



Office for Democratic Institutions and Human Rights

# HUNGARY

## PARLIAMENTARY ELECTIONS

8 April 2018

**ODIHR Limited Election Observation Mission  
Final Report**



Warsaw  
27 June 2018

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

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs and Trade of Hungary to observe the 8 April 2018 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Limited Election Observation Mission (LEOM) on 5 March. The ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections as well as national legislation.

The Statement of Preliminary Findings and Conclusions issued on 9 April concluded that the parliamentary elections “were characterized by a pervasive overlap between state and ruling party resources, undermining contestants’ ability to compete on an equal basis. Voters had a wide range of political options but intimidating and xenophobic rhetoric, media bias and opaque campaign financing constricted the space for genuine political debate, hindering voters’ ability to make a fully-informed choice. The technical administration of the elections was professional and transparent”.

Fundamental rights and freedoms were respected overall, but exercised in an adverse climate. Access to information as well as the freedoms of the media and association were restricted, including by recent legal changes. The electoral legal framework, as recently amended, formed an adequate basis for democratic elections. However, the legislative process was a missed opportunity to hold inclusive consultations and address prior ODIHR recommendations, including with respect to suffrage rights, a level playing field for campaigning, the freedom of the media, and citizen observation.

The election administration fulfilled its mandate efficiently, enjoyed overall confidence among stakeholders and was generally perceived as impartial. The appointment mechanism for the election administration at all levels offered a reasonable basis for independence and impartiality, but the lack of clear selection criteria and the absence of inclusive consultation on nominees detracted from the public’s confidence in the election administration. Positively, the election administration made special efforts that enabled persons with physical and sensory disabilities to participate in the electoral process.

There is overall trust in the accuracy and inclusiveness of the voter register. A total of 8,312,264 voters, including over 435,000 voting from abroad, were registered for the elections. Concerns were raised that the use of two different voting procedures for out-of-country voters, depending on domicile, challenged the principle of equal suffrage, and that the distinction was based on partisan considerations.

Following an inclusive candidate registration process, 23 party lists with a total of 1,796 candidates, were registered for the national proportional contest and 1,643 candidates were registered for the single-member constituency races. While there was a large number of contestants, most did not actively campaign, ostensibly registering to benefit from public campaign finance entitlements or to dilute the vote in tightly contested races, as noted by ODIHR LEOM interlocutors.

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

The campaign was animated, but hostile and intimidating campaign rhetoric limited space for substantive debate and diminished voters' ability to make an informed choice. The ubiquitous overlap between government information and ruling coalition campaigns, and other abuses of administrative resources, blurred the line between state and party, at odds with OSCE commitments.

Public campaign funding and expenditure ceilings aimed at securing equal opportunities for all candidates. However, the ability of contestants to compete on an equal basis was significantly compromised by the government's excessive spending on public information advertisements that amplified the ruling coalition's campaign message. With no reporting requirements until after the elections, voters were effectively deprived of information on campaign financing, key to making an informed choice. The overall lack of transparency challenged international standards.

Media coverage of the campaign was extensive, yet highly polarized and lacking critical analysis due to the politicization of media ownership and influx of the government's publicity campaigns. The public broadcaster fulfilled its mandate to provide free airtime to contestants, but its newscasts and editorial outputs clearly favoured the ruling coalition, contrary to international standards. Most commercial broadcasters were partisan in their coverage, siding either with the ruling or opposition parties. Online media provided a platform for pluralistic, issue-oriented political debate. Defamation remains a criminal offence and pressure on journalists was observed.

Women are underrepresented in political life and there are no legal requirements to promote gender equality in elections. Some 30 per cent of candidates were women. Although one major party placed a woman at the top of its national list and some parties addressed gender-related issues in their platforms, the empowerment of women received scant attention as a campaign issue, including in the media.

Measures to enhance minority participation in the electoral process are foreseen in the legislation. All 13 recognized national minorities registered national lists, yet the selection of candidates for the lists lacked transparency. Some 60,000 citizens registered as minority voters. The Roma community was subject to derogatory comments during the campaign. Further, the dependence of many Roma on the locally-administered public works scheme made them vulnerable to intimidation and vote-buying.

Contrary to OSCE commitments, citizen election observation is not permitted. Legislative constraints and intimidating rhetoric by the government stifled civil society's involvement in election-related activities, limiting the public's access to non-partisan assessment of the elections. The legislation provides for international election observation at all stages of the process.

The right to seek an effective remedy for electoral violations is inclusive and was generally respected. All disputes were reviewed expeditiously. However, there was no guarantee of a public hearing at any level of the dispute resolution process, and procedures did not allow for genuine input from National Election Commission (NEC) members. The NEC reviewed 505 complaints prior to election day, of which 323 were dismissed due to a strict application of formal requirements, limiting access to legal remedy.

In the limited number of polling stations visited by the ODIHR LEOM, election day procedures were generally conducted efficiently and in line with the law. Election staff were knowledgeable and operated transparently. Long queues were noted at the polling stations dedicated to absentee voting.

Over 210 complaints were filed at the constituency level on election day and immediately thereafter, mainly on alleged irregularities in voting, counting and tabulation procedures, as well as

on the transportation of voters and malfunction of the website of the election administration. The NEC and courts acknowledged some violations but found no basis for an annulment of results.

The results were considered final as announced on 14 and 27 April. Newly elected deputies were sworn in on 8 May, after the review of all complaints was finished. Following the election, large-scale demonstrations took place in Budapest and in a number of regional cities, with protesters expressing dissatisfaction with the outcome of the election and calling for greater media freedom and a review of the electoral system. Protests notwithstanding, political parties largely accepted the results.

This report offers a number of recommendations to support efforts to bring elections in Hungary further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations focus on the need to revise the electoral legislation with an aim of granting a level playing field for contestants including with regard to campaign financing, establishing well-defined criteria for the selection of NEC nominees, instituting safeguards for the public broadcaster's independence, and providing for citizen observation. Legislative reforms should be undertaken well in advance of elections and through inclusive consultation, including with civil society. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

Following an invitation from the Ministry of Foreign Affairs and Trade of Hungary and based on the recommendation of a Needs Assessment Mission conducted from 29 January to 1 February 2018, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 5 March.<sup>2</sup> The ODIHR LEOM, headed by Douglas Wake, consisted of nine experts based in Budapest and six long-term observers deployed on 14 March across Hungary. Observers were drawn from 13 OSCE participating States.

The ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections as well as with national legislation. This final report follows a Statement of Preliminary Findings and Conclusions, which was released at a press conference in Budapest on 9 April.

ODIHR wishes to thank the Ministry of Foreign Affairs and Trade of Hungary for the invitation to observe the elections, as well as the National Election Commission (NEC) and National Election Office (NEO) for their assistance. It also expresses its appreciation to other state institutions, political parties, candidates, media, civil society organizations (CSOs), and international community representatives for their co-operation.

## **III. BACKGROUND AND POLITICAL CONTEXT**

Hungary is a parliamentary republic with legislative power vested in the unicameral parliament and executive power exercised by the government, led by the prime minister. The prime minister is elected by the parliament. The president is the head of state and is indirectly elected by the parliament for a five-year term, with a two-term limit.

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<sup>2</sup> See [previous ODIHR election reports on Hungary](#).

The parliamentary elections took place against a backdrop of relatively robust economic performance and a low unemployment rate, partly overshadowed by concerns about political corruption, as highlighted in studies and noted by ODIHR LEOM interlocutors.<sup>3</sup>

Since coming to power in 2010, the Hungarian Civic Alliance (*Fidesz*), and its coalition partner, the Christian Democrats (KDNP), have enjoyed a political ascendancy and assertively pursued their political agenda.<sup>4</sup> A two-thirds parliamentary majority passed a new Constitution, reformed the electoral system, and overhauled many other aspects of the legislative framework. Some of these changes prompted the European Commission (EC) to launch infringement procedures against Hungary.<sup>5</sup> While the lower-level court system is still relatively free from political partisanship, recent legal reforms point to a piecemeal erosion of the independence of the judiciary.<sup>6</sup> In April 2017, the parliament introduced changes to the Act on Higher Education, restricting the licensing and operation of foreign universities.<sup>7</sup> In June 2017, another law established extensive registration and disclosure requirements for certain types of foreign-funded CSOs.<sup>8</sup> In 2018, the government proposed the so-called “Stop Soros Legislative Package”, which, if adopted would restrict CSOs allegedly supporting migration. Many ODIHR LEOM interlocutors voiced concerns that these restrictions would shrink civil society space and limit public discourse that is critical of the government.<sup>9</sup>

Migration has been a central issue on the government’s agenda since 2015. The government constructed a border fence to keep out would-be-migrants and initiated a referendum on the right to reject the EU migrant quota. From 2016, the government has sponsored an extensive public information campaign highlighting its stance on migration and its determination to defend Hungary against external forces, including the EU, the United Nations (UN), and the Hungarian-born American financier and philanthropist George Soros. This rhetoric raised concerns nationally and internationally about its potential to invoke ethnic and religious intolerance.<sup>10</sup>

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<sup>3</sup> [The European Commission’s Country Report Hungary 2018](#) identified the lack of transparency of policy-making as a “key challenge”. See also the [Special Eurobarometer on Corruption](#), December 2017.

<sup>4</sup> In the 2010 elections, *Fidesz*-KDNP won 262 of 386 seats, and in 2014, 133 of 199 seats. The two-thirds parliamentary majority was lost after two by-elections in 2015. *Fidesz* also controls most local assemblies. Other parties represented after the 2014 elections included the Socialist Party of Hungary (MSzP, 28 seats), *Jobbik* (24), and Politics Can Be Different (LMP, 6). Ten seats were held by independents and those elected from parties with fewer than five seats.

<sup>5</sup> Since 2010, the EC has opened 37 [infringement procedures against Hungary](#) in the policy area of “Justice, Fundamental Rights and Citizenship”.

<sup>6</sup> As viewed by a number of ODIHR LEOM interlocutors and highlighted, for example, in the Council of Europe’s European Commission for Democracy through Law (Venice Commission) [Opinion](#) on the Fourth Amendment to the Fundamental Law (Constitution). See also paragraph 11 of the United Nations Human Rights Committee (CCPR) [concluding observations on the sixth periodic report of Hungary](#).

<sup>7</sup> The new measure was seen by interlocutors as directed primarily against the Central European University. It prompted demonstrations in Budapest and [EC legal action against the Higher Education Law](#).

<sup>8</sup> The 2017 Act on the Transparency of Organizations Supported from Abroad requires organizations receiving more than EUR 24,000 to register as a ‘foreign-supported organization’ and to publicly identify their foreign supporters. The CCPR in its [Concluding observations on the sixth periodic report of Hungary](#) noted “the lack of sufficient justification for the imposition of these requirements, which appear to be part of an attempt to discredit certain NGOs, including NGOs dedicated to the protection of human rights in Hungary”.

<sup>9</sup> In paragraph 6 of the [2010 OSCE Astana Commemorative Declaration](#), all OSCE participating States acknowledged “the important role played by civil society and free media in helping to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law”.

<sup>10</sup> See [the statement](#) by the UN High Commissioner for Human Rights, who called the prime minister’s rhetoric “racist” and “delusional”.

#### IV. LEGAL FRAMEWORK

The Constitution provides for fundamental rights and freedoms and Hungary is party to key international human rights treaties and conventions pertinent to democratic elections. Though respected overall, these rights and freedoms are exercised in an adverse climate. Freedoms of the media, association and expression, as well as access to information, have been circumscribed, including through recent legal changes.<sup>11</sup> The legal framework also contains unreasonable restrictions on the operation of CSOs. Such limitations undermine international obligations and standards calling for full enjoyment of fundamental rights and access to information.<sup>12</sup>

*All voters and electoral contestants should be provided with conditions that enable them to freely participate in public affairs. To provide a fully democratic basis for the conduct of elections, including by removing unreasonable hindrances on civil society, the government is encouraged to review the legal framework for compliance with international obligations and standards pertinent to the freedoms of expression and association, and access to information.*

The legal framework for parliamentary elections primarily comprises the Constitution, the Act on the Elections of Members of Parliament (Elections Act), the Act on Election Procedures, and the Act on the Transparency of Campaign Costs (Campaign Finance Act).<sup>13</sup> Overall, the electoral legal framework forms an adequate basis for democratic elections. However, a number of important aspects of the electoral process are insufficiently regulated, in particular, campaign finance and the use of state resources during the campaign.

