



Office for Democratic Institutions and Human Rights

# HUNGARY

## PARLIAMENTARY ELECTIONS

6 April 2014

**OSCE/ODIHR Limited Election Observation Mission  
Final Report**



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**HUNGARY**  
**PARLIAMENTARY ELECTIONS**  
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**OSCE/ODIHR Limited Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry for Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM) for the 6 April 2014 parliamentary elections. The OSCE/ODIHR LEOM assessed compliance of the electoral process against OSCE commitments and other international obligations for democratic elections, as well as national legislation. For election day, the OSCE/ODIHR LEOM joined efforts with an observer delegation from the OSCE Parliamentary Assembly.

The 6 April parliamentary elections were efficiently administered and offered voters a diverse choice following an inclusive candidate registration process. The main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage and campaign activities that blurred the separation between political party and the State.

The legal framework for these elections was amended substantially in recent years. While some changes were positive, a number of key amendments negatively affected the electoral process, including the removal of important checks and balances. A new constitution and a large number of cardinal laws, including electoral legislation, were adopted using procedures that circumvented the requirement for public consultation. This undermined support for and confidence in the reform process.

The legal amendments reduced the number of parliamentary seats from 386 to 199, necessitating alterations to constituency boundaries. While the legal requirement to have constituencies of a more equitable size is positive, the need for a two-thirds parliamentary majority for redrawing boundaries may make it difficult to change them in the future. The delimitation process was criticized by several OSCE/ODIHR LEOM interlocutors and international organizations for lacking transparency, independence and consultation, and allegations of gerrymandering were widespread.

Significant elements of the electoral system were altered, including provisions for the surplus votes of winning candidates in each constituency to be transferred to parties participating in the national, proportional contest. This change itself resulted in an additional six seats being allocated to the alliance of *Fidesz-Hungarian Civic Union (Fidesz-Magyar Polgári Szövetség, Fidesz)* and the Christian-Democratic People's Party (*Kereszténydemokrata Néppárt, KDNP*).

The election administration functioned efficiently and met all electoral deadlines. However, in the current political context, the process of appointing the election administration resulted in many OSCE/ODIHR LEOM interlocutors expressing a lack of confidence in their impartiality. The limited voter education and late publication of guidelines on important electoral aspects was of concern given the large number of changes recently introduced in the electoral process.

The candidate registration process was inclusive. The NEC registered 18 party and joint party lists with a total of 1,607 candidates, including 378 women, for the 93 seats distributed through a nationwide proportional system. The Constituency Election Commissions registered 1,531

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Hungarian.

candidates, including 384 women, for the 106 single-member constituencies elected through majoritarian contests.

Women's representation in the parliament remains at less than ten per cent. Women candidates received limited media coverage during the campaign, and most contestants did not specifically address issues of gender equality in their programmes. There are no legal requirements aimed at enhancing the participation of women in political life. Only two political parties have internal policies to promote women candidates.

Overall, OSCE/ODIHR LEOM interlocutors expressed confidence in the accuracy of the voter register, although some concerns were raised regarding the secrecy of the register of non-resident citizens abroad, which was not made public. The 2010 amendments to the Act on Hungarian Citizenship provided large numbers of Hungarians living abroad with the opportunity to obtain citizenship, while changes to the electoral law allowed citizens without a permanent residence in Hungary to vote. Different registration and voting procedures for voters abroad, which depended on whether they had permanent residence in Hungary, undermined the principle of equal suffrage and was perceived by a number of OSCE/ODIHR LEOM interlocutors as an attempt to differentiate voting rights on partisan grounds.

Special measures provided national minorities with the possibility to register for a separate minority voting process. By having to publicly register, and given that only one choice was available on the ballot for minority lists, their choice was limited and the secrecy of the vote was violated. As well, the measures did not appear to enhance their participation or visibility in the process.

The campaign was subdued overall and almost indiscernible in rural areas. The tone of the campaign was negative and dominated by allegations of corruption at the expense of discussion of substantive issues. The use of government advertisements that were almost identical to those of *Fidesz* contributed to an uneven playing field and did not fully respect the separation of party and State, as required in paragraph 5.4 of the 1990 OSCE Copenhagen Document.

While the introduction of new campaign finance legislation was a step forward, certain areas remain unregulated, including third-party campaigning. Financial incomes and expenditures of electoral contestants are not reported on or disclosed during the campaign. The legislation provides repayment regulations for individual candidates that receive public funds, but not for political parties. Collectively, this limited the transparency and accountability of the process.

Formally, numerous electronic and print media outlets provide for media diversity. Increasing ownership of media outlets by businesspeople directly or allegedly indirectly associated with *Fidesz* and the allocation of state advertising to certain media undermined the pluralism of the media market and heightened self-censorship among journalists. The limited amount of free airtime for candidates and absence of paid political advertisement on nationwide commercial television impeded electoral contestants' access to campaign via the media, at odds with paragraph 7.8 of the 1990 OSCE Copenhagen Document.

Furthermore, a lack of political balance within the Media Council combined with unclear legal provisions on balanced coverage created uncertainty for media outlets. The public service broadcaster followed its legal obligation to allocate free airtime to contesting parties, albeit with limited impact. The OSCE/ODIHR media monitoring results showed that three out of five monitored television stations displayed a significant bias towards *Fidesz* by covering nearly all of

its campaign in a positive tone while more than half the coverage of the opposition alliance was in a negative tone.

A large number of complaints were filed during the electoral process with the election administration bodies and the courts. The majority were rejected on formalistic grounds and some decisions were not consistent. Collectively, this did not guarantee effective redress as required by paragraph 5.10 of the 1990 OSCE Copenhagen Document. In addition, the lack of public hearings undermined transparency and is not in line with paragraph 12 of the 1990 OSCE Copenhagen Document.

In line with OSCE/ODIHR standard methodology, the OSCE/ODIHR LEOM focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day. Nevertheless, OSCE/ODIHR LEOM observers visited a limited number of polling stations on 6 April. In the polling stations visited, election day was generally conducted in an organized and transparent manner, and election procedures were followed, although secrecy of the vote was undermined in some cases. The counting and tabulation processes observed were carried out in an orderly manner.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs of Hungary 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) on 5 March deployed a Limited Election Observation Mission (LEOM) for the 6 April parliamentary elections. The LEOM was headed by Ambassador Audrey Glover and consisted of 12 experts based in Budapest and 10 long-term observers deployed throughout the country. Mission members were drawn from 17 OSCE participating States.

In line with standard OSCE/ODIHR methodology for LEOMs, the mission did not include short-term observers and did not undertake a comprehensive and systematic observation of election day proceedings. However, mission members visited a limited number of polling stations and followed the tabulation of results in some constituencies. The mission followed electoral proceedings on 6 April jointly with a delegation from the OSCE Parliamentary Assembly (OSCE PA), headed by Baroness Jenny Hilton of Eggardon. Mr. Adão Silva was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. The LEOM remained in Hungary until 14 April and followed post-election developments

The OSCE/ODIHR LEOM assessed compliance of the electoral process against OSCE commitments and other international obligations for democratic elections, as well as national legislation. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference in Budapest on 7 April 2014.<sup>2</sup>

The OSCE/ODIHR LEOM wishes to thank the authorities of Hungary for their invitation to observe the elections, as well as the National Election Office, the National Election Commission, the Ministry of Foreign Affairs, other state and local authorities, political parties, and civil society for their assistance and co-operation. The mission also wishes to express its appreciation to diplomatic representations of OSCE participating States for their co-operation throughout the course of the mission.

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<sup>2</sup> Previous OSCE/ODIHR reports on Hungary are available at: <http://www.osce.org/odihr/elections/hungary>.

### III. BACKGROUND

Hungary is a parliamentary republic. The president is the head of state and is indirectly elected by the parliament for a four-year term, with a two-term limit. The prime minister leads the government and is nominated by the president and elected by the parliament. The previous parliamentary elections took place on 11 April 2010 and resulted in a victory for the *Fidesz-Hungarian Civic Union (Fidesz-Magyar Polgári Szövetség, Fidesz)* and the Christian-Democratic People's Party (*Kereszténydemokrata Néppárt, KDNP*), which won a two-thirds majority in parliament.

Following the 2010 elections, the ruling coalition initiated a comprehensive overhaul of the legal framework, adopting a new Fundamental Law (the constitution) and revising a significant number of cardinal laws, including election legislation; all of which required a two-thirds majority. Following proposals from individual members of parliament, these laws were modified and largely passed without public consultation or inclusive dialogue with opposition parties.<sup>3</sup> This circumvented the rules set out in Act CXXXI of 2010 on the Participation of Civil Society in the Preparation of Legislation, which stipulates that all laws proposed by the government need to go through procedures for public consultation.

The Fundamental Law incorporated some provisions previously found unconstitutional by the Constitutional Court and repealed all Constitutional Court rulings delivered prior to the new Constitution entering into force. In addition, the constitutional changes and other new laws reduced the oversight powers of the Constitutional Court. The numerous changes, as well as amendments to the Fundamental Law to override some decisions made by the Constitutional Court drew international criticism.<sup>4</sup> The extent of this legal overhaul was unprecedented and undermined previously established checks and balances. In response, some government officials stated that Hungary already complied with the international obligations that must be met before attaining membership of the European Union (EU).

### IV. LEGAL FRAMEWORK

The conduct of the elections was primarily regulated by the Fundamental Law, the Act on Elections of Members of Parliament (Elections Act), and the Act on Election Procedures (Election Procedures Act). All of these laws were adopted following the last parliamentary elections and were further amended in the year before the election.<sup>5</sup> The new legal framework introduced major changes to fundamental aspects of the electoral system; in particular it modified seat allocation, redrew constituency boundaries, revised the appointment process of the election administration, and nearly halved the number of parliamentary seats. The manner in which these laws were adopted and

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<sup>3</sup> The procedure of introducing legislation by individual members of parliament, rather than political groups, allowed for laws to be introduced without full parliamentary debate. See the Council of Europe's Commission for Democracy through Law (Venice Commission) Opinion on the Fourth Amendment of the Fundamental Law of Hungary at:  
[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)012-e).

