



Office for Democratic Institutions and Human Rights

**HUNGARY**  
**PARLIAMENTARY ELECTIONS**  
**6 April 2014**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT**

**20-23 January 2014**



Warsaw  
14 February 2014

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**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

On 18 January, 2014 President János Áder called parliamentary elections for 6 April. On 20 January, the Ministry of Foreign Affairs of Hungary invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe these elections. In accordance with its mandate, the OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Budapest from 20 to 23 January 2014. The NAM included Nicola Schmidt, Deputy Head of the OSCE/ODIHR Election Department, Richard Lappin, OSCE/ODIHR Senior Election Adviser, Tamara Otiashvili, OSCE/ODIHR Election Adviser, and Marc Carillet, Deputy Director of Administration for the OSCE Parliamentary Assembly (OSCE PA).

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as with representatives of political parties, media and civil society. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for their assistance and co-operation in organizing the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

**II. EXECUTIVE SUMMARY**

Hungary is a parliamentary republic with legislative power vested in the 199-member parliament, elected for a four-year term. A new electoral system will apply for these elections. Voters will elect 106 members from single-member constituencies under a one-round majoritarian system and the remaining 93 members under a nationwide proportional system.

Five parties are represented in the outgoing parliament, with the Coalition of Hungarian Civic Union (Fidesz) and the Christian-Democratic People's Party having obtained a two-thirds majority that allowed for the adoption of a new Constitution and the revision of a great number of cardinal laws, including election-related legislation, without opposition support. A number of OSCE/ODIHR NAM interlocutors expressed concerns about the rapid and comprehensive nature of legal reform in the past years, as well as a lack of consultation and inclusivity in the process. Interlocutors also alleged that these legislative changes were negatively impacted upon by a lack of political pluralism and they undermine the separation of powers. OSCE/ODIHR NAM interlocutors referred to the upcoming elections as a test case for the new legal framework.

Legal amendments reduced the number of parliamentary seats from 386 to 199, necessitating a change in constituency delimitation. Deviations in the size of constituencies that had previously undermined the equality of the vote have now largely been addressed in line with recommendations by the OSCE/ODIHR and the Venice Commission of the Council of Europe. The constituency delimitation

process was criticized by some OSCE/ODIHR NAM interlocutors for lacking independence and resulting in districts that favour the governing parties.

The elections are administered centrally, with support from lower-level commissions and offices. The National Election Office (NEO) supervises the administrative part while the National Election Committee (NEC) is primarily tasked to oversee compliance with the law by election commissions and electoral contestants. While some OSCE/ODIHR NAM interlocutors expressed concern that the appointment process of the NEC could undermine its independence, and that the composition of polling station commissions favours the governing parties, the majority stated their overall confidence in the work of the election administration at all levels.

Voter registration is passive and voter lists are extracted from a central voter register maintained by the NEO. Every citizen over 18 years of age by election day with a residence in Hungary is automatically included in the register. No concerns were raised in respect of the accuracy of the voter register. Citizens without residence in Hungary, or those wishing to vote for the national minority list, have to actively register their interest or preference to vote with the NEO. In a positive change, previous unreasonable restrictions on voter rights of prisoners and persons with disabilities have been removed.

Citizens abroad can now vote in the proportional part of the elections. Those living abroad without permanent residence in Hungary can only vote in the elections by post. In contrast, voters that are abroad but retain residence in Hungary can only vote in foreign representations. A number of interlocutors met with by the OSCE/ODIHR NAM challenged the fairness of providing citizens abroad with different voting rights, as well as expressing concerns with the integrity and secrecy of postal voting. In addition, concerns were raised about the simplified rules on acquiring citizenship, following amendments to the Act on Hungarian Citizenship.

All political parties met with by the OSCE/ODIHR NAM welcomed the new, simplified candidate registration procedures, which address prior OSCE/ODIHR recommendations. There are no legal requirements to promote women and internal party policies to promote women candidates are limited. Women's representation in the outgoing parliament stands at nine per cent.

Public and private campaign financing is permitted. New legislation tasks the State Audit Office with oversight responsibilities, including the authority to issue sanctions should rules be breached. While the new law ensures greater transparency, there are no provisions that cover third-party financing and there is no reporting on campaign spending prior to election day.

