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Electoral System Change in Europe since 1945

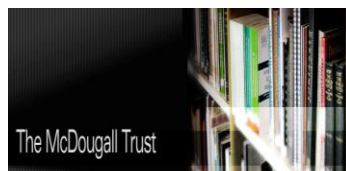


Electoral System Change in Europe since 1945: Slovenia

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Section 1: Overview of the Slovenian Electoral System Changes since 1990

In 1989, a new law on elections to the tricameral Slovenian Parliament was enacted by which representatives to the three houses – the Socio-Political Chamber, the Chamber of Communes and the Chamber of Associated Labour – were to be elected by proportional, majority and plurality systems, respectively. The range of systems reflects the competing preferences of the different political groups at the time. While the ruling elite favoured a majority system, the new parties pressed for PR (Fink Hafner, 2008) and the new Parliament was to determine the electoral system thereafter on the basis of a two-thirds majority vote. The equivalent of a lower house from among these three was the Socio-Political Chamber. The provisions for electing the Socio-Political Chamber were quite permissive, in that the electorate was given the option of both preferential and cross-party voting, and the threshold for parties to receive mandates at the second tier of the election was relatively low (2.5 per cent). Mandates were allocated using the Hare method at the first tier and D'Hondt at the second (Gaber 1992).

In 1992, a new bicameral system was introduced, comprising the National Assembly (lower house) and National Council (upper house). The 1992 Law on elections to the National Assembly retained the Hare and D'Hondt methods of allocating mandates, amended the method of preferential voting, and increased the thresholds by which parties could compete in the second tier of the elections. Although in 1996 the electorate expressed a preference for a two-round majority system at a referendum, the results were declared inconclusive and though later in 1998 the Constitutional Court ruled that the results were valid, and that the National Assembly should legislate in accordance with the electorate's wishes, the National Assembly have resisted this requirement. Instead, the Hare and D'Hondt methods remained in operation until 2000, when the National Assembly pushed through a Constitutional Amendment which introduced the Droop quota system for allocating mandates at the first tier of the elections. There has, however, been continued pressure for electoral reform (Toplak, 2006). Needless to say, though, enshrining the electoral system in the Constitution makes it more difficult to reform the electoral system. For the electorate to now initiate electoral reform through a referendum, instead of simply requiring a majority vote from among those voting, as in the case of a simple legislative referendum¹, to amend the Constitution requires furthermore that the majority of the electorate vote.² The endorsement of an amendment to the Constitution by Parliament requires a two-thirds majority vote.³

¹ Article 90, Constitution of the Republic of Slovenia, 1991

http://www.wipo.int/wipolex/en/text.jsp?file_id=180804

² Article 170 Constitution of the Republic of Slovenia, 1991

http://www.wipo.int/wipolex/en/text.jsp?file_id=180804

³ Article 169 Constitution of the Republic of Slovenia, 1991

http://www.wipo.int/wipolex/en/text.jsp?file_id=180804



Section 2: Relevant Electoral System changes in Slovenia since 1945

Table 1. Summary of Slovenian Electoral Laws and Amendments since 1945

Law	Amendment	Date of enactment	Location	Relevant for the research
Law on elections to the Parliament ⁴		27.12.1989	Official journal of the Republic of Slovenia ⁵ , nr. 42/1989, 29.12.1989 http://www.uradni-list.si/dl/vip_akti/1989-02-2188.pdf	Yes
	Law amending and supplementing the law on elections to the Parliament ⁶		Official journal of the Republic of Slovenia, nr. 5/1990	
Constitutional Court Decision not to undertake proceedings to review the constitutionality of the provisions in Article 4 of the Law on establishing constituencies for the election of deputies to the National Assembly and whether it is compatible		27.10.1992	Official journal of the Republic of Slovenia, nr. 53/1992, 6.11.1992 http://www.uradni-list.si/1/content?id=64571&part=&highlight=Zakon+o+dolo%C4%8Ditvi+volilnih+enot+za+volitve+poslancev+v+dr%C5%BEavni+zbor	

⁴ [Zakon o volitvah v skupščine](#)

