

INTERIM REPORT
5 – 18 March 2014

24 March

I. EXECUTIVE SUMMARY

- On 6 April 2014, some 8 million voters will elect the members of parliament for a four-year term. A modified mixed electoral system removed the possibility for a second round, changed the seat allocation method and reduced the number of parliamentary seats from 386 to 199.
- The governing coalition formed by the Hungarian Civic Union (Fidesz) and the Christian-Democratic People's Party has had a two-third majority in parliament since the 2010 elections. It adopted numerous laws, including a new Constitution and electoral legislation, without public consultation or inclusive dialogue with the opposition. The new constituencies address previous vote inequalities, but concerns were raised about the political intention of the delineation process.
- The election administration, composed of three tiers of election commissions supported by election offices, has met all legal deadlines to date. It enjoys the general confidence of stakeholders, however, several OSCE/ODIHR LEOM interlocutors raised concerns about partisanship among the permanent members of the National Election Commission (NEC).
- Some 550,000 Hungarians living abroad received Hungarian citizenship since the 2010 amendment of the Act on Hungarian Citizenship. A number of OSCE/ODIHR LEOM interlocutors expressed serious concerns about the different voting procedures for out-of-country voters with and without residence in Hungary, as well as about the security of postal voting.
- A candidate may run concurrently in single-member constituencies and on national lists. The police is investigating several cases, in response to allegations that smaller parties traded signature collection sheets for single member constituency candidates. The election commissions registered 1,559 single member constituency candidates, including 395 women. A total of 1,610 candidates, including 379 women, run on 18 national lists.
- Citizens who register themselves as national minority voters must vote for a minority list drawn up by the respective national minority self-government. All 13 national minority self-governments submitted lists, with a total of 99 candidates, including 42 women. Some Roma leaders campaigned against registration as a minority voter and proposed their own national list.
- The campaign commenced on 15 February and intensified since the beginning of March. The opposition claims that Fidesz created an uneven playing field by using government advertisements. Current regulations result in a *de facto* absence of campaign advertisements on commercial television.
- Formally, numerous electronic and print media outlets provide for media diversity. Media experts expressed to the OSCE/ODIHR LEOM their serious concern over lack of independence of the Public Service Broadcaster, *Magyar Television*, of Hungarian News Agency, the official source for all public media news content, and of the Media Council, the new supervisory body for media

legislation, as well as a lack of pluralism in news programs, as the main commercial television stations are affiliated with the ruling parties or have entertainment-oriented programs.

- Hundreds of complaints have been filed to date with the election commissions and courts. Most were rejected on formal grounds.

II. INTRODUCTION

Following an invitation from the Minister for Foreign Affairs and based on the recommendation of a Needs Assessment Mission conducted from 20 to 23 January, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM) on 5 March.¹ The LEOM is headed by Ambassador Audrey Glover and consists of 12 experts based in Budapest and 10 long-term observers deployed throughout the country. Mission members are drawn from 17 OSCE participating States. In line with ODIHR's methodology, the LEOM will not carry out systematic or comprehensive observation of election day activities. Mission members will, however, visit a number of polling stations to follow election day procedures.

III. BACKGROUND

The 6 April elections will be the seventh since 1990 and the fourth observed by the OSCE/ODIHR. The April 2010 parliamentary elections resulted in a two-thirds majority in parliament of the Coalition of Hungarian Civic Union (*Magyar Polgári Szövetség*, Fidesz) and the Christian-Democratic People's Party (*Kereszténydemokrata Néppárt*, KDNP). This ruling coalition enacted key laws, including the Fundamental Law of Hungary (the Constitution) and new electoral legislation. These were largely passed and modified without public consultation and lacking inclusive dialogue with opposition parties, and following proposals from individual MPs. This procedure circumvented the Participation of Civil Society in the Preparation of Legislation Act, which requires that "all laws proposed by the government need to go through its procedures for public consultation". The European Parliament and the Council of Europe strongly criticized this process and the numerous changes to the constitution and the laws after their adoption as well as the use of constitutional amendments to override some decisions of the Constitutional Court.²

