



Office for Democratic Institutions and Human Rights

REPUBLIC OF HUNGARY

PARLIAMENTARY ELECTIONS
11 April 2010

OSCE/ODIHR Election Assessment Mission Report



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I. EXECUTIVE SUMMARY

The Hungarian Minister for Foreign Affairs invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 11 April 2010 parliamentary elections (*Országgyűlés*). Based on the recommendation of a Needs Assessment Mission, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) from 28 March to 15 April.

The 2010 parliamentary elections confirmed the democratic principles established over the past 20 years. The elections were conducted in a pluralistic environment characterized by an overall respect for fundamental civil and political rights, and high public confidence in the process. The competition took place on a generally level playing field, under a sophisticated electoral system. It was administered by professional and efficient election management bodies, including fully-fledged political party representatives.

The legislative framework provides a comprehensive basis for the conduct of democratic elections. However, certain specific provisions would benefit from a review, most notably on full respect for the secrecy and equality of the vote, campaign finance, limitations on suffrage and timely implementation of respective decisions of the Constitutional Court.

In recent years, the Constitutional Court identified a number of omissions in the legal framework for elections that were deemed unconstitutional. The Court ruled that the general representation of national minorities was not ensured to the extent required by the Constitution. It also ruled that the lack of provisions ensuring a regular review of the electoral district boundaries undermined the equality of the vote, a constitutional requirement. To date, the parliament has not acted on these decisions.

The candidate registration process was inclusive, although the nomination system requiring candidates to submit voter nomination coupons was marked by a history of allegations of abuse. The campaign took place in a calm and open atmosphere that allowed for genuine political competition. It was conducted primarily through small-scale meetings of candidates with voters, door-to-door campaigning and in the Internet. There were a number of complaints related to violations of the campaign silence, which was compounded by the lack of possibility for redress.

In a predominantly open and pluralistic media environment, the campaign was driven by domestic issues such as the economy, the performance and integrity of the outgoing government, the fight against corruption, and to a lesser extent - the situation of the Roma population. The campaign was marked by inflammatory and offensive language used by the *Jobbik* party against Roma, which is contrary to OSCE commitments.

Laws governing campaign finance for parliamentary elections do not form an adequate basis for campaign finance regulation; they lack important elements of transparency and accountability. There was consensus among political parties, relevant authorities and civil society that the present campaign finance system requires an overhaul.

The electoral framework does not include positive discrimination provisions for the advancement of women in politics, leaving this issue to political parties. Women remained underrepresented in the parliament. After these elections, the number of female parliamentarians declined by eight, from 11 to 9 per cent.

The election legislation does not explicitly provide for access of international and domestic observers from civic organizations to the process and is thus not fully in line with OSCE commitments. The National Election Office (NEO) issued a special measure allowing accreditation of international observers for these elections.

In line with standard practice for election assessment, the OSCE/ODIHR EAM did not conduct comprehensive or systematic observation of polling procedures. Members of the OSCE/ODIHR EAM visited a number of polling stations in several counties on election day. In the polling stations visited, voting and counting procedures went smoothly. However, issues were noted with regard to the secrecy of the vote. In addition, some voters voting with absentee voting certificates in specially designated polling stations had to wait until late in the night in order to cast their ballots.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 28 January 2010, the OSCE/ODIHR was invited by the Minister for Foreign Affairs of Hungary to observe the 11 April 2010 parliamentary elections.¹ The OSCE/ODIHR deployed a Needs Assessment Mission (NAM) to Budapest from 27 to 29 January 2010, which recommended that an Election Assessment Mission (EAM) be deployed to assess these elections.²

The OSCE/ODIHR EAM was deployed from 28 March to 15 April 2010. It was led by Mr. Nikolai Vulchanov and consisted of 11 election experts from as many OSCE participating States. In addition to experts based in Budapest, the OSCE/ODIHR EAM deployed teams to four regions of Hungary.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs, the Ministry of Justice and Law Enforcement, the National Election Office, the National Election Committee, other election offices and committees, state and municipal authorities, representatives of political parties, the media and civil society for their co-operation and assistance during the course of the mission.

¹ The second round of the elections was held on 25 April; the OSCE/ODIHR EAM did not remain in-country to follow the second round contests.

² See OSCE/ODIHR NAM report at www.osce.org/documents/odihr/2010/02/42796_en.pdf.

III. BACKGROUND

Hungary is a unicameral parliamentary republic. The National Assembly (*Országgyűlés*) is composed of 386 deputies, elected to four-year terms. The president is the head of state and is indirectly elected by the parliament to a five-year term, with a two term limit. A prime minister leads the government; s/he is nominated by the president and elected by the parliament.

Following the last parliamentary elections, held on 9 April 2006, five political parties were elected. The centre-left Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP) with 190 seats and the Alliance of Free Democrats (*Szabad Demokraták Szövetsége*, SZDSZ) with 20 seats continued to govern in coalition, as they had since 2002. Mr. Ferenc Gyurcsány was subsequently elected as the prime minister.

The remainder of the seats were held by the centre-right Hungarian Civic Union (*Magyar Polgári Szövetség*, *Fidesz*), which ran on a joint list with the Christian-Democratic People's Party (*Kereszténydemokrata Néppárt*, KDNP, with 164 seats), and the Hungarian Democratic Forum (*Magyar Demokrata Fórum*, MDF, 11 seats). In addition, one independent candidate was elected in Somogy county.

IV. LEGAL FRAMEWORK

A. OVERVIEW

The legislation in Hungary provides a comprehensive basis for the conduct of democratic elections. The 1949 Constitution underwent a series of amendments, the most significant of which reflected the 1989 transition to a pluralistic society. The Constitution stipulates that power is vested in the people, who exercise their sovereign rights directly or through elected representatives. It also guarantees fundamental civil and political rights, such as the freedom of thought and expression, the freedom of the press and the rights of assembly and association.

The main fundamentals of the legal framework governing elections are the 1989 Act on the Election of Members of Parliament (hereinafter, the Election Law) and the 1997 Act on Electoral Procedures (amended in 2007 and 2009; hereinafter, the Procedural Law). Other laws complement the legal framework.³ While they create the conditions for the conduct of democratic elections, certain aspects could benefit from revision. These include restrictions on the right to vote, electoral district delimitation, campaign finance issues, secrecy of the vote, and campaign dispute resolution. Further detail is provided in the relevant sections below.

According to certain state interlocutors, recent attempt to amend the electoral legislation, including the electoral system, failed due to a lack of the required two-thirds

³ They include the 1989 Act on Operation and Financial Management of Political Parties (amended in 1990), the 1978 Act on the Criminal Code, the 1989 Act on the Right of Association, the 1992 Act on Registration of Personal Data and Registration of Citizens, Act I of 1996 on Radio and Television Broadcasting and Standing Procedures of the Complaints Committee of the National Radio and Television Commission, and decrees of the local government ministry on their implementation.

majority. It was stressed by them, however, that such procedures ensure the stability of electoral law and uphold inclusive decision making.

Previously, the Constitutional Court identified certain omissions in election-related legislation that resulted in situations of unconstitutionality. It ruled that the general representation of national and ethnic minorities is not properly guaranteed to the extent required by article 68 of the Constitution. This is due to the lack of an implementing law, which the Court has called upon parliament to enact.⁴ To date, parliament has not enacted such legislation.

In line with the decision of the Constitutional Court, the legislation should guarantee the constitutional requirements for representation of national and ethnic minorities.

B. SUFFRAGE

The right to vote is granted to all Hungarian citizens who have reached the age of 18 and who are permanent residents of the country. Article 70 (5) of the Constitution provides for certain exceptions: those under court guardianship, those limited from participating in public affairs by a final court decision,⁵ those imprisoned or in mental institutions by final court judgment delivered in criminal proceedings.

The denial of suffrage for individuals who are incarcerated, irrespective of the gravity of the crime committed runs contrary to the principle of proportionality, as recognized by the 1990 OSCE Copenhagen document and other applicable international human rights standards.⁶ Furthermore, the European Court of Human Rights has ruled in the case of *Hirst vs the United Kingdom*⁷ that an automatic and blanket prohibition of voting rights for convicted prisoners violates the principle of proportionality and that it is in breach of Article 3 of Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.⁸

Consideration should be given to reviewing the constitutional provision that restricts voting rights to ensure consistency with the principle of proportionality.