⁵ Uradni List Republike Slovenije

⁶ Zakon o spremembah in dopolnitvah zakona o volitvah v skupščine



with the provisions in Article 20 of the Law on National Assembly Elections ⁷				
Law on elections to the National Assembly ⁸	10.9.1992	Official journal of the Republic of Slovenia, nr. 44, 12.9.1992	Yes	
		http://www.ura.dni-list.si/pdf/1992/Ur/u1992044.pdf		
Law establishing electoral constituencies for electing representatives to the National Assembly ⁹	24.9.1992	Official journal of the Republic of Slovenia, nr. 46/1992, 28. 9. 1992	Yes	
		http://www.ura.dni-list.si/pdf/1992/Ur/u1992046.pdf		
Law supplementing the law on elections to the National Assembly ¹⁰	5.10.1995	Official journal of the Republic of Slovenia nr. 60, 20.10.1995	No	
		http://www.ura.dni-list.si/pdf/1995/Ur/u1995060.pdf		
Constitutional Court		Website of the Constitutional		

⁷ Sklep da se ne sprejme pobuda in ne začne postopek za oceno ustavnosti določb 4. člena zakona o določitvi volilnih enot za volitve poslancev v državni zbor in njihove skladnosti z določbami 20. člena zakona o volitvah v državni zbor, p. 3029

⁸ Zakon o volitvah v Državni Zbor

⁹ Zakon o določitvi volilnih enot za volitve poslancev v državni zbor

¹⁰ Zakon o dopolnitvi zakona o volitvah v Državni Zbor



U-I-199/96 [Re:] the Law on referenda initiated by individuals. Decree on the calling of a legislative referendum on elections to the National Assembly ¹¹		Court http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/4B2615C9C1E8D1C9C125717200280D2B
Constitutional Court Ruling to establish whether the clause of the second paragraph of Article 93 of the Law on elections to the National Assembly is compatible with the Constitution, and to establish whether the Law on elections to the National Assembly is constitutional in so far as there is no obligation in Article 93 to publish the registered lists of candidates' names in the mass media for	8.3.1996	Official journal of the Republic of Slovenia, nr. 14/1996, 8.3.1996 http://www.uradni-list.si/pdf/1996/Ur/u1996014.pdf

¹¹ **U-I-199/96** Zakon o referendumu in ljudski iniciativi (Ur. list RS, št. 15/94) (ZRLI) Odlok o razpisu zakonodajnega referenduma za volitve v Državni zbor (Ur. list RS, št. 25/96), 3. in 4. tč.



the electorate's information. ¹²			
Constitutional Court Ruling 2369 to establish whether the second and third paragraphs of Article 92 of the Law on elections to the National Assembly are compatible with the Constitution. ¹³	12.7.1996	Official journal of the Republic of Slovenia, nr. 36/1996, 12.7.1996 http://www.uradni-list.si/1/objava.jsp?urlid=199636&stevilka=2369	
Constitutional Court U-p 341/96 Constitutional complaint by the signatories of an initiative to request the last legislative referendum on elections to the National Assembly and the SSS Report on the Decision of the Republican Electoral Commission of 12.12.96 regarding the results of the referendum on the electoral	19.12.96	Website of the Constitutional Court http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/F1D56F9495E4DC89C1257172002A27F0	Yes

¹² Odločba o ugotovitvi, da določba drugega odstavka 93. člena zakona o volitvah v Državni zbor ni v neskladju z ustavo, o ugotovitvi, da je zakon o volitvah v Državni zbor v neskladju z ustavo, kolikor ne predpisuje obvezne objave seznamov spiskov kandidatov iz drugega odstavka 93. člena v sredstvih javnega obveščanja in na voliščih, in o tem, da mora Državni zbor to neskladje odpraviti do 1. avgusta 1996, p. 1020.

