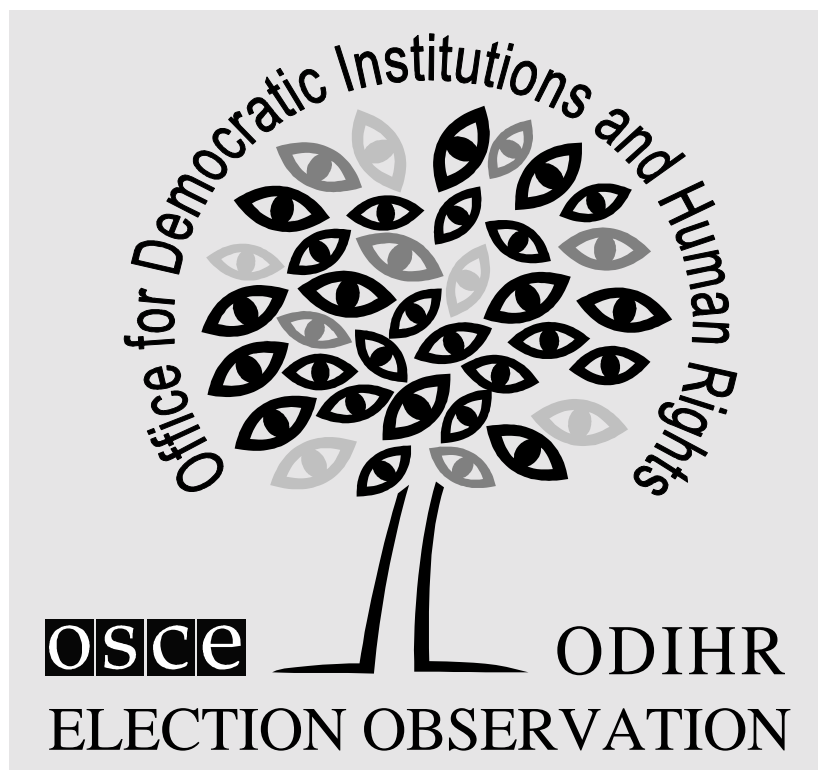




Office for Democratic Institutions and Human Rights

REPUBLIC OF HUNGARY
PARLIAMENTARY ELECTIONS
7 AND 21 APRIL 2002

FINAL REPORT



Warsaw
6 June 2002

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HUNGARY
PARLIAMENTARY ELECTIONS
7 and 21 April 2002

OSCE/ODIHR Election Observation Mission
Final Report

I. EXECUTIVE SUMMARY

The parliamentary elections held in the Republic of Hungary on 7 April 2002 with the second round on 21 April were conducted in a manner consistent with international standards and commitments for democratic elections. The Hungarian election system provide the basis for a generally transparent, accountable, free, fair and equal process. Despite some shortcomings, these elections contributed to the further strengthening of the democratic election environment in Hungary.

These elections have special significance since the newly elected Parliament and resulting government would be likely to see through the accession of Hungary to the European Union.

Factors contributing to a positive environment for these elections include:

- The relevant election legislation establishes a framework for the holding of democratic elections in which a cross section of political parties can compete;
- The election system and its supporting professional administrative structures provide a basis for an accountable, free, and equal process;
- The representation of political parties on election commissions at all levels promotes fairness and transparency;
- The deliberative character of the National Election Committee (NEC) enhanced the credibility and transparency of the decision making process;
- The integration of well-designed administrative procedures, sophisticated information technology and the swift reporting of preliminary results on election night contributed to the transparency, accountability, reliability and accuracy of the process; and
- Voters had access to information about the elections and the contestants on a broad spectrum of public and commercial media.

However, certain issues warrant attention in order to ensure that the positive features of the electoral process can be sustained for future elections. These issues include:

- The early establishment of the NEC for these elections without seeking approval from the opposition parties and contrary to past practice, gave rise to concerns;
- The lack of binding authority of the NEC over the decisions or actions of lower level commissions has the potential to lead to inconsistent implementation of procedures;
- The requirement to submit coupons in support of candidates is vulnerable to abuse;
- State television consistently demonstrated a bias in favor of the government and Fidesz;
- Perceptions about the blurring of the government's and the ruling political party's advertising, and voter education messages prepared by the Ministry of Interior, became the focus of political debate;
- Campaign finance legislation is not effective enough in defining campaign expenditures and ensuring that spending limits are adequately monitored and enforced;

- The appeal process is weak and the absence of appropriate enforcement provisions and penalties compromises the right of complainants to secure effective remedies;
- In spite of the Constitutional Court's rulings regarding the obligation to enact legislation covering parliamentary representation of minorities, no such legislation has been enacted; and
- The current system of representation limits opportunities for small parties and to parties with regional or minority support.

Detailed recommendations at the end of this report suggest solutions to these remaining shortcomings. The OSCE/ODIHR stands ready to work with the authorities and civil society of Hungary to address these recommendations.

The ODIHR wishes to express its appreciation to the Hungarian Ministries of Foreign Affairs and Interior, the National Election Commission (NEC), National Election Office (NEO), country and district election bodies and other authorities of Hungary for their assistance and full cooperation during the course of the observation.

II. BACKGROUND

In accordance with its Copenhagen Document commitments as an OSCE participating State, the government of Hungary invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 7 and 21 April 2002 parliamentary elections.

The OSCE/ODIHR Election Observation Mission (EOM) was established on 12 March, with Linda Edgeworth (US) as Head of Mission, and shortly thereafter started monitoring the electoral process with 10 experts and long-term observers from nine participating States deployed in Budapest, Pecs and Debrecen. As recommended by an OSCE/ODIHR needs assessment mission shortly before the elections, the pre-election environment did not warrant the deployment of a full observation mission. As such, the EOM did not deploy short-term observers to monitor the election day proceedings.