<sup>4</sup> See the Request for the Opening of a Monitoring Procedure in Respect of Hungary, 25 April 2013 at:  
[http://www.assembly.coe.int/Communication/amondoc08\\_2013.pdf](http://www.assembly.coe.int/Communication/amondoc08_2013.pdf). 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) (2012/2130(INI)) Available at:  
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-315>.

<sup>5</sup> The Fundamental Law entered into force on 1 January 2012 and was amended five times prior to the elections, most recently in September 2013. The Elections Act was adopted in December 2011, and was amended four times, most recently in July 2013. The Election Procedures Act was adopted on 8 April 2013, and was amended three times, most recently in December 2013.

frequently amended led to legal uncertainty and did not provide for inclusive public consultation, contrary to national legislation and good practice, which potentially negatively impacted public confidence in the electoral process.<sup>6</sup>

Some changes addressed prior OSCE/ODIHR recommendations, including simplified candidate registration procedures and stricter conditions for disenfranchising persons with mental disabilities. However, the process lacked inclusivity, while a number of prior recommendations remain unaddressed or have only been partially implemented.

***The legal framework should be reviewed to address past and present OSCE/ODIHR recommendations and bring it closer in line with OSCE commitments and other international obligations for democratic elections. Legislative reforms should be undertaken well in advance of elections, through open and inclusive consultations between all election stakeholders.***

The Fundamental Law grants every adult citizen the right to vote and be elected to parliament, but limitations can be set in other cardinal acts. The Elections Act and Election Procedure Act have their own definitions for active suffrage, but taken together they establish that every adult citizen has the right to vote, except those with limited mental capacity or convicted of a crime or subject to an additional punishment of continued disenfranchisement.<sup>7</sup> Although the new legislation requires a court decision in each of these cases, current court practice resulted in the disenfranchisement of a significant number of citizens. In these elections, some 57,000 citizens with mental disabilities were disenfranchised, at odds with Article 29 of the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), which provides that there should be no restriction upon the suffrage rights of such persons irrespective of the type of disability.<sup>8</sup>

***In line with international obligations, restrictions on the suffrage rights of persons with mental disabilities should be removed or be decided on a case by case basis, depending on specific circumstances.***

Over 38,000 persons convicted of a criminal offence were also disenfranchised, of which some 26,000 had completed their prison sentence. The deprivation of the right to vote is a severe penalty and the current restrictions on prisoner and ex-prisoner voting rights lack proportionality and are not in line with paragraphs 7.3 and 24 of 1990 OSCE Copenhagen Document and International Covenant on Civil and Political Rights (ICCPR).<sup>9</sup>

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<sup>6</sup> Paragraph 2.2.b of the 2002 Venice Commission Code of Good Electoral Practice, recommends 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.”

<sup>7</sup> Section 61 of the Criminal Code provides that a court sentence may include additional punishment of up to 10 years of further disenfranchisement. According to statistics from a 2012 report by the Public Prosecutor, almost 95 per cent of people convicted of crimes were penalized with such additional disenfranchisements. See: <http://www.mklu.hu/repository/mkudok8246.pdf>.

<sup>8</sup> Article 29 of the 2006 CRPD requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others.” See also, paragraph 9.4 of the 2013 CRPD Committee’s Communication No. 4/2011 (*Zsold Bujdosó and five others v. Hungary*) which stated that: “Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2 of the Convention.”

<sup>9</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens,” while paragraph 24 provides that “any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly

***Restrictions on voting rights for prisoners and ex-prisoners should be reviewed to ensure that any limitation is proportionate to the crime committed and clearly outlined in the law. Similarly, the courts' current practice of depriving nearly all people convicted of a crime of their suffrage rights for a period longer than their prison sentence should be reviewed.***

Amendments to the Elections Act introduced the right to vote for citizens living abroad without permanent residence in Hungary, but only for the proportional part of the elections. Previously, only citizens living abroad who maintained a permanent residence in Hungary could vote. Amendments to the 2010 Act on Hungarian Citizenship simplified the rules for acquiring citizenship for those living outside of Hungary, allowing every person who was a Hungarian citizen or is a descendent of a Hungarian citizen before 1920, and who has some proficiency in Hungarian, to apply for citizenship.<sup>10</sup> This resulted in some 550,000 new citizens, mostly living in neighbouring countries, who gained the right to vote.

Hungary continues to not comply with a significant number of judgments of the European Court of Human Rights (ECtHR), as well as findings and recommendations from a number of international organizations.<sup>11</sup> In addition, shortly after the 6 April elections, two decisions by the Court of Justice of the European Union (CJEU) were made against Hungary based on the removal of constitutional guarantees from the new legal system.<sup>12</sup>

## V. ELECTORAL SYSTEM

A new electoral system was introduced for the first time in these elections. While a mixed electoral system was retained, the number of seats was decreased from 386 to 199 and the method of seat allocation was modified. Out of the 199 seats, 106 are elected within single-member constituencies through one-round, majoritarian contests. The remaining 93 seats are distributed through a nationwide, proportional system among the parties that surpass the 5 per cent threshold (or 10 per cent, in case of joint party lists, and 15 per cent for lists with more than two parties).

Under the previous law, unused votes from the majoritarian contests were allocated to the proportional contest provided that the five per cent threshold was met. The new legislation maintains the transfer of unused votes while also providing for the transfer of the surplus votes of

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proportionate to the aim of the law." Paragraph 14 of the 1996 UN Human Rights Committee General Comment 25 on Article 25 of the ICCPR states that "if a conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offense and the sentence."

<sup>10</sup> In its 2012 Joint Opinion, the OSCE/ODIHR and Venice Commission welcomed, in principle, the extension of universal suffrage and noted that "the decision of the legislature to limit the right to vote for Hungarians living abroad to the proportional part of the elections seems justified on the ground of technical conditions to their full enfranchisement." Joint Opinion of the OSCE/ODIHR and Venice Commission (DL-AD(2012)012), 15-16 June, 2012, available at: <http://www.osce.org/odihr/91534>.

<sup>11</sup> For example, Hungary has not implemented ECtHR judgments, such as the *Case of Vajnai v. Hungary* (Application no.33629/06) and *Case of Fratanolo v. Hungary* (Application no. 29459/10). In response to the latter case, the government adopted National Assembly Resolution 58/2012 (VII.10) which did not comply with the *Fratanoló* judgment. The Constitutional Court struck down this resolution, but the government reintroduced the ban with a narrower scope via the Act on Sanctioning Usage of Totalitarian Symbols (Act XLVII of 2013). In addition, a number of concerns and recommendations, mostly on the judiciary, as outlined in the Venice Commission's Draft Opinion on the Fourth Amendment to the Fundamental Law of Hungary were not implemented.

<sup>12</sup> For example, on 8 April 2014, the Grand Chamber of the CJEU ruled that the new constitution violated the Data Protection Directive by shortening the term of the previous data protection ombudsman. See *Commission v. Hungary*.

the winning candidate.<sup>13</sup> For these elections, this change resulted in six additional seats being allocated to *Fidesz-KDNP*.

The 13 recognized national minorities can choose to register for ‘minority elections,’ which then excludes them from voting in the national, proportional list elections.<sup>14</sup> The national minority lists enjoy a preferential threshold and receive a non-voting, parliamentary spokesperson should they fail to win a seat.<sup>15</sup> (see *Participation of National Minorities*).

This reduction in seats necessitated an alteration in constituency boundaries, as well as an opportunity to address prior Constitutional Court decisions and OSCE/ODIHR recommendations regarding significant deviations in the sizes of constituencies that undermined the equality of the vote. In a positive step, the law now provides that constituencies should not deviate by more than 15 per cent from the national average, unless justified by special characteristics. However, this threshold remains above the good practice recommended by the Venice Commission.<sup>16</sup> In these elections, five constituencies did not respect the newly introduced 15 per cent threshold.<sup>17</sup>

The constituency boundaries were last amended nine months prior to the elections. The process of boundary delimitation was criticized by several OSCE/ODIHR LEOM interlocutors, including international organizations, for lacking transparency, independence and consultation, and allegations of gerrymandering were widespread.<sup>18</sup> In addition, as constituency boundaries are defined in the Elections Act, which requires a two-thirds majority to amend, it may be difficult to comply with voter equality requirements in the future.<sup>19</sup>

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<sup>13</sup> The surplus in such case is those obtained by the winning candidate over and above the total votes of the candidate with the second largest vote share in the constituency plus one.

<sup>14</sup> Those citizens who choose to register to vote for the national minority lists can no longer voter for national list elections.

<sup>15</sup> As stipulated in the law, the threshold is obtained by dividing the total number of national votes cast by 93, then divided by 4.

<sup>16</sup> Section 2.2 of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances.”

<sup>17</sup> Of the five constituencies, the three constituencies in Tolna cannot meet this as the law requires constituencies to remain within county boundaries. Adding or removing a constituency in Tolna would create even greater deviation from the norm.

<sup>18</sup> The 2012 Joint Opinion of the OSCE/ODIHR and Venice Commission noted that “the delimitation of constituencies has to be done in a transparent and professional manner through an impartial and non-partisan process, i.e. avoiding short-term political objectives (gerrymandering).” It also recommended to “review the existing provisions for determining constituency boundaries through cardinal laws by adding the mathematical formula and establishing an independent commission to draw the boundaries in the new Elections Act, as well as by removing the actual list of constituencies from the annex to the new Elections Act”.