¹³ Odločba o ugotovitvi, da drugi in tretji odstavek 92. člena zakona o volitvah v Državni zbor nista v neskladju z ustavo, p. 3136.



system of 8.12.96 ¹⁴			
Constitutional Court Ruling 3226 to repeal part of Article 87 of the Law on elections to the National Assembly to decide on the provision of postal votes from abroad [etc.] ¹⁵	9.10.1997	Official journal of the Republic of Slovenia, nr. 67/1997, 30.10.1997 http://www.ura.dni-list.si/pdf/1997/Ur/u1997067.pdf	
Constitutional Court U-I 12/97 [Re:] The law on the method of voting and determining the outcome of the referendum on electoral system ¹⁶	8.10.1998	Website of the Constitutional Court http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/002D3BB3C124F6FCC125717200280E0D	Yes
Constitutional Court Ruling 844 to establish whether the Law on elections to the National Assembly [and other laws] is constitutional. ¹⁷	13.3.1998	Official journal of the Republic of Slovenia, nr. 20/1998, 13.3.1998 http://www.ura.dni-list.si/pdf/1998/Ur/u1998020.pdf	

¹⁴ Ustavna pritožba podpisnikov pobude in predlagateljev zahteve za razpis predhodnega zakonodajnega referendumu za volitve v Državni zbor ter SSS zoper Poročilo Republiške volilne komisije z dne 12.12.1996 o izidu glasovanja na referendumu o volilnem sistemu, ki je bil 8. decembra 1996

¹⁵ Odločba o razveljavitvi dela 87. člena zakona o volitvah v Državni zbor, o določitvi ugotavljanja izida glasovanja po pošti iz tujine ter o datumu morebitnega ponovnega glasovanja na volitvah predsednika republike v letu 1997, p. 5287.

¹⁶ Zakon o načinu glasovanja in o ugotavljanju izida glasovanja na referendumu o volilnem sistemu (Uradni list RS, št. 57/96) (ZNGUIG), 3. odst. 3. čl., 25. čl.

¹⁷ Odločba o ugotovitvi skladnosti z ustavo zakona o volitvah v Državni zbor, zakona o lokalnih volitvah, 22. člena zakona o evidenci volilne pravice, četrtega odstavka 53. člena, 134. člena in drugega odstavka



<p>Constitutional Court Ruling 1013 on whether Article 43 of the Law on elections to the National Assembly is constitutional¹⁸</p>	<p>4.3.1999</p>	<p>Official journal of the Republic of Slovenia, nr.22/1999, 2.4.1999 http://www.uradni-list.si/pdf/1999/Ur/u1999022.pdf</p>	<p>Possibly</p>
<p>Constitutional Court Ruling 1450 that the first and fourth paragraphs of Article 92 of the Law on elections to the National Assembly are not incompatible with the Constitution.¹⁹</p>	<p>9.3.2000</p>	<p>Official journal of the Republic of Slovenia, nr. 31/2000, 7.4.2000 http://www.uradni-list.si/pdf/2000/Ur/u2000031.pdf</p>	
<p>Constitutional Law amending article 80 of the Constitution of the Republic of Slovenia²⁰</p>	<p>21.7.2000</p>	<p>Official journal of the Republic of Slovenia, nr. 66/2000 of 26.7.2000 http://www.uradni-list.si/pdf/2000/Ur/u2000066.pdf</p>	<p>Yes</p>
		<p>Full amended version of the law on elections to the National Assembly In</p>	

140. člena statuta Mestne občine Koper, o ugotovitvi protiustavne pravne praznine v zakonu o evidenci volilne pravice ter o delnem zavrženju pobude, p. 1308.

¹⁸ Odločba o oceni ustavnosti 43. člena zakona o volitvah v Državni zbor, p. 2460.

¹⁹ Odločba, da prvi in četrti odstavek 92. člena zakona o volitvah v Državni zbor nista v neskladju z ustavo, p. 3798.

²⁰ Ustavni zakon o dopolnitvi 80. člena ustave Republike Slovenije (UZ80), p. 8201.



			English at: http://www.legislationline.org/documents/id/3825
	Law amending and supplementing the law on political parties²¹	27.7.2000	Official journal of the Republic of Slovenia, nr. 70/2000 of 8.8.2000 http://www.uradni-list.si/_pdf/2000/Ur/u2000070.pdf
	Constitutional Court Decision 463 on the partial stay on the execution ofArticle 7 on the Law on elections to the National Assembly..., Article 35 of the law on referenda initiated by individuals²²	16.1.2003	Official journal of the Republic of Slovenia, nr. 11/2003 of 31.1.2003 http://www.uradni-list.si/_pdf/2003/Ur/u2003011.pdf
	The partial abrogation of the law on elections to the National	10.7.2003	Official journal of the Republic of Slovenia, nr. 73/2003,

²¹ Zakon o spremembah in dopolnitvah zakona o političnih strankah (ZPolS-A), p. 8659.

