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Comparative EU constitutionalism

Legislation and constitution making

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Legal sources

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Hungary

Cons

Generally recognised principles of IL

Σ2/3

Treaty of Access.

Community law

Act

Int. treaty

Law decree

Decree of the Gov.

Decree of the HNB

Decree of the PM and Mins

Ordinances of state secretaries

Decree of the local gov.

Hungary

Extraordinary sources of law

- **When?** State of war, emergency, disaster
- **Defence Council** - **decree** in danger of war (Art 19 (3) h))
- **PR** – **emergency measure** (by decree) state of emergency (Art 19 (3) i))
- **Government decree**
 - State of danger
 - State of preventive defence emergency (Art 35 (3))

Croatia

- **Constitution** and **Act on the Constitutional Court** (same procedure as the one applied for Const amendm.)
- **Organic laws** – adopted by majority of all MPs and 2/3 of all MPs
- **Laws** adopted by simple majority
- **Government decrees**
 - delegated by the Parliament on small number of issues not regulated by laws
 - for 1 year; after 1 year the Parl evaluates whether such decree may remain in force
 - CANNOT be delegated issues on HR's, electoral system, organisation and operation of governmental bodies and local governments

Croatia

- Laws in qualified situations
 - state of war
 - immediate threat to the independence and unity of the state
 - severe natural disaster
 - Parliament not in session
- President of the Republic
 - **Decrees with constitutional force**
 - **Decrees with force of law**

**Approval by the
Parliament**

During the War of independence
- 30 decrees were issued

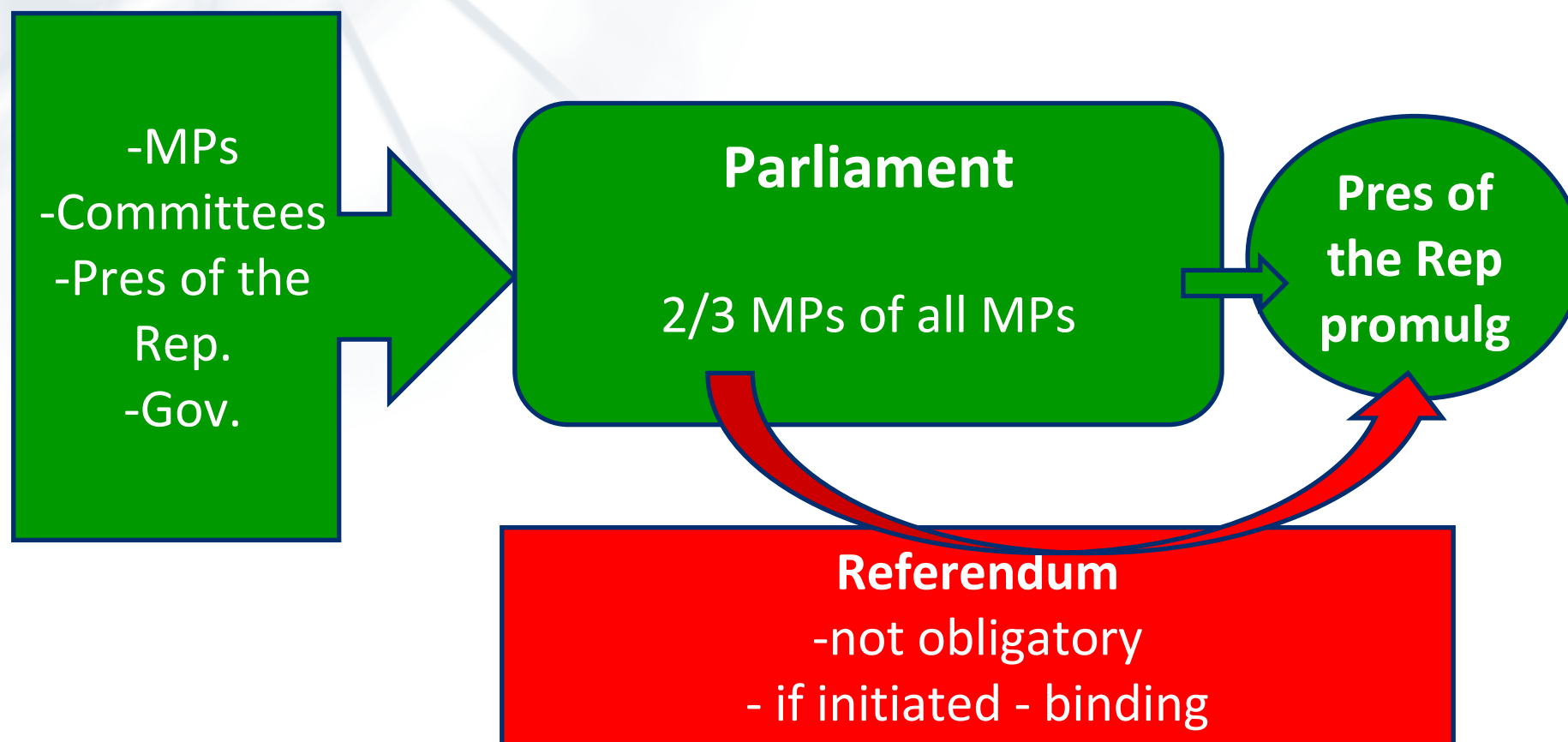
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Legislation Constitution-making