⁴ See Decisions 35 (dated 2 June 1992) and 24 (dated 2 May 1994): www.mkab.hu/index.php?id=hatarozatkereso.

⁵ A supplementary sentence, which includes suspending voting rights along with other restrictions (e.g., prohibition to take position in a public corporations and foundations), is foreseen in the Criminal Code (art. 38.2) for crimes that have been committed intentionally and if the offender is “unworthy” of participation in public affairs. This supplementary sentence can be imposed for a length of one to ten years, after the prison sentence has been served.

⁶ See the 1990 OSCE Copenhagen Document, Paragraph 24, www.osce.org/documents/odihr/1990/06/13992_en.pdf; and International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.7, General Comment No. 25 “The right to participate in public affairs, voting rights and the right of equal access to public service”, Para. 14. <http://www2.ohchr.org/english/bodies/hrc/comments.htm>.

⁷ Application 74025/1, available at www.echr.coe.int.

⁸ Available at www.conventions.coe.int/Treaty.

C. SECRECY OF THE VOTE

The fundamental principle of secrecy of the vote is guaranteed by the Constitution and the Procedural Law preamble. Article 68.1 of the Procedural Law, however, may compromise this principle as it states that polling booths are to be at voters' disposal for marking ballots, but that voters are not required to use them.

OSCE commitments and other international standards for democratic elections provide that votes must be cast by secret ballot or by equivalent free voting procedure.⁹ Representatives of the authorities indicated to the OSCE/ODIHR EAM that voters could decide whether to avail themselves of their right to secrecy. However, the United Nations (UN) Human Rights Committee has pointed out that waiver of the right to secret ballot is incompatible¹⁰ with Article 25 of the UN International Covenant of Civil and Political Rights. Similarly, the Venice Commission's Code of Good Practice in Electoral Matters states that for the voter, secrecy of voting is not only a right but also a duty, non compliance with which must be punished by disqualification of any ballot paper whose content is disclosed.¹¹

Consideration should be given to reviewing the relevant provisions in order to ensure the obligatory secrecy of the vote, in accordance with the Constitution and the Procedural Law, as well as with paragraphs 5.1 and 7.4 of the 1990 OSCE Copenhagen Document and other international standards for democratic elections.

V. ELECTORAL SYSTEM

A. OVERVIEW

The 386 parliamentary deputies are elected through a mixed system. The majoritarian and proportional components function independently of each other. For the majoritarian contests, 176 members are elected in single-seat electoral districts (SSED). 152 members are elected in 20 multi-seat electoral districts (MSED)¹² on the basis of proportional representation with closed party and coalition lists. Another 58 members are elected on the basis of proportional representation in a nationwide constituency, through separately registered "compensatory" party and coalition lists.¹³

Any eligible voter can stand simultaneously in one SSED, one MSED and on the national list. If such a candidate is elected in more than one contest, s/he should take up the SSED seat first, the MSED seat second, and lastly the seat obtained through the compensatory list. Independent candidates can contest only in SSEDs.

⁹ Paragraphs 5.1 and 7.4 of the 1990 OSCE Copenhagen Document, Article 3 of the Protocol 1 of the European Convention on Human Rights and Article 25 of the UN International Covenant of Civil and Political Rights (ICCPR).

¹⁰ Paragraph 20 of General Comment 25 to Article 25 of the United Nations' International Covenant of Civil and Political Rights (ICCPR), available at <http://www2.ohchr.org/english/bodies/hrc/comments.htm>.

¹¹ Venice Commission, Code of Good Practice in Electoral Matters, part I, Para. 4 (a) [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf).

¹² MSEDs borders coincide with the administrative borders of the counties and Budapest.

¹³ According to Article 4.1-2 of Election Law, voters may cast two separate ballots, one for the SSED candidate, the second for the MSED candidate list.

B. EQUALITY OF THE VOTE

The law requires SSEDs to be “approximately” equal in terms of population size and to respect administrative unit boundaries;¹⁴ no maximum deviation is legally specified.¹⁵ While the responsibility of delineating SSEDs boundaries is vested with the government, there is no legal provision mandating reviews on a regular basis.

Similarly, significant deviations between the numbers of registered voters per district were identified on the basis of the official numbers of registered voters per SSED.¹⁶ For instance, SSED 12 (Pest MSED) had 74,249 registered voters for the elections, while SSED 6 (Veszprem MSED) had 26,982 registered voters or almost three times less. SSED 25 (Budapest MSED) had 68,712 registered voters, while SSED 10 (Budapest MSED) had 27,892. Notably, redistricting of SSEDs does not require any legal amendments as their borders were determined by government decree in 1990.¹⁷

Representatives of the authorities informed the OSCE/ODIHR EAM that the districting plan including the numbers of seats for individual MSEDs had not been reviewed since its establishment in 1989, as its update would require legal amendments.¹⁸ According to the 2001 census,¹⁹ the Buda MSED is over-represented while the Pest MSED is under-represented.²⁰

Such deviations in the numbers of population and/or registered voters undermine the constitutional requirement of the equality of the vote. The Constitutional Court, in its 2005 decision,²¹ held that “through an omission of its legislative duty, the parliament has caused an unconstitutional situation by not fully providing the statutory conditions securing the enforcement of the requirements resulting from the principle of equal voting rights enshrined in Article 71 (1) of the Constitution” and “call[ed] upon the parliament to comply with its legislative duty...by 30 June 2007”.

The legislation should provide a mechanism for a mandatory, periodic review of electoral districts’ boundaries and size for both MSEDs and SSEDs in order to ensure the fundamental principle of the equality of the vote enshrined in the constitution and in paragraph 7.3 of the OSCE Copenhagen Document. In line with the decision of the Constitutional Court, Parliament should review the existing

¹⁴ Article 88 of the Procedural Law; an exception of this rule is the districting plan of the City of Budapest which comprises 23 administrative districts and 32 SSEDs, some of the latter are composed of parts of two adjacent administrative districts, e.g. SSEDs 1, 6, 26, 29.

¹⁵ The Council of Europe’s Venice Commission recommends that deviations in population numbers of SSEDs, generally, should not exceed 10 per cent “and should certainly not exceed 15 per cent except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)”. See Chapter 2 “Equal Suffrage”, Paragraph 2.2.iv, of the Code of Good Practice in Electoral Matters.

¹⁶ Data are available at the NEO Internet page, www.valasztas.hu/en/ovi/index.html.

¹⁷ Annex to Decree No. 2 of 11 January 1990 of the Government, last amended on 22 January 2010 and available in Hungarian at www.valasztas.hu/hu/parval2010/349/349_2_1.html.

¹⁸ Annexes 2 and 3 of the Election Law fix the number of seats allocated to MSEDs and the number of SSEDs within each MSED.

¹⁹ The population figures for Hungary, by counties, from the last census of 2001 are available at www.nepszamlalas.hu/eng/volumes/06/00/tabeng/4/load01_1_0.html.

²⁰ Similar conclusions apply for a few other MSEDs.

²¹ See Decision 22 (dated 14 June 2005): www.mkab.hu/admin/data/file/680_22_2005.pdf.

districting plan for MSEDs. Subsequently, the government should redefine the boundaries of SSEDs by decree.

C. SEAT ALLOCATION

1. Single Seat Electoral Districts²²

SSED seats are filled through plurality-majority system subject to turnout requirement.²³ At least one round of voting must be valid for a “conclusive” contest. In the first round, the candidate who has won more than half of the valid votes cast is declared the winner. In the second round, the highest number of valid votes cast determines the winner. The second round is contested between all candidates who have won at least 15 percent of the valid vote; if there are no such candidates, the top three candidates are contesting. If a candidate withdraws from the second round, s/he cannot be replaced.

Consideration could be given to review the need for a turnout requirement for a possible second round vote in order to eliminate the potential for multiple cycles of failed elections.²⁴

2. Multi Seat Electoral Districts²⁵

The 20 MSEDs return different numbers of deputies that vary from 28 to 4. The turnout requirement for MSEDs is the same as for SSEDs. In a possible second round, all candidate lists which contested the first round may run. If the second round is also invalid, the seats for a given MSED are allocated through the compensatory list.²⁶

A party must gain more than five percent of the valid votes cast nationwide for its national candidate lists in order to gain seats in MSEDs. For coalitions between two parties, the threshold is 10 per cent and for a coalition between more than two parties, it is 15 per cent. Once eligible parties and coalitions are determined, seats are allocated in each MSED.