The electoral legal framework has been amended since the last parliamentary elections, including by amendments to the Act on Election Procedures that introduced remuneration for appointed NEC members and provided limited access to personal data on candidate support sheets.<sup>14</sup> Amendments to the Campaign Finance Act modified the requirements for the return of public campaign funding to the state budget. Both bills were submitted by individual *Fidesz* or KDNP members of parliament, thereby removing a requirement for public consultation.<sup>15</sup> Consideration of these and other amendments was a missed opportunity to hold inclusive consultations and to address prior ODIHR recommendations, including in respect of suffrage rights, a level playing field for campaigning, and freedom of the media.

*Rules and procedures for law-making, including election-related laws, should be revised with a view to ensuring opportunities for meaningful public consultation. The possibility for individual*

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<sup>11</sup> The Freedom of Information Act, amended in 2016, introduced undue restrictions on access to information by broadening the definition of information not subject to disclosure and by increasing the fee for handling information requests. See also sections on *Campaign and Party Finance* and *Media*.

<sup>12</sup> Paragraph 8 of the CCPR [General Comment No. 25](#) to the International Covenant on Civil and Political Rights (ICCPR) notes that “citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves”. See also Articles 19, 21, 22 and 25 of the [ICCPR](#). Further, see Paragraph 19 of CCPR [General Comment No. 34](#) to the ICCPR. See also paragraphs 20-25 of the [ODIHR and Venice Commission Joint Guidelines on Freedom of Association](#).

<sup>13</sup> Other relevant legislation includes the Act on the Operation and Financial Management of Political Parties (Party Finance Act), the Act on the Rights of Nationalities of Hungary, the Act on Media Services and Mass Media, the Act on Hungarian Citizenship, and the Criminal Code.

<sup>14</sup> Prior to the adoption of the former provision, elected NEC members were paid, while appointed members worked without compensation. The provision concerning access to personal data was unsuccessfully appealed by the Hungarian Civil Liberties Union to the Constitutional Court.

<sup>15</sup> The Act on Social Participation in Preparing Laws requires drafts prepared by government ministers to be available to the public for comment. This rule does not apply to drafts proposed by individual members of parliament.



*MPs to propose amendments that are not subject to public consultation should be reconsidered. Dedicated post-election reviews of legislation could be introduced as a means to remedy shortcomings identified by administrative bodies, civil society and international observers.*

The primary legislation is supplemented by non-binding guidelines of the NEC.<sup>16</sup> For the 2018 elections, the NEC issued four guidelines, including on the applicability of party list registration requirements. This guideline was adopted on 26 January 2018, during an interim period when there were no political party appointed members on the NEC.

*To ensure a common understanding of the regulatory framework, NEC guidelines should be developed well ahead of the elections.*

## V. ELECTORAL SYSTEM

Hungary has a mixed electoral system. Of the 199 seats in the parliament, 106 members are elected through majoritarian races in single-member constituencies and 93 through a national proportional representation system. For the proportional race, political parties must pass a 5 per cent threshold (10 per cent for lists with two parties or 15 per cent for lists with more than two). Parties that pass the threshold have the surplus votes from single-member majoritarian contests added to the totals before the proportional seat allocation. The surplus votes are the votes the party's losing single-member constituency candidates received and the votes of the party's winning candidates over and above those needed to win.

Each of 13 national minority self-governments has the right to present a single list of candidates for the proportional contest.<sup>17</sup> The first candidate on the list requires one-fourth of the regular electoral quota to be elected.<sup>18</sup> If this preferential quota is not reached, the national minority is entitled to a non-voting parliamentary spokesperson.<sup>19</sup> Persons identifying themselves as members of a national minority may choose whether to participate in the election as a national minority voter, in which case they do not participate in the vote for any of the regular national lists. In practical terms, choosing to participate as a voter from most of the recognized minority groups provides a remote statistical possibility of contributing to the election of a member of parliament (see *Voter Registration and Candidate Registration*).

The delineation of single-member constituencies is defined in law and has not changed since 2014. Five constituencies exceed the 15 per cent deviation allowed by law, and a further 17 deviate from the national average by more than 10 per cent. Such discrepancies challenge the equality of the vote.<sup>20</sup>

*To respect the principle of equal suffrage, constituency delimitation should be reviewed with the aim of bringing existing deviations in line with international good practice. A periodic review of*

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<sup>16</sup> Such guidelines are only subject to judicial review once applied and are binding only if reviewed by a court.

<sup>17</sup> By law, minority self-governments are elected by voters who identify themselves belonging to one of 13 officially recognized "nationalities". The last elections to minority self-governments took place in October 2014.

<sup>18</sup> The quota is determined by dividing the total number of national list votes, including surplus votes from single-member contests and nationality list votes, by 93.

<sup>19</sup> The parliamentary spokesperson does not have voting rights, but the right to address the parliament.

<sup>20</sup> The constituencies of Pest 5, Somogy 2 and Tolna 1, 2, and 3. The three constituencies in Tolna cannot meet this as the law requires constituencies to remain within county boundaries. Section I.2.2 of 2002 Venice Commission's [Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#) recommends that "the permissible departure from the norm should not be more than 10 per cent and should certainly not exceed 15 per cent, except in special circumstances". Further, Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) commits participating States to "guarantee universal and equal suffrage to adult citizens".



*constituency boundaries in a transparent, impartial and inclusive manner by an independent body should be considered.*

## VI. ELECTION ADMINISTRATION

The elections were managed by a three-level administration: the NEC, 106 Constituency Election Commissions (CoECs) and 10,285 Polling Station Commissions (PSCs). In parallel, the National Election Office (NEO), 97 Constituency Election Offices (CoEOs) and 1,280 Local Election Offices (LEOs) acted as secretariats for the respective commissions.