III. LEGAL FRAMEWORK

The conduct of the parliamentary elections is regulated by the Constitution of the Republic of Hungary, Act No. XXXIV on the Election of Members of Parliament of 1989 (hereinafter the Election Law), and Act C of 1997 on the Electoral Procedure (hereinafter the Procedural Law). A number of other laws and regulations have particular relevance to the conduct of the elections, including:

- Act I of 1996 on the Media and Standing Procedures of the Complaint Committee of the National Radio and Television Commission (ORTT);
- Act LXXXVII of 1993 on the Rights of National and Ethnic Minorities;
- Act VI of 1978 on the Criminal Code;
- Law XXXIII of 1989 On the Operation and Financial Functioning of Political Parties and Law LXII of 1990 containing modifications to the earlier law; and
- Decrees of the Ministry of Interior under which the National Election Office is established.

The legal framework provides a sound basis for democratic elections. The Constitution provides safeguards for ensuring universal suffrage, rights of association and assembly, and freedom of speech and the press. Laws related to the registration of political parties are liberal. Political parties have generous access to election related documents and information, and have the right to serve on election commissions at all levels.

The laws related to the conduct of elections require a 2/3 majority for passage in Parliament. This requirement has stalled consideration of amendments regardless of whether they are substantive or technical in nature. However, there is widespread acceptance that the super-majority requirement is an important element that provides a check and balance within the Parliament and ensures consensus across party lines.

The Election Law, which was first enacted to facilitate the country's transition in 1989, has generally served the voters of Hungary well. However, some changes may deserve consideration to better suit the political evolution over the last decade. Additionally, technical omissions should be rectified to fill gaps in the procedures that could not have been envisioned when the laws were adopted. Related issues and consequences are specifically discussed in the remainder of this report.

The system of representation in the republic of Hungary is a party-based system that involves a 3-tiered, mixed election process. Three hundred fifty-eight (358) members of the Parliament are elected through two rounds of voting. 176 candidates are elected in single mandate districts. A proportional distribution of 152 seats is based on the votes cast on party list ballots at the county level. A party must win at least 5% of the county list votes aggregated nationwide to be eligible to take part in the distribution of seats. 58 compensatory seats are distributed among national party lists using the unused votes cast for unsuccessful candidates in the district races and surplus votes remaining after applying the formula for distribution of seats elected proportionally among the county lists.

IV. ELECTORAL BODIES AND ADMINISTRATIVE STRUCTURES

A. STRUCTURE, COMPOSITION AND COMPETENCIES

The structure of the electoral authorities comprises four levels: national, territorial, constituency and polling station, each having an election commission composed by elected and party nominated members. Each level can rely on a corresponding office (composed of civil servants) in charge of providing logistical and administrative support to the election.

The National Election Commission (NEC) is the chief custodian of the legality and fairness of the election process. 20 County Election Commissions (CEC), 176 Constituency (district) Election Commissions and 10,844 Polling Station Commissions (PSC) serve in a similar capacity in the jurisdictions for which they are responsible.

The National Election Office (NEO) and its subordinate Elections Offices at the county and district levels provide administrative, technical and logistic support for the elections. The Election Offices are established within the Ministry of Interior.

Under the supervision of these bodies, the elections were carried out in a highly professional and transparent manner. The coordination of efforts between the supervisory bodies ensured

a smooth and efficient election capable of withstanding a high level of scrutiny, and worthy of public confidence.

B. ORGANIZATION OF THE ELECTIONS AND APPLICATION OF THE LEGAL PROVISIONS

1. Election Commissions

The NEC is a deliberative body composed of 5 members elected by the Parliament and additional delegates appointed by political parties qualifying to present a national candidate list.¹ The NEC is established immediately after the elections are called.

The NEC for these elections was formed nearly two months earlier than for prior elections, and well before the period for the registration of national lists. Political parties were not able to appoint their delegates and the NEC operated for several weeks without their participation. The elected members were elected by a simple majority of the ruling coalition, and the proposed nominees of the opposition were ignored. While election of the members by a simple majority is not illegal, it was contrary to the traditional practice whereby the core members of the NEC enjoyed broad-based support across party lines. The early formation of this manner resulted in a level of distrust and raised questions about decisions taken prior to the addition of the party delegates, in particular a decision to limit the NEC's competence relative to complaints regarding government advertising and actions taken by government bodies during the election period.

The NEC ultimately reached its full strength after all parties competing on the national lists were able to appoint their delegates. The NEC demonstrated itself to be a professional and fully deliberative body in which all members had a voice in the decision making process.

The NEC is responsible for a number of practical duties including making decisions on the registration or refusal of candidate lists and nominating organizations, approving the data on the ballots, determining which parties have passed the mandatory threshold to be included in the distribution of mandates, and which candidates have won compensatory seats among the national lists, publishing the nationally summarized results and issuing certificates to successful parliamentary candidates. The NEC also rules on complaints and initiates decisions for referral to the appropriate authorities when serious violations are alleged. The NEC has the authority to annul the results of an election if it determines that violation was so serious as to have influenced the outcome.

One of the most important functions of the NEC relates to its ultimate authority to interpret the laws related to elections and to issue clarifications through "standing points" that promote uniform legal practices. A unique feature of the law, however, is that the standing points are not binding. Nor are they subject to appeal.

The OSCE/ODIHR has expressed concern that the NEC has no binding authority to issue instructions to lower level commissions.² The lack of such authority has the potential to lead to inconsistent implementation of electoral procedures at the various levels of the election commission structure, and in diverse rulings on similar cases at the level of the district courts.

¹ Article 34 of the Procedural Law.

² See the *OSCE/ODIHR Final Report, Republic of Hungary Parliamentary Elections, 10 and 24 May 1998*, and the *OSCE/ODIHR Needs Assessment Mission Report, 18-20 February 2002*.

Over the course of the EOM, however, it became evident that standing points issued by the NEC in previous elections remain valid and many lower commissions referred to the NEC standing points in their decision-making.

Decisions of lower level commissions may only be appealed to the next higher commission. If the case is not satisfactorily resolved at that level, the decision may then only be appealed to the relevant court for the jurisdiction. Court decisions at any level are final and cannot be appealed to a higher court. Complaints heard by the NEC are appealed to the Supreme Court.

The NEC has no investigative authority. Complaints submitted to them can only be adjudicated on the basis of evidence provided by the complainant. Nor does the NEC have any capacity to enforce its decisions. When it is determined that a violation has occurred, the NEC's only authority is to publish its findings, and to refer the case to appropriate authorities if the violation involves a crime defined in the criminal code. Otherwise there are no sanctions defined in the law.

