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Comparative constitutional law

Legislation and constitution making

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PÉCSI TUDOMÁNYEGYETEM
ÁLLAM- ÉS JOGTUDOMÁNYI KAR

Legal sources

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Hungary

Const

Extraordinary situations

Generally recognised principles of IL

Σ2/3

Treaty of Access.

Community law

Act

Decree of the DC
Decree of the PR

Int. treaty

Law decree

Decree of the Gov.

Decree of the HNB

Decree of the PM and Mins

Decree of Financ.Auth.

Decree of InfoComm. A

Other laws

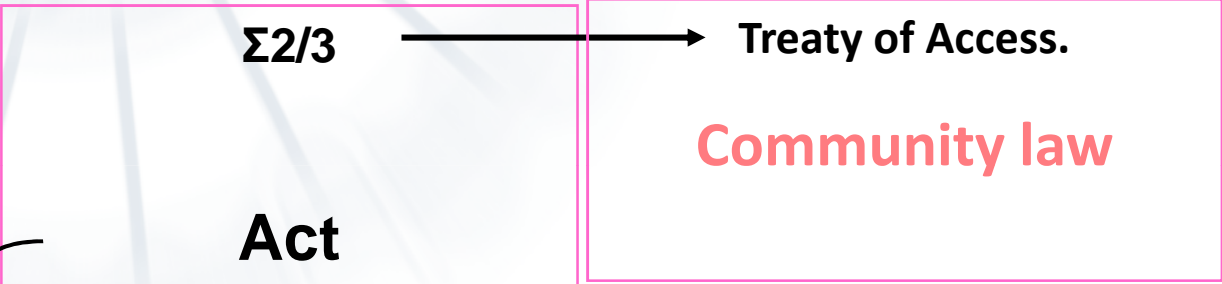
Decree of the local gov.



Hungary

FundLaw

Generally recognised principles of IL



Nk-i SZ.

Extraordinary situations

Decree of the DC
Decree of the PR

→ Other laws

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Hungary (Const, FundLaw)

Extraordinary situations

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

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Croatia

- **Constitution** and **constitutional laws (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 operationo f governmental bodies and local governments

Croatia

- Laws in qualified situations
 - state of war
 - immediate threat to the independence, unity and existence of the state
 - the governmental bodies are prevented from the regular performance of their constitutional duties
 - Parliament not in session
- President of the Republic
- **Decreed with constitutional force** → **Approval by the Parliament**
 - **Decrees with force of law**

During the War of independence
- 30 decrees were issued

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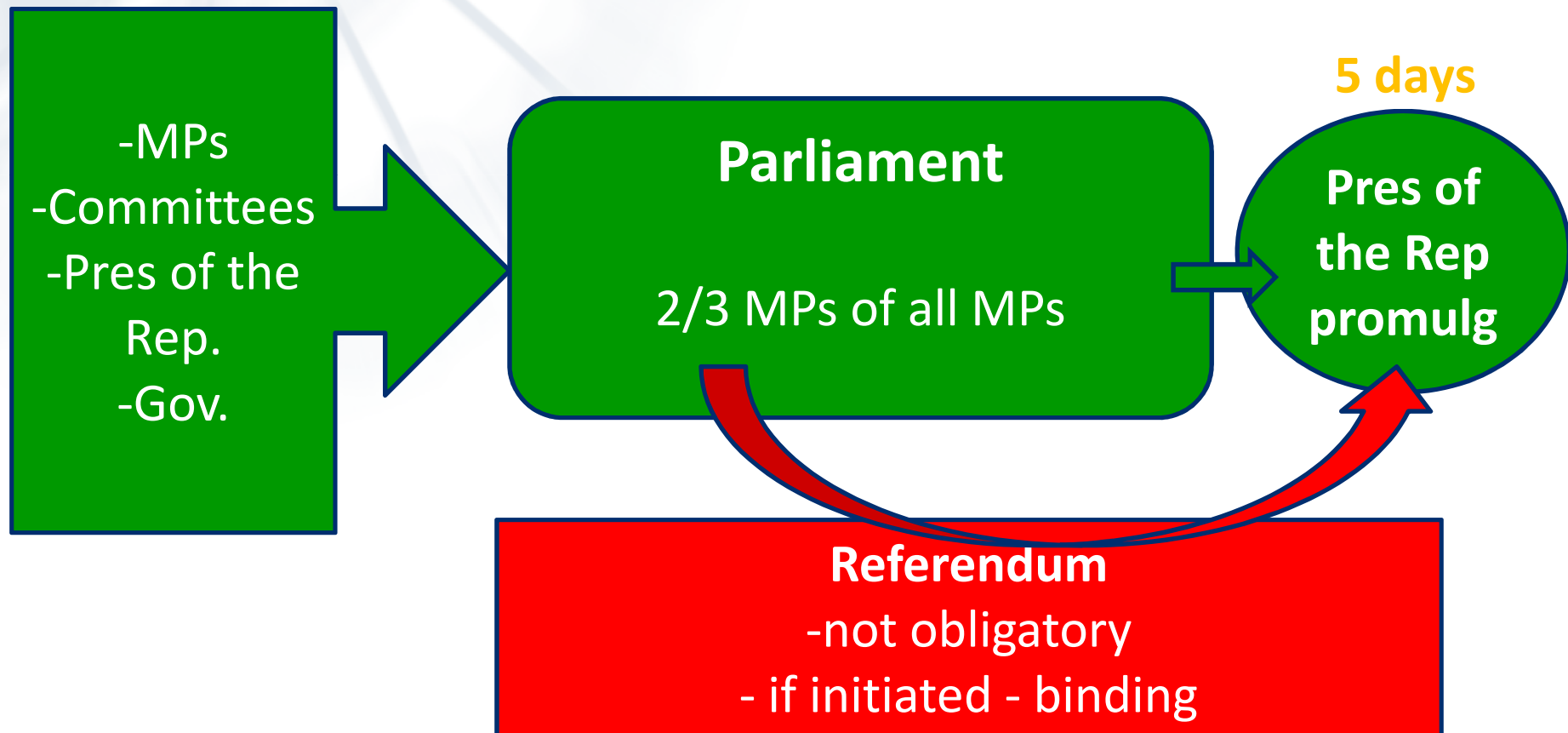
Legislation Constitution-making