3. National Compensatory List²⁷

Parties and coalitions that have been eligible to participate in the allocation of seats distributed through regional lists are eligible to participate in the allocation of the additional 58 (or more) seats through the national compensatory lists.²⁸ These lists are

²² Article 7 of Election Law and Article 86.A.1 of Procedural Law.

²³ A SSED contest is “valid” if more than half of the registered voters voted in the first round and if more than one quarter of the registered voters voted in a potential second round.

²⁴ In the Fejer MSED, SSED 2 (1999) and in the Győr-Moson-Sopron MSED, SSED 7 (2005), four rounds of voting were necessary to fill the respective seats. In the Baranya MSED, SSED 3 (2009), the seat remained vacant after four invalid rounds of voting. Data available on NEO internet page http://www.valasztas.hu/en/parval2010/202/202_0.html.

²⁵ Article 8 of the Election Law.

²⁶ See the next section on “national compensatory list”.

²⁷ Article 9 of Election Law.

²⁸ Para. 5(c) of part IV of annex 4 of the Election Law.

the tool introduced to provide representation of the “unused” votes cast for respective candidates of the eligible parties and coalitions, both in the SSEDs and the MSEDs.²⁹

VI. ELECTION ADMINISTRATION

A. ELECTION MANAGEMENT BODIES

1. Overview

The structure of election administration follows, to a certain extent, the administrative structure of the state, comprising Committees and Offices at each level. At national level, these are the National Election Committee (NEC) and NEO. At the regional (county) level, where the multi-seat electoral districts match the administrative regions, there are 20 Multi-seat District Election Committees (MSDECs) and Multi-seat District Election Offices (MSDEOs). Further down, the election in each of the 176 SSEDs is administered by a Single-seat District Election Committee (SSDEC) and Single-seat District Election Office (SSDEO). At the settlements’ level, there are 1,873 Local Election Offices (LEO) and 10,838 polling stations serviced by Ballot Counting Committees (BCC).³⁰

While the election administration forms a complex structure, it enjoys public confidence and the interlocutors of the OSCE/ODIHR EAM considered the electoral management bodies as competent and non-partisan.

2. National Election Committee

The NEC is an independent body responsible for ensuring the fairness, impartiality and legality of the election process. Its Head, Deputy Head and three members are appointed by the parliament, upon proposals of the Ministry of Local Government (MLG) based on parties’ recommendations. Political parties and coalitions (also named nominating organizations) that present a national candidate list can appoint an additional member each. All six parties and coalitions which registered national lists nominated NEC members.

The NEC is responsible to issue guidelines for the committees and offices’ understanding and uniform implementation of the law. For the first round of 2010 parliamentary elections, the NEC issued three guidelines.³¹ The NEC is also responsible for registering the national lists of candidates, considering and deciding on appeals related to MSDEC, certifying and publishing the national list election results and the national aggregated results, and calling for by-elections.

²⁹ According to an OSCE/ODIHR EAM interlocutor, the intent of the compensatory lists is to ensure that the opposition in Parliament comprises approximately one third of its Members. However, treating votes cast for SSED and MSED candidates together seems unusual given the different political nature of such votes.

³⁰ In settlements with only one polling station, the LEO carries out the task of BCC. Citizens registered in Hungary but living abroad could vote in additional 88 polling stations established in embassies and consulates.

³¹ They related to the endorsement coupons, procedures for submission of complaints and appeals, and addressed the issue of the voters waiting in long lines to vote after the close of polls on 11 April. All guidelines are available at www.valasztas.hu/hu/ovb/19/19_12.html.

The NEC meetings are open to the public. Although by law the NEC is not required to publish its resolutions, but only to inform the relevant parties of its decisions, it posted all its decisions passed for the first round on its website.

3. National Election Office

The Head of the NEO, who is a senior staff member of the MLG, appoints the NEO members.³² The NEO is in charge of the professional activities of election offices. It organizes public information campaigns,³³ training election bodies,³⁴ and supervises the operation of election informatics systems.

The 2002 OSCE/ODIHR EOM to Hungary recommended in its final report that certain administrative decisions of the NEO which might have political consequences (e.g. ballot paper design, procedures for mobile voting, etc.) should require approval of the NEC. The NEO and NEC informed the OSCE/ODIHR EAM that the co-operation between the two institutions had improved and was effective.

4. Lower Level Election Committees

The committees are independent and impartial bodies.³⁵ Multi-seat District Election Committees (MSDECs), Single-seat District Election Committees (SSDECs) and BCCs are formed of members elected by the local government councils. A number of interlocutors noted that the presence of party delegates in election committees had a positive impact on public trust in the electoral process.

All members have equal rights and duties. The term of elected members lasts until the next general elections. The term of appointed members ceases with the publication of official election results (except for the NEC representatives of parliamentary parties). The main responsibilities of election committees are to determine the elections results and, when applicable, to act as instances considering electoral disputes.

A candidate can appoint his/her representative as soon as registered. Once appointed, this representative will vote on all committee's decisions, including the registration of new candidates. Such an arrangement could be perceived as a potential source for conflict of interests as a registered candidate may be interested in having less competition. Some interlocutors felt that it might favor the more influential parties, typically registering their candidates and candidate lists first.

In order to avoid any real or perceived conflict of interests, consideration could be given to review this aspect of the staffing of the election committees to either appoint commissioners at the same time or limit their voting rights on candidate registration.

³² At the time of writing, NEO had some 48 staff, coming from MLG, MFA and Central Office of Administrative and Electronic Public Services (COAEPS).

³³ For the 2010 parliamentary elections, NEO also set up a website outreaching to young voters, www.elsovalasztu.hu.

³⁴ The training for various MSDEO, SSDEO members and LEO Heads was online, followed by a mandatory test. LEO Head were to train the LEO delegates for taking BCC minutes. No training was mandatory for committee members.

³⁵ Article 21.1 of Procedural Law.

5. Lower Level Election Offices

Election offices are established on a permanent basis. Local chief clerks³⁶ act as their respective head and appoint the rest of the members from among public administration officials and civil servants. The offices are operational bodies; they prepare and organize elections, including producing the voter lists. In practice, offices and committees work together with offices being responsible for preparing committees' decisions and implementing decisions.

6. Election Information Technology

The election management bodies benefit from a sophisticated information technology (IT) support system. The IT system, the Integrated Election Services System (*Integrált Választási Szolgáltató Rendszer, IESS*), is administered by the Central Office of Administrative and Electronic Public Services (COAEPS) under the supervision of the Prime Minister's office.³⁷

The NEO is connected by a computer network to the regional and local offices, which use the infrastructure of local administration offices. The main part of the IT structure is providing support to the election management bodies. LEOs locally operate the IRSS to run a number of election-related tasks. Several subsystems operate in parallel, supporting the compilation of voter lists, validation of candidate proposals, generation and proof-reading of ballot papers, and the determination of preliminary results.

B. VOTER LISTS

A nation-wide population register is maintained by the COAEPS. This register is regularly updated at the settlement level.

Voter registration is conducted by LEOs. Heads of LEOs are responsible to produce the voter lists by polling stations. The lists are produced on the basis of two sources provided by IESS, namely the Personal Data and Address Register, and the Register of Adult Disfranchised Citizens. After crosschecking the data of these two registers, all eligible voters with registered permanent residence within a given SSED are included in the respective polling station voter lists.

The heads of LEOs³⁸ are responsible for publishing the voter lists 60 days ahead of the election day and for the delivery of the voter information notice, along with the endorsement coupons,³⁹ to all registered voters.⁴⁰ The lists are available for public

³⁶ As regulated by Act LXV of 1990 on Local Government, the chief clerks are appointed by the body of representatives (council) of the local government unit, on the basis of a competition. They are assigned administrative tasks, participate in the council sessions but cannot vote, can make decisions on official matters if the authority has been delegated by the mayor and also act as a chief of staff with regards to the municipality's employees. The number of chief clerks does not correspond to the number of settlements, since villages adjacent to each other with less than 1,000 inhabitants have to establish a "district-clerk" office which villages with population between 1,000-2,000 inhabitants may join.