The low-level commissions consist of three members elected by the relevant local legislative body and delegated members from political parties and independent candidates. The mandate of the delegated members expires when the election results are established. The elected and delegated members have the same rights and obligations.

The network of election commissions at the national, county and district levels is not based on a hierarchical structure. Thus, within their jurisdictions election commissions at each level have virtual autonomy in carrying out their duties and rendering their decisions.

2. The National Election Office

The administrative management of the election process is accomplished by the National Election Office (NEO), which is part of the Ministry of the Interior. The Election Office structure involves a hierarchy from the center down through offices of the Ministry of the Interior at the county and district levels. The electoral offices are responsible for preparing, organizing and conducting elections, and providing information for voters and candidates. In general, civil servants staff the election offices. The heads of County Commissions are the respective clerks of the county, while the heads of the Constituency Commissions are the district recorders. An official of the election office is also assigned to work at each polling station. While not voting members of the PSC, the "minutes clerks", are responsible for the proper completion of the forms on which the results are reported and the maintenance of the records of the polling activity.

The overall electoral process is highly computerized and relevant data and decisions are promptly made available to the public. Interaction between the various electoral levels is secured by an internal computer system. The system provides a sophisticated network for the compilation of data regarding the voter registers, candidate and party registration, compilation of polling station, county and national results, and the allocation of seats. The results are transmitted to the NEC at the end of polling day via Intranet.

However, in spite of its general professionalism, the NEO was also subject to concerns raised about its independence since it is part of the executive branch and some of its decisions appeared to serve the interests of the ruling party.

3. Registration of Parties and Candidates

The nomination of a candidate requires the submission of 750 “proposal coupons” signed by eligible voters who are resident in the district in which the candidate seeks office. As in the past, the coupon system was the subject of controversy and allegations of fraud. Evidence demonstrates that the coupons, as they are currently administered and used by political participants, are so vulnerable to abuse as to render them inappropriate as a meaningful eligibility requirement. Although the practice has been in place for over a decade, no amendment to the election law has been adopted to address the concerns that emerge during each election cycle.

At least 75 cases of coupon abuse were reported to police for investigation. According to the Department of Public Safety, only 40 complaints were sufficiently substantiated to warrant action. By the end of the second round, only one case was being prosecuted involving the offer of money for a coupon. A similar number of cases were reported in 1998, but no one was able to confirm whether any charges were formally pressed or whether any perpetrators were convicted. Concerns exist that the investigative process and penal consequences may be symbolic rather than substantive.

4. Voter Registration

Registration of voters was based on the population registry. It was updated regularly, maintained by the Central Data Processing Office of the Ministry of Interior and at the local level by the so-called “document offices”. A list for each polling station was compiled and published for 8 days starting 60 days prior to elections. Voters were informed of their inclusion in the list by an announcement sent by mail. To promote maximum inclusion, on polling day voters could have been added to the list of voters, provided they produce their ID showing residence in the area of the polling station. No complaints regarding exclusion from the registration list were reported to the EOM.

V. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

In Hungary, approximately one half of the university graduates in the last decade have been women. The number of women working in professional fields is increasing. The majority of judges are women. A significant number of women hold leadership positions in the organizational structures of political parties. Women figure prominently in the management of elections. Women make up nearly 30% of the representatives in the governing bodies of all capitals, cities and villages combined. Taken separately, they hold about 17% of the seats in elected bodies of capitals and other cities and 1/3 at the village level.

These achievements, however, have yet to translate themselves into the advancement of women to the halls of Parliament. The representation of women in Parliament remains at 9%. This figure is a lingering manifestation of the 25% decrease in the number of women in Parliament between 1994 and 1998.

Under the current election system, the advancement of women in politics and the promotion of their interests primarily rest in the hands of the parties. On all national lists, 16.1% of the candidates presented are women. The joint list of the Alliance of Young Democrats-Hungarian Civic Party (Fidesz) and the Hungarian Democratic Forum (MDF) had the lowest percentage of women candidates at 8.6%, whereas the main opposition Hungarian Socialist

Party (MSZP) had 23.4%. Women were elected in 3 of the 45 single mandate districts in which a winner was elected in the first round. Of the 393 single mandate constituency candidates that advanced to the second round (131 constituencies x 3 candidates), 48 are women.

The Constitution provides that national and ethnic minorities in Hungary have the right to participate in the “sovereign power” of the people. Article 68 goes on to provide that the State is to ensure their collective participation in public affairs and mandates that the laws of the Republic are to ensure their representation. In spite of the Constitutional Court’s rulings in 1992 and 1994 regarding the obligations of Parliament to enact legislation covering parliamentary representation of minorities, and a provision in the 1993 Law on the Rights of National and Ethnic Minorities referencing such a law, no such legislation has been enacted. In 1998, a proposed law was narrowly defeated by about 6 votes of the super majority required. Since then no new proposal has been considered seriously.

In Hungary, there are 13 recognized national minorities including Germans, Slovaks, Croats, Romanians, Polish, Bulgarians, Greeks, Armenians, Ruthenians, Serbs, Slovenians and Ukrainians. Roma represent the largest minority population generally estimated between 400,000 and 600,000³. Germans are estimated to number about 200,000, followed by Slovaks at 100,000. All others are significantly smaller. The figures are only estimates because identification of minority status is based solely on self-declaration. The imprecise numbers and the vast differences in the populations estimated to represent each minority have caused proposals for proportional set-aside seats for minorities, or the allocation of a single parliamentary seat for each registered minority to be rejected. Additionally, several political party interlocutors indicated that such formulations were at odds with Hungary’s party-driven election system. In 1998, MSZP and SZDZ backed a proposal which would have lowered the existing 5% threshold requirement for minority-based parties. Roma NGOs also submitted proposals that would call for the inclusion of minority representatives in a subordinated capacity with all the rights of elected MPs to serve on committees, propose legislation, etc., except the right to vote in Parliament. This proposal has never advanced to the Parliament.