The NEC is a permanent independent body, comprised of a president and six members elected for a nine-year term by the parliament on the proposal of the president.<sup>21</sup> Two members of the NEC are women, including the vice-president. The law establishes general criteria for the selection of the NEC members.<sup>22</sup> The law does not establish procedures for the formulation of the president's proposal, thus permitting the latter considerable discretionary powers.

Political parties that form a faction in the parliament can appoint one additional member whose mandate ends upon announcement of the next parliamentary elections. After a national list has been registered, it may designate one NEC member with full voting rights whose mandate ends at the first session of the newly elected parliament.<sup>23</sup> The NEC members appointed by national minority lists have voting rights only on national minority issues.

Although the NEC's appointment mechanism offers a reasonable basis for an independent and impartial election administration, the lack of parliamentary debate and the absence of public consultation on the selection of NEC nominees detracted from the overall trust in the election administration.

*To enhance public trust in the NEC, the legal framework could provide public consultation for the selection of NEC nominees.*

While the participation of party representatives in the NEC with full voting rights enhances the inclusiveness of the election administration, this element is absent immediately after the announcement of new elections and is re-introduced only gradually as the NEC is supplemented by delegates of national lists after each of them is registered. As a result, key decisions including the registration of national lists and consideration of appeals regarding candidate registration at the constituency level may be taken when the NEC lacks cross-party oversight.

*Consideration could be given to amending the legislation to ensure cross-party participation in the NEC in the period between the calling of new elections and the point at which all registered national lists have the opportunity for their appointed delegates to take up membership in the NEC.*

The NEO is a government agency supervising the administrative part of the elections. Its president, a woman, is appointed by the president on the prime minister's proposal for a nine-year term. The NEO president appoints up to three deputies for an indefinite time.

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<sup>21</sup> A two-thirds majority of the members of the parliament present is required to appoint the NEC commissioners. The current NEC was elected on 30 September 2013, when the ruling coalition had a parliamentary supermajority.

<sup>22</sup> This includes inclusion in the voter register, domicile in Hungary, eligibility to stand as a candidate, holding a law degree and not being a member of a political party.

<sup>23</sup> In total, 15 (of 23) national lists and 6 national minorities' lists appointed members to the NEC.

CoECs and PSCs each consist of three members elected by the local government as proposed by the head of the CoEOs and LEOs, respectively. CoEOs and LEOs are headed by politically-appointed municipal clerks, raising concerns among some stakeholders about their impartiality.<sup>24</sup>

*To increase perceptions of impartiality of lower-level election commissions, members should be selected through open and transparent recruitment, based on clear criteria.*

Each electoral contestant in a constituency can appoint one member to the respective CoEC and two members to each PSC.<sup>25</sup> Out of 75 nominating organizations and 43 independent candidates standing in both contests, 14 appointed members to CoECs and 18 to PSCs.<sup>26</sup>

The election administration at all levels enjoyed overall confidence among stakeholders and was generally perceived as impartial. The NEC and the NEO fulfilled their mandates and managed the elections in a professional and transparent manner at all levels, generally meeting deadlines. Election commission sessions were open to the public and the media. The NEC issued four guidelines and adopted over 957 decisions prior to election day, including on the registration of national and minority lists, approval of ballots, and complaints and appeals. Most decisions were adopted unanimously with little debate, except on complaints. The NEC's minutes and decisions were regularly posted online and most CoECs publicized their decisions on the website of the respective municipality. The NEO maintained an informative and up-to-date website and operated an election information centre at the central level and at each LEO. Such measures added to the transparency and accountability of the election administration.

Each level of the administration delivered training to lower levels. Training for PSCs was mandatory. The training sessions observed by the ODIHR LEOM were well structured and comprehensive. All training handbooks were posted on the NEO website.

The NEO prepared a voter information campaign, including individual voter notifications, posters and airing television and radio spots.<sup>27</sup> This included tailored messaging for persons with disabilities.<sup>28</sup> There was no targeted voter information for marginalized groups vulnerable to pressure or coercion on social, financial and educational grounds, which was a negative practice that featured in the campaign (see *Campaign Environment*).<sup>29</sup> Voter information material was available in Hungarian. According to the NEO, there was no official translation of voting information into national minority languages, as each minority receives a state subsidy, which allows the preparation of relevant materials in minority languages.

*The election administration could supplement its general voter information with activities targeting marginalized groups that may be vulnerable to pressure or coercion.*

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<sup>24</sup> The municipal clerk is a civil servant appointed by the mayor and the representative body of the locality.

<sup>25</sup> In line with the Supreme Court's decision (KvK.III 37.401/2018/3), a registered national list may appoint a member to any CoEC regardless of whether the nominating organization is running a candidate in the given constituency.

<sup>26</sup> Only 383 delegates were appointed to the CoECs. *Fidesz-KDNP* appointed 95 members, *Jobbik* 88, *MSzP-Dialogue* 56 and *LMP* 57. The number of appointed members at the PSCs was 32,219. *Fidesz-KDNP* appointed 15,396 representatives, *Jobbik* 7,997, *MSzP-Dialogue* 5,603, *DK* 2,168, and *LMP* 423.

<sup>27</sup> The NEO ran on average one voter education clip per day within the public broadcaster's primetime programming; the private channel, TV *RTL Klub* produced voter participation clips on its own initiative.

<sup>28</sup> The Hungarian Civil Liberties Union developed for the NEO a voter information sheet in an easy-to-read format.

<sup>29</sup> The legal framework does not provide any targeted voter information campaign for marginalized groups vulnerable to pressure or coercion. For example, persons without a defined residence could apply for registration to any LEO or the NEO in person or by mail or online; however, in practice, without further information this was difficult. Some ODIHR LEOM interlocutors stated that these persons were vulnerable to pressure and manipulation.