The election campaign officially starts 50 days before election day and is expected to be active. A number of billboards and posters by civil society organizations with negative campaign messages have already appeared across the capital Budapest, prior to the official start of the campaign. OSCE/ODIHR NAM interlocutors did not raise concerns about the ability to campaign freely, but expressed some concerns about the availability of billboards for campaigning, possible intimidation of voters, vote buying and transporting of voters, particularly in national minority communities.

Media is pluralistic but divided along partisan lines. The OSCE Representative on Freedom of the Media welcomed the adoption of the new media law but raised concerns about the independence of media regulators and the possibility of high fines that could lead to self-censorship. All media are obliged to provide fair and balanced coverage during the campaign. The public broadcaster has an obligation to provide free airtime to candidates. Private broadcasters can provide free airtime on an equal basis to all candidates if they choose to do so. Campaign advertisements are permitted in the private press but the new legislation prohibits them on private broadcasters.

Although the law generally provides for a timely complaints and appeals process, several OSCE/ODIHR NAM interlocutors expressed concern that there might be a large number of complaints in the upcoming elections as a result of the change of the electoral system and the legal framework.

The majority of OSCE/ODIHR NAM interlocutors expressed confidence in the ability of the election administration to organize elections professionally. Many, however, expressed doubts as to the intention of the legal changes that lacked opposition support and could make the election process and the election campaign more complicated. As well, given the comprehensive changes to the legal framework for elections, the majority of interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognizing that these elections are a test for the new legal framework and that an independent, external assessment of the electoral process may contribute to making possible necessary improvements. A number of aspects could merit specific attention by an OSCE/ODIHR election observation activity, including the implementation of the revised legal framework and electoral system, campaign financing, women's participation, media coverage, and complaints and appeals mechanisms.

On this basis, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to observe the 6 April parliamentary elections. In addition to a core team of analysts, the NAM recommends the secondment of 10 long-term observers from OSCE participating States. In line with OSCE/ODIHR's standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of election day proceedings is not envisaged.

### III. FINDINGS

#### A. POLITICAL 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 last parliamentary elections were held on 11 April 2010, and resulted in five parties elected to the then 386-member parliament with the Coalition of Hungarian Civic Union (*Magyar Polgári Szövetség*, Fidesz) and the Christian-Democratic People's Party (*Kereszténydemokrata Néppárt*, KDNP) winning 263 seats. The Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP) won 59 seats, the Movement for a Better Hungary – Jobbik (Jobbik) 47 seats, and Politics Can Be Different (*Lehet Más A Politika*, LMP) 16 seats.<sup>1</sup> The leader of Fidesz, Viktor Orbán, was subsequently elected prime minister.

After gaining two-thirds of the seats in parliament, the governing majority rapidly initiated legal reforms to reshape the constitutional order and legal framework, including the adoption of the Fundamental Law of Hungary (the Constitution), the Act on Election of Members of Parliament (Election Act), and the Act on Election Procedures (Election Procedures Act), as well as several other cardinal laws, including the Act on Media Services and Mass Media (Media Law) and the Act on the Transparency of Campaign Costs on the Election of Members of Parliament (Campaign Finance Act).<sup>2</sup> Due to the two-thirds majority of the governing coalition, these laws could be changed and

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<sup>1</sup> In addition, one independent candidate was elected.

<sup>2</sup> Since the adoption of the constitution, the parliament adopted over 50 cardinal laws, all requiring a two-third majority.

adopted without opposition support. The European Parliament (EP) expressed concern that the process of introducing the Constitution “lacked the transparency, openness, inclusiveness and, ultimately, the consensual basis that could be expected in a modern democratic constituent process, thus weakening the legitimacy of the Fundamental Law itself.”<sup>3</sup> The EP further raised concerns with respect to the legal basis for the independence of the judiciary and media pluralism. A number of OSCE/ODIHR NAM interlocutors reiterated these concerns, particularly in respect of the lack of inclusiveness and consultation in amending fundamental aspects of the legal framework. OSCE/ODIHR NAM interlocutors also alleged that these legislative changes negatively impact pluralism and the separation of powers.