<sup>19</sup> Sections 1.2.2 v and vi of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommend that “in order to guarantee equal voting power, the distribution of seats must be reviewed at least every ten years, preferably outside election periods.” Also, “[w]ith multi-member constituencies, seats should preferably be redistributed without redefining constituency boundaries, which should, where possible, coincide with administrative boundaries.” See also paragraph 21 of the 1996 UNHRC General Comment 25, which provides that “[t]he drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”

*Legislation should foresee periodic review of constituency boundaries by an independent commission to account for population changes. When constituency boundaries are redefined, it should be done in a transparent, impartial and inclusive manner. Concrete constituency boundaries should not be enshrined in cardinal laws that require a two-thirds majority to amend and consideration should be given to introducing a formula that would allow flexibility in adjusting boundaries.*

## VI. ELECTION ADMINISTRATION

The elections were administered by a three-tiered election administration: the National Election Commission (NEC), 106 Constituency Election Commissions (CoECs) and 10,386 Polling Station Commissions (PSCs). A parallel set of election offices acted as secretariats for the commissions, including the National Election Office (NEO), 97 Constituency Election Offices (CoEOs) and 1,297 Local Election Offices (LEOs). For voting abroad, 97 PSCs were established at diplomatic and consular representations.

The NEC is a permanent body, responsible for the overall conduct of the elections. The NEC's main responsibilities included registering nominating organizations for the national list elections, deciding on complaints, issuing non-binding guidelines to other commissions, and establishing final results. The NEC consists of seven members proposed by the president and elected for nine-year terms by the parliament.<sup>20</sup> In addition, each of the 18 national lists registered to contest these elections could appoint a temporary NEC member with full voting rights: 14 used this opportunity. Of 21 commissioners, 6 were women. Additionally, five national minority lists each appointed an additional commissioner, who could only vote on national minority issues.

While the NEC is primarily tasked to oversee compliance with the law by election commissions and electoral contestants, the NEO supervises the administrative part of the elections. Its head is appointed by the president for a nine-year term based on a proposal from the prime minister. The CoECs and PSCs consist of three members each, elected by local governments as proposed by the head of the CoEOs and LEOs respectively. Each LEO is headed by the municipal clerk of their respective settlement, while CoEOs are headed by the municipal clerk of the settlement at the seat of the constituency. In addition, constituency candidates are entitled to appoint one member to the respective CoEC and two members to the respective PSCs with voting rights.<sup>21</sup> However, in the current political context, the process of appointing the election administration resulted in many OSCE/ODIHR LEOM interlocutors expressing a lack of confidence in their impartiality.<sup>22</sup>

***The appointment mechanism for election commissions at all levels should enjoy broad political consensus, and the law could be amended to ensure this with the aim of enhancing impartiality and public confidence in the work of the election administration and in an inclusive process.***

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<sup>20</sup> The NEC commissioners are elected by a two-thirds majority of parliament. If such a majority is not obtained, the current commissioners remain serving. Provided that the NEC's term has been extended to nine years, it will administer the next two parliamentary elections. Previous legislation set the mandate to four years.

<sup>21</sup> A total of 40,854 party delegates were appointed to PSCs. These party representatives could assist in the voting and counting process.

<sup>22</sup> According to paragraph 20 of the 1996 UNHRC General Comment 25 to the ICCPR, "[a]n independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant." In addition, section II.3.1 of the Venice Commission Code of Good Practice in Electoral Matters provides that "[a]n impartial body must be in charge of applying electoral law."

The election administration met all electoral deadlines and generally carried out its work in an efficient and organized manner. Some materials delivered to voters and political parties several weeks before the elections included incorrect information, however these errors were corrected. The NEC conducted its work in a transparent and collegial manner, with its sessions open to the public and decisions published on its website. Decisions were generally proposed by the NEO. Most procedural decisions were adopted unanimously without debate, while issues of substance were rarely addressed. This dynamic of the NEC changed when more members were appointed and when the Supreme Court began to overturn some of its decisions. As well, increasingly, some decisions were voted on according to party interests rather than the legal merits of the case.

In the week before the election, the NEC issued guidelines on a number of important matters. These included, for example, clarification of legislation prohibiting campaigning within 150 metres of polling stations; namely, that posters within the specified area could remain but that active campaigning was forbidden. Electoral contestants would have benefited from knowing such important procedures well in advance of election day.

***As a permanent body responsible for the overall conduct of elections, the NEC should anticipate and address potentially unclear provisions in the law as early as possible in the electoral process.***

The lower-level election administration bodies were well-equipped, organized and held regular sessions. Each level of the administration provided training to lower levels. Training sessions observed by the OSCE/ODIHR LEOM were well-organized and comprehensive. The CoECs completed candidate registration efficiently, strictly according to the law and handled complaints within their competencies within legal deadlines.

A limited amount of voter education was undertaken by the election administration, including television spots and posters at polling stations. Given the scale of changes to the electoral process, the authorities did not provide sufficient information on procedures such as the new candidate nomination process and the national minority electoral process. Some national minority self-governments independently organized voter education on the minority elections within their communities.

***The election administration could consider conducting a broader voter education campaign, through diverse channels, especially when new elements of the electoral process are introduced. Specific efforts could be made to reach out to national minority voters.***

A voter education video circulated on the Internet several weeks before election day, which appeared to be in the format of an official election administration video. It included nationalistic imagery and Prime Minister Viktor Orbán calling for non-residents to vote. The election administration denied any responsibility for its production and said that the video was never posted on their website.

## **VII. VOTER REGISTRATION**

The central voter register is extracted from the population register and is maintained by the NEO.<sup>23</sup> Eligible voters who are over 18 years of age by election day are automatically included in the voter

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<sup>23</sup> Initially, the Election Procedures Act introduced active voter registration for all citizens. However, following a Constitutional Court decision that deemed this provision unconstitutional, the parliament annulled the amendments on active voter registration.

register, as are married citizens who are 16 years or older, upon their request. Voters were provided with ample opportunity to view the voter lists and make amendments at LEOs or online until 4 April. The number of voters registered for this election was announced at 8,241,488.<sup>24</sup>

If a polling station was not accessible, disabled voters could register for an accessible one within their constituency. In a positive development, the visually impaired could apply for Braille materials to vote independently, although only some 60 voters actually used such materials on election day. Mobile voting was available to voters with disabilities, to voters suffering health problems, or to those in detention. Voters could also request to vote in their constituency election at designated polling stations outside of the constituency in which they were registered. Registration for such 'absentee voting' totaled 108,479 citizens.<sup>25</sup>

Citizens who wished to vote abroad on election day and those without a permanent residence in Hungary were required to actively register to vote. Some 28,161 citizens with permanent residence who were out of the country on election day registered with the NEO and could vote for both contests. Some 193,793 new citizens living abroad without in-country residence could only vote for the proportional contest. The list of non-resident voters has not been made public, which led to some allegations about manipulation, potentially having a negative impact upon public confidence in the overall electoral process. The authorities stated that the nondisclosure is intended to protect Hungarian citizens in countries prohibiting multiple citizenship.

The Election Procedures Act relaxed the registration requirements for non-resident voters abroad, while those voters abroad with residence in Hungary had to submit registration data exactly matching official records. This led to different conditions for voter registration. For example, where a resident voter who submitted their application online using a keyboard without Hungarian characters would be rejected, a non-resident's application in this instance would be accepted.

Voters living abroad without permanent residence in Hungary could vote by post or deliver it in person or by proxy to a diplomatic and consular mission or a CoEO. In contrast, voters who were abroad but retained residence could only vote in person at diplomatic missions. Several OSCE/ODIHR LEOM interlocutors expressed concern about the fairness of different voting procedures for out-of-country voters and about the integrity and secrecy of postal voting.<sup>26</sup> The different registration and voting procedures for the two types of voters abroad was at odds with the principle of equal suffrage enshrined in paragraph 7.3 of the 1990 OSCE Copenhagen Document.<sup>27</sup> Opposition and civil society representatives alleged that these differing modalities of voting rights were introduced for partisan reasons.

***In light of the obligation to equal suffrage, legislation and procedures should provide the same methods for citizens abroad, be they residents or non-residents, to register and to cast their ballots.***

A few weeks before the elections, the NEC was notified that data obtained on candidate signature sheets could be used by people other than the voter to alter a citizen's voting place by requesting absentee or out-of-country voting materials, or by registering as a national minority voter. The NEC

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<sup>24</sup> The NEO also maintains a register of disenfranchised voters.

<sup>25</sup> On 4 April, the NEO computer system was overloaded with some 25,000 such requests. This caused a website slowdown. Some voters alleged that this blocked them from registering to vote as absentee voters.

<sup>26</sup> Ballot packages were mailed to any address requested, including within Hungary.

<sup>27</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that "the participating States will... guarantee universal and equal suffrage to adult citizens."

partially addressed this on 27 March by requiring that notifications of changes to a voter's registration be sent to the voter's permanent address immediately. In addition, polling stations where voters were originally registered had information about such changes, and provided them with information on where they could vote should they be affected.

***Legislation should be amended to ensure that data required to amend voter registration details are secure, unlike those that are collected on candidate signature sheets.***

## VIII. CANDIDATE REGISTRATION

Party and candidate registration was inclusive.<sup>28</sup> Candidates could run in single-member constituencies and on national lists concurrently. In each single-member constituency, a candidate had to collect at least 500 signatures from eligible voters in that constituency. Previously, a candidate had to collect at least 750 endorsement coupons, which served a similar purpose as support signatures. This change, combined with the increase in the size of constituencies, reduced the required number of signatures to less than one per cent of voters, which is in line with good practice previously recommended by the OSCE/ODIHR.<sup>29</sup> In addition, the new legislation allowed voters to sign in support of more than one candidate, also addressing a prior OSCE/ODIHR recommendation.