## VII. VOTER REGISTRATION

All adult citizens of 18 years of age – and married citizens of at least 16 years of age – by election day have the right to vote, except for those disenfranchised by an individualized court decision due to mental incapacity or criminal conviction.<sup>30</sup> The restriction on persons with mental, intellectual and psychosocial disability<sup>31</sup> and the distinction in enfranchisement based on marital status are at odds with international obligations.<sup>32</sup>

*Restrictions on the voting rights of persons with mental, intellectual and psychosocial disability should be removed.*

*Consideration should be given to removing any distinctions in enfranchisement based on marital status as they constitute discrimination between citizens.*

Registration of voters domiciled in Hungary is passive. The NEO maintains the voter register based on data extracted from the population and other civil registers. The register contained 8,312,264 voters.<sup>33</sup> Until 6 April, voters could verify their own data on the lists and ask for changes and corrections at LEOs in person, by mail or electronically. In line with the law, 200,041 voters temporarily changed their polling district<sup>34</sup> so that they could cast a ballot for the candidate in the constituency of their residence.<sup>35</sup> Voters could request that their personal information not be disclosed to political parties for campaign purposes. The law does not provide for public scrutiny of the full lists. Nevertheless, most interlocutors expressed confidence in the accuracy and inclusiveness of the voter register as well as the registration process.

Voters with a domicile in-country could vote in person at diplomatic missions for both single-member and national list contests. A total of 58,310 voters with a domicile in-country applied to vote at one of the 118 diplomatic missions abroad. The registration of voters without an in-country domicile is active, and such citizens could vote only for the national lists by post or by delivering their voting package in person or by proxy to a diplomatic mission or a CoEC.<sup>36</sup> A total of 378,449 voters without an in-country domicile were registered for these elections.<sup>37</sup>

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<sup>30</sup> Some 77,445 citizens were deprived of the right to vote, including 49,259 persons with mental disability and 28,186 prisoners, according to the NEO register. The blanket disenfranchisement of all who are declared mentally incompetent was removed as part of the 2013 amendments to the Constitution.

<sup>31</sup> Articles 12 and 29 of the [Convention on the Rights of Persons with Disabilities](#) (CRPD). Paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#) (Hungary) stated: “an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability”.

<sup>32</sup> Paragraph 3 of CCPR General Comment No. 25 to Article. 25 of the ICCPR states: “no distinctions are permitted between citizens in the enjoyment of [voting rights] on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

<sup>33</sup> According to NEO website, on 4 April the number of eligible voters was 8,255,550 voters while the final number on 7 April was 8,312,264. According to the NEO, the number displayed in early April was a technical error.

<sup>34</sup> The deadline for applications was extended by one hour to process some 30,000 last moment electronic applications.

<sup>35</sup> Across the country, a total of 3,177 polling stations were assigned to “transferred” voters, which served both regular and transferred voters. A total of 86,756 voters requested to vote in one of the 18 constituencies of Budapest. As a result, there were polling stations with more than 10,000 voters.

<sup>36</sup> The NEO mailed 166,842 voting packages to Romania and 53,920 to Serbia. The remaining voting packages were mailed to 57 countries while 1,533 voting packages were delivered to selected CoECs and to designated Hungarian municipalities close to the border where voters without a domicile could collect them.

<sup>37</sup> This compared to 193,793 in the 2014 elections. Such voters must update their records every 10 years; the cut-off date was 24 March. The 2010 Act on Hungarian Citizenship simplified the rules for becoming a citizen, leading to a considerable expansion of the Hungarian electorate in neighbouring countries.

The differing voting procedures for voters abroad with and without in-country domicile challenged the principle of equal suffrage and was perceived by some ODIHR LEOM interlocutors as an attempt to differentiate voting rights based on partisan grounds.<sup>38</sup> Postal voting safeguards were largely adequate, although there was no provision regarding the removal of deceased persons from that voter register.

*In considering the obligation of equal suffrage, voting procedures should be the same for all citizens abroad.*

Positive steps have been taken to facilitate the rights of persons with physical and sensory disabilities to vote. A voter could request registration at a polling station accessible for persons with impaired mobility within their constituency and apply for voting information and a voting template in Braille.<sup>39</sup> Some 78,000 voters with disabilities or health issues, as well as those in detention, requested to vote by mobile ballot box.

Some 59,235 national minority voters requested to be included in the minority voter list. They were eligible to vote for the respective minority list and for the single-member constituency races. Overall those numbers were considerably lower than in the 2011 national census.<sup>40</sup> The ODIHR LEOM was informed about several instances where pressure was put on Roma voters not to register as minority voters so as to vote for national lists.

## VIII. CANDIDATE REGISTRATION

Any eligible voter can stand for elections, except those serving a prison sentence. There are no legal requirements to promote women's political participation, despite women being significantly underrepresented in political life.<sup>41</sup> Positively, some parties made voluntary efforts to increase the number of women candidates on their national lists.<sup>42</sup>

Following an inclusive candidate registration process, the NEC registered 23 lists with a total of 1,796 candidates, including 482 women, for the national list contest, and the CoECs registered 1,643 candidates, including 504 women, for the single-member races.<sup>43</sup> Information on registered

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<sup>38</sup> Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) commits participating States to “guarantee universal and equal suffrage to adult citizens”. In these elections, *Fidesz*-KDNP received 96.2 per cent of postal votes. *Fidesz* and government representatives maintained that voters abroad were free to renounce their in-country domicile.

<sup>39</sup> Some 79 per cent of polling stations were identified as ‘barrier-free’. The majority of polling stations visited by ODIHR were equipped with wheelchair lifts.

<sup>40</sup> A total of 33,009 voters from the German national minority were registered as minority voters, followed by 18,490 voters from the Roma minority. In the [2011 national census](#) more than 244,000 citizens identified themselves as Roma, more than 80,000 as Germans and more than 16,000 as Slovaks.

<sup>41</sup> Only 10 per cent of outgoing parliamentarians are women and there were no women in the nine-member cabinet.

Article 7 of the [Convention on the Elimination of all Forms of Discrimination against Women](#) obliges states to “take all appropriate measures to eliminate discrimination against women in the political and public life (...) and, in particular, shall ensure to women on equal terms with men the right: to vote (...), to participate in the formulation of government policy (...), to participate in non-governmental organisations”. See also OSCE Ministerial Council [Decision No.7/09 on Women’s Participation in Political and Public Life](#) (Athens, 2 December, 2009).