IV. THE LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The conduct of the elections is regulated primarily by the Constitution, the Act on Election of Members of Parliament (Elections Act), and the Act on Election Procedures (Election Procedures Act). The Constitution entered into force on 1 January 2012 and was amended five times, most recently in September 2013. The Elections Act was adopted in December 2011, and was amended four times, most recently in July 2013.³ A key change is the introduction of the right to vote for citizens living abroad without permanent residence in Hungary, but only for the proportional part of

¹ Previous OSCE/ODIHR reports on Hungary are available at: <http://www.osce.org/odihr/elections/hungary>.

² See European Parliament resolution, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-3154>. See also the Request for the Opening of a Monitoring Procedure in Respect of Hungary, available at http://www.assembly.coe.int/Communication/amondoc08_2013.pdf.

³ The Venice Commission Code of Good Electoral Practice, Paragraph 2.2.b provides that "The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election"; see at [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf). See also Existing Commitments for Democratic Elections in OSCE Participating States, paragraph 3.2, at <http://www.osce.org/odihr/elections/13957>.

the elections. The Election Procedures Act was adopted in October 2012, and was amended three times, most recently in December 2013. Amendments introducing active voter registration for all citizens were declared unconstitutional and overruled.

The Constitution gives every adult citizen the right to vote and be elected. The right to vote can be limited based on a court decision as part of a criminal sentence or for an individual with limited mental capacity as established by a court decision. There are no legal requirements aimed at enhancing the participation of women in political life.

The 2010 amendments to the Act on Hungarian Citizenship provide that a descendant of a person who was a Hungarian citizen before 1920, with some proficiency in the Hungarian language can apply for Hungarian citizenship. To date, some 550,000 such persons living mostly in neighbouring countries availed themselves of this opportunity.

Parliament is elected for a four-year term. The new Elections Act retained a mixed electoral system but removed the possibility for a second round, changed the seat allocation method and reduced the number of parliamentary seats from 386 to 199. The 106 seats from single-member constituencies are elected through majoritarian contests. The remaining 93 seats are distributed through a nationwide proportional system among candidate lists from parties passing a 5 per cent threshold (or a 10 per cent for lists with two parties or 15 per cent for lists with more than two parties). The votes for candidates who did not win a seat in the majoritarian contest and the votes obtained by winning candidates beyond the 50 per cent plus 1 that are required to win, are allocated to the proportional contest. The five per cent threshold is not applicable to national minority lists.⁴

Amendments to the Elections Acts established the constituency boundaries in July 2013. These can only be altered by a two-thirds vote in parliament. The constituency delimitation resolves previous inequality issues between the numbers of voters in different constituencies as it requires that this number may not deviate more than 15 per cent from the national average.⁵ Based on current voter registration figures, five constituencies do not respect this principle.⁶ The constituency delimitation process was criticized by several OSCE/ODIHR LEOM interlocutors for lacking transparency, independence and consultation and for catering to the political interests of the governing parties.

V. THE ELECTION ADMINISTRATION

The elections are administered by a three-tiered election administration: the National Election Commission (NEC), 106 Constituency Election Commissions (CoEC) and 10,386 Polling Election Commissions (PSC). Each commission is independent. A parallel set of election offices act as secretariats for the commissions, including the National Election Office (NEO), 97 Constituency Election Offices (CoEO) and 1,297 Local Election Offices (LEO). For voting abroad, 97 PSCs have been established at diplomatic representations.

⁴ National minority lists that fail to win a seat are entitled to a non-voting parliamentary spokesperson.

⁵ The Code of Good Practice in Electoral Matters of the Venice Commission, paragraph 2.2, provides that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances”. In addition, the law provides that constituencies “should form contiguous areas”, but at least one constituency, Szeged 1, is composed of three separate areas.

⁶ The largest deviation is Pest 5, followed by Somogy 2 and Tolna 1, 2, and 3.

