the second, while those in the lead with thirty percent or less stand on a more shaky ground; the chief factor in whether or not they will also emerge victorious in the second round is secondary preferences.<sup>7</sup>

The nuances of the relative majority system have already been discussed, the implementation of which would force existing political parties to join forces and run joint candidates together, thereby making factional alliances more transparent and evident to the voter. This factor, given the system's single-round, party-list nature, would be more equitable to citizens, granting them a clear picture of just who else they are about to support alongside their own favourite parties. Because of this, an argument could be made for the implementation of relative majority single-member districts in Hungary.<sup>8</sup>

Current legislation also allows for the running of joint candidates.<sup>9</sup>

On a related note, the second round also allows voters to pass their judgements on any coalitions that might have been formed, taking into account party declarations and communications. This is their only way of doing so, given the indirect nature of the prime minister's selection — with the exception of the Israeli system.

### **Block voting**

As evident as it may sound, it is nevertheless important to point out that one district equals one mandate (therefore, the *district magnitude* is one). On the other hand, this is by no means a necessity in plurality voting; the classical English system typically allocated two mandates per district, allowing citizens to vote for two candidates.<sup>10</sup> Even as far as the mid-twentieth century, certain countries (such as the UK, India, Canada and the USA) featured a few (!) multiple mandate constituencies, while the rest of the country could only send one representative to parliament; or congress. This solution — even though certain sources disagree — is a form of plurality voting, rather than constituting a proportional model.

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<sup>6</sup> Compared to the previous Hungarian system, the current French model presents a peculiar case. In single-member constituencies, if the first round yields no absolute winner, the second round is played out between the winner and the runner-up of the first round, as well as anyone else with at least 12.5% of votes. (This model could be deemed more just than the Hungarian system, because a third candidate — and any additional ones — only „interrupt” the race if they possess substantial support and backing from the population; instead of merely gaining a bargaining position against the „big shots”. By principle, it is an absolute-absolute majority system, only becoming absolute-simple in exceptional cases.)

<sup>7</sup> András KÖRÖSÉNYI: *A magyar politikai rendszer*, Osiris, Budapest 1998., pp.153-154. (Hungarian)

<sup>8</sup> Naturally, the fact that the single-round relative majority system produces disproportionate results remains an argument against it. Another of its drawbacks is that even though an election carries its consequences over the next four years, its outcome is determined in but a single day; comparatively a very short time period. Two rounds mean at least two days, thereby decreasing the „random” factor so heavily present in single-round voting. For example, weather may discourage certain voter demographics from casting their ballots and a single piece of sensationalist news may captivate and manipulate voters for just enough time. (Fair weather often incentivises farmers to work their land, families to go hiking, etc.)

<sup>9</sup> Unlike in the case of joint- and affiliated lists, the current Hungarian electoral statute gives no allusion as to where fractional votes cast on joint candidates are allocated.

<sup>10</sup> In 1967, Mauritius converted from a relative majority system with forty single mandates to a relative majority system with twenty triple mandates. Later, they also implemented ten balancing mandates. The Seychelles employed seven double mandate- and one single mandate districts.

The same can be said of the **single-list system**, formerly known as the **small-list system**, which is currently employed in Hungary during municipal elections and which also featured in the draft of a number of French electoral legislation proposals. **Also called block voting**, the essence of this model lies in the relative majoritarian distribution of mandates. Each citizen has as many votes as there are mandates to acquire in any given district.

The **cumulative single-list system** differs from the single-list system in that it allows voters to cumulate all their votes for a single candidate. (The cumulative party-list system, detailed later, can itself be differentiated from its single variant by the fact that its distribution of mandates is based upon the ratio of votes cast on the various party lists. Therefore, cumulation only enters the fray in determining the order of candidates on any concrete list. It is considered a semi-proportional model.)<sup>11</sup>

### **Preferential systems**

According to the time-honoured view, in a proportional/party-list system, citizens are only entitled to vote on party-created lists, with no ability to influence who their vote personally benefits. Is this truly the case, even today?