The CoECs registered 1,531 candidates, of whom 40 were independent and 384 were women. A total of 851 candidates were rejected, mostly because they did not collect enough support signatures, while 97 withdrew their candidacies. Several CoECs informed the OSCE/ODIHR LEOM that a number of parties had very similar voter data on their signature sheets, which may have been the result of some candidates obtaining supporting signatures without a voter's consent.<sup>30</sup> A group of non-governmental organizations called for voters to verify if nominations were made in their name through the LEO's, however the National Authority for Data Protection and Freedom of Information stated that such information is not stored digitally and would, thus, be impossible to provide on such a scale.<sup>31</sup> Police are investigating a number of alleged signature fraud cases; however, no parties were removed from the registration process as the CoECs and NEC refused to investigate these cases on the grounds that the law did not provide them with the explicit authority to do so. Several OSCE/ODIHR LEOM interlocutors noted that these issues negatively affected voters' perception of the registration process.

***Consideration should be given to introducing a mechanism for investigating complaints concerning entries in candidate signature sheets. Such a mechanism should be established inclusively, sufficiently in advance of elections and be communicated in due time to all stakeholders.***

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<sup>28</sup> The NEC registered 146 political parties for these elections.

<sup>29</sup> Section 1.3.iii of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "law should not require collection of the signatures of more than 1% of voters in the constituency concerned."

<sup>30</sup> Nominations were verified based on the identification number of the signatory, not on actual signatures.

<sup>31</sup> While the scale of such requests may have been large, the public is entitled to such information under the Freedom of Information Act (Act CXII of 2011) at: [http://www.naih.hu/files/ActCXIIof2011\\_mod\\_lekt\\_2012\\_12\\_05.pdf](http://www.naih.hu/files/ActCXIIof2011_mod_lekt_2012_12_05.pdf).

Substantial fines were imposed for the late return or loss of signature sheets.<sup>32</sup> While these fines were partly justified by concerns over data protection, data collected on these sheets could be copied at any time. The fines for signature sheet violations amounted to some EUR 6 million.<sup>33</sup>

***The process of issuing fines for the late return or loss of candidate signature sheets should be reviewed, given that the return of such sheets does not necessarily protect the data contained in them.***

The NEC registered a national list if the nominating organization had candidates in at least 27 constituencies from 9 or more counties as well as in Budapest. Of the 31 lists submitted, 16 single party lists and 2 joint party lists were registered, with a total of 1,607 candidates, including 378 women. Thirteen lists did not comply with the registration criteria and were therefore not registered.

National minority self-governments could submit candidate lists that appeared on separate ballots for national minorities.<sup>34</sup> They had to collect support signatures from at least one per cent of the voters included in the national minorities register as of 17 February, but no more than 1,500 signatures. All 13 recognized national minorities registered lists with a total of 99 candidates, including 42 women.

## IX. ELECTION CAMPAIGN

The campaign officially began on 15 February. In a change from previous elections, there was no campaign silence period; however, on election-day, active campaigning was prohibited within 150 meters of polling stations.

The campaign was dominated by four political forces: the alliance of *Fidesz*-KDNP; the opposition alliance of the Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP), Together – Party for a New Era (*Együtt – A Korszakváltók Pártja*, *Együtt*), Dialogue for Hungary (*Párbeszéd Magyarorszáért*, PM), Democratic Coalition (*Demokratikus Koalíció*, DK) and Hungarian Liberal Party (*Magyar Liberális Párt*, MLP); the Movement for a Better Hungary (*Jobbik Magyarorszáért Mozgalom*, *Jobbik*); and the Politics Can Be Different party (*Lehet Más a Politika*, LMP). In addition, several non-governmental organizations (NGOs), most visibly the *Fidesz*-affiliated Civil Unity Forum (*Civil Összefogás Fórum*, CÖF) actively participated in the election campaign by sponsoring billboards with negative campaigning targeting opposition electoral contestants.<sup>35</sup> Overall, the focus of the campaign was individual cases of alleged corruption at the expense of a discussion of party programmes.<sup>36</sup>

A range of campaign methods were used, including rallies, billboards, political advertisements in the print media, leaflets, door-to-door canvassing, and social media. Although the campaign intensified at the start of March, apart from Budapest, it remained subdued overall and almost imperceptible in rural areas. The majority of campaign billboard spaces were rented by *Fidesz*,

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<sup>32</sup> The fine for lost sheets or late submission was approximately EUR 160 per sheet. More than 200 fines were issued, with one party being fined some EUR 2,100,000 in total.

<sup>33</sup> The official exchange rate is EUR 1: HUF 306.

<sup>34</sup> The role of the national minority self-government as stated in the 1993 Act on the Rights of National and Ethnic Minorities Minority is to protect minority rights on the national level and on the regional level, if the minority does not have a national structure. No other national minority organizations could submit lists for these elections.

<sup>35</sup> On 29 March, CÖF organized a peace march which according to the Ministry of Interior included some 450,000 people. It was followed by a *Fidesz* rally and culminated with a speech by Viktor Orbán.

<sup>36</sup> For example, throughout the campaign, the media reported primarily on the arrest of Gabor Simon, a former MSZP deputy chairperson, on charges of corruption.

although other parties had the possibility to do so. Opposition parties and candidates had limited access to broadcast media and public advertising space, including on billboards, lampposts and public buses, most of them owned by individuals affiliated with the government.<sup>37</sup> This contributed to an uneven playing field.<sup>38</sup> This restricted voters' access to information and, thus, potentially their ability to make an informed choice.<sup>39</sup> In addition, some OSCE/ODIHR LEOM interlocutors expressed concerns about losing their employment due to their political affiliation.

***The authorities should issue clear and comprehensive guidelines on the use of public and private space for campaign purposes to ensure equal opportunity and sufficient access for all electoral contestants.***

Since March 2013, over a year prior to election day, the government conducted a campaign with the slogan "Hungary is performing better." According to government officials, the cost of the campaign in 2013-2014 was EUR 4.5 million. It then sold the rights to use this slogan to *Fidesz* for EUR 640, after which the government and *Fidesz* ran advertisements which were strikingly similar. On 18 March 2014, the Supreme Court ruled that the government's campaign constituted political advertising and overlapped with the *Fidesz* campaign in content and form.<sup>40</sup> Several *Fidesz*-governed municipalities also campaigned in favour of the ruling party in a similar manner.<sup>41</sup> During the campaign, the *Fidesz*-led government sent notification letters to potential voters informing them of the savings that resulted from the government's initiative to decrease public utility prices, which was also a key feature of the *Fidesz* campaign. The government's campaign on behalf of *Fidesz* is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document, which calls for a clear separation of State and political party.

***The authorities should develop and implement safeguards to ensure a clear separation between the State and party, so as to prevent candidates from unduly using the advantage of their office for electoral purposes.***

## X. CAMPAIGN FINANCE

Contestants can use public and private funds for campaign purposes. The main law regulating campaign finance is the 2011 Transparency of Campaign Costs Related to the Election of the Member of the National Assembly Act, which addresses public contribution and expenditure limits,

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<sup>37</sup> Prominent billboard companies, such as Euro Publicity, *Publimont* and Euro AWK, maintained close business ties with *Fidesz*.

<sup>38</sup> A government decree was extended at the start of the campaign to prohibit political ads on lampposts on public roads or open roads within 100 meters of a highway or primary route. Nevertheless, the government and some *Fidesz*-affiliated municipalities, such as *Salgotarjan*, advertised on lampposts claiming their advertisements were not political. The Supreme Court later overturned the part of the decree forbidding political parties to use lampposts. Article 143a of the Elections Procedure Act contains rules on the placement of posters on walls and fences, but is silent on the necessity to obtain permission from the owners of lampposts.

<sup>39</sup> Paragraph 7.7 of the 1990 OSCE Copenhagen Document provides that "political campaigning should be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution."

<sup>40</sup> The suit was filed by *Együtt* against TV2 for violating the law by broadcasting campaign advertising. The Supreme Court prohibited TV2 from further broadcasting this spot. The decision was not fully implemented and TV2 continued to broadcast essentially the same advertisement until a second complaint was upheld by the NEC on 27 March. No fines were issued to TV2 for the violations.

<sup>41</sup> OSCE/ODIHR LEOM long-term observers (LTOs) reported on the use of municipality funded media outlets to campaign in favour of *Fidesz*, for example, in Budapest and Nyiregyhaza municipality.

but only establishes limited reporting requirements. Private donations to parties and party candidates are regulated by the 2012 Act on the Operation and Financial Management of Political Parties. These new campaign finance laws partly address prior OSCE/ODIHR recommendations to strengthen transparency and accountability and were largely welcomed by OSCE/ODIHR LEOM interlocutors. However, the legislation lacks basic transparency requirements<sup>42</sup> and does not regulate third party campaigning or donations to independent candidates. As well, certain OSCE/ODIHR LEOM interlocutors noted the lack of private donations limits.<sup>43</sup> There is no requirement for dedicated bank accounts for campaign purposes. There are also no templates for reporting, which may result in inconsistencies.

*The regulatory framework for campaign finance should be reviewed to take account of the gaps and ambiguities identified in this report, as well as by the Council of Europe's Group of States against Corruption (GRECO). In particular, they could consider the possibility of introducing limits for private donations, establish dedicated bank accounts for electoral contestants, and ensure that requirements apply to all candidates and parties. Consideration could be given to consolidating all campaign finance legislation in a single law.*

Each candidate could spend a maximum of EUR 16,000 for his or her election campaign. Each candidate in a single-member constituency could receive up to some EUR 3,200 in public funds, depending on the total number of candidates the nominating organization registered across the country. Additional public financial support is given to the political parties that register candidates in the constituencies and to the national minority self-governments that register lists.<sup>44</sup> If a candidate does not obtain at least two per cent of the vote in their constituency, they are obliged to repay their public funding; such obligations do not exist for political parties that receive public financial support.