The OSCE/ODIHR has observed three parliamentary elections in Hungary since 1998 and reviewed the Act on Election of Members of Parliament in 2012.<sup>4</sup> For the 11 April 2010 parliamentary elections, the OSCE/ODIHR deployed an election assessment mission which found that the “elections were conducted in a pluralistic environment characterized by overall respect for fundamental civil and political rights, and high public confidence in the process.”

## B. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the Constitution, the Election Act, and the Election Procedures Act. The Constitution, adopted on 18 April 2011, sets the constitutional framework but delegates the detailed regulation and implementation to a large number of cardinal acts. Since its entry into force on 1 January 2012, its transitional provisions have been amended five times.<sup>5</sup> The most controversial of these was the fourth amendment, adopted on 11 March 2013, which incorporated some provisions previously found unconstitutional by the Constitutional Court and repealed all Constitutional Court rulings delivered before the entry into force of the new Constitution. These frequent amendments to the Constitution for seemingly narrow party preferences drew criticism from the EP and the Council of Europe.<sup>6</sup> OSCE/ODIHR NAM interlocutors criticised this as an erosion of the system of checks and balances.

The new Election Act was passed on 23 December 2011, and came into force on 1 January 2012, replacing the 1989 Act on Elections of Members of Parliament. It defines the electoral system and provides rules on the delimitation of constituencies (in two annexes). The OSCE/ODIHR and the Council of Europe’s Commission for Democracy through Law (Venice Commission) has previously criticised establishing constituencies in a cardinal law rather than by providing the formula for delimitation.<sup>7</sup> The Election Act also contains provisions on suffrage rights, special arrangements for national minority participation, and the determination of election results.

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<sup>3</sup> See the 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>4</sup> All previous OSCE/ODIHR reports on Hungary are available at: [www.osce.org/odihr/elections/hungary](http://www.osce.org/odihr/elections/hungary).

<sup>5</sup> The constitution was amended on 4 June 2012, 29 October 2012, 21 December 2012, 11 March 2013 and 16 September 2013.

<sup>6</sup> See the European Parliament resolution of 3 July 2013 and the Opinion of the Council of Europe’s Commission for Democracy through Law (Venice Commission) on the Fourth Amendment of the Fundamental Law (CDL-AD(2013)012), adopted on 14-15 June, 2013, [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). In addition, see the Request for the Opening of a Monitoring Procedure in Respect of Hungary, 25 April 2013. [http://www.assembly.coe.int/Communication/amondoc08\\_2013.pdf](http://www.assembly.coe.int/Communication/amondoc08_2013.pdf).

<sup>7</sup> 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>.

The Election Procedures Act was adopted on 29 October 2012, and has been amended three times since.<sup>8</sup> The Constitutional Court ruled that proposed amendments to introduce active voter registration for all citizens were unconstitutional as this represented an undue restriction on voting rights. In response, the parliament annulled amendments introducing active voter registration. The Constitutional Court also ruled that new provisions regulating political advertising were unduly restrictive on the freedom of expression and the media. This ruling, however, was not taken into account. Instead of amending the Election Procedures Act, the provisions were included in a constitutional amendment.

Among the key changes in the legal framework, the Election 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. OSCE/ODIHR NAM interlocutors raised some concerns about the simplified rules on acquiring citizenship, following the amendments to Act on Hungarian Citizenship. This law now allows every person who was a Hungarian citizen or is a descendant of a person who was a Hungarian citizen before 1920, and who has some proficiency in the Hungarian language, to apply for Hungarian citizenship, even if the person does not live in Hungary. 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.”<sup>9</sup> The OSCE/ODIHR NAM was informed that some 500,000 Hungarians living abroad had applied for citizenship since the last elections.

In addition, the Election Procedures Act defines voting conditions for citizens living abroad with and without residence in Hungary. Those who have residence in Hungary can vote in diplomatic representations, while those who do not have residence can request to vote by post. A number of interlocutors met with by the OSCE/ODIHR NAM challenged the fairness of providing citizens abroad with different voting rights. Interlocutors also noted the logistical constraints of having to travel to a diplomatic representation as well as concerns about the integrity and secrecy of postal voting. Opposition and civil society representatives alleged that these differing modalities for out-of-country voting would impact turnout, likely in favour of the governing parties.