³⁷ NEO internet page, www.valasztas.hu/en/parval2010/338/338_0.html.

³⁸ Article 14 of Procedural Law.

³⁹ See Section VI.E.2 "Registration of Candidates and Candidate Lists".

⁴⁰ Chapter IV of Procedural Law.

inspection for a period of eight days, the only period when voters can request changes. LEOs may update the registers until 16:00, two days before election day.

All eligible voters omitted from the lists, voters who become eligible to vote, or voters who regained the right to vote after the lists' compilation, should be entered in the lists by the LEO. In addition, voters who have changed their registered permanent residence (address) after the compilation of the lists are entitled to legal remedy and request to be added to the lists. On the other hand, the LEO deletes from the list the deceased, citizens ineligible to vote, and those whose address has changed and who, as a result, have been added to the lists of another electoral district. One day before polls, the voter lists are submitted for inspection at the mayor's office and printed.

By the end of the update period, 271,807 modifications were introduced to the voter lists. These included records of death, change of name, marriage, residence, citizens that were issued absentee voting certificates (AVCs), citizens that regained the right to vote after being disenfranchised, and first time voters.

Complaints regarding the voters register can be filed with the competent LEO and are decided upon within one day. If the Head of the LEO dismisses the complaint, they forward it to the district court (in Budapest to the Pest Central District Court). The court has to adjudicate the complaint within three days.

C. VOTING BY ABSENTEE VOTING CERTIFICATE

Voters, who on election day are away from their place of permanent residence, are entitled to vote in their temporary location with an Absentee Voting Certificate (AVC).⁴¹ No justification is required when requesting an AVC.

The request for AVC should be submitted to the head of the LEO where such a voter is registered. The request must indicate voter's location on election day and specify if the certificate is requested for the first, second or both rounds. Once the certificate is issued to the voter, the head of LEO will remove the entry of such voter from the voter register, and add him/her to the special voter register of persons who vote with AVC. This register is printed separately from the regular voters register. All citizens with AVCs vote in designated polling stations.

The final number of citizens registered to vote in the first round of these elections was 7,976,496. Of those, 66,082 requested to vote with AVC in the first round of elections and 54,758 in the second one.⁴²

D. OUT-OF-COUNTRY VOTING

Out-of-country voting is organized in co-operation between the NEO and the Ministry for Foreign Affairs. Hungarian citizens living abroad may request to be registered in another country to the LEO where they have their regular address.

⁴¹ Article 89 of Procedural Law.

⁴² NEO internet page, www.valasztas.hu/hu/parval2010/350/350_0_index.html, 4 April 2010.

Out-of-country voting is conducted earlier than in-country. Ballots are sealed in envelopes marked with the number of the SSED to which the ballot belongs. This envelope is sealed in another mailing envelope together with a voting statement which contains the voter's name, address and personal identification number. Voters also have the opportunity to vote in person at diplomatic representations on election day, provided that they had previously formally requested to do so.⁴³

The envelopes are mailed back to NEO by diplomatic mail, which redistributes the ballot by SSEDs to SSDECs. Ballots are counted by BCCs on election day, together with the ballots from the ballot boxes.

E. REGISTRATION OF PARTIES, CANDIDATES AND CANDIDATE LISTS

1. Registration of Parties

Laws relating to the registration of political parties are liberal and allow for a wide range of political parties and platforms.⁴⁴ By law, a political party is a special type of non-governmental organization that has been established on a voluntary basis with the consent of at least ten private individuals.

In order to stand in parliamentary elections, political parties must notify the NEC by completing a registration form and submitting the confirmation of their party status. A total of 44 political parties were registered to run in these elections.⁴⁵

2. Registration of Candidates and Candidate Lists

All registered voters who have collected at least 750 candidate nomination coupons in support of their candidature by voters with registered permanent residence within the respective SSED are eligible to stand. Parties and coalitions who have registered SSED candidates in at least one quarter, but in at least two of the SSEDs in the respective MSED are eligible to contest seats. Parties and coalitions that have registered lists to contest the MSED seats in at least seven MSEDs are eligible to contest seats allocated through the national compensatory list.

Each voter has the option to support one SSED candidate by filling in an endorsement coupon. Endorsement coupons are mailed to all eligible voters, together with an invitation to vote containing the voter's registration data. This marks the beginning of the registration of candidates. Endorsement coupons have a function similar to voters' signatures in support of candidacy. In view of the broadly varying numbers of registered voters per SSED, in percentage terms, for a candidate to get registered in the smallest SSED 6 (Veszprem MSED), s/he would need the endorsement coupons of some 2.8 per cent of the registered voters. The Venice Commission recommends that

⁴³ This is done by submitting a request to the notary of the area where a voter is registered.

⁴⁴ These include: Act III of the Constitution of the Republic of Hungary; Law XXXIII of 1989 on the Operation and Financial Functioning of Political Parties, and Law LXII of 1990 containing modifications to the earlier law.

⁴⁵ According to the National Council of Justice, 147 political parties are currently registered in Hungary (April 2010).

the number of signatures collected in support of a candidate should not exceed one per cent of registered voters in an electoral district.⁴⁶

As endorsement coupons serve the same purpose as support signatures, consideration could be given to reducing the required number of endorsement coupons to one percent of the number of registered voters in the respective SSDE in line with good electoral practice.

To support a particular candidate, the voter writes in the coupon their personal details (name, address, and personal identification number) and the details of the endorsed, and signs the coupon. It is then submitted to or collected by the respective candidate's representative. For the first time, endorsement coupon included security features motivated by a history of allegations of fraud and support-buying.⁴⁷ The SSDEO verified the coupons, by both shape and content. Verification aimed to establish whether the used coupons had all the required personal data included.⁴⁸ Some interlocutors asserted that coupons were also verified against the NEC guideline, which is not mandatory.⁴⁹ The reasons for invalidating coupons seemed to vary between SSDEOs.⁵⁰ SSDEOs checked the remaining valid coupons vis-à-vis the national registers for data accuracy and the possibility that voters had used multiple coupons. The results were presented to the SSDECs, which decided on registering the candidate or denying registration.

Consideration could be given to introducing uniform procedures and criteria for the verification of coupons through mandatory regulations.

All political parties expressed concerns with regard to various aspects of the current nomination system. Criticisms referred to an unduly high number of coupons required per candidate, that the number of coupons did not reflect the relative size of the district, and that the coupons did not protect against possible abuse of voters' data. In addition, parties shared allegations of buying coupons from poor voters, trading coupons to smaller parties, collection of excessive numbers of coupons in order to limit the chances for other candidates, and openly collecting high numbers of coupons as a campaign tool. According to the Hungarian Police Service, as of 12 April, 27 cases with respect to 437 endorsement coupons were reported for investigation.⁵¹

⁴⁶ See Chapter 1 "Universal Suffrage", Paragraph 1.3.ii, of the Venice Commission's Code of Good Practice in Electoral Matters.

⁴⁷ According to Heves LEO, in this county many endorsement coupons were printed without the perforation; when submitted by candidates they were considered invalid. According to NEO, 16 coupons state-wide were printed without perforation due to the nature of printing technology (the printing machine has to be re-set after every four million coupons and when starting the line again these 16 pieces were not removed). Nevertheless, these 16 coupons were considered valid after investigation of other security elements.

⁴⁸ Article 46.2 of Procedural Law.

⁴⁹ NEC Guideline 1/2010.

⁵⁰ For example, although NEC informed the OSCE/ODIHR EAM that a coupon with two types of pen was not to be invalidated solely on this reason, some SSDEOs informed of the opposite.

⁵¹ The cases were related to buying of coupons (14 cases involving 296 coupons), filling on behalf of a deceased person (8 cases involving 43 coupons) and stealing from mailbox (5 cases involving 98 coupons).

In 2006, the NEC submitted two proposals to the parliament urging changes in the coupon system; a third one was submitted in 2009.⁵² This was not followed by any legislative action. It would appear that despite undermined public confidence in the existing coupon system, there is general will to improve and keep the system.