²² Sklep o začasnem zadržanju izvrševanja 2. člena zakona o volitvah Predsednika Republike, 5. člena zakona o lokalnih volitvah, 7. člena zakona o volitvah v Državni zbor, 2. člena zakona o državnem svetu, 4. člena zakona o evidenci volilne pravice in 35. člena zakona o referendumu in o ljudski iniciativi, p. 1687.



<p>Assembly, the National Council, law on presidential elections and the law on local elections²³</p>	<p>29.7.2003</p>	<p>http://www.uradni-list.si/pdf/2003/Ur/u2003073.pdf</p>	
<p>Law amending and supplementing the Law establishing the electoral constituencies for elections of representatives to the National Assembly²⁴</p>	<p>13.7.2004</p>	<p>Official journal of the Republic of Slovenia, nr. 80/2004, 23.7.2004 http://www.uradni-list.si/1/objava.jsp?urlid=200480&stevilka=3533</p> <p>Full version of the law, as amended, see: http://www.uradni-list.si/1/objava.jsp?urlid=200524&stevilka=827</p>	<p>Perhaps</p>
<p>Law supplementing and amending the Law on elections to the National Assembly²⁵</p>	<p>11.7.2006</p>	<p>Official journal of the Republic of Slovenia, 78/2006, of 25.7.2006 http://www.uradni-list.si/1/objava.jsp?urlid=200678&stevilka=8377</p>	<p>Yes</p>

²³ Delna razveljavitev zakona o volitvah v državni zbor, zakona o državnem svetu, zakona o volitvah predsednika republike in zakona o lokalnih volitvah, p. 11212.

²⁴ Zakon o spremembah in dopolnitvah Zakona o določitvi volilnih enot za volitve poslancev v državni zbor (ZDVEDZ-A)

²⁵ Zakon o spremembah in dopolnitvah Zakona o volitvah v državni zbor (ZVDZ-B), p. 8377.



		list.si/_pdf/2006/Ur/u2006078.pdf	
Law on elections to the National Assembly (officially amended version)²⁶	29.09.2006	Official journal of the Republic of Slovenia, nr. 109/2006, 23.10.2006	Yes
		http://www.ura.dni-list.si/_pdf/2006/Ur/u2006109.pdf	
Constitutional Court Ruling 2904 to establish whether the Law on elections to the National Assembly and the Law on local elections is unconstitutional because of a lack in detailed provisions with regard to postal voting and the rejection of the constitutional complaint.²⁷	7.6.2007	Official journal of the Republic of Slovenia, 54/2007, 18.6.2007	
		http://www.ura.dni-list.si/_pdf/2007/Ur/u2007054.pdf	
Constitutional Court Decision 2115 to dismiss [the constitutional complaint that	22.5.2008	Official journal of the Republic of Slovenia, nr. 49/2008, 22.5.2008	

²⁶ Zakon o volitvah v državni zbor (uradno prečiščeno besedilo) (ZVDZ-UPB1), p. 11223.

²⁷ Odločba o ugotovitvi, da sta Zakon o volitvah v Državni zbor in Zakon o lokalnih volitvah v neskladju z Ustavo, ker ne urejata podrobneje pravil o glasovanju po pošti in o zavrnitvi ustavne pritožbe, p. 7427.



Article 20 of the Law on presidential elections is not compatible with the fifth paragraph of Article 82 of the Law on elections to the National Assembly].²⁸

http://www.ura.dni-list.si/_pdf/2008/Ur/u2008049.pdf

Section 3: Details of previous electoral systems and electoral system changes.

3.1 The 1989 Law on Elections to the Parliament

The first free elections to the tricameral parliament of Slovenia (comprising in total 240 seats) were held in April 1990, within the system of the still existing Yugoslavia (Fink-Hafner, 1992: 220-21) and were organised in accordance with the 1989 Law on elections to the Parliament.²⁹ The system for the Socio-Political Chamber was one of open-list proportional representation.