The question of vote structuring determines **how many** votes a single citizen is allowed to cast, and **how**. There exist **single-vote** and **multiple-vote** systems. The latter can be broken down further into *preferential models*, *models that enable the cumulation of votes* and *models that allow for vote splitting*. In the first case, voters are entitled to make modifications on the party list, swaying them towards their preferred candidate. In the second case, it is possible to reinforce the position of one candidate by allocating them extra votes, further increasing their chance to gain a mandate. Lastly, the third model opens up the aforementioned possibilities in the case of lists as well.

In terms of the right of voters to bring about such modifications, the various **preferential systems** paint a colourful picture worldwide. *Only one preferred candidate can be designated in Austria, while the same number is four in Italy. It is possible to split votes in Switzerland and Luxemburg, giving each voter as many votes as there are mandates to gain in a district, which can be cast for different parties. By now, in most Western European countries, allowing citizens to influence party list compositions has become common practice.* In Belgium, the influence of preferential votes determines almost fifty percent of the order of candidates on party lists. The German system remains almost the only one disallowing this practice, its single districts purporting to substitute for the lack of choice between individual persons.

Since the fall of Communism, a number of Central-Eastern European countries also implemented ways to create more flexible party lists. In *Poland*, citizens must select a name from a regional party list, an act with which they also cast their vote for that candidate's party itself. Similarly, the *Slovene* model divides electoral districts into single-member constituencies, in which single candidates are also the nominees of their respective party lists. Again, voting for a candidate is also voting for a party list.<sup>12</sup> Mandate distribution is based on the proportion of ballots cast for each party list, giving successfully acquired mandates to candidates having won the greatest number of votes on their respective lists. *Czechia* and *Slovakia* also allow their voters to influence the prearranged order of party lists. Each citizen may designate four candidates they have especial preference for. Such preferential votes will result in the acquisition of a mandate in the event that at least ten percent of voters in the district cast such a vote, and the candidate in question managed to seize at least ten percent of all the preferential votes his party received. *Austria* operates similarly, except it requires an amount of preferential votes equal to at least half of what is necessary for a single district mandate, or one-sixth their total number cast in their party's favour.

*Finland's* „flexible list” enables party list rankings to be molded entirely by voter will; on each ballot, the candidates of parties are merely displayed in alphabetical order.

(European practice indicates that party list rankings provided by the parties themselves will seldom be altered by preferential votes. Still, it is a matter of principle to allow a modicum of choice between the individuals running on the same platform, preventing the „secondary recruitment” within the parties to be the sole decider of who gets into parliament. In our view, such methods unite the best of both worlds from single-

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<sup>11</sup> FÁBIÁN György-KOVÁCS László Imre: *Voksok és mandátumok*. Villányi úti könyvek, Budapest 1998., p.43. (Hungarian)

<sup>12</sup> In our view, given that it disallows selection between different candidates of any given party, this model isn't a preferential-proportional system. Instead, it shows more similarity with the kind of personalised PR systems currently in use in Germany.

district and party-list voting systems, aiming for an equitable solution in mandate distribution, acceptable both in terms of directness and proportionality.)<sup>13</sup>

### **Premium list systems**

In Hungary, Act XXII of 1947 (along with creating discriminative rules for nominations and disqualifications) introduced the premium system. In it, attaining 60% of the vote automatically awarded 80% of the seats in parliament, while gaining 75% would land that faction all (!) mandates. The quotient was raised to 14,000 and national lists to 60 candidates.

Premium systems similar to the above are still in use today. For instance, the electoral system of *Paraguay* allocates two-thirds of all mandates by default to the party standing victorious in the elections, distributing the rest proportionally. In *South Korea*, 244 representatives are directly elected, 38 by the winners themselves and 37 by the other parties. The winner in *Malta* is granted an additional four premium mandates. (It is a popular misconception in Hungary that under the rules of the current system, the party carrying an election is given the mandates of its rivals that failed to meet the minimum electoral threshold.