By 22 March, the SSDECs registered 791 candidates from 19 parties and coalitions and 19 independent candidates. In addition, 10 parties registered a total of 2,181 candidates on 117 regional lists. Of these, three parties and one coalition registered lists in all 20 regions.⁵³ By 23 March, political parties and coalitions could apply for registration of national lists by submitting the multi-seat district registration certificates to the NEO. Five parties and one coalition⁵⁴ registered 989 candidates on their national lists.

VII. THE ELECTION CAMPAIGN

The election campaign began on 22 January when President László Sólyom announced the election. The campaign took place in a calm and open atmosphere that allowed for genuine political competition. The campaign was more visible in urban centres and the majority of interlocutors described the campaign as shorter, more subdued, and less antagonistic than in previous elections.

The campaign was driven by domestic issues such as the economic crisis and recovery plans, the performance and integrity of the MSZP government, the fight against corruption and, to a lesser extent, the Roma population. Campaign messages from all major parties tended to focus on national rather than on local issues. Non-parliamentary parties also paid considerable attention to the failure of mainstream politics and stressed the need for fundamental change in the political system. Several interlocutors voiced concerns over *Jobbik's* rhetoric, which they considered radical and inflammatory and the presence of the controversial 'New Hungarian Guard' at *Jobbik* campaign events.⁵⁵

Parties and candidates could campaign freely and reported few restrictions in delivering their messages to voters. In general, candidates preferred to campaign in small-scale and direct ways such as street canvassing, small public meetings and door-to-door campaigning, rather than through large rallies or widespread paid advertisements. The collection of endorsement coupons was also widely perceived as an important

⁵² See the NEC post-election reports to the Parliament. The report J/10579 on the 2009 elections to the European Parliament stated that "the NEC still upholds their previous 2006 recommendation for the legislature: the system of endorsement coupons should be either cancelled, or converted into a so-called deposit system, or into a system of recommendation sheets, which are technically and legally easier to countercheck".

⁵³ *Fidesz-KDNP, Jobbik, LMP and MSZP.*

⁵⁴ These were the coalition *Fidesz-KDNP, MSZP, MDF*, and three non-parliamentary parties including *Jobbik, LMP* and the Mária Seres led Civil Movement (*Civil Mozgalom, CM*).

⁵⁵ The *Magyar Gárda* was established by *Jobbik* leader Gabor Vona in August 2007; it aims to 'defend a physically, spiritually and intellectually defenceless Hungary'. It was dissolved by a court decision in December 2008 on the basis of violations of the protection of human rights, in particular those of the Roma and Jewish communities. The decision was upheld in July 2009 and later by the Supreme Court. Although the Guard was dissolved, its supporters continued to wear its uniform, causing much controversy. In July 2009, the organization was re-branded and registered as the 'New Hungarian Guard' (*Új Magyar Gárda*), a move that opponents claim is in contempt of previous court rulings. *Jobbik* confirmed to the OSCE/ODIHR EAM that members of the New Hungarian Guard were present at their rallies to ensure security.

campaigning tool and was viewed by several candidates as a key opportunity to meet voters and to discuss their platforms.

The Procedural Law contains a limited number of provisions regulating the election campaign. Political parties and candidates can freely produce and disseminate election materials. Posters cannot be posted on or inside buildings that are used by state and local government authorities, they should not cover other party/candidate posters and their removal should not cause any damage to the location that they were posted in.

The Procedural Law does not contain sanctions for violations of the regulations on the campaign and the campaign silence. Election committees can establish the fact and prohibit the perpetrator from further violations; however, there is no enforcement mechanism. A number of complaints on breaches of the campaign regulations were filed with election committees and several of them were found to be substantiated.

To ensure that political actors abide by the law, consideration could be given to reviewing the provisions related to the election campaign so that the law clearly stipulates sanctions for breaches and enforcement mechanisms.

Internet campaigning, particularly through party websites, social networking sites and video-sharing sites, was also regarded as an increasingly relevant campaign medium. In contrast, there was a decline in the usual high number of debates that had been a standard feature of previous election campaigns in Hungary. Several parties expressed disappointment at the overall absence of debates, at both national and local level.

The OSCE/ODIHR EAM received few complaints on campaign violations. Several interlocutors identified the campaign silence period as problematic and the NEC received a number of complaints on this issue. Whereas the campaign silence prohibits “providing information in electronic or other form suitable for influencing voters’ will”, there was confusion amongst several parties as to whether mobilizing voters during this period qualified as campaigning. Several parties noted that ‘getting-out-the-vote’ through e-mails and telephone calls was common practice. The issue has become increasingly salient due to the increase of communication with voters through less measurable mediums such as the Internet or mobile telephones. These developments were compounded by the lack of legal means to sanction those who breached the campaign silence.

Further concerns with the campaign silence were raised as a result of a NEC decision to extend voting in polling stations that still had long queues of voters at the close of voting at 19:00. In these cases, there was some delay and confusion as to whether the campaign silence period was still in force and several media outlets and internet sources reported on exit polls and preliminary results while voting remained ongoing.⁵⁶

Consideration could be given to revising the campaign silence provisions to provide clearer criteria on what is not permitted during the campaign silence period in order to achieve a more uniform approach.

⁵⁶ Procedural Law, Article 40.2 states that the campaign silence ends upon ‘termination of voting’.

VIII. CAMPAIGN FINANCE

The campaign finance system for parliamentary elections is governed by the 1989 Act XXXIII on the Operation and Financial Management of Political Parties as well as certain provisions of the Procedural Law. This framework does not provide for sound campaign finance regulation. The campaign finance system lacks fundamental elements of meaningful transparency and accountability. There is an emerging consensus that the present campaign finance system is inadequate and needs overhauling. Attempts to pass a new law on campaign financing after the 2006 elections failed, mainly because parties could not reach an agreement on the details of proposed changes and, therefore, the constitutionally required two-thirds majority could not be garnered in the parliament.

The Procedural Law sets a cap on campaign spending at HUF 1 million per candidate (some EUR 3,760). There is a general consensus that this limit is now unrealistically low. Further, the law does not define what constitutes campaign activities. Thus, there is no clear distinction between expenditures that should be considered campaign costs and those that are regular operational costs of political parties. OSCE/ODIHR EAM interlocutors stated that given this lack of clarity, political parties select expenditures that comply with the overall ceiling from their total budgets when reporting on campaign expenditures. This approach does not provide for meaningful accountability.

Each political party that gained more than one per cent of the vote in previous parliamentary elections is entitled to establish a foundation.⁵⁷ Interlocutors seemed to widely believe that in the absence of clear legal provisions, some political party campaign activities were partly financed and conducted through these foundations. This further undermines the accountability and transparency of campaign finances.

Further, the legal framework does not account for third party contributions, such as activities of non-governmental organizations, private individuals or companies (e.g., placing paid advertisements on behalf of or supporting a party / candidate). OSCE/ODIHR EAM interlocutors stated that this happens frequently due to a lack of appropriate regulation.

Transparency and accountability in campaign finances is further weakened by the lack of a legal requirement to include the name of the contributor in paid political advertising. Thus, neither the State Audit Office (SAO) that controls campaign finance, nor the media or civil society can independently verify the actual amounts spent.

As a measure to increase transparency, consideration should be given that all paid advertisements should include the identity of payee.

Paid advertising on electronic media is generally believed to constitute the largest share of the election campaign spending. OSCE/ODIHR EAM interlocutors contended that there were no equal price conditions in the media for purchasing paid advertisements as there are no regulations for the discount policies applied by media for political parties.

⁵⁷ Act XLVII/2003 on the Foundations Helping the Scientific, Research and Educational Activities of the Parties. These foundations are intended for “the development of the culture, for the enhancement of their scientific, research and educational activities” and they qualify for a public subsidy.

In line with good electoral practice, consideration could be given to applying identical prices for paid advertisements to all political parties in order to ensure equal opportunities.

Campaign finance disclosure requirements are limited to a provision that political parties publish “the amount, resource and method of utilization of state subsidies and other funds” in the Official Gazette 60 days after the election. In practice, the amounts reported by political parties include a few general categories and lump sums. This does not allow for an independent verification of the campaign expenditure levels.

The SAO is responsible for controlling party finance reports.⁵⁸ The Procedural Act stipulates that “the utilization of public and other funds spent [for] the elections will be examined by the State Audit Office”.⁵⁹ The SAO explained to the OSCE/ODIHR EAM that its control of campaign finances is limited to checking the accuracy of figures on the political party campaign finance reports, comparing total expenditure with the limits permitted by law and checking invoices supporting these expenditures.