The legislation obliges press outlets to publicise prices for political advertisements and prohibits private broadcasters from airing paid advertisements. Although the bulk of campaign expenses were allotted to outdoor advertising, companies were not required to publicize price lists for outdoor advertising.<sup>45</sup>

During the campaign, the financial activities of contestants involved in the campaign were not monitored by any state institution. Contestants must only publish financial reports 60 days after the election results are official. In response to a GRECO recommendation, the law introduced penalties for failure to report or for exceeding the campaign spending limit.<sup>46</sup> Parties that win seats are audited by the State Audit Office (SAO) within one year of the elections. However, this does not

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<sup>42</sup> Article 7.3 of the United National Convention Against Corruption provides that "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."

<sup>43</sup> Only donations over EUR 1,600 must be disclosed in party annual reports. Paragraph 175 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations states that a "reasonable limitations on private contributions may include the determination of a maximum level that may be contributed by a single donor. Such limitation has been shown to be effective in minimizing the possibility of corruption or the purchasing of political influence."

<sup>44</sup> Parties are eligible to receive between EUR 500,000 and EUR 2 million depending on the number of candidates registered in single-mandate constituencies.

<sup>45</sup> According to *Kantar Media*, a media and marketing monitoring agency, the outdoor campaign activities of the contestants account for EUR 8.3 million which is 85 per cent of the total amount spent for campaigning. In addition, in January-March 2014, the state-owned companies spent an estimated of EUR 6.5 million for advertising.

<sup>46</sup> See GRECO Evaluation Report on Hungary, 20 June 2012.

extend to contestants who did not win seats in the parliament.<sup>47</sup> This timeline is at odds with international good practice and limits the transparency and accountability of campaign finance.<sup>48</sup>

*Consideration could be given to introducing interim reporting as well as shorter reporting deadlines, in line with international good practice.*

*The legal framework should be amended to have clear oversight and monitoring powers assigned to the State Audit Office. Timely oversight mechanisms for campaign finance violations during the campaign could also be provided.*

Some NGOs were actively involved in the election campaign, erecting billboards or holding campaign events. The CÖF, which targeted several opposition leaders through posters and billboards with negative campaigning, conducted an outdoor advertising campaign that, according to OSCE/ODIHR LEOM interlocutors, cost an estimated EUR 1.5 million. The costs of third-party activities are not reported and are not subject to SAO oversight, thereby circumventing campaign finance regulations.<sup>49</sup>

*Any campaigning by third-parties in the electoral process could be subject to campaign finance legislation.*

## **XI. MEDIA**

### **A. THE MEDIA ENVIRONMENT AND LEGAL FRAMEWORK FOR THE MEDIA**

Media conduct during the election campaign is primarily regulated by the Election Procedures Act, as well as by the Freedom of the Press and the Fundamental Rules of Media Content Act and the Act on Media Services and Mass Media. The latter was revised on 24 May 2012. The OSCE Representative on Freedom of the Media (RFoM) has drawn attention to several provisions of the legislation that can curb media pluralism and put the media at risk of political control. At the same time, the OSCE RFoM stressed that a number of key areas remained unaddressed, including “the ways of nomination and appointment of the President and members of the Media Authority and Media Council, and their power over content in the broadcast media, as well as the prospect of very high fines that can lead to self-censorship among journalists.”<sup>50</sup>

Media regulations impose an obligation to provide fair and balanced political coverage for all public media. The public broadcaster is obliged to provide free airtime to contestants. Private media is no longer entitled to air paid political advertisements, but can provide free airtime to all electoral contestants on an equal basis, although none chose to do so in these elections. A constitutional amendment prohibited paid political advertisement in the broadcast media, despite a Constitutional Court decision ruling that such provisions unduly restricted freedom of expression and the media. In the current media environment, the absence of other political advertisements on nationwide commercial television, combined with a significant amount of government advertisements,

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<sup>47</sup> The SAO can only audit parties not represented in the parliament only upon the request of other contestants.

<sup>48</sup> Paragraph 200 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation provides that: “[r]eports on campaign financing should be turned in to the proper authorities within a period of no more than 30 days after the elections.”

<sup>49</sup> See Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organizations in Europe, at: <https://wcd.coe.int/ViewDoc.jsp?id=1194609>.

<sup>50</sup> See the press release of the OSCE RFoM from 25 May, 2012 at: <http://www.osce.org/fom/90823>.

undermined the equal and unimpeded access of contestants to the media, which is at odds with paragraph 7.8 of the 1990 OSCE Copenhagen Document.<sup>51</sup>

***In the current media environment, in order to foster equal opportunities for contestants, consideration could be given to amending the law to provide for both free and paid political advertising in broadcast media.***

***Provisions in the legal framework that can be used to provide for the broadcasting of government advertisements during an election campaign should be amended in order to prevent the governing party having an undue campaign advantage.***

The media environment is characterized by numerous broadcast and print outlets,<sup>52</sup> most openly associated with either the right or left of the political spectrum. Few media outlets are considered by OSCE/ODIHR LEOM interlocutors to be independent.<sup>53</sup> Political pluralism is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with *Fidesz* and by the allocation of state advertising to these media outlets. Journalists critical of the government informed the OSCE/ODIHR LEOM that the potential withdrawal of state or private advertising threatens the economic viability of media outlets and results in self-censorship and a lack of critical reporting of government activities.<sup>54</sup> On the local level, OSCE/ODIHR LEOM observers noted that municipality-funded media outlets were campaigning in favour of the party or candidate in power in the respective region.<sup>55</sup> Furthermore, market-leading television stations have an entertainment-oriented profile with limited political information in news and current affairs programmes. However, independent news sources are available on the Internet and contribute to pluralism in the public sphere.

***State advertisement contracts should be procured transparently and be subject to audit by an independent body. Consideration could be given to allocating state advertising only to outlets that require full transparency of media ownership and compliance with an internal code of conduct and self-regulation.***

The lack of critical reporting about the government in broadcast media is exacerbated by a lack of independence in the public broadcaster, MTVA (Public Service, Media Support and Asset Management Fund). Legislation adopted in 2010 does not guarantee the financial and editorial independence of MTVA. The Director Generals of all public service media, including the National News Agency (MTI), are nominated by the head of the Media Council, part of the newly established media supervisory body. The Media Council is appointed by a two-thirds majority in

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<sup>51</sup> Paragraph 7.8 of the 1990 OSCE Copenhagen Document requires participating States to “provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”

<sup>52</sup> According to the Media Council, there are 212 radio and 492 television channels, including national, regional, local and small community broadcasters. The number of printed press publications is 3,359.

<sup>53</sup> According to paragraph 13 of the 2011 UNHRC General Comment No. 34 “free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights.”

<sup>54</sup> Several journalists informed the OSCE/ODIHR LEOM that some commercial advertisers were approached by people close to the government, who suggested that they shift their advertising from certain media outlets to government-friendly ones.

<sup>55</sup> Paragraph 1 of the 1983 UNHRC General Comment No. 10 on Article 19 of the ICCPR, provides for the protection of the “right to hold opinions without interference.” Furthermore, paragraph 16 of the 2011 UNHRC General Comment No. 34 provides that “States parties should ensure that public broadcasting services operate in an independent manner”. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”

parliament. Furthermore, the law foresees the MTI as the exclusive news source for all public service broadcasters. In addition, media outlets that cannot afford paid-subscription news agencies use MTI's offer to download and republish news and photos for free.

***Public media, including at the local level, should be subject to strict rules prohibiting government interference. Internal pluralism should be guaranteed and supervision could be provided by an independent body representing all relevant stakeholders.***

Media professionals informed the OSCE/ODIHR LEOM that the absence of cross-party membership within the Media Council, coupled with significant sanctioning power, creates a fear of arbitrary interference among the media.<sup>56</sup> Furthermore, there is a lack of legal certainty due to unclear provisions of what constitutes “balanced coverage” in broadcast news.

The Media Council did not take any decisions on complaints filed regarding the “balanced coverage” requirement during the campaign, although at least one complaint was filed during that period.<sup>57</sup> However, in several cases, the NEC and Supreme Court took decisions on editorial content, despite the sole jurisdiction for such cases being vested in the Media Council. On 27 March, the NEC ruled that the commercial television channel ATV and the newspaper *Népszabadság* could not hold a debate for prime ministerial candidates without inviting *Jobbik*.<sup>58</sup> On 1 April, this decision was upheld by the Supreme Court on the grounds that the debate was considered to be a method of campaigning “capable of influencing ... choices.” No debates took place between prime ministerial candidates. Television station journalists informed the OSCE/ODIHR LEOM that the *Fidesz* leader, Victor Orbán, refused to participate in any debates.

***Article 13 of the Freedom of the Press and the Fundamental Rules of Media Content Act should be amended in order to provide for a precise definition of what constitutes “balanced coverage” in broadcast news.***

***The provision for “balanced coverage” should be overseen by a genuinely independent implementing body. It should act upon complaints or ex officio upon monitored violations in a timely manner. Remedies imposed by the body should not prevent the media from carrying out their activities or encourage self-censorship among journalists.***

On 5 November 2013, parliament adopted changes to the Criminal Code on the preparation and distribution of potentially defamatory video or sound recordings that carry penalties of up to three-years imprisonment. This contributed to an environment of uncertainty and self-censorship.<sup>59</sup>

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<sup>56</sup> The Media Council has broad powers to impose and execute sanctions for infringing media regulations. Fines must be paid before an appeal against the sanction may be reviewed. According to a Council of Europe expert report, the sanction regime lacks proportionality and legal certainty. See: [http://hub.coe.int/c/document\\_library/get\\_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227](http://hub.coe.int/c/document_library/get_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227).

<sup>57</sup> The deadline for the Media Council to decide upon complaints could be extended to 23 days, which did not guarantee effective remedy in a 50-day campaign period. The Media Council informed the OSCE/ODIHR LEOM that on 25 March, *Jobbik* filed a complaint on the lack of “balanced coverage” on National Remembrance Day. In 2014, prior to the campaign, it received five other complaints on the “balanced coverage” provision, of which four were filed by *Jobbik*. These four complaints were rejected and one refused on formal grounds.