The limited voting (LV) previously employed during Japanese and Spanish regional elections can be considered a unique<sup>14</sup>, semi-proportional voting system. Similarly to block voting systems, this method essentially enables participants to select *multiple* single candidates. However, citizens have fewer votes than there are mandates distributed in any single district. (For example, there used to be two single constituency votes allocated to Japanese citizens, with four to ten attainable mandates.) Why would this method be more proportionate than block voting, itself widely classified as a majority system? The answer is made apparent through a simple deduction. In the latter system, whenever a party or a faction enjoys overwhelming popularity in any given district, all its supporters tend to throw their whole weight (votes) behind this group. This is made especially likely in today's party-centred political atmosphere. In such a case, a candidate with 25% popularity will always defeat another with 20%. By contrast, the LV system distributes more mandates than the amount up for grabs by the most popular candidates, thereby allowing some form of representation for their opposition as well. (Under a two-vote model, this tends to lead to the first and second place belonging to Party A, with the third and fourth going to Party B. In such systems, parties usually run as many candidates as there are votes, otherwise, said candidates would also compete against each other.) The SNTV system, also formerly employed in Japan, is considered a subtype of LV, giving each voter one vote in a district with multiple mandates to win. However, it is necessary not to mesh them together, seeing as multiple votes enable the option of vote splitting, thereby constituting a factor of primary importance when classifying voting systems. In this sense, one- and two-vote systems can be sharply differentiated. Therefore, there is a far greater distance between one and two than between two and three. (Japan has since converted to a mixed voting system.)

SNTV carries a large risk factor for parties, especially major ones, necessitating thorough surveying to determine their electoral support. If they run fewer candidates than it would be justified by their popularity, then a great many votes cast for them will end up wasted, not contributing towards the acquisition of mandates. If, on the other hand, they stand too many candidates, they run the risk of having the vote splintered among them, decreasing each other's chances and potentially allowing outsiders to have the last laugh and snatch mandates, leading to results worse than the party's electoral support would suggest.<sup>15</sup>

### **The vote-transfer system**

The virtues of proportionality and choice between individuals are organically conjoined in the vote-transfer system, currently employed in Ireland and Malta. In multiple mandate electoral districts, citizens are expected to vote for *and* rank as many candidates as there are potential mandates in the district.

1. After the ballots have been cast, the *Droop quota*<sup>16</sup> serving as the basis for mandate distribution is calculated. It is arrived at by dividing all valid votes cast in the constituency by the total number of

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<sup>13</sup> Further reading on the various methods of mandate distribution: Arend LIJPHART, Arend: *Választási rendszerek: típusok, formák, fejlődésvonalak*. In FÁBIÁN György-KOVÁCS László Imre (szerk): *Választási rendszerek*, Osiris-Láthatatlan Kollégium, Budapest 1997., pp.69-71 (Hungarian)

<sup>14</sup> LIJPHART, Arend: i.m. p.85.

<sup>15</sup> FÁBIÁN Gy.-KOVÁCS L. I., i.m., p.44. (Hungarian)

<sup>16</sup> This is sometimes confused with the Hagenbach-Bischoff quota. The difference lies, first and foremost, in that the latter method works only with whole numbers gained through the quotient, instead of rounding up and adding one in case of fractions, as seen in Ireland. (Naturally, when working with a multitude of votes, the above amounts only to a very minor difference between the two quotas.) In addition, the Hagenbach-Bischoff formula is known not only as a quota system, but also as a mandate distribution method

allocated mandates plus one, and then adding one again to the quotient thus gained. Any candidate whose number of primary votes reach the Droop formula is elected.

2. If all mandates cannot be distributed using the above method (which, given trends of vote division, is rather likely), a new calculation is necessary. The votes of candidates already elected are divided again, based on the secondary preferences indicated on each ballot, but the votes of secondary candidates are only increased by a single rate. This rate is:

The number of votes of an elected candidate – Droop quota

Whoever manages to reach the quota by adding this number to the number of his votes acquires a mandate.

3. If all seats allocated to this district are still not filled, the votes of the candidate receiving the least amount of primary votes are annulled, distributing the candidate's ballots based on the secondary preference written on each, between the candidates still lacking a mandate. Those reaching the Droop quota are elected.
4. If even after this step, there remain unclaimed mandates, the ballots of those who gained a seat according to points 2 and 3 are redistributed along secondary and tertiary preferences following the above method. Again, candidates arriving at the Droop quota gain a mandate.
5. In case the mandates are still not fully distributed, the entire process continues as long as necessary.