Due to the lack of appropriate authority and an absence of definition of what constitutes campaign spending, the SAO does not conduct an audit of all documents that might be related to campaign expenditures and does not carry out crosschecks with contracting parties, such as media, advertising agencies and others.⁶⁰

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.

IX. MEDIA

A. MEDIA ENVIRONMENT

The media environment in Hungary is open and pluralistic.

Citizens have over 300 TV and radio stations to choose from. The public broadcaster, Hungarian Television (MTV),⁶¹ and private nationwide broadcasters, RTL *Klub* and TV 2, are the main television stations in the country. Competition among radio broadcasters is high. The public sector broadcaster *Magyar Rádió* broadcasts on three nationwide stations: *Kossuth*, *Petőfi*, and *Bartók*. Neo FM and *Klass* Radio are the two main commercial stations with national reach.

⁵⁸ Article 5 of the Act XXXVIII of 1989 on the State Audit Office.

⁵⁹ Article 92.3.

⁶⁰ These legal shortcomings have been repeatedly pointed out by the SAO. See for instance Summary of the Audit of the Accounts of Nominating Organizations and Independent Candidates using the 2006 General Election Funds (0718).

⁶¹ There are no licensing fees in Hungary. Radio and television are financed by the state budget. The state funds for MTV are determined annually and, in the broadcaster’s opinion, it has been chronically under-financed for years.

A wide variety of print media are available with more than 40 daily newspapers, and more than 1,600 print publications. The most popular newspaper is *Népszabadság* with a daily circulation of 210,000, followed by *Magyar Nemzet* (circulation of about 110,000) and *Magyar Hírlap* (circulation of around 38,000). Within the print media, foreign private ownership characterizes the press.⁶² Some media representatives stated that the media sphere has become increasingly stratified in recent years – with some media leaning towards one or the other side of the political spectrum.

Internet penetration has reached over 59 percent.⁶³ Social media such as Twitter, Facebook and its Hungarian sister-site *Iwiw* played a major role during this campaign for the first time.

B. LEGAL FRAMEWORK FOR THE MEDIA

The promotion of freedom of expression and diversity, combined with principles of independence, balance and objectivity govern the Hungarian media in general.⁶⁴ Article 61.1 of the Constitution gives everyone the right to freely express their opinions, as well as to access and distribute information of public interest. The Act I of 1996 on Radio and Television Broadcasting (hereinafter, the Media Law) does not address broadcasting during the election campaign period specifically.

The Procedural Law provides some additional guidance. It stipulates that all nominating organizations should be provided with free airtime. Article 40 establishes the period of the campaign to be from the “call for the election and to 00:00 hours of the day before election day.” Article 44 stipulates that media may disseminate political advertisements for candidates and organizations nominating candidates on equal terms during the campaign period. The law also prohibits broadcasters from including opinions or analyses in political advertising.

The Media Law establishes an independent body, the National Radio and Television Commission (ORTT), to oversee radio and television broadcasters. Its members are nominated by parliamentary parties and elected by the parliament to a four-year term. ORTT’s main tasks are to issue licenses, assign broadcast frequencies, monitor media compliance with the media law, and resolve media complaints. During an election campaign, however, all complaints are sent to the NEC.⁶⁵ ORTT issued voluntary recommendations for broadcast media during the campaign with the aim of facilitating equal opportunities and balanced broadcasting. Advertising is to be provided to each political power on an equitable basis.

⁶² For example, the Swiss publisher *Ringier* owns the most popular tabloid paper *Blikk*, 49 per cent of the biggest national quality newspaper *Népszabadság*, the highest-selling sports paper *Nemzeti Sport*, and various magazines.

⁶³ According to <http://www.internetworldstats.com>; user growth between 2000-2009 was 721 per cent.

⁶⁴ Act I of 1996 Law on Broadcasting prohibits a broadcaster from serving the interests of any party or political movement. Likewise, it prohibits any party commissioning advertising on the station from interfering in the broadcaster’s responsibilities or freedoms. 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.

⁶⁵ As provided for by the Standing Procedures of the ORTT Complaints Committee.

ORTT could consider introducing a Code of Ethics for all broadcasters with a chapter on election conduct for both public and private outlets. The media law should then be amended accordingly.

C. MEDIA COVERAGE OF THE ELECTIONS

During these elections, the use of traditional media by contestants was generally low. The Internet, however, played a major role. Parties and candidates resorted to social networking sites such as Facebook and *Iwiw* to reach a wider audience at lower cost.

Public media applied a much stricter standard than private media both regarding free airtime and paid advertising. MTV allocated two slots of free airtime to the six nominating organizations that registered their national lists and gave them significant discounts for paid advertising.

By contrast, private media produced Codes of Ethics that tended to incorporate ORTT's recommendations and shared them with the nominating organizations prior to the campaign. Most private media developed a format to cover a limited number of events per party, in accordance with parties' choices. Paid advertising was provided on a 'first come, first serve' basis, in line with advertising ceilings.⁶⁶

X. COMPLAINTS AND APPEALS

Under the legal framework, legal remedy is granted to all interested parties and to individual voters at every stage of the election process. It foresees the resolution of first and second instance election disputes by election committees. Complaints can be filed against breaches of legal provisions or of basic principles. Election committees' second instance decisions and all decisions of the NEC can be challenged to court. The courts' decisions are final.

Regarding the appeals process, this is the only instance where an element of hierarchy exists among various committees. BCC decisions can be appealed to the SSDEC if they exclusively concern SSED elections or both single and multi-seat districts. BCC decisions pertaining only to MSEDs can be appealed to MSDEC. SSDEC decisions can be appealed to MSDECs, while those decisions can, in turn, be appealed to the NEC. The deadline for filing and adjudicating complaints and appeals is three days. The deadline for challenging election results is one day.

The Procedural Law does not contain any regulations on decision making in case of an even number of committee members. The OSCE/ODIHR EAM was informed that this lacuna did not create any stalemates and that in practice when dissent arose, committees tried to reach consensus through discussion.

⁶⁶ Commercial media have no legal obligation to place contestants' political advertisements either on a free or commercial basis, 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 invested in paid airtime. Among the three most popular television stations, TV 2 decided not to accept paid political advertising, while MTV 1 and RTL *Klub* broadcast paid political advertising regularly.

The vast majority of complaints filed with election administration by political parties and individual voters pertained to breaches of election campaign regulations including campaign silence.⁶⁷ Several complaints were upheld; however in the absence of sanctions, compliance with the relevant decisions depended on the good will of political parties and media outlets found in breach of the relevant provisions. In one case, the NEC rejected a complaint claiming that *Jobbik* candidates were wearing the uniform of the outlawed Hungarian Guard in posters displayed nationwide and at the party's website due to lack of evidence and given the fact that the complainant omitted to mention the date of the alleged violation.

Consideration could be given to introducing proportionate sanctions and effective enforcement mechanisms for breaches of election campaign regulations.

In the post-election period few complaints were lodged with the NEC by individual voters requesting the annulment of results in those polling stations where voting was prolonged and the cancellation of national results. They were all dismissed by the NEC due to lack of competence and lack of legal basis.

XI. ELECTION OBSERVATION

The Procedural Law only permits the media to observe the elections inside polling stations. There is no legal provision for international and domestic observers, being party agents or observers from civic organizations.⁶⁸ However, as in previous elections, the NEO issued a special measure that allowed for the accreditation of international observers specifically for the 2010 parliamentary elections.⁶⁹ The OSCE/ODIHR EAM enjoyed the co-operation of officials at all levels. There appears to be little interest amongst domestic groups to conduct election observation, which may be attributed to the widespread public confidence in the electoral process.

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.⁷⁰

⁶⁷ Election committees do not have any investigative powers; they are called to decide upon complaints based solely on the evidence provided by the complainant.

⁶⁸ Article 7 (a) of the Procedural Law, however, does provide for party/candidate observers in foreign representations where voting takes place.

⁶⁹ Measure No. 6./2010. (III.17.) of the Head of the NEO on the Participation of International Observers in the Elections to the Members of Parliament set for 11 and 25 April 2010.