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Hungary – Constitution-making (Const, FundLaw)



Hungary - Practical constitution making (1991-2010)

- 1991-98 (inter alia)
 - Judicial review of administrative decisions
 - 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!

Summer: passive right to vote, retroactive taxation¹ etc.

Autumn: retroactive taxation², restriction of the competences of the CC

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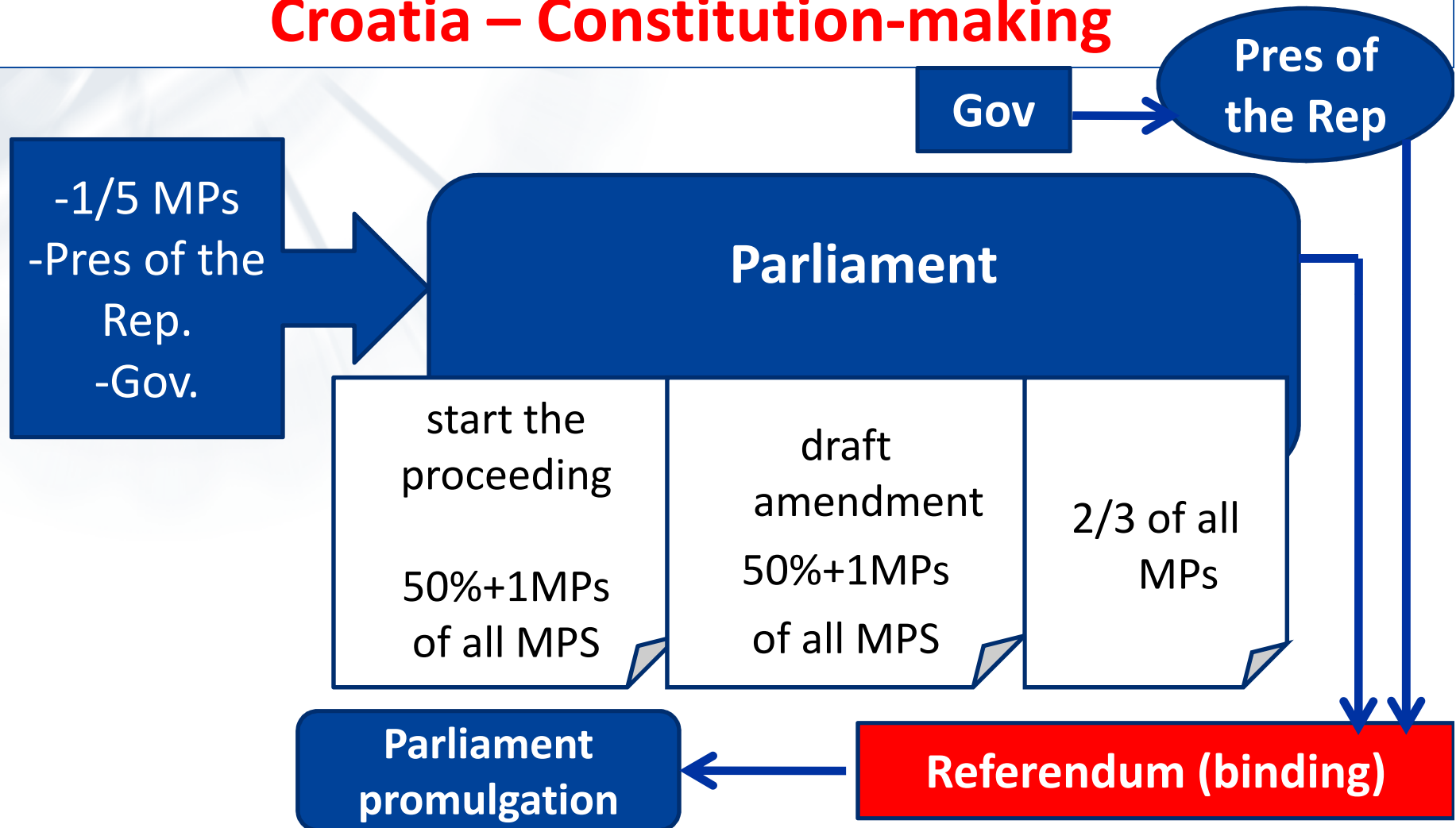