<sup>42</sup> For instance, LMP mandated that each third person on the national list be of the opposite gender. Five smaller and less known parties included more than 50 per cent women candidates. MSzP had 31 per cent female candidates.

<sup>43</sup> On average there were 15 contenders per single-member constituency; in 2 constituencies there were no women candidates.

candidates was published on the NEO's website in a timely manner, providing voters with an opportunity to familiarize themselves with the contestants.

*To enhance women's political participation, consideration should be given to adopting affirmative measures to encourage the nomination of women candidates.*

In the run-up to the elections, the opposition parties broached the possibility of co-ordinating a withdrawal of candidates in some single-member constituencies to present a united front against the ruling coalition. A total of 194 single-member candidates withdrew, some in the context of this co-ordination effort. Nevertheless, strategic withdrawals remained a limited endeavour. The official deadline for withdrawals was on 7 April at 11:00.<sup>44</sup> The names of the withdrawn candidates were crossed out of the ballots at the CoEOs before their dispatch and a sample ballot with withdrawn candidates' names crossed off was posted at each affected polling station to inform voters.

Candidates for single-member constituencies could be nominated by one or more political parties (nominating organizations) or stand independently.<sup>45</sup> Although a candidate could only compete in one single-member constituency, the same candidate could simultaneously be included on a national list. Each nominating organization and each independent candidate had to collect at least 500 support signatures from eligible voters in the respective constituency on pre-approved templates.<sup>46</sup> The nomination period for single-member constituencies lasted from 19 February to 5 March. The timeframe for the submission of nominations was adequate and reasonable. All signature sheets, including those from nominating organizations that did not present candidates, were to be returned to the relevant CoECs.<sup>47</sup>

The verification of signature sheets and the decision on candidate registration took place within three days after the submission deadline. CoEOs and CoECs validated the signature sheets by checking whether the information of the voter matched the data in the electronic voter register, without checking the authenticity of the signatures. The signature sheets could be filled in by the nominating organization, while the signature was valid only if it was signed by the voter in person. CoEOs and the CoECs checked the sheets until the required number of 500 valid signatures was reached. Voters could request the respective CoEOs to provide information as to whether their data was contained among the verified supporting signatures needed to nominate candidates. The National Data Protection Authority handled seven cases pertaining to the alleged misuse of personal data on signature sheets. CoECs rejected 1,257 candidates, mostly on the grounds of an insufficient number of valid signatures.

On several occasions, party representatives alleged cases of forged signatures. In many instances, the CoECs did not allocate sufficient time to properly review the signature sheets.<sup>48</sup> Many cases of

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<sup>44</sup> The Act on Election Procedures sets "the start of the voting" as the deadline for withdrawals. In an effort to reduce the number of wasted votes from the voting abroad that in some countries started on 7 April, the NEC issued a guideline setting the date and time for candidate withdrawals in accordance with the opening of the first polling station abroad (Sao Paulo, Brazil).

<sup>45</sup> A nominating organization consists of one or more political parties listed in the court register of non-governmental organizations. To file candidates or lists in elections, the nominating organization should be registered by the NEC which, prior to registration, verifies that the nominating organization is an active political party.

<sup>46</sup> The collection of supporting signatures was not permitted in working places, government institutions, by the armed forces, on public transport, and in schools, kindergartens, hospitals, and doctors' offices.

<sup>47</sup> The nominating organizations were fined of HUF 10,000 (EUR 1 equals HUF 312) for each late submission or/and missing sheet. The NEC upheld fines imposed by CoECs. In total, 62 political parties were fined for a total of HUF 650 million. By 23 April, only some two per cent of the fines were paid.

<sup>48</sup> In several constituencies, ODIHR LEOM interlocutors stated that *Fidesz* was the first party to register its candidates, collecting signatures within two days. Most other parties required more time, and their representatives joined CoECs later and were not present when *Fidesz* signature sheets were scrutinized.

suspicious signatures were also reported by voters.<sup>49</sup> The CoECs referred such matters to the police. While numerous ODIHR LEOM interlocutors criticized the CoECs for checking the signature sheets in an inconsistent and hasty manner, many members of CoECs indicated that they had neither the means nor the legal mandate to check the authenticity of the signatures. While several well-established opposition parties noted difficulties in collecting support signatures, many new and unknown parties managed to gather the required signatures within a few days. Many ODIHR LEOM interlocutors alleged that a number of new, unknown political parties used fraudulent methods to collect signatures.

While the misappropriation of public funds was the most commonly cited ground by ODIHR LEOM interlocutors for the proliferation of these parties, other reasons included their potential for dividing the vote, particularly in tightly contested races.<sup>50</sup> Overall, these issues had a damaging effect on the public perception of political parties and the candidate registration process.

For a national list to be registered, political entities had to run candidates in at least 27 single-member constituencies in at least 9 of 19 counties and Budapest, and to maintain such distribution until the elections. Of the 40 national lists submitted, 18 were denied registration and one was de-registered for not meeting this requirement. Two parties were permitted to register following appeals to the Supreme Court.<sup>51</sup>

The national minority self-governments could submit candidate lists that appear on a separate ballot.<sup>52</sup> Each list had to collect signatures from at least one per cent of the voters included in the national minorities register, but no more than 1,500 signatures. The NEC registered 13 national minority lists with a total of 89 candidates, including 48 women.

The nomination of candidates for national minority lists lacks transparency, in particular because there are no established and public procedures regarding the manner by which the self-government selects the candidates. Moreover, an individual choosing to participate in the election as a minority voter has no opportunity to choose among alternative national minority candidates or lists. These measures do not guarantee genuine participation of national minorities in political life, contrary to OSCE High Commissioner on National Minorities (HCNM) recommendations.<sup>53</sup>

*Consideration could be given to reviewing legislative and practical measures aimed at achieving genuine participation of national minorities in elected politics. The review should be conducted with civil society and a broad range of minority representatives, taking into account recent experience as well as OSCE HCNM recommendations. Particular attention should be paid to the system of candidate nomination.*

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<sup>49</sup> The ODIHR LEOM was informed that 110 voters in constituencies Csongrad 1 and 2 asked to check their signatures on different political parties' signature sheets. This led to the discovery of 10 cases of forged signatures in support of different parties. Some 100 voters had similar requests in constituency Budapest 8. In constituency Csongrad 3, 30 voters checked their signatures and 6 complained to the police of forged signatures.