⁷⁰ Paragraph 8 of the 1990 OSCE Copenhagen Document reads: "The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law."

XII. PARTICIPATION OF MINORITIES

Some 13 groups are defined as minorities in Hungary.⁷¹ Among them, Roma are the largest minority population, generally estimated between 450,000 and 700,000.⁷² Other minorities are significantly smaller. The legal framework guarantees full and equal human and civil rights for minorities, including collective participation in public life and the right to be represented in the parliament.⁷³ The Constitution stipulates that necessary legislation be enacted to ensure minority representation.

Notwithstanding Constitutional Court Decisions 35/1992 and 24/1994, such legislation has not been enacted to date. The outgoing parliament passed a resolution in February 2010 setting an end-2012 deadline for the government to present a draft bill on the parliamentary representation of minorities.⁷⁴

Efforts should be made to increase the representation of minorities in political life by enacting the necessary legislation in line with the decision of the Constitutional Court.

While most of Hungary's minorities have been integrated into mainstream public life, Roma remain underrepresented in the parliament. Three deputies in the outgoing parliament identified themselves as Roma and the new parliament will have four Roma MPs, one from the regional LMP list and three from the *Fidesz*-KDNP regional and national lists. In the 11 April elections, there were some 16 Roma candidates standing for office, with 4 of them in top positions.⁷⁵

⁷¹ The 1993 Act LXXVII on the Rights of National and Ethnic Minorities (the Minority Act) contains a list of those groups: Bulgarian, Roma, Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian. The Act also defines the criteria for "becoming a minority".

⁷² Estimates are based on different sources: state authorities, parliament, international organizations and Roma organizations (e.g., Council of Europe Roma and Travellers Division refers to an average estimate of 700,000 or 6.93 per cent of the population), and researchers. The 2001 census established the number of Roma at 190,000.

⁷³ The Constitution, Articles 8, 68, 70/A, The Minority Act, Articles 3,9, 20. The Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, Article 8. Hungary has ratified the Council of Europe Framework Convention for Protection of National Minorities as well as the Charter for Regional or Minority Languages and is party to all most important international treaties regulating minority rights.

⁷⁴ Resolution 20/2010. (II. 26.) stipulates that said legislation should enter into force so that it guarantees the representation of minorities in the expected 2014 Parliamentary elections. However the resolution is not legally binding. The Public Law Working Group, established by the State Secretariat for Minority and National Policy (SSMNP) is entrusted to formulate the details of the concept in order to draft legislation. As indicated by the SSMNP, the two key issues remaining to be addressed were the registration of minority voters and the number of seats to be allocated to each minority. While mandatory ethnically marked voter registration may run contrary to international standards, there are various techniques to promote national minority representation, some of which have been described in the OSCE/ODIHR "Guidelines to Assist National Minorities Participation in the Electoral Process" available at www.osce.org/publications/odihr/2001/01/12347_129_en.pdf.

⁷⁵ Information according to the Roma Press Centre, a Budapest based NGO news agency, aiming to provide accurate reporting of Roma-oriented news stories and increase the public awareness of issues and problems of the Roma community, <http://www.romapage.hu>.

Various OSCE/ODIHR EAM interlocutors raised concerns that undue influence on Roma voters remains a wide-spread practice due to their social vulnerability.⁷⁶ According to Roma interlocutors, campaign activities in Roma communities were limited. Some parties chose not to engage on Roma issues during these elections.

A large-scale civic education program could be conducted among Roma communities, to be developed and implemented in co-operation with relevant Roma organizations/minority self-governments. Targeted activities for young Roma voters could be envisaged.

Regrettably, *Jobbik* utilized populist, intolerant and nationalistic rhetoric against Roma during the campaign.⁷⁷ The term “gypsy-crime”, utilized by the party to describe certain type of crimes, implies that certain types of criminality can be attributed to ethnic origin, thus strengthening negative stereotypes. This inflammatory language is contrary to OSCE commitments and other international standards.⁷⁸

XIII. PARTICIPATION OF WOMEN

The Constitution guarantees gender equality; other important laws include the 1982 Law-decree 10 that promulgated the CEDAW convention as part of domestic law. Further, the Governmental Resolution and the National Strategy for the Promotion of Gender Equality, Guidelines and Objectives 2010-2021, addresses the lack of gender proportionality in political decision-making.⁷⁹ Two draft bills on gender quotas were put before the previous parliament, but both were rejected.⁸⁰

Women remain underrepresented in parliament and the number of female deputies has decreased since 2006 from 43 (11.1 per cent) to 35 (9.1 per cent).⁸¹ Under the electoral system, the responsibility for advancing women in politics lies primarily with political parties. Of the four parties entering parliament, 17.3 per cent of the list candidates were women; the *Jobbik* party had the lowest percentage (8.6 per cent), whereas the LMP had the highest (27.6 per cent).⁸²

Due to intersecting disadvantages, the situation of minority women is often more difficult compared to the general majority population. At the European level, Roma women are represented by one Hungarian Member of the European Parliament. At the national level, there will be one Roma woman in the parliament.

⁷⁶ These include buying or trading of endorsement coupons or votes, threats of loosing temporary jobs or social benefits, or misleading (functionally) illiterate voters.

⁷⁷ Also representatives of the Hungarian Jewish community have raised public concerns on the anti-Israel and anti-Jewish discourse by *Jobbik*, disguised in code words and references.

⁷⁸ This is in violation of principles enshrined in the Copenhagen Document, the Framework Convention for the Protection of National Minorities (FCNM) and the International Convention on the Elimination of All Forms of Racial Discrimination. These documents encourage a spirit of tolerance and intercultural dialog, of promoting understanding and tolerance, and combating prejudices that lead to racial discrimination.

⁷⁹ Government Resolution No. 1004/2010 (I. 21.)

⁸⁰ SZDSZ MPs initiated two drafts on 15-16 May 2007, and both were rejected on 26 November 2007.

⁸¹ *Fidesz* – 22 women, *MSZP* – 5 women, *LMP* – 5 women and *Jobbik* – 3 women.

⁸² *MSZP* – 20.7 per cent, *Fidesz* – 12.1 per cent. The first female candidate on *MSZP* national list was 2nd place, on *LMP* list 3rd place, on *Fidesz* list 4th place and on *Jobbik*'s list 11th place.

More effective measures could be considered to ensure the wider representation of women in parliament. Such measures could include guidelines for political parties to ensure that women are equally represented on party lists and placed in positions to be elected.

XIV. VOTING

In line with standard practice, the OSCE/ODIHR EAM did not observe election day proceedings in a systematic or comprehensive manner. EAM members visited some polling stations in Budapest, Baranya, Borsod-Abaúj-Zemplén, Csongrád, Békés, Bács-Kiskun, Győr-Moson-Sopron and Veszprém. The OSCE/ODIHR EAM was granted full access to observe all election-related proceedings, without any problems or hindrance.

Voting was conducted at 10,838 polling stations across Hungary.⁸³ In the polling stations visited, voting took place in a transparent, smooth and professional manner, with political party and candidate representatives expressing confidence in the process and in the work of committees. Women and youth seemed well-represented. One LEO member was delegated to each BCC to take minutes on voting and counting operations.⁸⁴ The main issue was queues of voters at polling stations that included voters with AVCs.⁸⁵ This delayed the close of some polling stations until after 19:00.

Voters have to produce a picture ID to the BCC in order to be allowed to vote. A BCC member crossed them off the VL. In the AVC polling stations, BCCs also have to enter the voters into an additional list.

The procedures for voting with AVC could be simplified. Consideration could be given to have more than just one AVC polling station per SSED and not having BCCs manually enter the AVC voters on an additional voter list.

Once a voter is identified on the voter list, s/he is issued two ballots, pre-stamped by the BCC; one for the SSED and one for the MSED.⁸⁶

In polling stations visited, the secrecy of the vote was a concern for the main reasons:
(1) Mission members could easily observe voters' choices in several polling stations

⁸³ Out-of country voters had the opportunity to cast their ballots one week earlier or at diplomatic representations on election day.

⁸⁴ Article 35.2 of the Procedural Law and article 7.1 of Decree No. 35/2009 of the Minister for Local Governance on the enforcement of the Act C of 1997 on the Electoral Procedure of the Election of the Members of Parliament.