### C. ELECTORAL SYSTEM

A new electoral system will apply for the first time in these elections. While a mixed electoral system is retained, the number of parliamentary seats was decreased from 386 to 199 and the method of seat allocation was modified. Out of 199 seats, 106 are elected through majoritarian contests from single-member constituencies; there is no longer a second round requirement. The remaining 93 seats are elected through a nationwide proportional system provided that a party passes a threshold of 5 per cent, 10 per cent in case of a joint party list, and 15 per cent if more than two parties form a joint list. In addition, the superfluous votes from the single-member constituencies are allocated to the proportional contest as a means to assign compensatory seats. The five per cent threshold is not applicable for national minority lists; they are entitled to at least one seat provided they secure at least one fourth of the electoral Hare’s quota.<sup>10</sup>

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<sup>8</sup> The Election Procedures Act was amended on 8 April 2013, 10 June 2013 and on 10 December 2013.

<sup>9</sup> Joint Opinion of the OSCE/ODIHR and Venice Commission (DL-AD(2012)012), 15-16 June, 2012.

<sup>10</sup> This quota is obtained by dividing the total number of votes cast by the number of seats to be filled. In case a national minority list fails to win a mandate, they are entitled to a non-voting parliamentary spokesperson.

The reduction in the number of parliamentary seats necessitated a change in the constituency delimitation, as well as an opportunity to address prior Constitutional Court decisions and OSCE/ODIHR recommendations regarding significant deviations in the size of constituencies that undermine the equality of the vote.<sup>11</sup> In a positive step, the law now provides that the average deviation in the number of registered voters should not exceed 15 per cent countrywide, unless justified by special characteristics. However, the process of constituency delimitation was criticized by opposition parties and civil society interlocutors met with by the OSCE/ODIHR NAM for lacking transparency, independence and consultation, and for reportedly resulting in constituencies that favour the governing parties.<sup>12</sup>

#### **D. ELECTION ADMINISTRATION**

Parliamentary elections are administered on three levels. The National Election Office (NEO) supervises the administrative part of the elections while the National Election Commission (NEC) is primarily tasked to oversee compliance with the law by election commissions and electoral contestants. They supervise 97 single-member Constituency Election Offices (CoEOs) and 106 single-member Constituency Election Commission (CoECs), respectively. At the local level, voting is conducted by 10,382 polling station commissions across the country and in 97 diplomatic representations, with the support of 1,365 Local Election Offices (LEOs).

The NEO is a permanent government agency with an independent budget headed by a president, who is appointed by the country's president upon the prime minister's proposal. The president appoints three deputies and supervises civil servant officials and other employees of the NEO. A member of the NEO may not be a member of any political party and may not engage in political activities. Each CoEOs is headed by municipal clerks.

The NEO issues binding directives on administrative issues for the lower-level election offices. It has trained members of the election offices on recent changes to the electoral legislation and prepared voter education materials, some aimed at voters abroad. The NEO is also responsible for the accreditation of international observers.

The NEC consists of seven members elected for nine-year terms by the parliament based on proposals of the president. Several OSCE/ODIHR NAM interlocutors stated that, given the current political context, the appointment procedure for the NEC does not guarantee balanced representation or independence. The three members of the CoECs are elected by the local governments of the respective single-member constituency.

The NEC is responsible for registering candidates, deciding on complaints, issuing non-binding instructions and establishing the final results. While some interlocutors of the OSCE/ODIHR NAM criticised the appointment process of the NEC, all expressed overall confidence in the work of the election administration at the different levels.

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<sup>11</sup> See, Constitutional Court Decisions 22/2005 – VI. 17 and 193/2010 – XII. 8, at: <http://www.mkab.hu/>. See also the OSCE/ODIHR Final Report on the 11 April 2010 parliamentary elections.

<sup>12</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”.



## E. VOTER RIGHTS AND REGISTRATION

Voter registration is passive and voter lists are extracted from the central voter register maintained by the NEO on the basis of the population register. Every citizen over 18 years of age by election day with a residence in Hungary is automatically included in the central voter register.<sup>13</sup> For these elections, some eight million voters are eligible to vote. Previous recommendations from the OSCE/ODIHR and judgements of the European Court of Human Rights (ECtHR) in respect of unreasonable restrictions on voter rights of prisoners and persons with disabilities have been addressed.<sup>14</sup> Following amendments to the Constitution, only individuals convicted of a serious crime or found mentally incompetent by an individualized court decision are not eligible to vote.