<sup>58</sup> On 4 April, the NEC fined TV2 approximately EUR 16,600 for not covering *Jobbik* in a news programme. However, a complaint filed jointly by MSZP-Együtt-PM-DK-MLP against MTI for not covering a press conference which addressed the “false facts in the financial statement” of a member of parliament from *Fidesz*, while press conferences on the criminal charges against a former MSZP member were reported on 43 separate occasions, was rejected by the NEC on formal grounds.

<sup>59</sup> See, for example, the press release of the OSCE RFoM on 6 November 2013: “Higher prison sentences for

*Criminal defamation provisions should be repealed in favour of civil sanctions designed to restore the reputation harmed. Sanctions should be strictly proportionate to the actual harm caused and the law should prioritize the use of non-pecuniary remedies.*

## B. MEDIA COVERAGE OF ELECTIONS



MTVA adhered to its legal obligation to provide 600 minutes of free airtime on each public broadcaster, divided among the candidate lists. Constitutional provisions permitting commercial television stations to air only unpaid political advertising led to an absence of political advertising on commercial television with nationwide coverage. However, government advertisements were broadcast on television, propagating the same slogan as *Fidesz* until 18 March (see *Election Campaign*).<sup>60</sup>

The OSCE/ODIHR LEOM undertook a qualitative and quantitative media monitoring analysis of campaign coverage of five newspapers and five television channels.<sup>61</sup> The media monitoring results show that three out of the five monitored television stations, including the public TV M1, displayed a significant bias towards *Fidesz* in their news programmes. Almost all the *Fidesz* campaign was covered in a positive tone, while the opposition alliance was covered mostly in a negative tone.<sup>62</sup> However, M1 gave a higher amount of coverage to the opposition alliance.<sup>63</sup> The coverage of the opposition alliance on *Hír TV* and *TV2* was also negative with 80 per cent and 49 per cent respectively. The market-leading *RTL Klub* covered *Fidesz* in both positive and negative tone 45 per cent of the time monitored. The opposition alliance received 42 per cent positive and 33 per cent negative tone. However, the amount of campaign coverage on *RTL* was limited.<sup>64</sup> Other contesting parties, including the *LMP* and *Jobbik*, received considerably less coverage. On M1 *Jobbik* received 5 per cent of coverage, and *LMP* 3 per cent of coverage. *Hír TV* only allotted 2 per cent of coverage to *Jobbik* and 1 per cent of coverage to *LMP*. On *TV2* *Jobbik* received 1 per cent of coverage, and *LMP* 3 per cent of coverage.

Two of the monitored print media outlets, *Népszabadság* and *HVG*, expressed substantial criticism of *Fidesz*, while *Blikk*, *Metropol* and *Magyar Nemzet* displayed a bias towards the ruling party.

## XII. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

Despite previous OSCE/ODIHR recommendations, the law does not provide for citizen non-party observers at any stage of the electoral process, which is at odds with OSCE commitments.<sup>65</sup>

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defamation may restrict media freedom in Hungary, warns OSCE representative.” See: <http://www.osce.org/fom/107908>.

<sup>60</sup> These advertisements formed a total of almost three hours on four channels monitored by the OSCE/ODIHR LEOM. *TV2* did not fully comply with the Supreme Court decision against the channel. The laws do not establish sanctions for noncompliance.

<sup>61</sup> The media outlets monitored were: M1 *ATV*, *Hír*, *RTL Klub* and *TV2*. The monitored print media include *Blikk*, *HVG*, *Magyar Nemzet*, *Metropol* and *Népszabadság*. Monitoring took place from 11 March to 6 April.

<sup>62</sup> On M1, 84 per cent of opposition alliance coverage was negative and only 5 per cent of *Fidesz* campaign coverage was negative.

<sup>63</sup> M1 devoted 47 per cent of its campaign coverage in news programmes to the Alliance while *Fidesz* received 38 per cent. Other contestants received significantly less coverage. The figures refer to the coverage of the campaign of political actors, excluding institutional coverage.

<sup>64</sup> *RTL Klub* provided less than four hours campaign coverage of political actors in news during the entire monitored period, which averages about eight minutes a day.

<sup>65</sup> Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place.”

However, organizations that registered candidates have the right to appoint members to the NEC with voting right. They may also appoint up to five observers to observe the NEO to verify postal voting procedures, except those nominating national minority lists. National minority list appointees to the NEC may only participate on issues relating to national minorities.

*The election law should be amended to allow observation by citizen non-party observers of all stages of the electoral process, in accordance with OSCE commitments.*

Political entities registered within each constituency could appoint PSC representatives. In a positive development, the Election Procedures Act now enables international observers to observe the entire process, thereby addressing a prior OSCE/ODIHR recommendation.

### **XIII. COMPLAINTS AND APPEALS**

The Election Procedure Act allows voters and contestants to lodge complaints, but sets out new formal requirements. The CoECs and NEC serve as a first instance for reviewing most election-related complaints. CoEC decisions can be appealed to the NEC, while all NEC decisions can be appealed to the Supreme Court. Its decision is final, unless appealed to the Constitutional Court based on the applicant alleging a violation of a constitutional right. All complaints must be received and decided on within three days.

Over 900 complaints and appeals were dealt with by the NEC. At least 65 per cent were rejected on formal grounds. Any technical mistake in complainants' applications led to rejections with no ability to redress the errors.<sup>66</sup> The NEC also denied the review of some 75 complaints on formalistic grounds alleging electoral fraud in the signature collection process, stating that parties copied, exchanged or sold signature support sheets for party registration purposes, without voters' consent.<sup>67</sup> The NEC did not investigate the allegations and only forwarded them to the police after extensive media coverage of the issue, despite its primary task of ensuring the fairness and legality of elections, as stated in Article 14 of the Election Procedure Act.<sup>68</sup>

Election day complaints mainly concerned a lack of access for out-of-country voters and over 90 per cent were rejected on formal grounds. The results of two constituencies were appealed to the NEC, which upheld the CoEC decisions in both cases. One was further appealed to the Supreme Court and also upheld.

The Constitutional Court received 64 complaints and the Supreme Court 244. The majority of decisions appealed to these courts were also dismissed on formal grounds and largely without being

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<sup>66</sup> Complaints were routinely refused on the grounds of the complainant not providing an ID or registration number, incorrectly entering their address, or not mentioning the exact article of the Election Procedure Act breached.

<sup>67</sup> These also included complaints that did not specify the exact articles of the law allegedly violated, complaints that had a wrong date or inaccurate address, and complaints that were not made on time. However, on 27 March, a complaint filed regarding a demonstration against the president of the National Bank was accepted and the NEC ruled in favour of the petitioner even though it was submitted directly to the NEC, instead of to the CoEC. It also included a date that was incorrect by months and evidence in the form of a hyperlink, and with questionable connection to the election campaign.

<sup>68</sup> Some CoECs forwarded such cases to the police locally.

examined on the merits, and never in an open hearing.<sup>69</sup> The lack of public and transparent hearings is a concern and is not in line with the OSCE commitments.<sup>70</sup>

***The resolution of electoral disputes should be transparent in all jurisdictions, with the parties concerned able to attend public hearings.***

The rejections of complaints on formal grounds plus an obligatory legal representative to file cases with the Supreme Court often left complainants without effective consideration of their claims, which is at odds with paragraph 5.10 of 1990 OSCE Copenhagen Document.<sup>71</sup> In addition, some NEC and court decisions contradicted legislation and led to legal uncertainty.<sup>72</sup>

***In order to ensure effective legal redress, election commissions and courts should refrain from handling complaints formalistically and should give thorough and impartial consideration to these cases. Decisions should be made in a consistent manner and within their jurisdiction. In addition, consideration should be given to removing the requirement for legal representation in each case.***

Two important cases were rejected by the Constitutional Court near the start of the election campaign on the grounds that complainants were not directly affected.<sup>73</sup> One such case concerned the unequal treatment of voters abroad, and the second case argued that electoral rights were violated by restricting the placement of posters by governmental decree, contrary to the Election Procedures Act. The Supreme Court provided a divergent judgment on the latter issue by upholding one case, while overruling the other.<sup>74</sup> The Supreme Court did not consider this issue significant enough to set a precedent on how posters were to be accepted generally in the campaign. Furthermore, the judgment was not fully enforced as local authorities continued to take posters down on the basis of by-laws or their own rules until as late as election day.

***To enhance legal stability, the Supreme Court should oversee the interpretation of legislation and apply decisions consistently. In addition, the law should provide for enforcement mechanisms for Supreme Court decisions to ensure they are fully implemented.***

Since mid-February, police received 157 requests for criminal investigations, of which over a third alleged falsification or misuse of personal data from signature support sheets. Given that the

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<sup>69</sup> One complaint requested an open Supreme Court hearing but the request was denied on formal grounds.

<sup>70</sup> Paragraph 12 of the 1990 OSCE Copenhagen Document provides that “proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.” Also, see paragraph 6 of the 1984 UNHRC General Comment No. 13 on Article 14 of the ICCPR, which provides that “The publicity of hearings is an important safeguard in the interest of the individual and of society at large.”

<sup>71</sup> Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.” Also, see section II.3.3b of the 2002 Venice Commission Code of Good Electoral Practice which recommends that “procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.”

<sup>72</sup> For example, cases on ATV debate and TV2 news programmes, where the NEC and Supreme Court decided on editorial content. TV2 was sanctioned with the highest of only two discretionary fines issued by the NEC. As a non-judicial body without an adversarial procedure and relevant expertise, the NEC decided on free speech issues in a seemingly partial manner, such that the prime minister’s statements criticizing the opposition was deemed free speech, while criticism of *Fidesz* candidates was deemed as false and prohibited.