Preferential voting. With regard to the election of the 80 representatives to the Socio-Political Chamber,³⁰ the 1989 law provided voters with as many votes as mandates to be allocated in the respective district and additionally the option of selecting candidates from different party lists.³¹ So, in the case of the 1990 elections, this was in practice a maximum of between 3 and 7 votes, depending on the electoral district (Gaber, 1992: 22).

In the event that a voter simply indicated a preference for one particular party list, rather than indicating named candidates on the list, then preferences were to be allocated according to the ranking in which the party had listed candidates (and as many votes as mandates available).³² Candidates were to be awarded mandates according to the ranking in the party lists, except in those cases where preference votes for named individuals exceeded those accrued by default from instances where voters simply approved a party list as a whole.³³ Regardless of the above provision, precedence was to be given to those candidates that received the most votes.³⁴

²⁸ Sklep o zavrnitvi, p. 5387

²⁹ [Zakon o volitvah v skupščine](#)

³⁰ Družbenopolitični Zbor

³¹ Article 79, Zakon o volitvah v skupščine 1989

³² Para. 3, Article 90, Zakon o volitvah v skupščine 1989

³³ Para. 6, Article 90 Zakon o volitvah v skupščine 1989

³⁴ Para. 7, Article 90 Zakon o volitvah v skupščine 1989



District magnitude. The law provided that the number of mandates allocated within each district was to be determined according to population size.³⁵ In addition to these regional constituencies, a further two seats were to be allocated to the Italian and Hungarian minorities across the country.³⁶ Details of the districts are given in Table 2, below.

Candidate lists. Two or more parties could submit joint lists of candidates.³⁷

Allocation of mandates at the first tier. The quota for allocating mandates was calculated as the total number of votes cast in the electoral district divided by the number of mandates to be allocated in that district.³⁸ [i.e. Hare quota].

Allocation of mandates at the second tier. The D'Hondt method was to be used for distributing those mandates that remained unallocated,³⁹ and only those parties that reached the threshold of 2.5 per cent of the total votes cast nationwide were eligible for these.⁴⁰

Allocation of Italian and Hungarian mandates. The two mandates to be distributed in the separate Italian and Hungarian constituencies were to be allocated in the same way as for the Chamber of Communes⁴¹, in accordance with Article 89, that is, a two-round majority system. In the event of a tiebreaker, then lots were to be drawn to determine the winner.⁴²

Table 2: Allocation of seats

District	1990 election	District	1992 to date
1		1. Idrija, Jesenice, Kamnik, Kranj, Radovljica, Škofija Loka, Tržič	11
2		2. Ajdovščina, Ilirska Bistrica, Izola, Koper, Nova Gorica, Piran, Postojna, Sežana, Tolmin	11
3		3. Cerknica, Ljubljana Center, Ljubljana Vič-Rudnik, Ljubljana Šiška, Logatec, Vrhnika	11
4		4. Domžale, Grosuplje, Kočevje, Litija, Ljubljana Bežigrad, Ljubljana Moste-Polje, Ribnica	11
5		5. Celje, Dravograd, Mozirje, Radlje ob Dravi, Ravne na Koroškem,	11

³⁵ Article 35, Zakon o volitvah v skupščine 1989. The law itself does not specify the number of seats per district.

³⁶ Article 37, Zakon o volitvah v skupščine 1989

³⁷ Para. 5, Article 43, Zakon o volitvah v skupščine 1989

³⁸ Para. 4, Article 90, Zakon o volitvah v skupščine 1989

³⁹ Para. 1, Article 91, Zakon o volitvah v skupščine 1989

⁴⁰ Para. 4, Article 91 Zakon o volitvah v skupščine 1989

⁴¹ Article 97, Zakon o volitvah v skupščine 1989

⁴² Para. 2, Article 89, Zakon o volitvah v skupščine 1989



		Slovenj Gradec, Velenje, Žalec, Šentjur pri Celju	
6		6. Brežice, Hrastnik, Krško, Laško, Metika, Novo mesto, Sevnica, Tabovlje, Trebnje, Zagorje ob Savi, Črnomelj	11
7		7. Maribor, Ruše, Slovenska Bistrica, Slovenske Konjice, Šmarje pri Jelšah	11
8		8. Gornja Radgona, Lenart, Lendava, Ljutomer, Murska Sobota, Ormož, Pesnica, Ptuj	11
9		9. ITALIAN: Koper, Izola, Piran	1
10		10. HUNGARIAN: Murska Sobota, Lendava	1
11			
12			
13			
14			
Range	3-7 ⁴³		Not Applicable
Italian & Hungarian constituencies	2		
Total number of mandates	80		90

