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Comparative EU constitutionalism

Basic principles influencing governmental system

Constitutional principles – in general

- Sovereignty

- Popular sovereignty (HU, CZ, CRO)
- National sovereignty (PL, CRO)
- State sovereignty
- Legal sovereignty

- Democracy

- Rule of law

- Division of powers: modern forms

- Market economy (HU)

- Social justice (PL)

- Subsidiarity (CRO)

Hungary – popular sovereignty

- Art 2 (2) – all power is vested to the people (pouvoir constituant)
- Exercising sovereignty – indirectly (through elected representatives); directly (exceptional), in the EU (special, Art 2/A. §)

Croatia – popular sovereignty

- Art 1 (2) – power derives from and belongs to the people
- Art 1 (2) - Exercising sovereignty (indirectly - election); directly - referenda) – Arts 86, 141

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ÁLLAM- ÉS JOGTUDOMÁNYI KAR

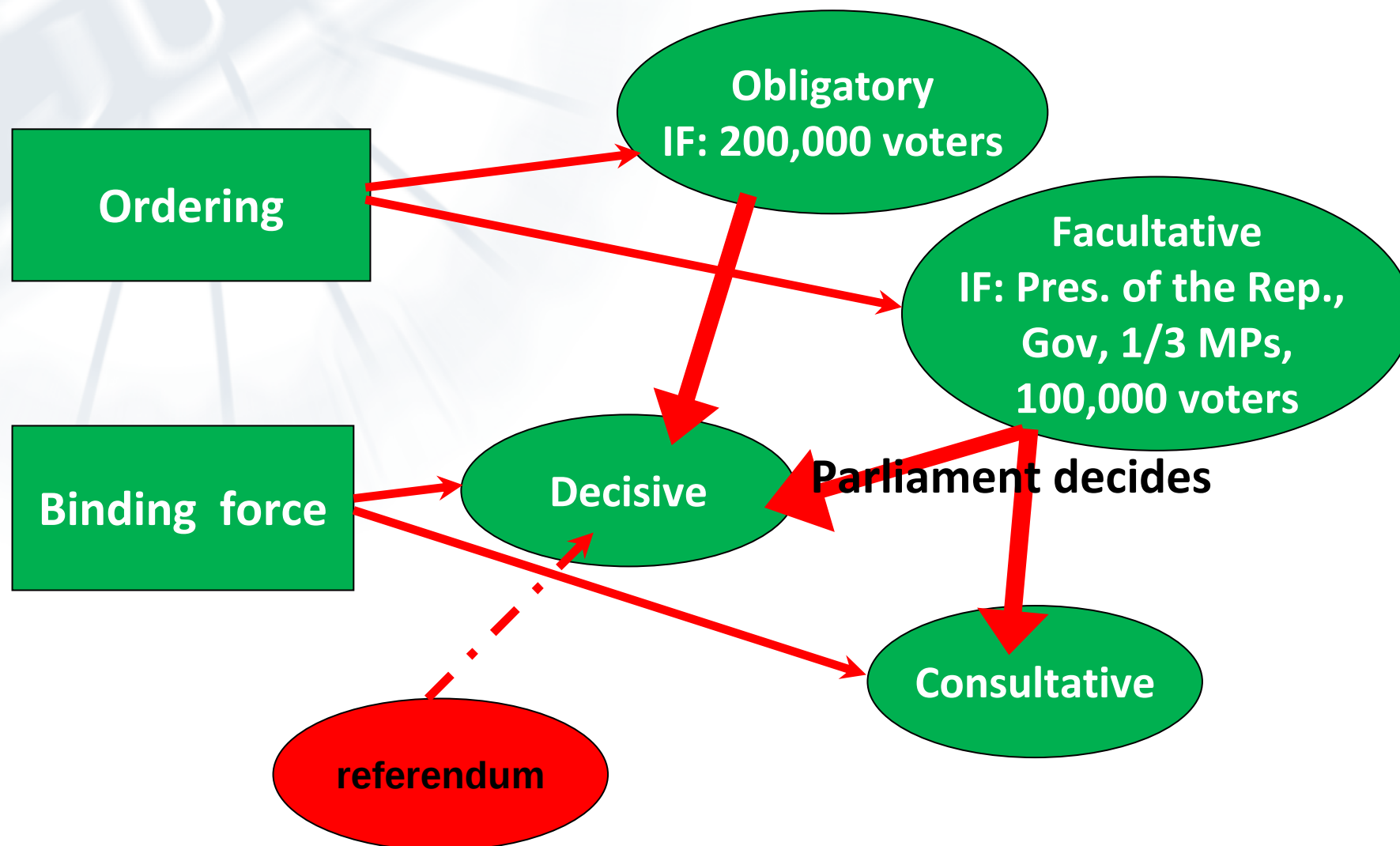
Hungary – plebiscite and referenda

- Ordering the plebiscite
- Binding force
- Referendum

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Croatia – plebiscite and referenda

- Amendment of the Constitution by the Parl. and Pres. of the Rep (Art 86) - binding
- legislative referendum on a bill (Parl.); people's initiative on referendum; mandatory referendum (Art 141)

One state referendum

May 1991 on the proposal of the Pres. of the Rep.

CRO: sovereign/independent v. part of the Yugoslav Federation
84,94% votes, 93,94% opting FOR sovereignty and independence

Hungary – state sovereignty

- autonomy; it is touched upon by the EU membership – Art 5 and 2/A
- independency; scopes of foreign affaires Art 2 (1) and 6 (rejection of war/force; co-operation; responsability; active part in EU unity)
- coat-of arms, flag, national anthem (Ch 14)

Croatia – state sovereignty

- territorial extension (Art 2)
- borders (Parl); protection (armed forces); citizenship; asylum
- special concern for citizens residing, living abroad (Art 10)
- coat-of arms. flag. national anthem

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Hungary – symbols



Duna
Tisza
Dráva
Száva



Tátra
Mátra
Fátra

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Croatia – symbols