<sup>73</sup> The Constitutional Court and Supreme Court inconsistently used a “directly affected” criteria without any definition.

<sup>74</sup> The court stated that only the Election Procedures Act can regulate political advertising and that campaign posters could be placed on lampposts.

investigation can take up to two years, timely and effective redress within the electoral timeframe is undermined.<sup>75</sup>

***Law enforcement bodies should ensure that persons who commit election-related offenses are promptly brought to justice. Consideration should be given to ensuring that the Criminal Procedure Code also provides for timely investigation and adjudication of cases.***

#### XIV. PARTICIPATION OF WOMEN

The Fundamental Law prohibits discrimination on gender grounds and notes that women and men have equal rights. Women remain largely under-represented in the parliament, with 9.1 per cent women parliamentarians in the outgoing parliament and 9.5 per cent in the newly-elected one,<sup>76</sup> while the OSCE average is 23 per cent.<sup>77</sup> There are no specific temporary special legislative measures, such as candidate quotas, to promote women's participation.<sup>78</sup> Only two parties, the LMP and MSZP, have internal policies to promote women on their candidate lists.

***Consideration could be given to introducing temporary special legislative measures to promote women candidates, including possibly introducing gender quotas for party lists that place women in winnable positions. Political parties could consider nominating a minimum number of candidates of each gender.***

Most contestants did not specifically address issues of gender equality in their programmes.<sup>79</sup> Emphasis was placed on traditional gender roles, with some prominent contestants discussing the importance of the family and explicit or implicit references to specific roles for men and women. Women were hardly visible in the media. Media monitoring of television stations showed that men featured in 93 per cent of the campaign coverage of political actors in the news, while women featured in only 7 per cent. In addition, several OSCE/ODIHR LEOM interlocutors expressed concern that current government policies reaffirm gender stereotypes that place women in the domestic sphere.<sup>80</sup>

The 2010 National Strategy for the Promotion of Gender Equality remains unimplemented, as do previous OSCE/ODIHR recommendations on implementing more effective measures for wider representation of women in parliament.

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<sup>75</sup> The Criminal Procedure Code does not set specific time limits for election-related cases, thus regular criminal investigation timeframes are applicable.

<sup>76</sup> In the newly elected parliament, two women members of parliament are from LMP and nine from *Fidesz*. According to the Inter-parliamentary Union, Hungary ranks 123 of 147 countries ranked. See: <http://www.ipu.org/wmn-e/classif.htm>.

<sup>77</sup> See the OSCE/ODIHR, "A Comparative Study of Structures for Women MPs in the OSCE Region" at: <http://www.osce.org/odihr/105940?download=true>.

<sup>78</sup> In paragraph 40.4 of the 1991 OSCE Moscow Document, participating States affirmed that it is their "goal to achieve not only *de jure* but *de facto* equality of opportunity between men and women and to promote effective measures to that end." See also Article 4 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which states that the adoption "of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination."

<sup>79</sup> The LMP listed a quota for women in their platform. As well, the opposition alliance promised a one-third gender quota in parliament and 30 per cent quota for the national list and individual constituencies.

<sup>80</sup> Gender stereotyping is contrary to Article 5 of the 1979 CEDAW which stipulates that states "shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

*Further measures to enhance women's participation should be considered. This could include implementing existing national strategies to promote gender equality, as well as providing gender equality training for public officials and decision-makers.*

## **XV. PARTICIPATION OF NATIONAL MINORITIES**

There are 13 recognized national minorities in Hungary. According to the 2011 census data, the largest minority groups are Roma and Germans.<sup>81</sup> Certain sources suggest that the numerical size of the Roma population is underestimated.<sup>82</sup> Other groups make up less than one per cent of the population.<sup>83</sup>

Measures to ensure national minority representation in parliament have long been debated in Hungary. The Elections Act provides for national minorities to vote for a national minority list. In order to take part, citizens had to register as a national minority voter and thus choose between voting on the national minority list proposed by the national minority self-government or the national list.<sup>84</sup> The vast majority of national minority groups the OSCE/ODIHR LEOM met with expressed dissatisfaction at having to choose between these two lists. Some Roma leaders campaigned against minority registration and created the Hungarian Roma Party to compete in the national list elections. Furthermore, the election of the minority self-governments predates the new Elections Act, thus voters were not aware that these bodies would be given the sole competence to form national minority lists. Given that only one option was available on these ballots, voters' choice was limited and their secrecy of the vote was undermined.<sup>85</sup>

While all 13 national minorities registered lists, none obtained enough votes to win a minority seat. As a result, they will each be represented by a spokesperson in parliament with no right to vote and their competence will be limited to discussing minority issues.

*Authorities should ensure that special measures for national minority representation allow for competition between national minority candidates and meaningful participation of national minorities in parliamentary decision-making, while ensuring the secrecy of the vote. Genuine consultation with national minorities should be sought in this process.*

Unless minority voters request that they be removed from the voter register, the information on their ethnic affiliation is retained on the register with no indication of how long this data will be kept. Adequate consultation with national minorities was lacking on this aspect of the legislation. Such a system raises concerns regarding the use of this sensitive data by national minority self-governments or other public bodies.<sup>86</sup> Several election bodies and other authorities responsible for protecting such data showed a lack of awareness regarding procedures in place. This raises concerns

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<sup>81</sup> Official figures from the 2011 census state the number of Roma to be 315,583 and Germans as 185,696.

<sup>82</sup> Please see the data provided by the Council of Europe or "Roma and Travelers" at: [http://www.coe.int/t/dg3/romatravellers/default\\_en.asp](http://www.coe.int/t/dg3/romatravellers/default_en.asp).

<sup>83</sup> They include Slovaks, Croats, Romanians, Ukrainians, Serbs, Slovenes, Poles, Greeks, Bulgarians, Ruthenians and Armenians.

<sup>84</sup> A total of 35,289 were registered as minority voters.

<sup>85</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document provides "...that votes are cast by secret ballot or by equivalent free voting procedure." In addition, Joint Opinion of the OSCE/ODIHR and Venice Commission (DL-AD(2012)012) from 15-16 June, 2012 noted that this provision "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." <http://www.osce.org/odihr/91534>.

<sup>86</sup> See Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such Data, available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31995L0046>.

about the protection of individuals with regard to the processing of their personal data as set out in international documents.

*Any requirements to implement special measures for national minority representation should be proportionate to the aim pursued and ensure that data protection and voluntary self-identification standards are fully respected.*

National minority issues were largely absent from the campaign. In recent years, patterns of anti-Roma violence from extremist organizations and individuals, together with anti-Roma rhetoric, created an atmosphere of fear among the Roma community. Some OSCE/ODIHR LEOM interlocutors noted instances of manipulation of the national minority voter registration process, especially within the Roma community, whose vulnerability in some cases may have been exploited by political actors.

## **XVI. ELECTION DAY PROCEDURES AND ANNOUNCEMENT OF RESULTS**

In line with standard OSCE/ODIHR methodology for LEOMs, the mission did not undertake a comprehensive and systematic observation of election day proceedings. However, mission members visited a limited number of polling stations and followed the tabulation of results in some constituencies.

### **A. VOTING**

Election day procedures were generally conducted in an organized and transparent manner. In the limited number of polling stations visited by international observers, PSC members seemed knowledgeable about voting procedures. A number of polling stations dedicated to absentee balloting had significant queues and insufficient space to deal with the large numbers of voters, with a few stations having to handle some 5,000 registered voters.<sup>87</sup> Some polling stations reportedly had lines over two hours in length, although voters seemed to remain patient. In line with the law, all those in queues when polling stations closed were allowed to cast their ballot.

*Consideration could be given to ensuring that polling stations handling absentee voting also comply with the legal limit of voters per regular polling station.*

While not prohibited by law, in several instances it was observed that voters marked their ballots outside the polling booths, thus compromising the secrecy of their vote. Some polling stations had tables with pens set up outside the booths, effectively encouraging voting outside of polling booths. However, in no case was pressure or intimidation reported or evident. In addition, voters were provided with the option to cast their ballots in an envelope, however it did not provide for greater secrecy.<sup>88</sup> This may also cause administrative difficulties, including the unintentional loss of ballots during counting. In other cases, couples voting together behind the voting screen were noted. In general, the law does not fully ensure respect for the secrecy of the vote, a fundamental principle of democratic elections.<sup>89</sup>

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<sup>87</sup> The law provides that the number of voters per each regular polling station should not exceed 1,200 voters.

<sup>88</sup> Given that the envelope was optional, during the vote count it could have been possible to identify voters based on who used envelopes.

<sup>89</sup> Paragraph 7.4 of the 1990 OSCE Copenhagen Document provides to ensure that “votes are cast by secret ballot or by equivalent free voting procedures.” Paragraph 3.3.4a of the Venice Commission’s Code of Good Practice in Electoral Matters states that “for the voter, secrecy of voting is not only a right but also a duty, non-compliance

*The authorities should consider measures to fully guarantee ballot secrecy. Consideration could be given to eliminating envelopes, so long as ballots are effectively folded for secrecy.*

## **B. COUNTING, TABULATION AND THE ANNOUNCEMENT OF RESULTS**

The limited number of counting and tabulation processes observed were carried out in an orderly manner with all key procedural elements adhered to. The only valid marks to indicate preference for candidates were ‘+’ or ‘x’, but this did not result in a significant number of invalid votes for any given candidate. The NEC began posting preliminary results on its website on election night, broken down by polling station. The official voter turnout for the elections was 61.8 per cent.

Counting continued several days after the elections for absentee and out-of-country ballots. While the number of invalid ballots in the elections was below one per cent, nearly 20 per cent of postal ballot packages were rejected due to identification requirements not being met. As the stamps utilized in polling stations were not standardized across the country, there was concern over the legitimacy of some absentee ballots during the count.