The 1992 Law

The new Constitution of 1991 established a bicameral parliament, comprising the lower chamber, the National Assembly, and the upper chamber, the National Council.⁴⁴ The National Assembly was to comprise 90 representatives. The electoral system was not specified in the Constitution, which instead provided that the system be decided by a two-thirds majority vote

⁴³ Slavko Gaber 'Elections in Slovenia – April 1990', *Representation* 31:113, pp. 22-24, p. 22

⁴⁴ Article 80 & 96, Ustav Republike Slovenije 1991, <http://www.uradni-list.si/pdf/1991/Ur/u1991033.pdf>



in the National Assembly.⁴⁵ In 1992, a new law was introduced for elections to the National Assembly.

District magnitude. The law reduced the number of districts to 8, and fixed the number of mandates in each at 11. The provision in the 1989 law, that additionally one mandate was to be allocated to the respective Italian and Hungarian communities, remained. Electoral districts were to be defined by population size so that each deputy would represent approximately an equal number of inhabitants.⁴⁶ The number of mandates for each district remains static and the boundaries of these districts are established in a separate law.⁴⁷ While the main geographical divisions of these constituencies have remained the same since 1992, some minor boundary changes within these have occurred.⁴⁸ The separate law, which defines district boundaries, describes the Hungarian and Italian constituencies and the geographical areas these comprise as districts 9 and 10.⁴⁹

Provisions for candidates and parties. The law introduced a requirement that parties obtain the signatures of three serving deputies in parliament. In 1999, the Constitutional Court judged this provision unconstitutional, in that it was prohibitive to new parties wishing to compete⁵⁰ but nonetheless the requirement remains.⁵¹

Preferential voting. Voters could only vote for one candidate from the list of their choice.⁵² While mandates allocated at the first tier of the election were to be awarded in accordance with the electorate's preferences,⁵³ the new law provided parties at the second tier of the election with the option of allocating up to fifty per cent of all mandates awarded in total according to the party's ranking of candidates as submitted in their original list.⁵⁴ (Fink-Hafner, 2008) In 1996 the Constitutional Court made a ruling on a complaint, lodged by 31 representatives from the National Assembly, with regard (in part⁵⁵) to whether paragraph 2 of Article 93 provided sufficient scope for the electorate to democratically select candidates, in accordance with their rights as enshrined in the Constitution. Although the Constitutional

⁴⁵ Article 80, Ustav Republike Slovenije 1991, <http://www.uradni-list.si/pdf/1991/Ur/u1991033.pdf>

⁴⁶ Article 20, Law on elections to the National Assembly (1992)

⁴⁷ Article 21, Law on elections to the National Assembly (1992) The law referred to is: The law establishing electoral constituencies for electing representatives to the National Assembly (1992: see table)

⁴⁸ Compare, for example The law establishing electoral constituencies for electing representatives to the National Assembly 1992 with the amendments of 2004.

⁴⁹ Article 4, Law establishing electoral constituencies for electing representatives to the National Assembly

⁵⁰ Constitutional Court Ruling 1013 on whether Article 43 of the Law on elections to the National Assembly is constitutional

⁵¹ Article 43, Law on elections to the National Assembly (1992)

⁵² Article 73, Law on elections to the National Assembly (1992)

⁵³ Para. 2, Article 91, Law on elections to the National Assembly (1992)

⁵⁴ Para. 2, Article 93, Law on elections to the National Assembly (1992)

⁵⁵ The other issue was whether or not it should be made mandatory for parties to publish their candidate lists prior to elections for public information. The Court ruled that this should be the case and urged the National Assembly to amend the Law on elections to the National Assembly in accordance with the ruling.



Court did not find this provision incompatible, it was later revoked in 2000.⁵⁶ (Fink-Hafner, 2008).