The NEC is a permanent body consisting of seven members elected for nine-year terms by the parliament, based on proposals from the president.⁷ Two of the NEC members are women, including the deputy. Each of the 18 national lists registered to contest the upcoming elections is entitled to appoint one member to the NEC. The 13 national minority lists may appoint one commissioner each, however they may only vote on national minority issues. The NEO is an independent government agency responsible for preparing and conducting the elections. Its head is appointed by the president based on a proposal from the prime minister, for a nine-year term. The current head is a woman.

The CoECs and PSCs consist of three members elected by local governments as proposed by the head of the CoEOs and LEOs respectively. In addition, each candidate in the constituency is entitled to appoint one member to the respective CoEC and two members to the respective PSCs. The CoECs have completed candidate registration for the single-mandate constituencies and are hearing complaints and appeals in their jurisdictions. The PSCs were to be formed by 17 March. Some commissioners have expressed concern to the OSCE/ODIHR LEOM that the large number of members will impede the efficiency and effectiveness of the commissions.⁸

Election commissions' sessions are public. NEC meetings, minutes and decisions are publicized on its website. Since the start of the electoral period, the NEC has issued several instructions, adopted decisions, including on the registration of nominating organizations, parties and lists, and handled numerous complaints and appeals. The election administration has met all legal deadlines to date. Most OSCE/ODIHR LEOM interlocutors expressed confidence in the electoral administration, however, some raised concern about partisanship of the commission in the current political context.

VI. VOTER REGISTRATION

The central voter register is maintained by the NEO and is extracted from the population register. Citizens with a permanent address in Hungary and who are over 18 are eligible to vote on election day as are married citizens who are 16 years or older, upon their request. The number of eligible voters at the time of this report is 8,236,443.

Voter lists can be viewed in the LEOs up to 4 April, which is the deadline to make any alterations to the lists. Persons with a disability may apply by 4 April for Braille or simplified voting materials, or to vote in an accessible polling station. Mobile voting is available for voters with disabilities, for health reasons or for those in detention. Citizens may also request to vote in a designated polling station in a constituency other than their registered address by 4 April.

Some 16,000 citizens with permanent residence in Hungary who are out of country on election day registered with the NEO to vote at one of 97 diplomatic missions. They can vote for both contests. Some 176,000 citizens without in-country residence, who can only vote for the proportional contest, are registered to vote by mail. The ballot packages may be mailed to any address requested. Voters can mail their ballot to the NEO, or deliver it to a diplomatic mission or a CoEO, including by proxy. The Election Procedures Act relaxed the registration of non-resident voters, while residents must submit registration data which exactly matches official records. Several OSCE/ODIHR LEOM interlocutors expressed serious concern about the different voting procedures for out-of-country voters with and without residence in Hungary. They also shared concerns about the security of postal

⁷ Previous legislation set NEC appointments for four years. The NEC was elected on 30 September 2013.

⁸ In the constituency of Baranya, 29 candidates have been registered, and as such the PSCs here may have up to 63 members, plus minority representative members.

voting and the fact that the list of non-resident voters is not public. The authorities stated that the list is not publicized to protect Hungarian citizens in countries prohibiting multiple citizenships. Citizens declaring themselves as a national minority may register to vote for minority lists rather than national lists. This limits the choice of minority voters in the proportional race on election day as this registration precludes their possibility to vote for another but the minority list.⁹ Requests must be lodged with the NEO by 22 March, though this may be altered up to 4 April. The number of minority voters registered thus far is 28,250.

VII. REGISTRATION OF CANDIDATES

A candidate may run in single-member constituencies and on national lists concurrently. Parties wishing to nominate candidates in the single-member constituencies had to register as nominating organizations with the NEC. A candidate had to collect at least 500 signatures from eligible voters in that constituency on signature sheets and submit to the CoECs by 3 March. Strict fines were imposed for late submission or lost sheets.¹⁰ Voters could support more than one candidate.