Hungary – Constitution-making



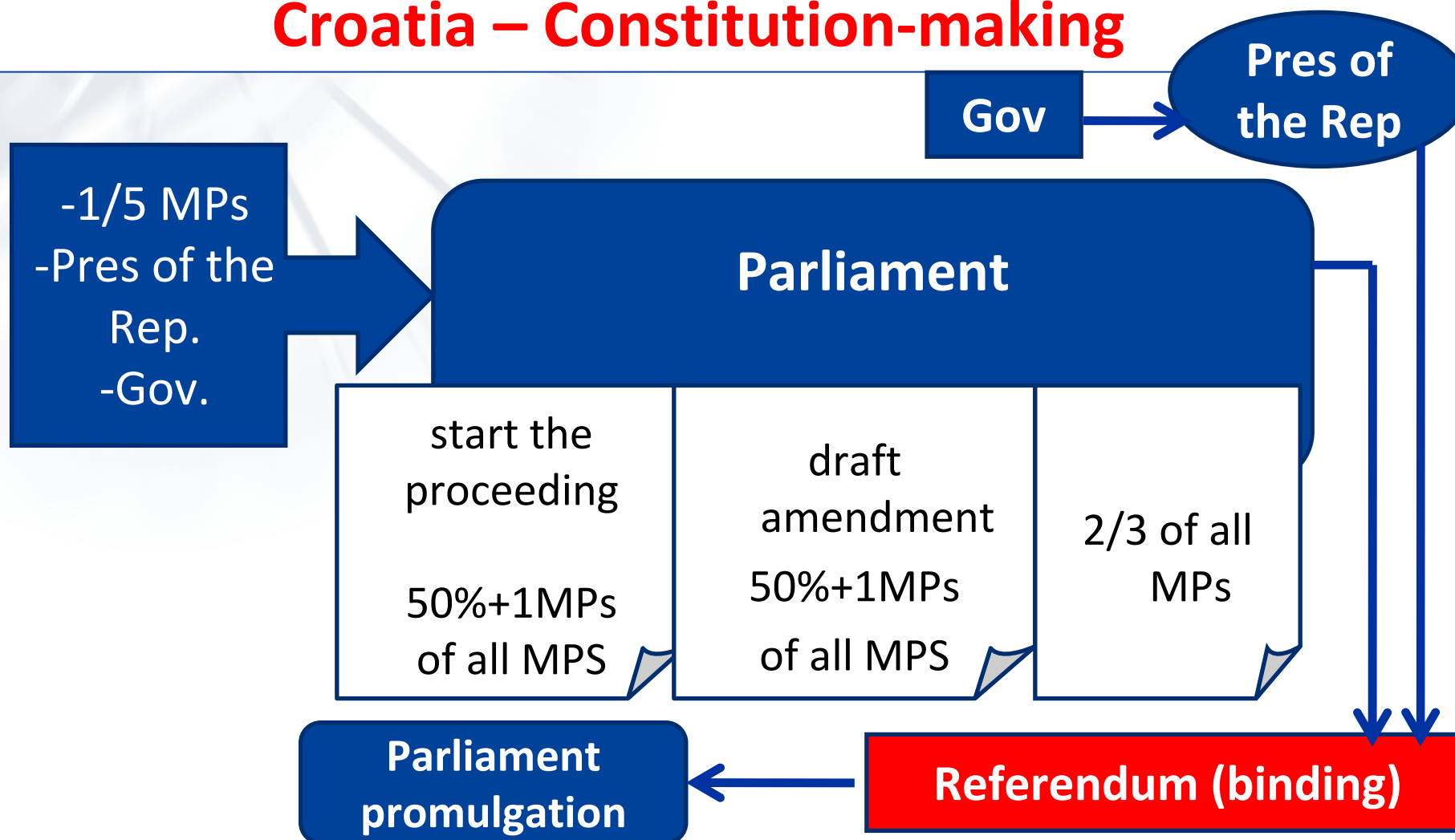
Hungary - Practical constitution making (1991-2010)

- 1991-98
 - Judicial review of administrative decisions
 - National defence
 - Local government
 - Judiciary reform
 - Plebiscite
- AEB Draft (!)
- Since 1998
 - NATO membership, use of armed forces
 - 2002 – EU accession (!)
 - 2004 – Reform relating national defence
 - Police – Border guard
- Revision of the Constitution in 2006
- Attempts – hatred speech

2010!