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Hungary - Drafts (1990-2011)

- 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 (summer 2010, involved organisations; Dec 2010, Febr2011 guideline) 14March, 18April

Croatia – Constitution-making



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Hungary – Legislation

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

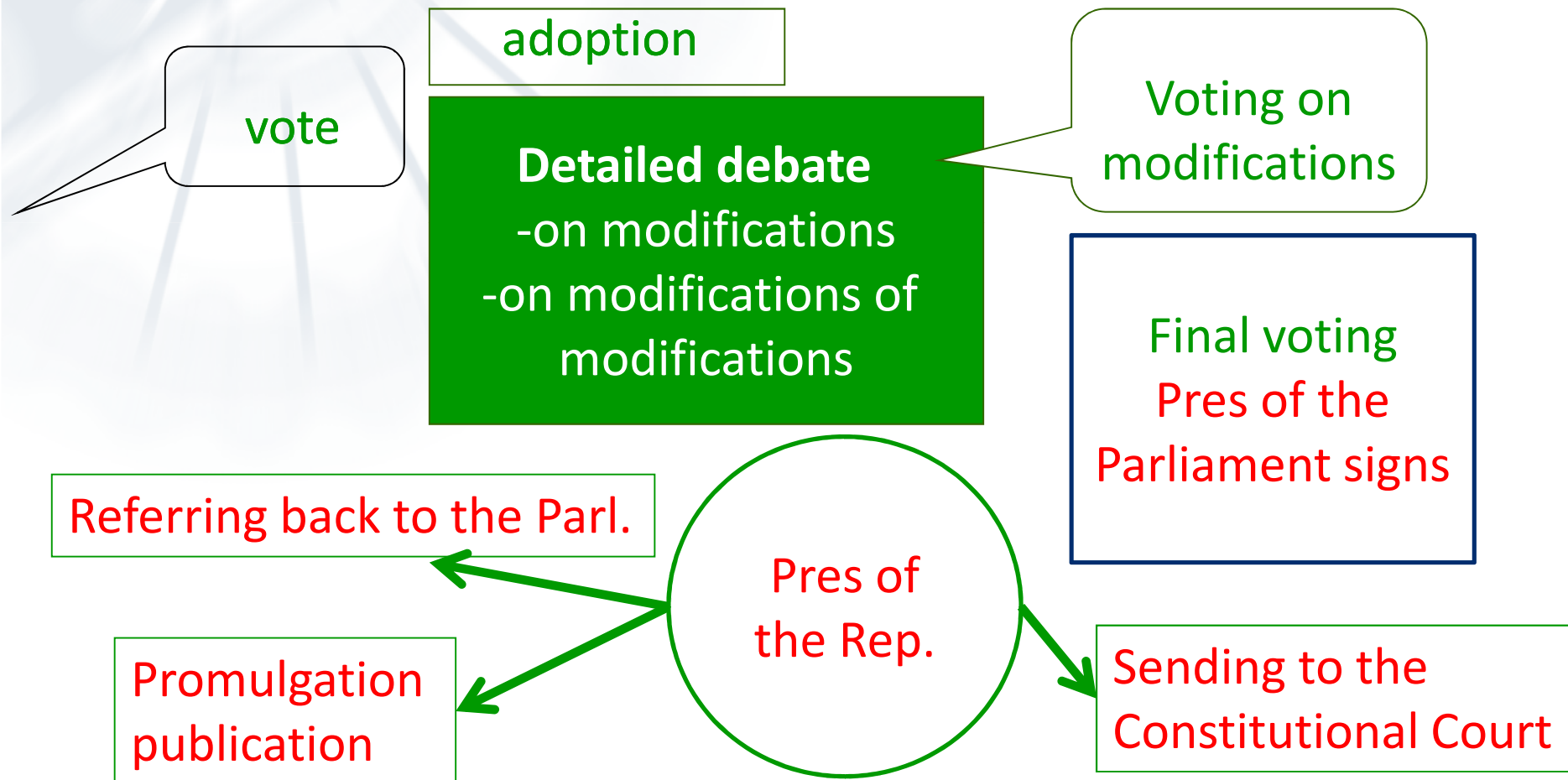