The CoECs registered 1,559 candidates, including 395 women, and rejected 849, mostly because they did not collect enough support signatures. Several national media reports alleged that a number of smaller parties traded signature sheets to copy voter information and fraudulently obtain registration. Police are investigating a number of cases. Only two parliamentary parties have gender quotas. There are no women candidates in four constituencies. National lists were to be submitted to the NEC by 4 March. Lists were registered if the nominating organization was able to submit at least 27 candidates in 9 or more counties as well as Budapest. Of the 31 lists submitted to the NEC, 16 single party and 2 joint party lists were registered with a total of 1,610 candidates, including 379 women.¹¹

The new legislation provides that national minority self-governments can submit candidate lists that appear on a separate ballot for national minorities. They had to collect support signatures from at least 1 per cent of the voters included in the minorities register as of 17 February, but no more than 1,500 signatures. All 13 officially recognized minorities registered with a total of 99 candidates, including 42 women. The main parties and coalitions standing for election are the ruling party alliance Fidesz /KDNP, and the opposition parties alliance of the Hungarian Socialist (MSZP), Together Party for a New Era (*Együtt* 2014), Dialogue for Hungary (PM), Democratic Coalition (DK) and Hungarian Liberal Party (MLP), as well as the Movement for a Better Hungary party (Jobbik) and the LMP (Politics Can Be Different).

VIII. CAMPAIGN ENVIRONMENT

The campaign officially began on 15 February 2014. The campaign silence period has been abolished, but campaign activities are prohibited within 150 meters of a polling station on election day. The main campaign messages have been conveyed through billboards, media, rallies, leaflets and door-to-door campaigning. Contestants have been extensively using social networks.

⁹ See the Joint Opinion of the OSCE/ODHIR and the Venice Commission on the Elections Act which noted that this “limits the choice of minority voters in the proportional race on election day, especially when there is only one list competing for the vote of the respective minority.” See at <http://www.osce.org/odihr/91534>.

¹⁰ An unlimited number of forms could be requested. The fine for lost sheets or late submission of sheets is approximately HUF 50,000 (EUR 160). More than 200 fines were issued, with the highest being HUF 21,000,000 (EUR 67,000).

¹¹ A total of 13 lists were denied registration as 12 failed to reach the 27 candidates required and one list had the required number of counties, but failed to secure registration in Budapest.

The Fidesz/KDNP suggests that voters will have to choose between the future (represented by them) and the past when the country was governed by communists and subsequently by the leftist-liberal coalition. The campaign of MSZP-*Egyutt*/PM-DK-MLP is centered on their intent to “repair democracy”. They demand a referendum on the planned expansion of the nuclear plant in Paks and assert that a loan from Russia financing this plant could jeopardize the country’s independence. The green LMP has also denounced the expansion of the nuclear plant. Jobbik focuses on security issues and nationalistic proposals. Jobbik uses anti-Roma, anti-Semitic and homophobic rhetoric and calls for the protection of the Hungarian soil.

The campaign has intensified since the beginning of March 2014. The tone of the campaign has been influenced by alleged corruption cases across the political spectrum. The opposition complains that Fidesz created an uneven playing field, by broadcasting government advertisements and using proxy civil society organizations for their campaign. Fidesz argues that such broadcasts are social advertisements and not political in nature. The opposition also alleges that at least 50 per cent of the billboards in Budapest are controlled by businesspeople close to Fidesz.

IX. CAMPAIGN FINANCE

Electoral contestants can use state and private funds for campaign purposes. State funding is regulated by the Act on the Transparency of Campaign Costs related to the Election of the Members of the National Assembly, while private donations are regulated by the The Act on the Operation and Financial Management of Political Parties. There are no limits for private donations. Those over HUF 500.000 (EUR 1,600) must be disclosed in party annual reports.

Single-mandate constituency candidates receive up to HUF 1 million (EUR 3,200) in state funds, irrespective of whether they run independently or nominated by a party. Additional state support is provided to political parties that nominate candidates in single-mandate constituencies and to the national minority self-governments which nominate lists.¹² A candidate can spend a maximum of HUF 5 million (EUR 16,000).