While most of Hungary’s minorities have been integrated into the mainstream of public life, the Roma population remains marginalized in the political arena. In fact, not a single seat in the 386-member Parliament elected in 1998 was held by a representative of the Roma minority. The new Parliament, however, will have four Roma MPs, three from the Fidesz-MDF national list and one from the national list of the MSZP. Of the ten registered Roma political parties, five registered for these elections.

The major development in these election was the first formal agreement between a major political party (Fidesz) and a Roma party (Lungo Drom). While this agreement was seen as an important event, the Roma community was divided on the issue. Some critics among a broad spectrum of Roma NGOs expressed concern that Lungo Drum had simply become an extension of the Fidesz party.

³ During the 1990 census, only 142,000 individuals affirmatively identified themselves as Roma.

VI. THE ELECTION CAMPAIGN

Since 1994, the number of candidates and parties competing in the election has steadily declined with each successive election. In the single mandate constituencies, 1,250 candidates competed in 2002, compared to 1,606 in 1998 and 1,876 in 1994. Only Fidesz-MDF ran individual candidates in all 176 districts. MSZP ran individual candidates in 170 districts, while in 6 districts MSZP ran joint candidates with smaller parties. At the county level, 7 parties, including the Fidesz-MDF joint list, fielded county lists in all 20 counties. Eight parties fielded national lists including the New Left Party that was only able to submit lists in 7 counties, the minimum required to qualify to present a national list. In 1998, 12 parties fielded national lists, compared to 15 in 1994.

In addition, pre-election polls predicted a close race between the two major political blocs, the joint list of the Fidesz-MDF and the MSZP foretelling a polarization of voters' political will and further consolidation of the political landscape. Few other parties, including parties with long-standing parliamentary representation, were expected to pass the 5% threshold. Ultimately, the polarization of the political environment prompted a heated and sometimes vitriolic campaign fraught with nationalist rhetoric and allegations about unfair campaign practices, with every detail of the election procedure subject to extra scrutiny. Numerous complaints regarding decisions of election commissions, requests for recounts and challenges against the final results put tremendous pressure on electoral authorities at both the local and national levels.

Generally, there were few major ideological policy differences on foreign and domestic issues between the two main competing blocs, as there is consensus on the need to conclude accession negotiations with the EU as soon as possible. Nonetheless, the campaign was perceived as more aggressive and contentious than in prior elections. The nature of the campaign itself became a focal point of political debate, and themes emerged that alternately turned between nationalist rhetoric and accusations about unfair campaign practices of opponents.

The campaign period was characterized by large rallies, political debates in which pre-planning negotiations became the major story, poster and postal wars, as well as appeals by churches to their congregations and political flyers distributed in the classrooms.

On-going talks regarding a series of 17 debates between the Fidesz-MDF Ministers and their MSZP shadow counterparts became the central focus of the campaign for a period of time. After heated and widely publicized negotiations, the debates were scuttled when the two sides argued over the studio's backdrop just as the first debate was about to begin. A second disagreement arose related to the proposed TV debate between then Prime Minister Viktor Orbán and MSZP Prime Minister candidate Peter Medgyessy which had also been well publicized. The two finally debated on April 5, after Orbán had refused Medgyessy's earlier requests to hold the event on April 3, in order for the media to be able to provide post-debate coverage before the campaign silence period.

The Catholic Church issued a March 17 circular urging parishioners not to "squander votes on parties that have no chance passing the 5% threshold or being elected." The opposition alleged that the Catholic Church openly supported Fidesz-MDF. Indeed, although Fidesz was not mentioned specifically, the circular encouraged voters to vote for the one that "respects

the values of Hungarian culture, turns an open heart and willingness to help towards the Hungarians living the neighbouring countries, protects life at its full extend, secures the living of families with multiple children and secures the respect for childbearing". Each of the themes cited in the circular was specifically reflected in the campaign rhetoric or platform of Fidesz. The Reform Church distributed similar circulars to their followers as well.

Concerns about the perceived intertwining of the government's and the Fidesz-MDF campaigns resulted in two complaints being filed with the NEC. In the first, the MSZP complained about the perceived use of public resources to advance the Fidesz-MDF campaign through government advertising. They also requested a standing point as to whether the government advertising could continue during the campaign silence period. Citing its February standing point 5/2002 limiting its competence to intervene in government activities that are consistent with the normal duties and obligations of the government, the NEC decided that it had no basis on which to impose a prohibition on the governments continuing advertising. Additionally, it was argued that the government's ads did not fit the criteria as (1) non-political advertising is not mentioned in the election law, and (2) that political advertising requires the name or symbol of a party and an appeal to vote for that party.

The second complaint was filed by the Alliance of Free Democrats (SZDSZ). The substance of its complaint centered on the similarities between the theme and format of Fidesz-MDF campaign ads, and the voter information advertising sponsored by the National Election Office. As evidence, SZDZ presented print copies from the Fidesz-MDF campaign and a video of the NEO's television ad promoting voter participation. Ultimately, the complaint was dismissed although MSZP and SZDZ dissented.

Parties consistently exceeded campaign finance limits defined in the law. Official bodies did not have adequate capacity to monitor campaign expenditures appropriately. Most parties were reluctant to challenge overspending by others and acknowledged their own overspending.

VII. THE MEDIA AND ELECTIONS

A. THE MEDIA AND ITS SUPERVISORY BODIES

The Media Law established an independent body, the National Radio and Television Commission (ORTT), to oversee and monitor radio and television broadcasters. The ORTT is charged with tendering for and issuing licenses, assigning broadcast frequencies, monitoring media behavior and resolving media disputes and complaints which are reviewed by its Complaint Committee. ORTT members are nominated by the parliamentary parties and elected by the Parliament to serve for a term of 4 years.