Hungary - Drafts (1990-2010)

- AEB Drafts: Government, Ministry of Justice
 - Institution for Legal Studies of the Academy of Sciences
 - AEB (Com. for Drafting a Const)
 - 25 members
 - Decision making process
 - Febr 1995 (text before the Parl), Jan 1997 (new version with alternatives), March 1998 (finalising the draft, not presented to the Parl)
- Draft of Petrétai 2004
- Concept of the Salamon-committee



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Hungary – Legislation

Pres.of the Rep., Gov, MPs
Parl.comittees

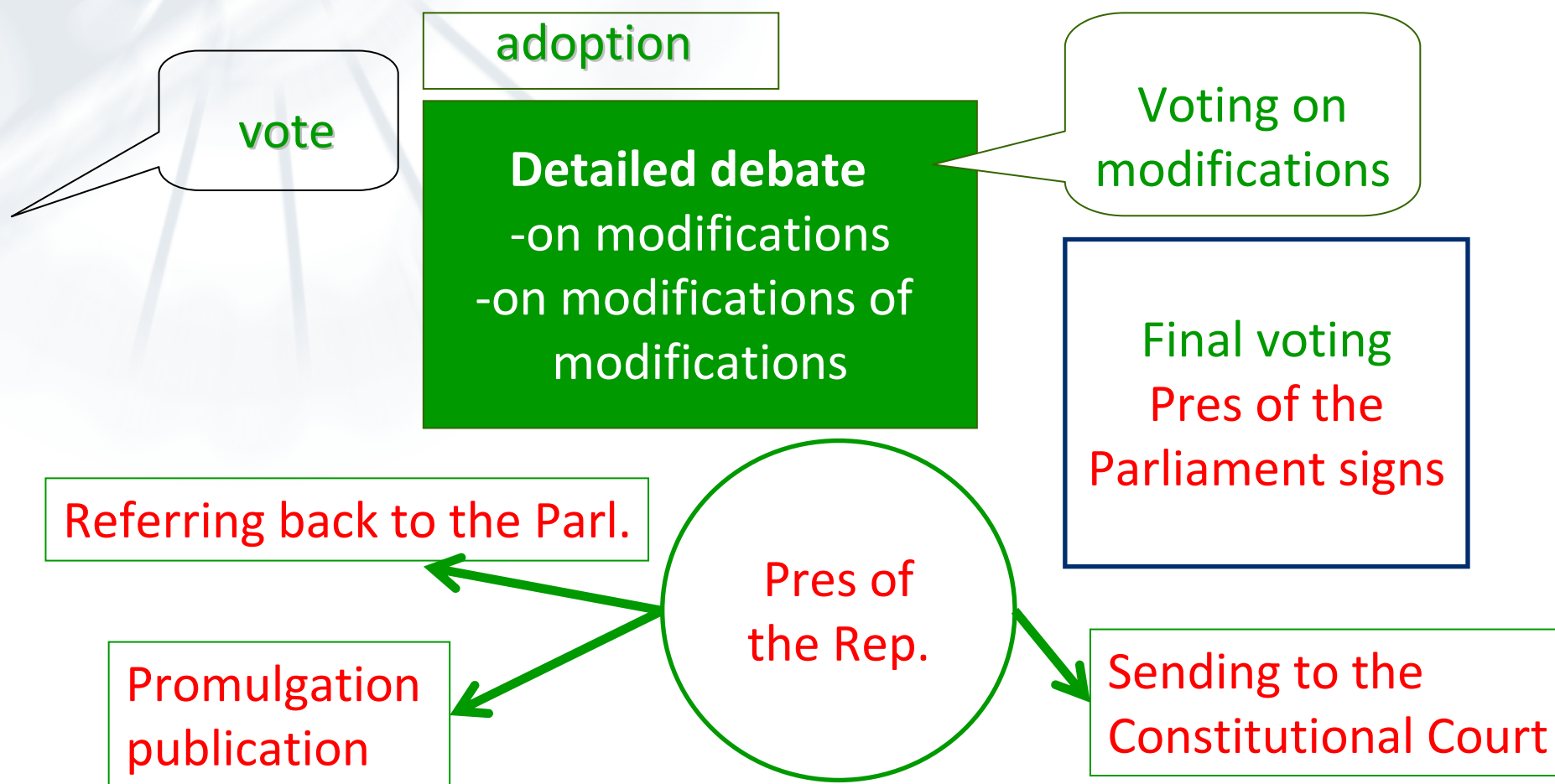
Pres of the
Parliament

Putting to agenda

General debate
necessity
regulatory principles
amendments

vote

Hungary – Legislation



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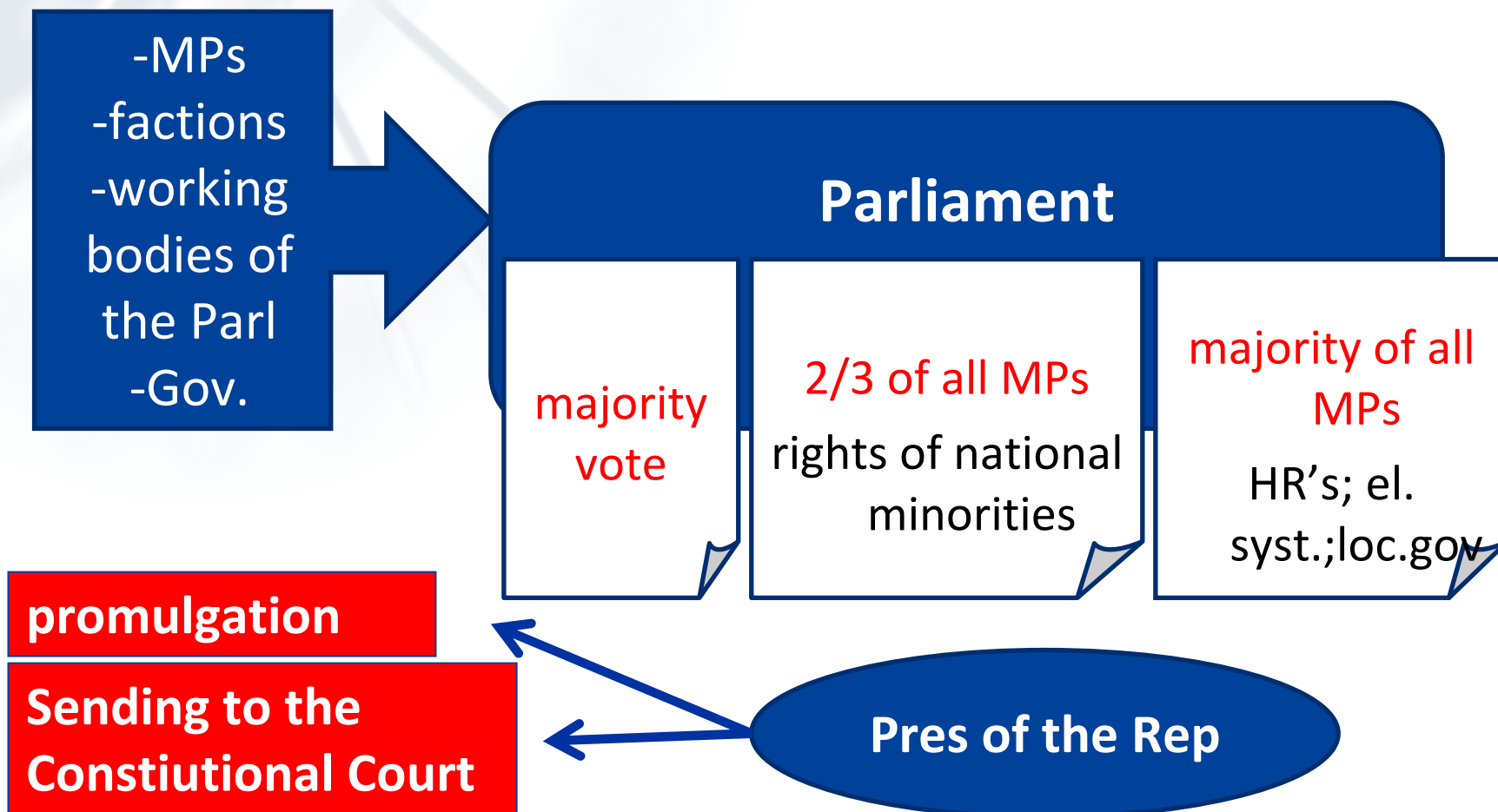


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Hungary – Publication



Croatia – Legislation





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Thank you for your attention!