Electoral contestants report to the National Treasury Office (NTO) and are audited by the State Audit Office (SAO). There are no reporting requirements before election day. State support to political parties is not subject to NTO verification, while support for candidates is. A compulsory audit is performed by the SAO of parties that win seats.¹³ Several NGOs are involved in the election campaign, with billboards targeting some electoral contestants.¹⁴ The costs for such activities are not regulated by campaign regulations nor subject of supervision by SAO.

The government has been conducting a “*Hungary is performing better*” campaign since 2013. According to the Minister of Public Administration and Justice, its cost was approximately EUR 2 million for the period from March to November 2013. On 1 October 2013, the government sold to Fidesz the non-exclusive rights for the use of this slogan for EUR 640. Currently, both Fidesz and the government run campaigns with the same lay-out and identical slogan on several television stations.

¹² Parties are eligible to receive between HUF 150 million and HUF 600 million depending on the number of candidates registered in single-mandate constituencies (approximately EUR 500.000 and EUR 2 million). National minority self-governments receive amounts proportionate to the number of registered minority voters.

¹³ SAO can audit the parties not represented in parliament only upon the request of other contestants.

¹⁴ The most visible advertisement campaign is by the Civil Unity Forum against some opposition leaders. NGOs monitoring the campaign estimate it cost between EUR 500.000 and 1 million since January 2014.

On 10 March candidates from MSZP and *Együtt 2014* filed a complaint with the NEC against TV2. On 13 March the NEC rejected the complaint. On 18 March, the Supreme Court overturned the NEC decision, motivating that TV2 violated the law by broadcasting campaign advertising. It also prohibited TV2 to further broadcast this spot.

X. THE MEDIA

Formally, a significant number of electronic and print media outlets provide for diversity in the media landscape. The internet increasingly becomes the primary source of news. A growing number of online media outlets appear to be affiliated with both sides of the political spectrum. Television news still are the primary source of political information.

Media experts expressed their serious concern to the OSCE/ODIHR LEOM over developments in broadcasting and a lack of independence of the Public Service Broadcaster, *Magyar Television* (MTV), potentially undermining the political pluralism of news programs.¹⁵ The market-leading commercial television stations are affiliated with the ruling parties or have an entertainment-oriented program profile, resulting in limited critical reporting about the government by the broadcasters with the highest audience shares.¹⁶ In addition, OSCE/ODIHR LEOM interlocutors expressed concern about the independence of the public Hungarian News Agency, MTI, which is the official source for all public media news content. Another potential issue is the recently extended scope of defamation provisions in the Criminal Code, including penalties of up three years imprisonment for defamatory video or sound recordings. Criminalized speech can potentially undermine investigative journalism and silence opposing views.¹⁷

The Freedom of the Press and the Fundamental Rules of Media Content Act requires broadcasters to provide “balanced coverage” in news and information programs “on local, national and European issues that may be of interest for the general public”. The law, however, lacks clarity on what constitutes “balanced coverage”.

The new supervisory body for content regulation is the Media Council, part of the National Media and Info-communications Authority (NMHH). The chairperson, who is at the same time the president of the NMHH, and the four members of the Media Council are elected by parliament with a two-thirds majority for a nine-year term. The process of selecting their members is of major concern as the current Council has a politically homogenous composition.¹⁸ The Media Council monitors the coverage of political actors and publishes monitoring results on its website, but only acts upon complaints as the law prohibits it to act *ex officio*.

The Election Procedures Act provides for a total of 600 minutes free airtime on the Public Broadcaster, to be equally divided among the lists. In response to the large number of contestants, MTV provided each list with additional five minutes of live broadcast in a discussion program aired on M1 and on public TV and radio. The Act banned paid political advertising on commercial broadcasters, which the Constitutional Court deemed unduly restrictive on freedom of expression and

¹⁵ See also European Parliament resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012, available at http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-315#def_1_8

¹⁶ Data on audience share is available at <http://adattar.nmhh.hu/agb/nezettseg/201307>.

¹⁷ See the press release of the OSCE Representative on Freedom of Media at <http://www.osce.org/fom/107908>.