Citizens who do not have a registered residence in Hungary are required to register with the NEO, starting from 1 November 2013 until 15 days before election day.<sup>15</sup> When registering, a voter may also request a postal vote. The NEO informed the OSCE/ODIHR NAM that out of an estimated 500,000 such voters, some 115,000 have already registered. In addition, special procedures are in place for registration of national minority voters, who can choose to vote for either nationwide candidate lists or the minority list.<sup>16</sup> The latter requires prior registration until 16 days before election day, otherwise they will automatically be registered to vote for the nationwide lists.<sup>17</sup>

Interlocutors met with by the OSCE/ODIHR NAM generally expressed trust in the voter register and did not signal concerns with its accuracy. However, some concerns were raised with regard to the registration of voters abroad and a lack of safeguards when applying for postal votes.

## F. CANDIDATE RIGHTS AND REGISTRATION

The legislation provides candidacy rights for all eligible voters and for the participation of political parties and independent candidates. In order to stand in a single member constituency, the new Election Act requires a candidate has to collect at least 500 supporting signatures. Previously a candidate had to collect at least 750 endorsement coupons, which served a similar purpose to supporting signatures. This change, combined with the increase in the size of constituencies, has reduced the required number of signatures to less than one per cent of registered voters in a constituency, in line with good electoral practice and as previously recommended by the OSCE/ODIHR and Venice Commission.

Signatures are to be collected on an official petition sheet, as prepared by the NEO. Voters and political parties can request an unlimited number of petition sheets, but face a high fine if they lose a sheet.<sup>18</sup> Petition sheets have to include the voter's signature, name, personal identification number and mother's name. In line with a prior OSCE/ODIHR recommendation, legislation was changed so that a voter can support more than one candidate.

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<sup>13</sup> Citizens who are married are eligible to vote from 16 years of age.

<sup>14</sup> See *Alajos Kiss v. Hungary* (ECtHR, 2005) and *Scoppola v. Italy* (ECtHR, No.3, 2012).

<sup>15</sup> The registration form is available for download at [www.nvi.hu](http://www.nvi.hu) or from diplomatic representations of Hungary.

<sup>16</sup> Thirteen national and ethnic minority groups are listed in the Act on the Rights of Nationalities: Bulgarian, Roma, Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian.

<sup>17</sup> The 2012 Joint Opinion of the OSCE/ODIHR and Venice Commission recommended that "it would be preferable to give to the voters from national minorities the possibility of choice on election day between nationality lists and party lists".

<sup>18</sup> According to Section 123 of the Election Procedures Act, the amount of the fine shall be half the minimum wage for every missing petition sheet.

In order to register a national list, a nominating body must have candidates registered in at least 27 constituencies from 9 counties and Budapest. A national minority list may be registered provided it is supported by at least one per cent of voters registered from that minority, but not requiring more than 1,500 signatures.

There are no temporary special legal requirements to promote women candidates and internal party policies to promote women candidates are limited. Some party representatives indicated to the OSCE/ODIHR NAM that they would ensure representation of 30 per cent of women candidates on their national lists. Women's representation in the outgoing parliament is only nine per cent.

All political parties informed the OSCE/ODIHR NAM that they would nominate candidates in each or all constituencies, as well as submit national lists. They all welcomed the simplified nomination procedures, stating that it provides better conditions for smaller parties to stand for office although some concerns were raised with regards to the liability pertaining to the loss of petition sheets.

For the upcoming elections, two coalitions have already been formed: Fidesz will stand with KDNP, while MSZP will stand with Együtt 2014 - Dialogue for Hungary (E2014-PM), Democratic Coalition, and the Liberal Party. Jobbik and LMP will both run separately.

#### **G. ELECTION CAMPAIGN**

The election campaign officially starts 50 days before election day and lasts until the end of voting. There is no longer a campaign silence period prior to or on election day, with the exception of campaigning in public places within 150 metres of a polling station. In addition, it is prohibited to broadcast political advertisements in the media on election day. A number of OSCE/ODIHR NAM interlocutors pointed out that the campaign had already started before the official commencement date. During the visit of the OSCE/ODIHR NAM, a number of posters placed by civil organizations, mainly with negative campaign messages against the opposition, were visible across the capital Budapest.