⁸⁵ Article 10.1 of the Procedural Law provides that each polling station should include between 600 and 1,200 registered voters. Article 10.2 of the same law provides that one polling station in each SSED is chosen at random to handle votes by AVC. This sometimes doubled the number of voters in such polling station.

⁸⁶ Article 96 of Procedural law provides that the SSED ballot contains the candidates' names in alphabetic order, distinguishing marks and the names of the nominating organisation, or the fact of independent nomination. The MSED ballot contains the name of nominating organisations in the order drawn by the election committee, the names of the first five candidates from each party or coalition and indications of any joint lists.

visited, as voters have the option not to use the polling booths;⁸⁷ (2) in some polling stations visited, the BCCs did not always provide voters with ballot envelopes.⁸⁸

The practice of not systematically providing voters with envelopes contradicts the current legal provisions for polling procedures, may undermine the secrecy of the vote, and could challenge the validity of otherwise legitimate votes. Consideration could be given to either remove this provision (so long as there are other mechanisms established to guarantee the secrecy of the vote) or to strictly and consistently implement this provision by providing additional training to BCC members.

Due to extended voting at AVC polling stations⁸⁹, at 19:15 the NEC announced an extension to the campaign silence. Several television stations, however, had already announced exit poll results by that point.⁹⁰ Parties generally respected the NEC's request, as did most media outlets.⁹¹ The NEO also withheld preliminary results until the NEC decided that preliminary results were of a higher public interest than the silence. Some political contestants criticized the NEC for deciding on the extension only at 19:15, while others claimed that the NEC did not have a mandate to do so. Other interlocutors criticized the election administration for not reacting promptly to remedy the queues. Notwithstanding these concerns, no party questioned the election results.

Based on NEO requests, the NEC could generally be granted the authority to issue binding operational instructions to election committees and offices, which would ensure uniform application of the law.

A. COUNTING AND TABULATION

The counting in polling stations visited was swift and efficient, with ballots counted separately for each election as required by law. The number of votes was determined by comparing the ballots from the ballot box to the number of voter signatures on voters list. In case of discrepancy, the first number prevailed. Out-of-country ballots were mixed with the ballots from the ballot boxes. Envelopes were opened and ballots were counted jointly by BCC members, at least twice. Ballots were bundled and sealed separately by candidate.

After counting the ballots, the BCC completed two sets of polling station minutes, one for each election, in two copies. Additional copies were provided to candidate representatives, upon request. The minutes' keeper also prepared one data sheet with the results, which was passed to the LEO for transmission of preliminary results to the NEO.

⁸⁷ Article 68.1 of Procedural Law states that voters are not required to use polling booths.

⁸⁸ Article 70.1 of Procedural Law provides that "voters shall put the ballot-paper into an envelope, and, in the presence of the BCC, cast it into the ballot-box".

⁸⁹ The media started reporting long queues in front of AVC polling stations at 15:00. At 17:00, the NEC issued a guideline stating that all voters present or in front of the polling stations at 19:00 would have the right to vote. One additional LEO representative was deployed to each AVC polling station.

⁹⁰ Duna TV, *Századvég* (18:55) and MTV, *Szonda Ipsos* (18:58).

⁹¹ Outlets not respecting this guideline included *Nézőpont*, *Medián*, *Századvég*.

All election materials were then immediately transported to the LEO. The two copies of the BCC minutes were sent to the SSDEC and MSDEC, respectively. One copy of each remained at the relevant election office for three days for public scrutiny. Ballots were secured by the LEO for 90 days, after which they would be destroyed together with all other election materials, except the minutes that would be archived.

After the close of polls, the NEO published the preliminary results on its website, based on telephone or e-mail information from LEOs. The law does not specifically require the NEO to publish disaggregated results by polling stations. However, both preliminary and final results from all polling stations were uploaded onto the NEO website the day after the election.

The results indicated that 5,172,222 out of 8,034,394 voters, some 64.38 per cent, turned out to vote. The elections in all SSEDs and MSEDs were valid. In 119 SSEDs, the elections were conclusive and 57 SSEDs went to a second round.⁹² While the marking of ballots is strictly regulated, five SSED elections had more than two percent invalid ballots.⁹³

Consideration could be given to determining as “valid” all ballots where the voters’ choices are clear, regardless of the sign made by the voter on the ballot

⁹² The OSCE/ODIHR EAM did not remain in-country to follow these second round contests.

⁹³ SSEDs 6, 7, 23, 26 and 30. Article 69.4 of the Procedural Law provides that any ballot marked by other sign than “x” or “+” is to be considered invalid.

XV. ANNEX: OFFICIAL ELECTION RESULTS⁹⁴

Round 1 of the parliamentary elections, 11 April 2010

Name of party	Total		SSED		MSED	
	Votes	Seats	Votes	Seats	Votes	Seats
<i>Total</i>	10 247 101	265	5 114 570	119	5 132 531	146
FIDESZ / KDNP	5 439 257	206	2 732 965	119	2 706 292	87
MSZP	2 078 802	28	1 088 374	0	990 428	28
JOBBIK	1 692 210	26	836 774	0	855 436	26
LMP	643 096	5	259 220	0	383 876	5
CM – CIVIL MOVEMENT	80 801	0	34 938	0	45 863	0
FIDESZ / KDNP VP / ENTREPRENEURS' PARTY	10 661	0	10 661	0	0	0
FKGP – INDEPENDENT SMALLHOLDERS' PARTY	381	0	381	0	0	0
INDEPENDENT	33 702	0	33 702	0	0	0
MCF – MCF ROMA UNION PARTY	491	0	491	0	0	0
MDF	209 663	0	72 768	0	136 895	0
MDF / UNION BASED ON COUNTIES	4 052	0	4 052	0	0	0
MDF-AFD	12 652	0	12 652	0	0	0
MESZ	1 027	0	1 027	0	0	0
MIÉP	3 631	0	2 345	0	1 286	0
MSZDP – HUNGARIAN SOCIAL DEMOCRATIC PARTY	7 273	0	3 156	0	4 117	0
MINKÁSPÁRT – WORKERS PARTY	11 274	0	5 668	0	5 606	0
ÖSSZEFOGÁS PÁRT – UNION PARTY	6 154	0	3 422	0	2 732	0
SOMOGYÉRT	7 470	0	7 470	0	0	0
TORGYÁN-KISGAZDA- KOALÍCIÓ	3 079	0	3 079	0	0	0
GREEN LEFT	1 425	0	1 425	0	0	0

⁹⁴ Available at http://www.valasztas.hu/en/parval2010/298/298_0_index.html.

Round 2 of the parliamentary elections, 25 April 2010

	SSED	
	Votes	Seats
TOTAL	1 152 693	57
FIDESZ / KDNP	620 232	53
MSZP	326 361	2
JOBBIK	141 415	0
LMP	43 437	0
FIDESZ / KDNP / VP – ENTREPRENEURS' PARTY	8 796	1
Independent	12 452	1

	National Compensatory Lists	
	Fragmentary votes	Seats
TOTAL	2 753 672	64 ⁹⁵
FIDESZ / KDNP	135 592	3
MSZP	1 221 523	29
JOBBIK	925 252	21
LMP	471 305	11

	1st round	2nd round
Number of voters in the register at register's closing	7,976,496	2,475,572
Number of voters included in the voter register as using AVC	49,077	7,654
Number of voters in the register at the end of voting	8,025,573	2,483,226
Number of voters registered out-of-country	8,807	2,885
Total number of voters in the register	8,034,380	2,486,111
Number of those turned out to vote in the domestic polling stations	5,165,451	1,158,665
Number of those turned out to vote in out-of-country polling stations	6,761	1,452
Total number of those turned out to vote	5,172,212	1,160,117
Proportion of those turned out to vote	64.38%	46.66%

⁹⁵ In addition to the 58 seats, 6 more seats were allocated through the national compensatory lists on the basis of Articles 8.3 (last sentence) and Paragraph II.2.e-g of Annex 4 of the Election law; see also Section V.D.2 "Multi Seat Electoral Districts". These six additional seats were contributed, one each, by the following MSEDs: Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg, Pest, Budapest, Csongrád and Bács-Kiskun.

ABOUT THE OSCE/ODIHR

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

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

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

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures. The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

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

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

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

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