Pres of the
Parliament

Putting to agenda

General debate
necessity
regulatory principles
amendments

vote

Hungary – Legislation



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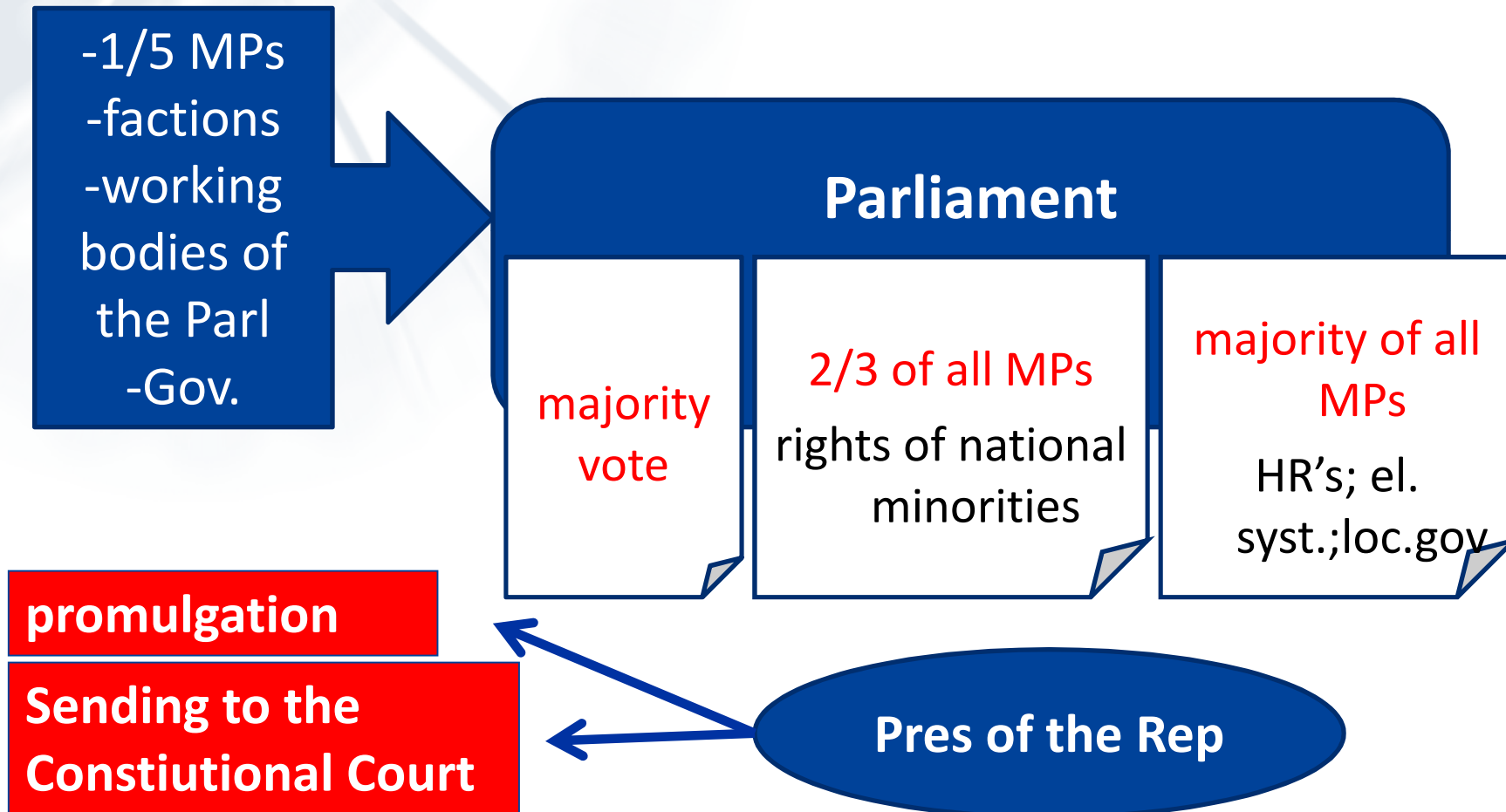


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Hungary – Publication



Croatia – Legislation





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Thank you for your attention!