In order to guarantee proportionality, multiple layers of voter preference must be taken into account. In spite of it being a single-winner vote, party candidates — in fact, candidates in general — tend to inform the electorate about whose backing they would find desirable after their own. (It is expedient for parties to weigh their own popularity and run only an optimal number of candidates in order not to affect each other's chances negatively.) In Ireland, for example, the district magnitude is 3.7, therefore, their lower-preferences candidates matter less. Placing less burden on voters, lower magnitudes are certainly more advisable under the aegis of such systems.

I. HOW CAN WE CLASSIFY THE SINGLE TRANSFERRABLE VOTE? „Is the single transferrable vote proportional?” A question we can rightfully ask, despite academic literature categorising it as such more or less unanimously. The answer is far from simple.<sup>17</sup>

The essence of proportionality is that the composition of parliament be as close to the overall will of the voting citizen as possible. However, the determination of such is possible only when there is a way to properly survey that will, on the national level. This is only achievable with categorical voting, for in the case of ordinal balloting, a uniform treatment of primary, secondary and tertiary votes is problematic.

The issue is further complicated by the fact that in a proportional voting system, the requirement of proportionality pertains to political parties — under the transferrable voting system, parties gain no form of compensation whatsoever. „Proportionalisation” is usually construed as an act of taking into account alternative voter preferences. The chief factor effecting such a proportionalisation could therefore be the electorate supporting the candidates of a *single* political force. If this doesn't occur, parties will gain no compensation for surplus votes.

A candidate with relatively numerous primary votes, but without a sizable amount of secondary and tertiary votes will not gain a mandate, also depriving his party of compensations. In a reversed scenario, a candidate with fewer primary, but all the more secondary and tertiary votes might also find it insufficient to succeed. (At most, votes cast for such candidates can only benefit their parties in terms of them being cast for candidates with the fewest primary votes.) On the other hand, secondary, etc. votes cast for candidates who have, in an earlier stage of calculation, already seized a mandate will not be utilised; the principle of proportionality does not apply here. Therefore, „leading” candidates certain to receive a great many primary votes should not be given an overt amount of secondary votes in order not to waste them. Under this system, a 20-20% breakdown of primary and secondary votes of two candidates does not equal a 40-0%, or a 0-40% result between the same two candidates. (The latter being more useful, since the first round of calculation only takes into account the more prominent preferences; only in later stages do the rest get accounted for, allowing other parties to seize mandates beforehand. This also makes the lack of a crystallised hierarchy within political

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employed, among others, in Hungary. It breaks the distribution of mandates down to two phases; in the second one, unallocated mandates are meted out to the parties using the highest averages method. (In Hungary, a similar technique — the D'Hondt method — is employed as the second stage of a two-level system, rather than merely the distributory phase of a single-level formula. Therefore, even here, we can observe nuances of difference.) On the differentiation of specific terminology, see: FÁBIÁN Gy.-KOVÁCS L. I., i.m., pp. 37-38.

<sup>17</sup> See: RAE, Douglas W.: *Political Democracy as a Property of Political Institutions*. In FÁBIÁN György-KOVÁCS László Imre (rev): *Választási rendszerek*, Osiris-Láthatatlan Kollégium, Budapest 1997., p.63. (Hungarian)

factions a liability. In such a voting system, announcing, or at least signalling the order in which supporters should vote for a party's candidates is advised.)

We can see that STV isn't merely a proportional system, but rather a unique, complex and weighted methodology taking into consideration multiple layers of voter preference. It is worth pointing out that in a proportional system, a candidate reaching 10% might potentially be opposed by 90%. On the other hand, a party attaining 4% — itself below the current parliamentary threshold in Hungary — could still be somewhat sympathetic to 80% of the electorate. In a single-member district, a candidate acquiring 45% of the vote may defeat a 40% opponent, while it is entirely possible that the remaining 15% would rather support the latter.