The law also sets in place a supervisory Board of Trustees to oversee public broadcast media. Under the law both the government and the opposition parliamentary parties appoint members of this board on a 50-50 parity basis. However, since the prior board was dissolved in 1998, only the government members have been in place. Because the opposition parties had nominated 5 members for 4 positions, the government had argued no opposition nominees should be appointed until the 3 opposition parties could agree on which of the 5 nominees should serve. A recommendation that the Parliament should select among the 5 nominees was rejected, and the board was established with only the 4 government members

on board. The decision was controversial from the start with both the Court of Registration responsible for registering the newly constituted body, and the Prosecutor-General determining that the composition of the board operating with only ½ of its members was in violation of the law. The Supreme Court ultimately countered their decisions and found the board in its current state to be legitimate. An appeal to the Constitutional Court was rejected on the basis that it was not a constitutional issue. Although the absence of opposition members on the board has continued to raise questions about its independence, blame has also been directed toward the opposition parliamentary parties for failing to resolve the question of their proposed members.

B. LEGAL PROVISIONS PERTAINING TO MEDIA COVERAGE IN THE CAMPAIGN PERIOD

The Media Law does not address broadcasting during the election campaign period specifically. Article 4 provides general guidance that information provided by broadcasters must be objective and balanced. The law also prohibits a broadcaster from serving the interests of any particular party or political movement, and likewise, the law prohibits any party commissioning advertising on the station from interfering with the broadcaster's responsibilities or freedoms. Moreover, parties are prohibited from sponsoring any kind of programming. The law protects broadcasters from responsibility for the content of advertisements and limits the length of advertisements to two minutes or less.

The Procedural Law governing elections provides some additional guidance. Article 40 establishes the period of the election campaign as that between the "call for the election and 00:00 hours of the day before election day." Article 44 provides that program providers may publish political advertisements for candidates and organizations nominating candidates with equal conditions during the campaign period. The law also prohibits broadcasters from adding any opinions or analyses to political advertisements. Article 93 requires public broadcasters to broadcast at least one political announcement free of charge between the 18th and 3rd day before the election for those nominating organizations that have submitted national lists, county lists, or single mandate district candidates coinciding with their broadcast areas. An additional advertisement must be broadcast for the same nominating organizations on the last day of the campaign period. Commercial media have no such obligations, and it is up to the broadcaster to determine whether paid political advertising will be accepted. Although limited free airtime is provided on public television, most parties did not rely on this source of coverage, but instead invested in paid airtime. Among the three most popular television stations, TV2 decided not to accept paid political advertising at all, while MTV1 and RTL Klub broadcast paid political advertising regularly.

C. MEDIA COMPLAINTS

Article 44(2) of the Procedural Law provides that the Media Law is to be applied for participation of media in the election campaign. It is based on this provision that most of the media related complaints submitted to the NEC were deferred as not in their competence. Likewise, however, ORTT deferred to the NEC. The transfer of complaints back and forth between the two bodies caused delays in their resolution.

Among the most common complaints were those presented by smaller parties alleging that the media were not providing equal conditions. The Independent Smallholders Party (FKGP) and Civic Party (KFGP), for example, complained that broadcasters were not covering their campaign activities while extensively covering those of the larger parties. Likewise KFGP

complained that even on public MTV their leaders were not invited to participate in political commentary and news magazine programs, as were their counterparts in the larger parties.

Controversy also arose when MTV provided full coverage of rallies of the Fidesz-MDF, even to the point of canceling regularly scheduled programming. No other party's rallies were covered in such a manner.

D. MEDIA MONITORING

The EOM monitored three television stations and six print media between 9 March and 5 April. The three television stations included public station MTV1, and two commercial stations, TV2 and RTL Klub. Four daily newspapers, *Blikk*, *Magyar Hirlap*, *Magyar Nemzet* and *Nepszabadsag*, and two weeklies, *HVG* and *Magyar Forum*, were included in the monitoring effort.

The basic monitoring elements included the space or time given to the presentation of the parties and relevant political personalities, the manner in which they were portrayed, and the degree to which bias was reflected in the coverage. Television monitoring focused on prime time news programs and special editions of election related programs and political commentary. In addition, an assessment was made regarding gender balance in election related stories.

According to the monitoring results voters had sufficient access to a full spectrum of information about the elections and the campaigns of the parties in both public and private media to make informed choices on election day. Nonetheless, among the media monitored by the EOM, a few main trends were noted.

- As might be expected the government received a large share of coverage in the pre-election campaign period especially on public television. In the press the share of space devoted to the government varied among the newspapers assessed.
- Campaign coverage of the parties in both public and commercial media focused predominantly on the joint list of Fidesz-MDF on the one hand, and MSZP on the other. Other parties received coverage but with less frequency.
- Singular bias against all opposition parties was evident on public television while commercial television tended to provide primarily neutral coverage or negative coverage across the broader spectrum of parties during the campaign period.

1. Television

The predominance of coverage on public station MTV1 was dedicated to the government that was presented in 32% of the station's news and commentary programming. The government was also featured in a similar share of the station's weekly commentary program, *Het*. MSZP received the second highest share of coverage at 21.2%, followed by Fidesz at 12.9%. The manner in which the government and Fidesz were portrayed, however, differed significantly when compared to the manner in which MSZP was presented. A significant amount of neutral information was presented about the government's activities. In all reports on government affairs characterized as positive or negative, the government received favorable treatment in 2/3 of them. The views of opposition leaders were not presented in MTV1's coverage of government affairs stories.

Fidesz was presented with positive and negative coverage in approximately equal doses. In contrast, although MSZP had a relatively high level of coverage in news and election related programming, monitors documented only negative or neutral information about MSZP. The party received no positive references on MTV1. Other opposition parties fared no better. Only MIEP enjoyed some positive references. SZDSZ was featured in about 6% of the station's election-related programming, but the ratio between positive and negative information was 1:10.

Generally, commercial stations RTL Klub and TV2 devoted less time overall to election-related reports than MTV1. RTL Klub did not conduct any special editions of election related discussion programs. TV2 however, presented a series of half-hour debates. At each debate, four parties were invited. Representatives of the major party blocs were featured more frequently in the series than were the representatives of smaller parties.

The two commercial stations differed in their coverage of the government. TV2 dedicated twice as much time (22.1%) to covering government affairs while RTL Klub featured the government in 11.9% of its pre-election coverage. In contrast to its public television counterpart, however, there was a different balance between positive and negative reporting. The government was treated neutrally or negatively on both commercial channels. While the reporting on Fidesz was almost exclusively neutral or negative, MSZP fared somewhat better with some positive coverage although again the majority of its coverage in both commercial channels was characterized as critical.

