



OCTOBER 8TH 2009

Referenda

Representative democracy and referenda

Denmark is a representative democracy. This means that everyday political decisions are made by representatives elected by citizens; not by the citizens themselves. This applies to local authorities and counties as well as at national level when citizens constitute the Folketing, with its 179 Members, at general elections.

But there is no rule without an exception. For even though Denmark is a representative democracy, the CA lays down that there are situations in which all citizens of the country can or must be directly involved in making a decision, and where voters have the last word. Furthermore, politicians at national level, as well as at regional and municipal level, can decide to hold consultative referenda. But in such cases, only the voters are consulted.

The basis of referenda

The present Constitutional Act of Denmark (abbreviated to CA in the following) came into effect on June 5th 1953. In accordance with this Act, there are five factors which can or must lead to holding a binding referendum:

- When a larger group of Members of the Folketing request that a Bill be submitted to a referendum (Section 42 of the CA)
- When ceding sovereignty (Section 20 of the CA)
- In connection with certain international treaties (Section 42, Subsection 6 of the CA)
- Constitutional amendments (Section 88 of the CA)
- When altering the voting age (Section 29 of the CA)

Moreover, the Folketing may decide to hold a consultative referendum as mentioned. Both kinds of referenda are mentioned below.

Bills (Section 42 of the CA)

When the Folketing has passed a Bill, one third of the Members of the Folketing (i.e. 60) can demand that the Bill shall not take effect until it has been submitted to a referendum. For a Bill to become void, the CA lays down that a majority of voters must reject it, and this majority shall comprise at least 30 per cent of all those entitled to vote.

However, a number of exceptions are listed in Section 42, Subsection 6 of the CA. Thus there are several laws which cannot be put to a referendum. This applies in such areas as Finance Bills, Tax Bills, Naturalisation Bills and Expropriation Bills.

Ceding sovereignty (Section 20 of the CA)

Powers which belong under the Danish authorities in accordance with the CA can be transferred by law to "international authorities" in the words of the CA. This provision has mainly been used in connection with the EU.

The first Danish Constitution was adopted in 1849. It has been amended several times since, most recently in 1953.

The possibility of putting Bills to a referendum has only been made use of once i.e. in connection with the "land laws" in 1963. The Liberals and the Conservatives who had more than a third of the seats in the Folketing requested that four of the Bills be put to a referendum. As appears from the survey, this meant that the Bills became void. As appears from the survey, it meant that the Bills became void.

However, the CA contains rigorous requirements on a Bill which deals with ceding sovereignty. Either five-sixths of the Members of the Folketing must vote for it, or – if there is a majority – but this represents less than five-sixths of the Members, the Act presupposes that the Bill cannot be rejected in a referendum. However, in the last instance, the Bill only becomes void if a majority of voters reject it, and if this majority comprises at least 30 per cent of all those entitled to vote.

Certain international treaties (Section 42, Subsection 6 of the CA)

Section 42, Subsection 6 of the CA states that Bills ratifying international treaties can be put to a referendum if the Folketing decides to try the ratification in a referendum by introducing a separate Bill.

This provision led to the referendum of 18 May 1993 on the Edinburgh Agreement. There was general agreement that there should be a referendum on the Edinburgh Agreement under any circumstances. And with prospect of more than 150 Members of the Folketing voting for the Agreement, the possibility of holding a referendum would be excluded in accordance with Section 20 of the CA. The Edinburgh Agreement being an international treaty, it was therefore decided to ensure a referendum by having recourse to the provision which can be found in Section 42, Subsection 6 of the CA.

Altering the voting age (Section 29 of the CA)

If the voting age is to be altered, the Folketing must pass a Bill to this effect and the matter subsequently put to a referendum. If a majority comprising 30 per cent of those entitled to vote rejects the Bill, it becomes void.

Consultative referenda

As consultative referenda are not mentioned in the CA, the Folketing can at all times decide to hold them. As is evident from the term “consultative”, the Folketing is not bound to abide by to the outcome of such a referendum. If the decision is to be binding, the provisions of the CA must be observed.

A consultative referendum has only been held once, i.e. in 1986 when a vote was held on the EC package.