Even though we've mostly been discussing party candidates here, it is to be noted that independents are also afforded a lot of opportunity under this model. Candidates of small parties and those who run „independently” might see more secondary ballots cast for them than additional (second, third, etc.) candidates of larger factions would; especially if these factions have strong front-runners. Favourable tertiary and lower preferences are also beneficial.<sup>18</sup> Even voters with a strong conviction might be more inclined to support independents or candidates of smaller parties on the lower echelons of preference. Certain persons of note — locally reputable candidates especially — are able to collect a decent amount of votes from multiple angles of the political spectrum.

Conversely, front-runners of big parties also need at least a degree of acceptance from supporters of smaller or no parties in order to gain the necessary edge. Under this system, even the largest political factions are advised to run their candidates as independents — such a disassociation can yield them more secondary and tertiary votes, but there not being a compensational list, there is also nothing to lose this way.

We can clearly see from the analysis provided above that the vote-transfer system carries a variety of new elements into an overly polarising political system operating under a „binary code”. The presence of secondary preferences and the improved chances of independent candidates both help representing society along different lines of association, thereby — in the author's view — serving as an excellent tool especially in the selection of a second chamber of parliament.

*With regards to the government, we can add that the purpose of traditional majority systems is to create the means for any given political faction to govern by way of a majority in parliament. It is possible that a government enjoying the support of the 51% is strongly opposed and even obstructed by the remaining 49%. In contrast, by taking into consideration secondary preferences, the Irish (and, to a lesser degree, the Australian) electoral system imbues its victors with a legitimacy that does not merely indicate the greatest support, but also the lowest disapproval. The government's efficiency is thus reinforced through a more constructive social approach.*

### **The personalised PR-system of Germany**

Given German influence on the Hungarian constitution, the voting system of Hungary is often compared to the one currently in effect in Germany. This makes it especially worthwhile to place its rules under scrutiny. Strictly speaking, the German method is not a mixed system, but rather the so-called personalised PR-system. It is also proportional; its disproportionality remains around 1%. Its proportional (party-list) nature is further reinforced by its distribution of mandates based exclusively on party-list votes the following way:

1. Eligible citizens possess two votes: one of them to be cast for a single district candidate, the other for a provincial list. Candidates attaining *relative* majority in one of the 299 single-member districts are already guaranteed a seat in parliament.
2. The parliament operates with a total of 598 members, which is therefore the number of mandates to be distributed. This process only takes into consideration ballots cast for party lists. Parties failing to achieve a 5% national total of votes, or winning at least three single-member constituencies are disqualified, with votes cast in their favour ignored thereafter.
3. Using the Hare-Niemeyer method, the first stage of allocating the 598 mandates is the national level. Afterwards — using the aforementioned algorithm —, the number of mandates thus arrived at are distributed between the *territorial* party-lists.

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<sup>18</sup> Even in a district with nine mandates, more than 10% of the vote is required to pass the post in the first round of calculations, which does not favour minor candidates. However, if they receive a significant enough number of secondary and tertiary votes on ballots cast for those who gained a mandate with an overwhelming majority of primary votes, they might significantly benefit. The same holds true in the case of secondary votes they receive on ballots cast for candidates with the *least* amount of primary votes. This way, minor players unwittingly support each other.

4. In every given province, the number of single district mandates won is subtracted from the total number of mandates allocated to the same party. Any remaining mandates are subsequently distributed according to territorial lists.
5. In case the number of mandates a party receives is higher than the number awarded to them in step three — itself made possible by the guaranteed seat of single district winners —, then the party is entitled to keep such surplus mandates (*Überhangmandate*). Not only do the other parties receive no compensation for this, this act also *increases the base number of seats in parliament*.<sup>19</sup> (*This phenomenon remained a rarity in earlier decades, while the number of surplus mandates has seen a steep rise in recent years.*<sup>20</sup>)

### The first Hungarian electoral model after the fall of Communism

*The previous electoral system in Hungary (1989-2010) remains, by all accounts, an archetype of mixed voting systems: in it, it is possible to gain a mandate both in a single district and through party lists. Parliament operates with 386 representatives. The party lists themselves manifest on two levels: regional (52 seats) and national (58 seats). Therefore, the struggle for mandates is waged on three fronts, while the citizens themselves are only allowed to vote for a single district candidate and a regional list (corresponding to a county or the capital). In a peculiar way more or less unprecedented in international practice, mandates acquired through the national list are determined by the fractional votes of regional lists and single constituencies. The national list thus harmonises the two „branches”, creating a mixed system based on compensation and standing in stark contrast with the so-called „trench system”<sup>21</sup>, which ignores mandates acquired through majorities when determining mandate distribution through party lists.*