Campaign posters can be posted on any building without the owner's consent, with the exception of legally defined public buildings. A 17 January government decree prohibited the placement of posters and billboards alongside highways. While the Election Procedures Act mandates that print media submit price lists for advertisements to the State Audit Office (SAO) in advance of the elections, there is no similar obligation to publish price lists for billboards. A number of OSCE/ODIHR NAM interlocutors raised concerns about the ownership of billboards and their accessibility, stating that this could result in unequal conditions for electoral contestants.

All OSCE/ODIHR NAM interlocutors expected an active campaign, centred on small public meetings, posters, billboards, and advertisements in the print media, as well as active use of the Internet and social media. No OSCE/ODIHR NAM interlocutor raised concerns about the ability to campaign freely, but some concerns were expressed about possible intimidation of voters, vote buying and transporting of voters, particularly in national minority communities. Recent changes to the Election Procedures Act permit transportation of voters to polling stations on election day in small vehicles.

#### **H. CAMPAIGN FINANCE**

Campaign finance regulations are contained in the Campaign Finance Act, which permits private and public campaign financing. This law provides more detailed regulations on campaign financing and reporting and tasks the SAO with the supervision of campaign finance, addressing prior

OSCE/ODIHR recommendations.<sup>19</sup> It also increased the campaign expenditure ceiling to HUF five million for each electoral contestant and introduced some reporting requirements.<sup>20</sup>

Once registered, each candidate receives a credit card with a balance of HUF one million of public campaign financing from the National Treasury Office (NTO). If a candidate does not receive at least two per cent of the vote, they have to return all funds. Each body nominating a nationwide candidate list is eligible to receive between HUF 150 million and HUF 600 million depending on the number of candidates registered. The law allows individual candidates to donate their share to political parties, and political parties met with by the OSCE/ODIHR NAM stated that many candidates would use this right. No donations may be received from foreign sources. Donations over HUF 500,000 should be disclosed in a campaign finance report submitted after the elections. Possible third-party contributions, such as activities of non-governmental organizations and private individuals, are not subject to supervision by the SAO.

Single-member constituency candidates and bodies nominating a nationwide candidate list are obliged to submit a report and invoices to the NTO and the SAO on their campaign contributions, donations received and expenditures, no later than 15 days after the election results are published. Reports of all electoral contestants are published directly in the National Gazette no later than 60 days after the election results are published. There are no templates for reporting, which may result in inconsistencies, and there is no obligation to submit interim reports before election day. However, in response to a recommendation of the Council of Europe's Group of States Against Corruption (GRECO), the law introduced penalties for failure to report or for exceeding the campaign spending limit.<sup>21</sup> The SAO declared its readiness in undertaking its new duties in a full and timely manner.

While the majority of OSCE/ODIHR NAM interlocutors welcomed the new campaign finance legislation as an important step, concerns were expressed with respect to third-party financing and the lack of reporting prior to election day.

## I. MEDIA

The media environment is pluralistic with a large number of public and private media outlets operating throughout the country.<sup>22</sup> The public broadcaster *Magyar Television* (MTVA) operates five television channels. These, alongside the private broadcasters *RTL Klub* and *TV2*, are the main television channels. The public broadcaster *Magyar Rádió* broadcasts on three nationwide stations, while *Klass Radio* is the main commercial station. While noting media diversity, several OSCE/ODIHR NAM interlocutors expressed concern about partisan editorial policies in public and private media.<sup>23</sup>

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<sup>19</sup> The OSCE/ODIHR Final Report on the 11 April 2010 parliamentary elections recommended that "Campaign finance regulations could be strengthened to ensure transparency and accountability. Campaign expenses could be defined and ceilings revised. Detailed campaign income and expenditure reporting could be introduced. The authority of institutions controlling campaign finances could be clarified and strengthened including detailed and clear sanctioning mechanism."

<sup>20</sup> HUF 300 equals approximately EUR 1.

<sup>21</sup> See GRECO Evaluation Report on Hungary, 20 June 2012:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)3\\_Hungary\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)3_Hungary_EN.pdf).

<sup>22</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>23</sup> In its 3 July resolution, the EP called on the Hungarian authorities to "take action in order to make or commission regular proactive assessments of the impact of legislation on the media environment (reduction in the quality of journalism, instances of self-censorship, restriction of editorial freedom and erosion of the quality of working conditions and job security for journalists)."