The referendum on the European Union of 2 June 1992 was held in accordance with Section 20 of the CA. The Bill, which formally approved Denmark’s accession to the Union (ratification) was passed by only 130 votes in the Chamber. The number of votes required to pass the Bill was 150. The Bill was therefore put to a referendum and rejected.

Amending the Constitution

To make an amendment to the Constitution, the Folketing must first adopt the proposed amendment. A general election must then be called and the new Folketing must also adopt the amendment. The proposal must subsequently be put to a referendum where at least 40% of those entitled to vote must vote for it.

Date and year of the referendum	Subject of the referendum	Statutory authority of the referendum	Number of valid votes		Percentage of total number of person entitled to vote		Outcome
			Yes	No	Yes	No	
May 28th 1953	Constitutional amendment: Bill on the Constitutional Act of Denmark of May 1953 (age of youngest voters: 25)	The Constitutional Act of June 5th 1915 with amendments of September 10th 1920, Section 94	1,183,292	319,135	45.8	12.3	Constitutional amendment passed
May 28th 1953	Lowering of the voting age from 25 to 23 or 21 (age of youngest voters 21)	Act no. 50 of March 25th 1953 on referendum to be held in 1953 on amendment to the Constitutional Act of Denmark	840,815 (for 23)	700,122 (for 21)	30.0 (for 23)	25.0 (for 21)	Electoral age lowered to 23
May 30th 1961	Bill on altering of the voting age to the Folketing from 23 to 21	Constitutional Act of 1953, Section 29, cf. Section 42	586,113	479,146	20.3	16.6	Electoral age lowered to 21
June 25th 1963	1. Bill on acquisition of agricultural holdings 2. Bill on State smallholders 3. Bill on the pre-emption of the local authorities 4. Bill on the conservation of nature	Constitutional Act of 1953, Section 42	843,756	1,354,588	27.7	44.5	"Land laws" became void
June 24th 1969	Bill on the altering of the voting age to the Folketing from 21 to 18	Constitutional Act of 1953, Section 29, cf. Section 42	448,724	1,646,688	13.6	49.8	Electoral age of 21 retained
September 21st 1971	Bill on altering of the voting age to the Folketing from 21 to 20	Constitutional Act of 1953, Section 29, cf. Section 42	1,601,840	1,231,804	47.4	36.5	Electoral age lowered to 20
October 2nd 1972	Denmark's Accession to the European Economic Communities	Constitutional Act of 1953, Subsection 2 of Section 20	1,958,043	1,135,755	56.7	32.9	Denmark accedes to the European Economic Communities on January 1st 1973
September 19th 1978	Bill on altering of the voting age to the Folketing from 20 to 18	Constitutional Act of 1953, Section 29, cf. Section 42	1,224,448	1,049,832	34.2	29.0	Electoral age lowered to 18
February 27th 1986	Denmark's accession to the EC package (European Single Act) (consultative referendum)	Act no. 24 of February 5th 1986	1,629,786	1,268,483	42.0	32.7	Denmark's accession to the EC package passed by the Folketing
June 2nd 1992	Denmark's accession to the Maastricht Treaty	Constitutional Act of 1953, Subsection 2 of Section 20	1,606,442	1,653,289	40.5	41.7	Denmark did not accede to the Treaty
May 18th 1993	Denmark's accession to the Maastricht Treaty supplemented by the Edinburgh Agreement	Constitutional Act of 1953, Subsection 6 of Section 42, cf. Section 19	1,930,391	1,471,914	48.6	37.0	Denmark acceded to the Treaty supplemented by the Edinburgh Agreement
May 28th 1998	Denmark's accession to the Amsterdam Treaty	Constitutional Act of 1953, Subsection 2 of Section 20	1,647,692	1,342,595	41.2	33.6	Denmark acceded to the Treaty
September 28th 2000	Denmark and the single currency	Constitutional Act of 1953 Subsection 2 of Section 20, cf. Section 42	1,620,353	1,842,814	40.5	46.1	Denmark did not adopt the single currency
June 7th 2009	Equal status of the sexes in the line of succession to the Throne	Act no. 170 of March 27th 1953	1,858,180	318,931	45.1	7.8	The first born child succeeds to the Throne irrespective of his/her sex