*Consideration should be given to ensuring that ink and stamps on ballots are standardized to ensure clarity regarding their validity.*

Official results were announced on 23 April. The ruling *Fidesz-KDNP* gained roughly the same percentage of seats in parliament and thus retained its constitutional majority. Notably, this result was achieved with 45 per cent of the national list vote, as opposed to 53 per cent in 2010. Some portion of this can be attributed to changes in the electoral system. The results also showed that 70 per cent of constituency candidates received less votes than required on their signature sheets.

## **XVII. RECOMMENDATIONS**

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in Hungary and to support efforts to bring them fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of Hungary to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>90</sup>

### **A. PRIORITY RECOMMENDATIONS**

1. The authorities should develop and implement safeguards to ensure a clear separation between the State and party, so as to prevent candidates from unduly using the advantage of their office for electoral purposes.
2. Public media, including at the local level, should be subject to strict rules prohibiting government interference. Internal pluralism should be guaranteed and supervision could be provided by an independent body representing all relevant stakeholders.

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with which must be punished by disqualification of any ballot paper whose content is disclosed.”

<sup>90</sup> In paragraph 24 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations.”

3. In order to ensure effective legal redress, election commissions and courts should refrain from handling complaints formalistically and should give thorough and impartial consideration to these cases. Decisions should be made in a consistent manner and within their jurisdiction. In addition, consideration should be given to removing the requirement for legal representation in each case.
4. The appointment mechanism for election commissions at all levels should enjoy broad political consensus, and the law could be amended to ensure this with the aim of enhancing impartiality and public confidence in the work of the election administration and in an inclusive process.
5. The provision for “balanced coverage” should be overseen by a genuinely independent implementing body. It should act upon complaints or *ex officio* upon monitored violations in a timely manner. Remedies imposed by the body should not prevent the media from carrying out their activities or encourage self-censorship among journalists.
6. In light of the obligation to equal suffrage, legislation and procedures should provide the same methods for citizens abroad, be they residents or non-residents, to register and to cast their ballots.
7. The regulatory framework for campaign finance should be reviewed to take account of the gaps and ambiguities identified in this report, as well as by the Council of Europe’s Group of States against Corruption (GRECO). In particular, they could consider the possibility of introducing limits for private donations, establish dedicated bank accounts for electoral contestants, and ensure that requirements apply to all candidates and parties. Consideration could be given to consolidating all campaign finance legislation in a single law.
8. Legislation should foresee periodic review of constituency boundaries by an independent commission to account for population changes. When constituency boundaries are redefined, it should be done in a transparent, impartial and inclusive manner. Concrete constituency boundaries should not be enshrined in cardinal laws that require a two-thirds majority to amend and consideration should be given to introducing a formula that would allow flexibility in adjusting boundaries.
9. Consideration could be given to introducing temporary special legislative measures to promote women candidates, including possibly introducing gender quotas for party lists that place women in winnable positions. Political parties could consider nominating a minimum number of candidates of each gender.
10. Authorities should ensure that special measures for national minority representation allow for competition between national minority candidates and meaningful participation of national minorities in parliamentary decision-making, while ensuring the secrecy of the vote. Genuine consultation with national minorities should be sought in this process.

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework**

11. The legal framework should be reviewed to address past and present OSCE/ODIHR recommendations and bring it closer in line with OSCE commitments and other international

obligations for democratic elections. Legislative reforms should be undertaken well in advance of elections, through open and inclusive consultations between all election stakeholders.

12. Restrictions on voting rights for prisoners and ex-prisoners should be reviewed to ensure that any limitation is proportionate to the crime committed and clearly outlined in the law. Similarly, the courts' current practice of depriving nearly all people convicted of a crime of their suffrage rights for a period longer than their prison sentence should be reviewed.
13. In line with international obligations, restrictions on the suffrage rights of persons with mental disabilities should be removed or be decided on a case by case basis, depending on specific circumstances.

### **Election Administration**

14. As a permanent body responsible for the overall conduct of elections, the NEC should anticipate and address potentially unclear provisions in the law as early as possible in the electoral process.
15. The election administration could consider conducting a broader voter education campaign, through diverse channels, especially when new elements of the electoral process are introduced. Specific efforts could be made to reach out to national minority voters.

### **Voter Registration**

16. Legislation should be amended to ensure that data required to amend voter registration details are secure, unlike those that are collected on candidate signature sheets.

### **Candidate Registration**

17. Consideration should be given to introducing a mechanism for investigating complaints concerning entries in candidate signature sheets. Such a mechanism should be established inclusively, sufficiently in advance of elections and be communicated in due time to all stakeholders.
18. The process of issuing fines for the late return or loss of candidate signature sheets should be reviewed, given that the return of such sheets does not necessarily protect the data contained in them.

### **Election Campaign**

19. The authorities should issue clear and comprehensive guidelines on the use of public and private space for campaign purposes to ensure equal opportunity and sufficient access for all electoral contestants.

### **Campaign Finance**

20. Consideration could be given to introducing interim reporting as well as shorter reporting deadlines, in line with international good practice.

21. The legal framework should be amended to have clear oversight and monitoring powers assigned to the State Audit Office. Timely oversight mechanisms for campaign finance violations during the campaign could also be provided.
22. Any campaigning by third-parties in the electoral process could be subject to campaign finance legislation.

### **Media**

23. State advertisement contracts should be procured transparently and be subject to audit by an independent body. Consideration could be given to allocating state advertising only to outlets that require full transparency of media ownership and compliance with an internal code of conduct and self-regulation.
24. Article 13 of the Freedom of the Press and the Fundamental Rules of Media Content Act should be amended in order to provide for a precise definition of what constitutes “balanced coverage” in broadcast news.
25. Criminal defamation provisions should be repealed in favour of civil sanctions designed to restore the reputation harmed. Sanctions should be strictly proportionate to the actual harm caused and the law should prioritize the use of non-pecuniary remedies.
26. In the current media environment, in order to foster equal opportunities for contestants, consideration could be given to amending the law to provide for both free and paid political advertising in broadcast media.
27. Provisions in the legal framework that can be used to provide for the broadcasting of government advertisements during an election campaign should be amended in order to prevent the governing party having an undue campaign advantage.

### **Election Observation**

28. The election law should be amended to allow observation by citizen non-party observers of all stages of the electoral process, in accordance with OSCE commitments.

### **Complaints and Appeals**

29. The resolution of electoral disputes should be transparent in all jurisdictions, with the parties concerned able to attend public hearings.
30. To enhance legal stability, the Supreme Court should oversee the interpretation of legislation and apply decisions consistently. In addition, the law should provide for enforcement mechanisms for Supreme Court decisions to ensure they are fully implemented.
31. Law enforcement bodies should ensure that persons who commit election-related offenses are promptly brought to justice. Consideration should be given to ensuring that the Criminal Procedure Code also provides for timely investigation and adjudication of cases.

### **Participation of Women**

32. Further measures to enhance women's participation should be considered. This could include implementing existing national strategies to promote gender equality, as well as providing gender equality training for public officials and decision-makers.

### **Participation of National Minorities**

33. Any requirements to implement special measures for national minority representation should be proportionate to the aim pursued and ensure that data protection and voluntary self-identification standards are fully respected.

### **Election Day**

34. Consideration could be given to ensuring that polling stations handling absentee voting also comply with the legal limit of voters per regular polling station.
35. The authorities should consider measures to fully guarantee ballot secrecy. Consideration could be given to eliminating envelopes, so long as ballots are effectively folded for secrecy.
36. Consideration should be given to ensuring that ink and stamps on ballots are standardized to ensure clarity regarding their validity.

## ANNEX 1: OFFICIAL ELECTION RESULTS

Parties	National List Results			Constituency	Total	
	Votes	% of Votes	Seats	Seats Won	Seats	% of Seats
FIDESZ-KDNP	2,264,780	45.04%	37	96	133	66.83%
MSZP-EGYÜTT-DK-PM-MLP	1,290,806	25.67%	28	10	38	19.10%
JOBBIK	1,020,476	20.30%	23	0	23	11.56%
LMP	269,414	5.36%	5	0	5	2.51%
Worker's Party	28,323	0.56%				
Hungary is not for Sale	23,507	0.47%				
SMS	22,219	0.44%				
Green Party	18,557	0.37%				
Social Democrats	15,073	0.30%				
Together 2014	14,085	0.28%				
SEM	12,563	0.25%				
KTI	10,969	0.22%				
JESZ	9,925	0.20%				
MCP	8,810	0.18%				
FKgP	8,083	0.16%				
Unity	6,552	0.13%				
ÚDP	2,100	0.04%				
ÚMP	1,578	0.03%				
<b>Total</b>	<b>5,027,820</b>	<b>100.00%</b>				

<b>Total number of eligible voters</b>	<b>8,241,488</b>	
Regular Polling Station Voters	4,846,687	
Absentee & Embassy Voters	121,241	
By Mail Voters	128,596	
<b>Total Turnout</b>	<b>5,096,524</b>	<b>61.84%</b>
Invalid Ballots	46,173	0.91%
Rejected By Mail Packages	30,058	18.94%

Minority List Results *		
Minority	Registered	Votes
Germans	15,209	11,415
Roma	14,271	4,048
Croatian	1,623	1,212
Slovak	1,317	995
Ruthenian	611	463
Romanian	647	362
Ukranian	502	293
Serbian	349	236
Slovenian	199	134
Armenian	184	110
Greek	140	102
Polish	133	99
Bulgarian	104	74
<b>Total</b>	<b>35,289</b>	<b>19,543</b>
* Needed 22,022 votes to attain seat		

Source: [http://valasztas.hu/hu/ogyv2014/861/861\\_0\\_index.html](http://valasztas.hu/hu/ogyv2014/861/861_0_index.html)

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (<http://www.osce.org/odihr/>).