Media conduct during the election campaign is primarily regulated by the Election Procedures Act, as well as by the Act on Media Services and Mass Media (Media Law), which 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 the risk of political control. She welcomed that the revised law provides broader protection of sources, removes limitations on certain content from print and online media, and abolishes the right of the Media and Communications Commissioner to interfere with editorial decisions in case of complaints. 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>24</sup>

Media regulations impose an obligation to provide fair and balanced political coverage for all media. The public broadcaster is obliged to provide free airtime to contestants. MTVA will thus allocate 600 minutes of free airtime to all electoral contestants to broadcast campaign spots on an equal basis.<sup>25</sup> Each electoral contestant must request the free airtime and MTVA decides on the sequence of the campaign spots for each contestant on a rotating principle. Campaign spots will be aired three times a day, each lasting for a maximum of one minute. MTVA also plans to broadcast election-related programmes and debates.

Private media is no longer entitled to air paid political advertisements, but it can choose to provide free-of-charge airtime to all electoral contestants on an equal basis. A number of OSCE/ODIHR interlocutors assessed this change as a limitation on candidates’ ability to freely campaign, while some welcomed the change as it would reduce expenses. Print media has the right to sell paid political advertisements, provided that it publishes the price list in advance.

The Media Council oversees all media compliance with relevant legislation. Its president and members are appointed by parliament for a nine-year term. The Media Council also conducts quantitative and qualitative monitoring of all public and most private broadcasters, publishing its findings on regular basis on its website. During the campaign, it will monitor political advertisements and special election programmes. Although the Media Council is not entitled to impose fines for the breach of media regulations, it can publicly report on such violations.

On 5 November 2013, parliament adopted changes to the Criminal Code on the preparation and distribution of potentially defamatory video or sound recordings, which carry penalties of up to three years imprisonment. This was highly criticized by the OSCE RFoM, who noted that “the penalties for publishing defamatory recordings are disproportionate and may lead to the silencing of critical or differing views in society”, stating that this is a “threat to freedom of expression and freedom of the media in Hungary.”<sup>26</sup>

## **J. COMPLAINTS AND APPEALS**

Election-related complaints can be filed at any stage of the process by a voter or the electoral contestant affected by a decision or action. All complaints should be submitted within three days of the action and be decided within three days from the day of its receipt. The process has been enhanced by the applicability of the provisions of the Act on the Code of Civil Procedure, which details the rules and procedures for handling civil cases, including electoral matters.

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<sup>24</sup> See Press Release of the OSCE RFoM: <http://www.osce.org/fom/90823>.

<sup>25</sup> 470 minutes are allotted for parties and candidates and 130 minutes for the minority lists.

<sup>26</sup> See Press Release of the OSCE RFoM: <http://www.osce.org/fom/107908>.

The NEC serves as a first instance for reviewing most election-related complaints and serves as a second instance for appeals on decisions of lower-level commissions. NEC decisions can be appealed to the Supreme Court, the highest judicial authority of Hungary, within three days of this decision. Judicial review is not conducted unless the case is exhausted at the NEC. It is obligatory that the judicial appeal is submitted by the complainant's legal representative, otherwise the case is dismissed. Free legal representation is not assigned and it remains to be seen to which extent this provision may affect a voter's right to legal remedy. A decision of the Supreme Court is due within three days and is final, except if the decision's constitutionality is challenged in the Constitutional Court.

A number of the OSCE/ODIHR NAM interlocutors expressed concern that there might be a large number of complaints in the upcoming elections due to possible close contests as a result of the change in the electoral system and the electoral legal framework. The Supreme Court informed the OSCE/ODIHR NAM that it has prepared for such a development and noted that the law now allows for the possibility to merge cases of the same matter to speed up the adjudication process.