RTL Klub's coverage of Fidesz and MSZP was quite balanced in terms of the time provided to each of them. With regard to the other parties, among whom the range of TV time fell between 4.2% for SZDSZ to 0.7% for the Workers Party, the tone was neutral or negative in virtually all cases. TV2 devoted 14.3% of its time to Fidesz and 23.9% to MSZP. On this channel the share of coverage for all other parties ranged from 6.8% for SZDSZ to 1.5% for the Uj Baloldal (New Left) Party.

2. Print Media

In general, newspapers proved to be the neutral source of news about the government and the parties. With the exception of *Magyar Forum*, the vast majority of all news stories reported in the print media were neutral in tone while those categorized as positive toward any party represented in less than 10% of the reporting in all papers monitored.

Nepszabadsag and *Magyar Hírlap* also offered preferential coverage to MSZP, Fidesz and the government, while the stories with a positive tone were few. Among all monitored print media outlets, *Magyar Nemzet* published the largest amount of favorable articles about the government while coverage of MSZP and SZDSZ received no positive reporting. About ¼ of the stories featuring Fidesz in *HVG* were critical as were 14.3% of the stories about MDF. In this same paper MSZP and MIEP drew criticism in 7%-8% of the stories that featured them, while 9.1% of the stories covering FKGP were negative. *Blikk* was critical of the government, Fidesz and MFD in approximately ¼ of their coverage in each case.

The weekly newspaper *Magyar Forum* was the only paper that openly backed MIEP both in quantitative and qualitative coverage. In this paper, 28% of the coverage of the party was positive and 67.1% was categorized as neutral in tone. In contrast 62.5% of the stories about

Fidesz were characterized as negative. All coverage of the MSZP and FKGP was critical as was 87% of its coverage of SZDSZ.

VIII. ELECTION DAY PROCEDURES

A. VOTING PROCESS

The EOM did not deploy short-term observers to monitor the election day proceedings and did not observe the vote count. Procedures at the polling stations are well designed and are supported by a complement of forms and documentation that provides a sound basis for maintaining an accurate and auditable record of polling and counting activity.

Before being allowed to vote, the voter's identity must be verified, and the voter's name must appear on the voter register. Each voter is required to sign the voter register thereby acknowledging the receipt of his or her ballots. Each ballot is stamped with the official stamp before being issued to the voter. Although secrecy screens are provided to allow voters to vote in private, the law provides that voters are not obliged to use them.

The law strictly limits the manner in which voters may mark their ballots. The only correct marking is defined as "two intersecting lines" in the circle appearing next to the party or candidate's name. Marking the ballot in any other way invalidates the ballot. Concern has been expressed that such strict language regarding the manner in which the ballot is to be marked is too restrictive and that other markings should allow a ballot to be counted as long as the voter's intent is clear. In spite of the restrictive rules, however, the total number of invalid ballots on all grounds was only about 1% of the total ballots cast.

B. COUNTING AND REPORTING RESULTS

Ballots are counted as soon as the polls close. A unique feature of the process is that the "Minutes Keepers" assigned to each polling station to complete all paperwork associated with the reporting of polling station results, prepare a preliminary report of results based on the first counting of votes, even if some questionable ballots are still unresolved. The preliminary results are sent by fax to the assigned data center where they are entered and transmitted to the Budapest Data Center for consolidation. Within an hour or two of the closing of the polls, preliminary results are available through the Election Office Intranet. Access to the data is made available to electoral offices throughout the country, and via a password by authorized representatives from the mass media, parties, diplomatic missions and others. Final official results are submitted by each polling station once all questionable ballots or any outstanding issues have been resolved. The final report is also transmitted and consolidated with countywide and national results at the center. Experience has shown that the difference between preliminary and final results was about 0.2%.

Parties, officials and NGOs with whom the EOM met expressed almost universal confidence in the accuracy of the results reported. Even the smaller parties who were unable to have their representatives in all polling stations asserted that the presence of the opposing major parties helped to ensure that the ballots were counted accurately. Several features of the system also promote the accuracy of reporting:

- In the event the difference between the top two candidates or parties is less than 1% or less than the number of invalid ballots, all ballots must be recounted until the same results are reached twice in succession;
- The software was designed to reject result forms that fail to satisfy internal check and balance computations, which include “tolerance” fields that have been incorporated to allow PSCs to note discrepancies if any ballots cannot be fully accounted for (e.g. a voter walks out of the polling station without depositing the ballot into the ballot box);
- If a polling station results are rejected by the computer for failure to satisfy the internal checks, the report is returned and the PSC must be reassembled to correct the error;
- Once accepted by the system, no one can alter any entry;
- The software was also designed to compare preliminary and final results from each polling station. Discrepancies outside minimal tolerance levels are flagged for rejection; and
- The nationwide computation of consolidated results are based solely on polling station reports, and not on lower level summarizations.

C. GAPS IN THE PROCESS

1. Certificates

Approximately 47,000 voters away from their districts on election day applied for certificates to vote in polling stations other than where they are registered. The deadline for such applications is 2 days before the first round of voting. At the time the voter applies, he or she must indicate whether the request is for the first round, the second round or both. This advance declaration limits the potential for voters to apply to vote in different districts with the intended purpose of influencing the outcome in targeted races in the second round.

Although there was no evidence that the system had been abused, it became evident over the course of the election that this system is not sufficiently controlled and that additional guidance is needed in the law and in the procedures governing the program. Article 89 dictates that the certificate must indicate the settlement in which the voter wishes to vote. But the voter can select any polling station and there is no way to track where they have actually appeared on election day except by a review of all registers. A flaw in the system centered on whether a person who voted with a certificate in a district in which a candidate was elected in the first round should be allowed to vote in the second round in his or her home district if that district is holding a second round. Election officials recognized that allowing a person to do so would mean in effect that the person was allowed to vote for two candidates, contrary to the “one voter – one vote” principle.

The certificate system should be abandoned in favor of an appropriate absentee voting system. A legitimate question arises as to whether any voter should be allowed to influence the outcome of an election in a district in which he or she is not a resident. An absentee voting system would ensure that the voters away from home on election day could receive the appropriate ballots from their home districts at special sites established for such purposes. The sophistication of Hungary’s election system and support technology should easily support such a transition to an absentee voting system.