<sup>50</sup> There are 250 political parties in the register of the National Judicial Office. Some 80 new parties were registered from October 2017 to January 2018. The registration procedures have minimal requirements.

<sup>51</sup> The NEC rejected the application of the Co-operation Party because its chairperson was under criminal investigation, and that of the Order Party as its name was misspelled in the application.

<sup>52</sup> The 1993 Act on the Rights of National and Ethnic Minorities states that the role of the national minority self-government is to protect minority rights on the national level and on the regional level if the minority does not have a national structure. No other national minority organization could submit lists for these elections.

<sup>53</sup> The 1999 [Lund Recommendations on the Effective Participation of National Minorities and Explanatory Note](#) recommend that states adopt "the system which would result in the most representative government (...). This is especially important for [national minorities] who might otherwise not have adequate representation". See also sections on *Electoral System* and *Voter Registration*.

## IX. CAMPAIGN ENVIRONMENT

Campaigning commenced on 17 February simultaneously with the beginning of candidate registration. However, candidates and parties were eligible to receive state funding only once the registration process was concluded, resulting in an undue advantage to those registered first.

*To ensure a level playing field, the law should be amended whereby candidate registration is finalized prior to the start of the campaign period, which should start on the same day for all contestants.*

The campaign environment was characterized by a high degree of contestation, but a shrinking space for informed political debate. Campaign rallies were largely low-key.<sup>54</sup> Instead, candidates preferred door-to-door canvassing, small meetings in residential areas, telephone and postal advertising, and a heavy reliance on online and social media.<sup>55</sup> Several party leaders travelled to appeal to Hungarian communities abroad. Outdoor advertising was a prominent feature of the campaign. However, ODIHR LEOM interlocutors pointed to difficulties securing billboard space due to the politically polarized nature of the advertising market.

The major contenders were the ruling *Fidesz* (running in coalition with KDNP), and the opposition DK, *Jobbik*, LMP and MSzP (standing in coalition with Dialogue for Hungary). Some smaller parties, such as Momentum and the Two-Tailed Dog Party (MKKP), also visibly campaigned. Most other parties with a national list neither campaigned nor had campaign programmes.<sup>56</sup>

The ruling coalition's campaign message focused almost exclusively on migration. Its prime ministerial candidate (current prime minister) deployed anti-migrant rhetoric in his campaign speeches and alluded to perceived interference in Hungary's internal affairs on the part of various international actors. *Fidesz's* effort to link the opposition to Mr. Soros was a notable feature of its campaign.<sup>57</sup> The larger parties, with the notable exception of *Fidesz*, published policy-based campaign programmes. MKKP confined itself to mocking the government.

Throughout the campaign there was a ubiquitous overlap between the ruling coalition's campaign messages and the government's anti-migration, anti-Brussels, anti-UN, and anti-Soros information campaigns, evident, in particular, in outdoor and online advertising.<sup>58</sup> The widespread government information campaign was largely indistinguishable from *Fidesz* campaigning, giving it a clear advantage. The social media accounts of government and *Fidesz* actors often made little distinction between official information and political campaigning.<sup>59</sup> Campaigning also coincided with unexpected distributions of public funds. On 7 March, the prime minister announced that the

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<sup>54</sup> The exception was a large-scale pro-*Fidesz* "peace march" held on 15 March in Budapest. On the same day, there was also a large counter-demonstration by civil society and opposition parties, attracting a heavy police presence. The "peace march" was organized by the pro-government *Civil Összefogás Forum* and addressed by the *Fidesz* prime ministerial candidate in his official capacity.

<sup>55</sup> In total, 17 parties with national lists maintained websites; 20 were on *Facebook* (though 10 only minimally); 9 had *Twitter* accounts; 14 have *YouTube* channels.

<sup>56</sup> The ODIHR LEOM tried to contact representatives of these parties; requests for meetings were denied.

<sup>57</sup> A widely-observed billboard featured Mr. Soros and leading opposition figures jointly dismantling the border fence. The ruling coalition's prime ministerial candidate referred to Mr. Soros in many of his campaign speeches and interviews, including on 15 and 30 March, and 6 April.

<sup>58</sup> A few days before the elections, the government launched a new major billboard campaign, featuring a long queue of alleged migrants and a large stop sign. *Fidesz* advertising was often placed on adjacent billboards.

<sup>59</sup> There was a clear overlap in messaging on the prime minister's and *Fidesz's* social media accounts. The prime minister also used his official *Facebook* account, which featured his campaign rallies and asked voters to vote for *Fidesz*. In another example, a sub-domain of the official city of Sopron webpage hosted a *Fidesz* campaign page.



government would provide all pensioners with vouchers worth HUF 10,000 and reduce household utility bills by HUF 12,000.<sup>60</sup> The government ran advertisements promoting the latter decision. Such instances undermined the level playing field for campaigning and raised questions with regard to the abuse of administrative resources and the blurring of the line between state governing and party campaigning, which is at odds with OSCE commitments.<sup>61</sup>

*To level the playing field, steps should be taken to separate government administration and party campaigning, including by adopting legislation that would define and explicitly prohibit the abuse of administrative resources in a campaign.*

Hostile, intimidating and, at times, xenophobic rhetoric featured prominently in the campaign.<sup>62</sup> On one occasion, the ruling coalition's prime ministerial candidate vowed to take "vengeance" on the opposition after the elections.<sup>63</sup> In another speech, the same candidate made veiled threats against thousands of civil society activists, whom he labelled as "an army of mercenaries".<sup>64</sup> Such rhetoric, together with pervasive negative campaigning, including leaked recordings, restricted space for substantive debate and voters' ability to make an informed choice.<sup>65</sup>

Several candidates made demeaning comments regarding the Roma.<sup>66</sup> There is considerable dependence of the Roma, many living in abject poverty, on the locally-administered public works scheme. ODIHR LEOM interlocutors repeatedly asserted that the fear of losing access to the limited public works funds would force many Roma and other economically-disadvantaged persons to vote for *Fidesz*. Further, the ODIHR LEOM observed the distribution of free food in a Roma community on behalf of a *Fidesz* candidate, an instance perceived as vote-buying by Roma interlocutors.<sup>67</sup>

Although some major parties addressed gender-related issues in their programmes, there was no public, issue-oriented debate on women's political participation during the campaigns or in the media. At rallies, women were generally underrepresented both as speakers and participants. The

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<sup>60</sup> The government stated that this was due to the unusually cold winter and the country's robust economic performance as well as the Easter season.