#### **K. ELECTION OBSERVATION**

In line with previous OSCE/ODIHR recommendations, the amended Election Procedures Act now includes provisions for international election observation. Candidates and bodies nominating nationwide candidate lists are entitled to delegate up to two representatives to each election committee and all political parties met with by the OSCE/ODIHR NAM stated their intention to delegate representatives. Regardless of a previous OSCE/ODIHR recommendation, the law does not provide for non-partisan citizen observers.<sup>27</sup>

#### **IV. CONCLUSIONS AND RECOMMENDATION**

The majority of OSCE/ODIHR NAM interlocutors expressed confidence in the ability of the election administration to organize elections professionally. Many, however, expressed doubts as to the intention of the legal changes that lacked opposition support and could make the election process and the election campaign more complicated. As well, given the comprehensive changes to the legal framework for elections, the majority of interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognizing that these elections are a test for the new legal framework and that an independent, external assessment of the electoral process may contribute to making possible necessary improvements. A number of aspects could merit specific attention by an OSCE/ODIHR election observation activity, including the implementation of the revised legal framework and electoral system, campaign financing, women's participation, media coverage, and complaints and appeals mechanisms.

On this basis, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to observe the 6 April parliamentary elections. In addition to a core team of analysts, the NAM recommends the secondment of 10 long-term observers from OSCE participating States. In line with OSCE/ODIHR's standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of election day proceedings is not envisaged.

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<sup>27</sup> The OSCE/ODIHR in its final report on the 11 April 2010 parliamentary elections recommended that "the principle of providing access of international and domestic observers to all stages of the electoral process should be enshrined in law to bring it in line with paragraph 8 of the 1990 OSCE Copenhagen Document."



## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

János Babity, Ministerial Commissioner for Out-of-Country Voting  
Zsófia Elek, Head of the Council of Europe and OSCE Section  
Viktor Garai, OSCE Desk

### **National Election Office**

Ilona Pálffy, President  
Csaba Danku, Vice President  
Balázs Fügi, Member  
Dániel Listár I, Head of International Department  
Attila Péteri, Expert

### **National Election Commission**

András Patyi, Chairman  
Éva Bozsóki, Vice Chairman

### **Ministry Public Administration and Justice**

Bence Rétvári, State Secretary  
Krisztián Gáva, Deputy State Secretary  
Rudolf Virág, Ministerial Commissioner  
László Salgó, Head of Department, Legislation of Public Law

### **State Audit Office**

Tihamér Warvasovszky, Vice President  
Andrea Brebán, Head of the Campaign Financing Control Team  
Bálint Horváth, Press Secretary

### **Constitutional Court**

Péter Paczolay, President  
Diána Mecsi, Head of Cabinet

### **Supreme Court**

Péter Darák, President  
Tibor Kalas, Head of the Administrative-Labour Department  
Erzsebet Mudráné Láng, Judge  
Magda Józán, Head of Press Department  
Lipót Hölztl, Office Director, International Relations and European Legal Office

### **Political Parties**

Gergely Gulyás, Hungarian Civic Union (*Magyar Polgári Szövetség*, Fidesz)  
Balázs Hidvéghi, Hungarian Civic Union (*Magyar Polgári Szövetség*, Fidesz)  
István Pálffy, Christian-Democratic People's Party (*Kereszténydemokrata Néppárt*, KDNP)  
Bence Rétvári, Christian-Democratic People's Party (*Kereszténydemokrata Néppárt*, KDNP)  
Katalin Ertsey, Politics Can Be Different (*Lehet Más A Politika*, LMP)  
Márton Gyöngyösi, Movement for a Better Hungary – Jobbik  
Tibor Szanyi, Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP)  
Gábor Harangozó, Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP)  
Tímea Szabó, Dialogue for Hungary (PM)

György Kakuk, Democratic Coalition (DC)

**Media Council**

György Ocskó, International Legal Expert, Secretariat Department

Pap Szilvia, Head of Department of National Media and Info-communications Authority

**Public Service Media**

Menyhért Dobos, Director General, *Duna Televízió*

Ferenc Pach, Director, MTI Hungarian News Agency Co

Zoltán Pásztor, Program Director, *Magyar Kossuth Rádió*

István Tóth, Head of the News office, MTVA

Lídia Márton, Director for International Relations, MTVA

Balázs Bende, Senior Editor, MTVA

**Print Media**

Péter Csermely, Editor-in-Chief, *Magyar Nemzet*

András Dési, Senior Editor, *Népszabadság*

**Civic Organizations**

Róbert László, Election Specialist, Political Capital Institute

Miklós Ligeti, Head of Legal Affairs, Transparency International