2. Mobile Voting

Some technical amendments would enhance the mobile voting system utilized for serving voters who are institutionalized or otherwise unable to go to their polling stations on election day. A deadline for applying for this service should be established. The manner in which an application is made should also be defined.

3. Voting Abroad

The current law makes no provision for Hungarian citizens living abroad to vote. Even military personnel stationed abroad, employees in consulates and embassies and others away on State business have no access to voting.

4. Availability of Polling Station Results

In spite of an exceptional level of transparency in almost every aspect of the election process, one major omission is that, although consolidated results are widely accessible almost immediately, access to polling station detail is not. Even in the days following the elections, attempts to see spreadsheets of supporting polling station data that contributed to the summarized results at the local levels was not available. The law provides that the party members of Vote Counting Boards are entitled to have copies of the polling station result forms. However, as this provision was interpreted, they could not have copies of the results at the polling station but could get photocopies at the relevant Election Office in the days following. Concern was expressed that handwritten copies made at the polling station can contain errors that might cause problems if challenges were filed. The Minutes Keeper should be assigned to ensure that the information is correct before the VCB member's copy is signed and stamped. Spreadsheets reflecting each polling station's results should be available to public scrutiny at each Election Office and should be available to anyone requesting a copy. The availability of this information is critically important given that the 24-hour deadline for filing appeals related to results. The computer technology available should make this an easy enhancement to accomplish.

IX. THE SECOND ROUND, CHALLENGES AND FINAL RESULTS

A. NATURE OF THE SECOND ROUND CAMPAIGN ENVIRONMENT

With a 1% margin separating the Fidesz-MDF from first round leaders MSZP and SZDSZ and 131 seats up for grabs, the two-weeks before the second round were as tense as the campaigns were vitriolic. The turnout was 73% on 21 April, surpassing the number that had participated in the first round. Rumors of "whisper campaigns" and accusations of "dirty tricks" abounded. Bias in favor of Fidesz-MDF in the coverage of public station MTV1 reached its peak.

Nationalist rhetoric and scare mongering marked Fidesz's first campaign rally after its narrow defeat in the first round. The emotional pitch was so high, opposition parties questioned where the campaign could go from there.

Just before the second round, Fidesz-MDF seemed to be setting in motion a strategy to prepare for challenges of the second round results if necessary. They announced that due to

the many complaints they had received from voters related to the first round, they were establishing a “Democracy Hotline” where voters could call in to report election day difficulties or violations. They also established “Democracy Centers” in their branch offices and indicated that members of their youth wing would remain near polling stations on election day to advise voters who encountered polling violations or experienced other difficulties in trying to vote.

The NEC was asked to rule whether such activity would be a violation of the law. Although the complaint did not cite campaign silence period provisions, the NEC determined that this issue should be included in its decision since the activities would be going on during that period and on election day. The majority of members of the NEC voted that these activities did not constitute a violation, while MSZP, Centrum and SZDSZ opposed this view.

B. POST-ELECTION CHALLENGES AND RECOUNTS

1. Calls for Repeated Elections

Results can be annulled based on a finding that violations had occurred that were of sufficient gravity to have altered the outcome. Although over 5,000 votes separated the top two candidates in Nyirbator, the MSZP had appealed on the basis of allegations that Fidesz-MDF had tried to influence voters illegally. The CEC had decided in favor of MSZP, however, the court overturned the CEC’s decision on procedural grounds.

In Gyongyos, a similar case emerged when the Fidesz-MDF candidate appealed to have the results annulled based on allegations that the MSZP candidate had violated the law and the campaign silence period by distributing food and beverages in surrounding villages. Based on testimony and notations in the minutes of two polling stations, the local commission ruled in favor the complainant. MSZP appealed the decision to the Heves CEC who overturned the lower commission’s decision. The CEC found that the original complaint had been filed after the legal deadline and that the evidence provided had not unambiguously supported the allegations. Indeed, a number of witnesses had rescinded their earlier testimony. Ultimately, the County Court upheld the CEC decision and no repeat election was called.

2. Recounts

In a number of cases, the call on invalid ballots proved to be the deciding issue. In Szerencs, where the MSZP candidate had won by 5 votes after the initial count, lost his edge to the Fidesz-MFD and was declared the winner by 1 vote after a recount of the ballots. A review of the invalid ballots had turned the outcome. The turnout was challenged in the Borsod county court. The court examined the 27 ballots that were declared invalid, and ruled that only 7 should have been invalidated. Ultimately, the seat was returned to the MSZP by 2 votes.

In Veszprem County, the court rejected the appeal of the MSZP candidate who had originally lost by 14 votes. A recount had been conducted on the night of the election reducing the difference to 10 votes. The candidate had appealed on the basis that invalid ballots had not been interpreted in a consistent manner.

Within days of its defeat in the first round, MIEP appealed to the NEC calling for a nationwide recount. Having failed to meet the 5% threshold by only about 35,000 votes, the party hoped to establish that a sufficient number of errors had been made that, if corrected, could overcome their shortfall. They raised issue with the number of invalid ballots that numbered 63,897 (approximately an acceptable 1% of the votes cast), and what they decried as an unusually large number of voters using “certificates” to vote in districts other than where they were registered. They also questioned 370 cases where more ballots were found in the ballot box than voters reported as having voted. In spite of such allegations, the NEC rejected the request. Although the complaint had been filed after the deadline for appeals, the NEC did not dismiss the case out of hand. However, the NEC ruled that MIEP had not provided any evidence that supported their claims. They also came to their decision on the basis that the law only provides for recounts at the polling station level when the difference between the top contenders is less than one percent or is exceeded by the number of invalid ballots.

The Supreme Court upheld the NEC decision. As a last ditch effort a petition signed by a reported 300,000 voters was submitted to the President, but the effort failed to accomplish the objective MIEP had hoped for. Nonetheless, MIEP was able to expose an omission in the law. The law should establish clear grounds on which recounts can be requested. It is not uncommon for laws covering the manner in which such requests can be submitted to also establish criteria, such as the share of votes separating the winner and the appellant, under which recounts will be conducted automatically, upon appeal, and, to avoid frivolous requests, free of charge or for a deposit or fee to cover costs.