¹⁸ See the press release of the OSCE Representative on Freedom of Media at <http://www.osce.org/fom/90823>.

media. A fifth amendment to the 2012 Constitution allowed commercial broadcasters to air campaign advertising, but only unpaid and equally divided between national lists contesting the elections. In practice this right is not exercised. Opposition parties complained that this limits their direct access to television. Contestants can purchase political advertising in print and online media outlets.

On 11 March, the OSCE/ODIHR started qualitative and quantitative media monitoring analysis of the campaign coverage, including five newspapers with and five TV channels.¹⁹

XI. COMPLAINTS AND APPEALS

The Election Procedures Act allows voters and contestants to lodge complaint, but sets out some new formal requirements. The NEC serves as a first instance for reviewing most election-related complaints and also decides on complaints on political advertisements. All decisions of the NEC can be appealed to the Supreme Court. Its decision is final unless appealed to the Constitutional Court provided that the applicant alleges a violation of a constitutional right.²⁰ All complaints must be received and decided on within three days.

To date the NEC received over 841 complaints, of which a large number are appeals against CoEC decisions on the validity of candidate support petition sheets. Some 200 complaints pertained to fines issued by CoECs for late or unreturned petition sheets. The Supreme Court received 114 complaints so far, 11 decided on merit and the rest were rejected on formal grounds. All except a few upheld the initial NEC decisions. The Constitutional Court received 13 cases and ruled on 4, rejecting them on formal grounds.

XI. PARTICIPATION OF NATIONAL MINORITIES

According the results of the 2011 census, the largest national minorities are the Roma (3.1 per cent) and the Germans (1.3 per cent). The other groups officially recognized as minorities make up less than one per cent of the population: Slovaks, Croats, Romanians, Ukrainians, Serbs, Slovenes, Poles, Greeks, Bulgarians, Ruthenians and Armenians.

Each of the 13 national minorities has a national minority self-governments. The current self-governments have been elected in 2010 and new elections are foreseen in the autumn of 2014. Their election predates the entry into force of the Elections Act, meaning that national minority voters elected their current national minority self-government not knowing that this would possibly impact on their parliamentary representation.

The restriction to vote for a national list by registered national minority members once voters registered for this elicited criticism. Some Roma leaders opted to campaign against registration as a minority voter and proposed their own national list. A certain degree of confusion seems to prevail regarding this new system; according to some OSCE/ODIHR LEOM interlocutors, this could negatively affect the possibility for minority voters to make an informed choice. In practice, there is no competition within each respective minority contest, as the ballot will only include one choice.

¹⁹ The monitoring is conducted from 17:00 till 23:00. The media outlets monitored are: M1 ATV, *Hír*, RTL Klub and TV2. The monitored print media outlets include *Blikk*, HVG, *Magyar Nemzet*, *Metropol* and *Népszabadság*.

²⁰ The Constitutional Court voiced its concerns to the OSCE/ODIHR LEOM that its jurisdiction is not clear, and that the lack of clarity of the new legislation and the lack of expertise and judicial practice on it, and the short deadlines for adjudicating complaints are putting a strain on the court, and could lead to a situation where possibly valid complaints are rejected on formal grounds.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The legislation does not provide for citizen non-partisan observers. Nominating organizations have the right to appoint commission members to the NEC, except those from national minority lists, and may appoint up to five observers to work alongside the NEO and verify their operating practices. While the presence of observers from political entities at polling stations is not provided for, each political entity registered within the respective constituency may appoint representatives to the PSC. The Election Procedures Act now allows for international observers. They may observe the entire process and may request copies of any documentation.

XIII. MISSION ACTIVITIES

The OSCE/ODIHR LEOM commenced its work on 5 March. The Head of the Mission met with the Ministry of Foreign Affairs, the NEC and the NEO, and other high-level state officials, politicians and diplomatic representatives. The LEOM has also established contacts with political parties and candidates, representatives of the media, civil society and other electoral stakeholders. The Head of the Mission met a pre-election delegation of the OSCE Parliamentary Assembly (OSCE PA). Mr. Adao Silva has been appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term OSCE observer mission.