The **previous Hungarian** electoral system employed a method not yet seen elsewhere in determining mandate allocation on the regional party list level.<sup>22</sup> (With the national list, it followed the D’Hondt method). Accordingly, the basis of distribution in the first round is the Hagenbach-Bischoff quota. However, *in the second round, attaining just two-thirds of the quota can also result in winning a mandate*. If they are still not all accounted for, the remaining mandates are transferred to the national list, eliminating the significance of the largest remainder. Therefore, the Hungarian system isn’t an LR (largest remainder) system. Under this method, „the scope of support itself does not matter, instead, what matters is whether the number of votes attained by the parties who have not yet acquired a mandate is greater than the remainder votes of those who have”.<sup>23</sup> We could perhaps dub this technique the „**partial LR method**”, given that the „remainder” here is still the basis of

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<sup>19</sup> KAASE, Max: Personalized Proportional Representation: The “Model” of the West German Electoral System In FÁBIÁN György-KOVÁCS László Imre (rev): *Választási rendszerek*, Osiris-Láthatatlan Kollégium, Budapest 1997., p.162. (Hungarian)

<sup>20</sup> In February 2013, legislation pertaining to the aforementioned legal norms effected certain modifications. Accordingly, each surplus mandate is now equalised by a so-called balancing mandate, granted to every other party that attained parliamentary representation.

The institution of surplus mandates used to be a benefactor of big parties. During the latest Bundestag elections of 2009, there had been 24 surplus mandates, all of them acquired by the conservatives. This legislative change now forfeits this advantage, thus favouring the smaller parties. (It was the country’s constitutional court that annulled the rules of mandate distribution. The ruling body’s reasoning was that previous legislation violated the principles of the equality of voting power and that of political parties. Among others, this had been the reason for subsequent changes.)

<sup>21</sup> KASAPOVIC, Mirjana – NOHLEN, Dieter: *Választási rendszerek és rendszerváltás Kelet-Európában*. In FÁBIÁN György-KOVÁCS László Imre (szerk): *Választási rendszerek*, Osiris-Láthatatlan Kollégium, Budapest 1997. (Hungarian) Accordingly, Albania, Lithuania, Croatia and Russia all operate with a „trench system”.

<sup>22</sup> Although the system in place in Belgium shares some similarities with it.

<sup>23</sup> See: FÁBIÁN György-KOVÁCS László Imre: *Voksok és mandátumok*. Villányi úti könyvek, Budapest 1998., p.90. (Hungarian) The author duo highlight the difference between remainder- and fractional votes. Remainder votes are the ballots unutilised during the primary round of mandate distribution while fractional votes represent the sum carried on from the counties after the final process. In our view, the quote above can be somewhat misleading, since even according to the largest remainder method, party strength would not be the main deciding factor. Here too, what matters is whether the remainder votes of the party that already attained a mandate are more numerous than the vote count of those that did not.

mandate allocation in the second round, except the minimum value of this remainder is only two-thirds of the quota.<sup>24</sup>

This solution was thus especially disadvantageous for lesser parties unable to meet the requirements, since a lot of counties with five or six mandates set the aforementioned minimum at ten percent. Given the significantly smaller number of mandates inherent to the national list, the distribution method above proved to be one of the greatest wellsprings of disproportionality.