Allocation of mandates. The method of allocating mandates at the first tier of the elections remained the Hare quota (that is, the total number of votes cast in the district, divided by the number of mandates to be allocated in the district)⁵⁷ and the D'Hondt method for the second tier.⁵⁸ The threshold for parties to be eligible for the second tier was increased, however, from 2.5 per cent of the total vote, to a minimum requirement that parties would in theory secure no fewer than 3 seats, taking into account all votes cast nationwide and all available seats (that is 3/88, which equates with somewhat more than 3 per cent of votes nationwide (Grad, 1997; Cerar, 2002 in Fink-Hafner 2008; Toplak, 2006)).⁵⁹

The method for electing the Italian and Hungarian mandates remained the two-round majority system.⁶⁰ Among some, however, there is a perception that the Italian and Hungarian electors are given unfair advantage in that they in effect have two votes (Toplak, 2006). Although not explicitly stated as such in the law, those eligible to vote in the Hungarian and Italian districts had two votes: one for their own mandate, and one in the larger territorial district where they resided. For example, the Italian constituency comprising Izola, Koper and Piran are situated within the larger 2nd district. [A complaint was lodged with the Constitutional Court to resolve this perceived unfair advantage and as far as I can see in 1998 the CC ruled in favour of the plaintive, although no amendment has been made to the law to date.⁶¹]

No other change

3.3 The 1996 referendum on electoral reform

In 1996 a petition signed by 43,710 voters requested a referendum on whether the electoral system should be changed,⁶² and a referendum was held on the 8 December 1996 (see: Toplak, 2006, Fink-Hafner, 2008, Matic, 2000). The referendum posed three alternatives: either, firstly a mixed system; that mandates be allocated entirely by a two-round majority system, or entirely through nationwide party lists. The mixed system proposed that the electorate was to have 2 votes: one for majoritarian, two-round local district elections to contest 44 mandates and that in total the 88 mandates were to be allocated from nationwide partisan or non-

⁵⁶ Constitutional Court Ruling 2369 to establish whether the second and third paragraphs of Article 92 of the Law on elections to the National Assembly are compatible with the Constitution, <http://www.uradni-list.si/1/objava.jsp?urlid=199636&stevilka=2369>

⁵⁷ Article 90, Law on elections to the National Assembly (1992)

⁵⁸ Para. 2, Article 92, Law on elections to the National Assembly (1992)

⁵⁹ Paras 2-3, Article 92, Law on elections to the National Assembly (1992)

⁶⁰ Para 1, Article 96, Article 92, Law on elections to the National Assembly (1992)

⁶¹ Ruling 844 to establish whether the Law on elections to the National Assembly [and other laws] is constitutional http://www.uradni-list.si/_pdf/1998/Ur/u1998020.pdf

⁶² Constitutional Court Decision U-I 265 96, Request for the calling of a referendum on the electoral system for elections to the National Assembly <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/DFA061CE126E5C98C1257172002808BC>



partisan lists in PR.⁶³ The second option was a two-round majority system: that 88 electoral districts were to be determined according to population size; that one representative was to be elected to each district and that mandates would be allocated to the candidate who receives the most votes. In the event that no candidate won an outright majority, then there would be a second round between candidates who had garnered the most votes in the first round.⁶⁴ The third option was to introduce pure PR, with the country as one electoral district, in nationwide party lists. There was to be preference voting, whereby each voter was to have one vote to select a candidate from the list of their choice, and candidates were to be allocated mandates according to this ranking.⁶⁵ While the mixed and PR options received only 14.4 per cent and 26.2 per cent of the votes respectively, 44.5 per cent voted in favour of a two-round majority system.⁶⁶ The referendum results, however, were treated as inconclusive, which immediately sparked a constitutional complaint⁶⁷ and in 1998 the Constitutional Court ruled that the referendum results were valid, and that the two-round majority system should be adopted.⁶⁸ (Toplak, 2006)

3.4 The 2000 Amendment of Article 80 of the Constitution

Instead of complying with the Constitutional Court ruling, in 2000, the National Assembly endorsed a Constitutional amendment specifying PR as the system for electing the National Assembly.⁶⁹ It also changed the PR system in several respects:

Party threshold. Within this provision, the threshold by which parties would qualify for mandates was increased to 4 per cent of votes nationwide. Moreover, seats at the lower tier were only to be allocated to those parties that met this 4 per cent threshold nationwide.