Even after accepting the final results, Fidesz announced its intention to launch a popular initiative to be submitted to Parliament to set-aside the provision of law that mandates that the voted ballots must be destroyed within 90 days after the elections. The initiative would call on Parliament to order that the ballots be retained beyond that time so that an eventual recount could take place, although such an event would not lead to any legal consequence or modify the results even if the recount were to produce a different result. Such initiatives require the signatures of 50,000 voters but cannot be launched until the expiration of a 41-day period after the elections.

C. FINAL RESULTS

Only after all avenues of appeal were exhausted were the final results of the election certified by the NEC on 8 May. The results of the first round and the final results were as follows:⁴

MANDATES WON IN FIRST ROUND					
Parties	District Mandates	County List Mandates	National List Mand.	Total Mandates	Parliamentary Mandates %
Fidesz-MDF	20	67		87	22.54%
MSZP	24	69		93	24.09%
SZDSZ		4		4	1.04%
MSZP/SZDZ	1			1	.26%
TOTAL	45	140		185	

FINAL MANDATES WON IN BOTH ROUNDS						
Parties	Share of Votes	District Mandates	County List Mandates	National List Mandates	Total Mandates	Proportion of Parliamentary Mandates
Fidesz-MDF	44.05%	95	67	26	188	48.7%
MSZP	42.81%	78	69	31	178	46.11%
SZDSZ	5.07%	2	4	13	19	4.92%
MSZP/SZDZ Joint Candidate	.41%	1			1	.26%

X. RECOMMENDATIONS

A. GENERAL

1. The law should require that decisions taken by lower level election commissions be consistent with the standing points issued by the NEC, and give authority to the NEC to overturn decisions of lower commissions that fail to reflect them.
2. The law should establish a deadline for withdrawal from the second round, in time to print the ballots, and the campaign silence period.
3. The Procedural Law and the Media law should be amended with conforming articles that more clearly define the separate competencies of the ORTT and the NEC in resolving election related complaints. Deadlines for resolution of such complaints should be consistent for both bodies to ensure timely resolution.
4. Legislation should ensure a more effective participation of minorities in Parliament.

⁴ Results taken from Data of the National Election Office, <http://www.election.hu>.

B. ELECTORAL BODIES AND ADMINISTRATIVE STRUCTURES

5. To ensure cross-party consensus in the selection of the NEC's elected members, a 2/3 majority vote in the Parliament should be required.
6. The independence of the NEC could also be enhanced by extending the terms of members and staggering their terms so that no more than 3 members are elected by any sitting Parliament.
7. The NEC competence to address election related complaints should be clarified.
8. To ensure that complainants are not denied their rights to meaningful redress, penalties for violations of the election law should be defined for cases not involving criminal prosecution, and the NEC should be given authority to enforce its decisions.
9. The NEC should have the authority to compel complainants, witnesses or other knowledgeable persons to appear or otherwise respond to allegations cited in complaints so that cases can be decided on their merits rather than technicalities.
10. In order to ensure that adequate checks and balances are in place, certain decisions of the National Election Office should require approval of the NEC, in particular, the design of the ballots, draft procedural rules devised for mobile voting, use of certificates, and other decisions that could have a political consequence.

C. REGISTRATION OF CANDIDATES

11. To limit opportunities for abuse, the use of coupons in the nominating process should be abandoned in favor of collecting voter signatures in petition booklets or monetary deposits.
12. If coupons are retained, they should be serially numbered and a range of numbered coupons should be distributed to each party, rather than to individual voters.
13. There should be an upper limit in the number of coupons (or signatures in petition booklets) that can be submitted for any candidate. The parties represented in the Parliament should not be required to collect coupons.

D. CAMPAIGN AND MEDIA

14. The law should more clearly differentiate the beginning of the campaign period for administrative purposes and for campaigning, and for campaign funding and financial reporting purposes.
15. The law should define the kinds of costs and campaign activities for which expenditures must be reported. The definition should include the acceptance of "in kind" services or contributions for campaign activities not paid directly by the party.
16. The law should articulate penalties for violations of campaign spending limits and failure to publish the required reports in the Official Gazette.

17. A schedule for reporting campaign expenditures should be established with at least one interim report before election day. The law should also dictate the format and the level of detail that should be reported.
18. Consideration should be given to limiting the kind and amount of government advertising that can be published or aired during 3-4 weeks before the campaign silence period and prohibit all but emergency advertising or other legal notices during the silence period.
19. Measures prohibiting a broadcaster from serving the interests of any party should be strictly enforced, and especially in the case of the public media. Members of the Board of Trustees for public media should be held accountable for “equal conditions” abuses.

E. ELECTION DAY PROCEDURES

20. Certificates used for allowing a voter to vote at a polling station other than where she/he is registered should be abandoned in favor of an absentee voting system.
21. As long as certificates remain in use, the law should require that for each election in which the voter requests to vote outside his normal district, a system should be established so that the use of certificates can be monitored and accounted for.
22. A deadline for applications for mobile voting should be established, and the manner in which an application is made should be defined.
23. During the counting of votes, the total number of ballot papers in the mobile ballot box should be counted and reported separately on the results form before the ballots are commingled with other ballots for counting the votes.
24. Members of PSCs should be able to receive a copy of the polling station results before leaving the polling station.
25. Summarized results reflecting polling station details should be available for public scrutiny at the relevant election office early on the day following the election, and should be available to anyone requesting a copy.
26. In addition to provisions that govern recounts at polling stations during the counting process, the law should also establish clear grounds on which recounts can be requested at district, county and national levels. To avoid frivolous requests these provisions could also dictate the conditions under which such recounts are conducted free of charge, or for a deposit or fee to cover costs.
27. Any lack of clarity regarding the disposition of votes cast for candidates withdrawing before the second round in the distribution of seats from the national lists should be resolved before the next election.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main 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 Document).

The ODIHR, based in Warsaw, Poland, was created in 1990 as the Office for Free Elections under the Charter of Paris. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election** observation. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.