The Invalid Anti-Migrant Referendum in Hungary

Gábor Halmai

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On Sunday, 2 October, Hungarian voters went to the polls to answer one referendum question: "Do you want to allow the European Union to mandate the relocation of non-Hungarian citizens to Hungary without the approval of the National Assembly?" Although 92 % of those who casted votes and 98 of all the valid votes agreed with the government answering 'no' (6 % were spoiled ballots), since the turnout was only around 40 percent, the referendum is invalid.

This was an own goal made by the Orbán government, which after overthrowing its predecessor as a result of a popular referendum made it more difficult to initiate a valid referendum. While the previous law required only 25 percent of the voters to cast a vote, the new law says at least 50 percent of those eligible to vote have to take part, otherwise the referendum is invalid. Based on the old law all but one of the six referendums held since 1989 were valid.

The recent referendum was announced by Prime Minister Viktor Orbán at the end of February this year to ask the Hungarian voters whether to accept the September 2015 decision of the Council of the European Union on the mandatory quotas for relocating 160, 000 migrants over two years, out of which Hungary would have been obliged to take 1,294 altogether. In his announcement Orbán said "it is no secret that the Hungarian government refuses migrant quotas" and will be campaigning for "no" votes. Orbán argued the quota system would "redraw Hungary's and Europe's ethnic, cultural and religious identity, which no EU organ has the right to do". Hungary's Foreign Minister added that "We are challenging the quota decision at the European Court of Justice and we firmly believe that that decision was made with a disregard to EU rules."

The referendum question was legally challenged before the National Election Commission, which is authorized to approve the question. A challenge was based on Article 8 (2) of the new Hungarian Constitution, called Fundamental Law, enacted in 2011 with the exclusive votes of the governing MPs, without any prior consultations, support of opposition parties, and without holding a referendum about it. Article 8 (2) states that "National referendums may be held about any matter falling within the functions and powers of the National Assembly". The petitioners stressed that since the Parliament has no jurisdiction over the binding decision of the European Council on the quotas, the question also violates the requirement of certainty enumerated in the Hungarian electoral law, because neither the voters nor the legislation will be aware, what may be, if any, the legal consequences of the referendum.

But the Election Commission, the majority of which consists governmental appointees, approved the question, and so did the Supreme Court (Kúria) following an appeal. The Parliament officially approved the referendum with votes of the governing party, and the extreme right-wing opposition Jobbik party, while the left-wing opposition boycotted the plenary session. The also packed Constitutional Court rejected the appeals against plans to hold the referendum, and finally the former Fidesz party member President of Hungary set 2 October 2016 as the date for the plebiscite. In the campaign period the government aggressively promoted the 'no' votes, spending 15 billion forints or €48.6 million on this campaign, 7.3 times more than the cost of the Brexit campaigns was. In early September the government has sent 4.1 million, full-color, B4-sized booklets to Hungarians at home and abroad making the government's case for why Hungarians should vote 'no': "Let's send a message to Brussels so they can understand too! We must stop Brussels! We can send a clear and unequivocal message to Brussels with the referendum. We must achieve that it withdraws the dangerous proposal."

The government did not even shy away from violating laws. For instance, as the Supreme Court overturning a decision of the National Election Committee ruled in a case related to Hungarians living abroad: "campaign letters sent on behalf of the government to ethnic Hungarians abroad violated the principles of equal opportunity and citizens' entitlement to exercise their rights in a bona fide way". Also ministry officials were making phone calls on behalf of Fidesz during working hours to voters in rural districts, encouraging them to vote 'no'.

Prime Minister Orbán in a speech at the plenary session of the Parliament hinted that the globalist opposition planning to strike a deal with Brussels and resettle thousands of migrants in municipalities controlled by the fake left-wing parties. Hence opposition-headed municipalities will have to take responsibility for not producing enough 'no' votes in the form of having to take in more refugees than other municipalities in the country.

The cabinet chief of the Prime Minister confirmed that the compulsory distribution of migrants to Hungary will result in social benefits – the recipients of which are, in many cases, Roma – being cut in. This has been interpreted as a thinly-veiled message to increase voter turnout among the Roma electorate.

But the highlight of the hate-filled campaign was when the when the deputy chair of the parliamentary commission for national security announced to initiate a national security screening of those 22 NGOs protesting against the inhuman politics of the Hungarian government against refugees calling up the public to invalidate the referendum.

Despite all the immoral and unlawful efforts of the government to influence the Hungarian voters, the majority of them did not cast votes, and made the referendum invalid. Disregarding this result, at the night of the referendum, Prime Minister Orbán announced the amendment of the constitution "in order to give a form to the will of the people", and also trying to push Brussels by saying that "in an EU member state today 92 % of the participants said that they do not agree with the EU proposal; can Brussels force the quotas on us after this?"

Of course it can, and even should force every member state to comply with a decision of the European Council, irrespective of the result of a plebiscite in the given country, and the consequent decision of the legislator, or even of the constitution making or amendment power. Otherwise it risks to loose its credibility as a value community, which is able and willing to enforce its own rules and principles.

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ABOUT THE AUTHOR

Gábor Halmai

Gábor Halmai is Professor Emeritus at Eötvös Loránd University and the European University Institute, Florence, and a visiting professor at LUISS Guido Carli in Rome.

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