### The new Hungarian electoral system

*The new voting system that saw its baptism of fire in 2014 can also, without a doubt, be classified as a mixed system.<sup>25</sup> Since it provides compensation after the votes cast in single districts, it is also, essentially, a compensational system.<sup>26</sup> Vote structuring remained intact in that citizens are still given two different types of vote. When it comes to the number of ways mandates are attainable, the previous three is now also two only: 106 in relative majority single constituencies and 93 on a national list. The latter encompasses party list votes and compensation alike; regional/county-based lists were abolished. Single districts were transformed from absolute to relative majority.*

After such a brief summary, let us take a more thorough look at the available paths to mandate acquisition under Hungarian legislation both old and new.<sup>27</sup>

According to the new electoral law, the mandates provided by the national party list are to be allocated through the following procedure:

- a) the number of party list votes must be combined with the fractional votes received by the same party (hereinafter: the number of party list votes),
- b) all party list votes must be added together,
- c) all party list votes and minority list votes must be added together (hereinafter: national list votes),
- d) the number of national list votes must be divided by four; the quotient thereby arrived at is the preferential quota,
- e) in the event that the number of ballots cast on a minority list is equal to or greater than the preferential quota, the minority list in question receives a preferential mandate; one such list can only acquire one preferential mandate; and the number of obtainable mandates on the national list must be reduced by the amount of preferential mandates thus meted out.

*It has to be emphasised that rather than reaching one-fourth of the threshold, minority lists need to reach one-fourth of the quota instead.<sup>28</sup> This is ultimately far lower than the threshold. Even if a given list could manage to acquire a mandate under regular rules (without the one-fourth benefit), its chances to gain entry to parliament would gravitate towards zero, most likely being well under the five percent threshold currently required. Abolishing this demand would, in itself, be a tremendous boon. In conclusion: from a standpoint of electoral mathematics, it is extremely viable to create a minority list. Each vote cast here carries much more power than it would in the case of ordinary lists.*

Any remaining mandates after *this* are distributed following the procedure below:

1. A table must be created with its first line containing the number of votes cast on both party lists and — after subtracting the preferential quota — minority lists (hereinafter: votes); afterwards, a numerical column is made under the votes of every party- and minority list, whose first number is to be half of the votes cast for that list, the second number one-third, and so on.

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<sup>24</sup> Traditional **Hare methods** first determine the number of votes required for the acquisition of a mandate, and then begin to distribute them. The quota equals the total count of valid votes cast per district divided by the number of mandates up for grabs there. The number of mandates acquired by each party corresponds to the number of times this quota is found in the total amount of votes they received. When employing an **LR-Hare system (largest remainder)**, all mandates are handed out; if the first round fails to accomplish this, then the rest of the mandates are allocated according to the number of remainder votes left for each party.

<sup>25</sup> CSERNY Ákos-TÉGLÁSI András: *Certain Elements of the Transformed Hungarian Electoral System in the Light of the Experience of the 2014 Elections*. *Osteuropa Recht*, 2015/3. szám, pp. 338-339.

<sup>26</sup> Given that it also compensates district winners (see above), we could just as well deem it one of the „trench systems”.

<sup>27</sup> See also: SMUK Péter: *Választójogunkról csak pontosan, szépen...Közjogi szemle*, 2014/3. sz., pp. 67-68. (Hungarian)

<sup>28</sup> FARKAS György Tamás: *Többség és kisebbség a hatalommegosztás rendszerében*, p. 2. (Hungarian)



2. Mandates are allotted via this table: wherever its largest number is found, that list must be given a mandate; afterwards, the second largest number must be found and a mandate allocated to the corresponding list; this is to be continued accordingly until all mandates have been handed out.

3. If the table features identical numbers for multiple lists, and these numbers would normally yield a mandate, but the count of leftover mandates is fewer than the lists thus locked in a tie, then the ranking order of lists determines the order in which mandates are distributed.

In essence, these rules create an allocation system analogous to the D'Hondt method, much like the compensational mandate distribution of the previous electoral law of Hungary.<sup>29</sup>

*Compensation is merited through fractional votes. In a single district, fractional votes are:*

a) each vote cast for a candidate that failed to win a mandate, and

b) the tally of votes received by the victorious candidate, minus the vote count of the runner-up, minus one.

*The provision above is a novelty of the new electoral law. It remains virtually unprecedented that the victor of a single district would also be compensated in this particular manner.<sup>30</sup>*

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<sup>29</sup> Mathematically speaking, the table's first dividend not being 1 favours the stronger parties.

<sup>30</sup> It certainly isn't without its justifications either. This system effectively differentiates „winning small” and „winning big”. Even when a district race is practically in the bag, candidates are still incentivised to campaign and present an even better case to their voters.