Historical regions
Oldest known coat of arms
Republic of Dubrovnic
Dalmacia
Istria
Slavonia

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Legal sovereignty

- rule of law
- legal hierarchy
 - assessement by the Constitutional Court
 - international agreements
- equality before the law

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Democracy

„Government of / by / for the people”

- Power of the people (derives, emanates etc)
- Right to vote, plebiscite
- Parliament: popular representation / supreme body of state power
- Plurality, multi-party system, free establishment of parties, competitive election
- Principle of majority (simple, aggravated)
- Parliamentary republic (relationship bw Parliament and Government)
- Publicity and transparency of state

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Rule of law

- See legal sovereignty AND
- Exercising of public power is bound by law, limited, transparent, has democratic legitimacy
- Guarantee of HR's
- (Principle of division of powers)
- Principle of legal certainty
 - foreseeable, clear laws;
 - computability; prohibition of retroactivity
- Order of legislation

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Division of powers

- Horizontal: P – Gov - Courts
- Vertical: international organisation/EU – member state – federal state – states (lands, regions) – local self governments
- Temporal
- Constitutional: Parl with aggravated majority (**HU**) – Parl and people (**CRO**) – Constitution-making Assembly – Parls (Skandinavia) – Parl and states (USA) – two chambers (CZ)
- Based on decision-making: state level – political parties – associations

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Hungary – market economy

- Principle of the economic order
- Economic neutrality of the state
- The equality of private and public property, right to property
- Freedom of competition and freedom to enterprise
- Non-discrimination

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Croatia – subsidiarity

- 'At the allotment of the affairs, priority shall be given to the bodies which are closest to the citizens. ' (Art 134)
- Principle of closeness
- Principle of proportionality



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Thank you for your attention!