Allocation of seats to parties. The amendment provided that in the first tier of the election, as defined in Article 90 of the Law on elections to the National Assembly, the Droop quota was to be used to allocate mandates.

Allocation of seats to candidates. The amendment further stipulated that paragraph 2 of Article 93 regarding parties' right to allocate up to fifty per cent of mandates according to their

⁶³ Na referendumu se glasuje o naslednjih referendumskih vprašanjih a)

<http://www.dvk.gov.si/referendum/1996/razglas.html>

⁶⁴ Na referendumu se glasuje o naslednjih referendumskih vprašanjih b)

<http://www.dvk.gov.si/referendum/1996/razglas.html>

⁶⁵ Na referendumu se glasuje o naslednjih referendumskih vprašanjih c)

<http://www.dvk.gov.si/referendum/1996/razglas.html>

⁶⁶ <http://www.dvk.gov.si/referendum/1996/rezultati.html>

⁶⁷ U-p 341/96 <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/F1D56F9495E4DC89C1257172002A27F0>

⁶⁸ Constitutional Court decision U-I 12/97 <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/002D3BB3C124F6FCC125717200280E0D>

⁶⁹ Constitutional Law amending article 80 of the Constitution of the Republic of Slovenia

<http://www.uradni-list.si/pdf/2000/Ur/u2000066.pdf>



own ranking, was to be revoked.⁷⁰ (Toplak, 2006, Fink-Hafner, 2008) Thus, the closed-list element of the system was removed and the system became one of fully open-list PR.

No other change

3.5. The 2006 Amendments to the 1992 Law on elections to the National Assembly

In 2006, further amendments were made to the Law on elections to the National Assembly, which clarified the 2000 Constitutional Amendment that the State Electoral Commission was to determine before the first tier allocation of mandates, whether or not a party had reached the 4 per cent nationwide threshold.⁷¹ In accordance with the Constitutional amendments of 2000, mandates allocated at the district level (first tier of the election) were to be distributed using the Droop method (although unlike in the Constitutional amendment, the method is not named *per se*, but simply described as ‘a quotient calculated by dividing the total number of votes cast for any party list in the constituency, divided by the number of mandates to be elected in the constituency, plus one’) Furthermore, Article 90 stipulated that even if a party garnered enough votes at the local level to secure a mandate, and yet failed to reach the threshold of 4 per cent nationally, then it forfeited all seats. At the second tier of the election, mandates were to be allocated using the D’Hondt method.⁷²

3.6 The New consolidated 2006 Law (ZVDZ-UPB1)

A few months after the 2006 amendments to the 1992 law, a new law was enacted⁷³, which included some further amendments, including a new method for allocating seats to the Italian and Hungarian constituencies. The two-round majority system was replaced with a system of Borda count (Toplak 2006). Voters rank the candidates in order of preference. A first preference vote gives as many points as there are candidates. A second preference gives one point fewer, and so on. These points are then summed and the candidate with the most points is elected.⁷⁴

⁷⁰ Constitutional Law amending article 80 of the Constitution of the Republic of Slovenia

<http://www.uradni-list.si/pdf/2000/Ur/u2000066.pdf>

⁷¹ Article 26 (inserting Article 89 a to the 1992 law), Law supplementing and amending the Law on elections to the National Assembly, 2006

⁷² Article 29 (amending Article 92 of the 1992 law) Law supplementing and amending the Law on elections to the National Assembly, 2006

⁷³ “According to Article 153 Rule of the National Assembly, the National Assembly of the Republic of Slovenia at its session of 29 September 2006 approved the consolidated text of the Law on Elections to the National Assembly, which comprises: the Law on National Assembly Elections - ZVDZ (UL 44/92 on 12.9.1992), the Law amending the Law on National Assembly Elections - ZVDZ-A (UL 60/95 of 20 10th 1995), the Law Amending the Law on Political Parties - Parties Act-A (UL 70/00 of 8.8.2000) and the Law Amending the Law on Elections the National Assembly - ZVDZ-B (UL 78/06 of 25.7.2006).”

⁷⁴ Para. 2, Article 95, The law on elections to the National Assembly (officially amended version)



Appendix

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