<sup>61</sup> Paragraph 5.4 of the 1990 OSCE Copenhagen Document requires "a clear separation between the State and political parties; in particular, political parties will not be merged with the State". See also [ODIHR/Venice Commission Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#), adopted in March 2016.

<sup>62</sup> On 7 March, the prime minister's chief of staff uploaded a video in which he lamented the demise of "White Christians" in a Vienna neighbourhood. A video posted by the *Fidesz* member of parliament Tamas Deutsch claimed that a district of Brussels had been "flooded" by 35-40,000 migrants from North Africa at the expense of "Christian Francophones". The video was shared by the prime minister on social media on 18 March. Several days prior to the elections, the government ran a paid advertisement online, featuring the same message, but also images that depicted scenes of what purported to be migrant violence.

<sup>63</sup> The Hungarian term, "*elégítél*" was translated by the prime minister's office as "amends", rather than "vengeance", softening the prime minister's statement.

<sup>64</sup> Paragraph 7.7 of the 1990 OSCE Copenhagen Document calls for ensuring that "political campaigning [is] conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution".

<sup>65</sup> One leaked voice recording implicated a *Jobbik* mayor in a sexual harassment case; another suggested corrupt dealings between the *Jobbik* and LMP.

<sup>66</sup> This includes the chief of cabinet Janos Lazar (28 March) and the prime minister (1 March). See also CCPR [concluding observations on the sixth periodic report of Hungary](#), which expressed broader concerns about the prevalence of such rhetoric in political discourse.

<sup>67</sup> A Roma community in Alsozsolca received donations of potatoes, flour, sugar and oil. The goods buckets, supplied by a partially EU-funded CSO, *Nő A Siker Alapítványt*, included the name of the local *Fidesz* candidate.

media rarely featured women candidates.<sup>68</sup> Instances of sexist comments by prominent politicians were observed.<sup>69</sup>

## X. CAMPAIGN AND PARTY FINANCE

Political parties in Hungary are partially financed from public funds.<sup>70</sup> The Law on Party Finance prohibits donations from companies and foreign individuals or organizations. Donations from private citizens in excess of HUF 500,000 must be itemized in party financial reports, which are submitted to the State Audit Office (SAO). These reports are insufficiently detailed, including on how public funds are spent, which constitute a sizable share of party budgets.<sup>71</sup>

Public campaign funding is also provided and each party with a national list is entitled to between HUF 150 and 600 million, depending on the number of nominated candidates.<sup>72</sup> In addition, each single-member constituency candidate is eligible for approximately HUF 1 million.<sup>73</sup>

Campaign expenditure ceilings are set at approximately HUF 5 million for each single-member and national list candidate, amounting to HUF 995 million for the parties that field the maximum number of candidates. Parties may also solicit private funds and several parties relied on loans from banks and individuals.<sup>74</sup> There are no explicit caps on individual donations, which potentially fosters dependence on financial contributions by large donors.<sup>75</sup> As full lists of donors are neither published nor submitted to relevant authorities, transparency in campaign finance is further curbed and the prospect of party's reliance on a single donor is reinforced.

*To prevent individuals from attaining an undue degree of influence, consideration should be given to introducing limits on individual donations. Lists of donors could be published online in a timely and accessible manner.*

Candidates who withdraw or fail to obtain at least two per cent of the vote must return the public funds. In November 2017, the Act on Campaign Finance was amended so that parties must also reimburse the State Treasury (ST) if they fail to clear the one per cent threshold. The introduction of

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<sup>68</sup> On average, women candidates featured in some 8.3 per cent of the time allocated to the candidates on TV and 3 per cent in newspapers, despite comprising 30 per cent of candidates. The public broadcaster M1 devoted 5 per cent of its primetime coverage allotted to electoral contestants to female candidates.

<sup>69</sup> Including by the prime minister in October 2017 and March 2018.

<sup>70</sup> Of these funds, 25 per cent is equally divided among parliamentary parties and 75 per cent is divided among all parties proportionately on the basis of the vote share; parties receiving less than one per cent of the vote do not receive public funding. The state also provides funding to party foundations based on the number of votes obtained by the relevant party and its candidates. The largest recipient of public funding in 2017 was *Fidesz* and its party foundation (HUF 876.6 million and HUF 529.7 million), followed by *MSzP* and its foundation (HUF 427 million and HUF 234.2 million), *Jobbik* and its foundation (HUF 475.8 million and HUF 266.2 million). Overall, public subsidies for parties and party foundations in 2017 was HUF 3,809,800,000 (some EUR 12.7 million).

<sup>71</sup> Party finance reports from 2017 list only general categories of spending and income. The share of public funds: *LMP* - 83 per cent, *Jobbik* - 82 per cent, *Fidesz* - 80 per cent, *DK* - 67 per cent and *MSzP* - 26 per cent.

<sup>72</sup> Adjusted for inflation. A candidate in a single-member constituency race receives an average of HUF 12 per registered voter; a party that has a maximum number of candidates would receive some HUF 75 per voter. Minority lists are collectively funded with approximately HUF 300 million.

<sup>73</sup> Out of 1,643 registered single-member candidates, a total of 1,177 availed themselves of the opportunity to receive public funds either directly or via their respective party.

<sup>74</sup> For instance, *DK* was partially funded by a loan from its prime ministerial candidate; *LMP* acquired a bank loan of HUF 150 million.

<sup>75</sup> Point 3.b.ii of the [Recommendation Rec \(2003\)4](#) of the Committee of Ministers of the Council of Europe "On Common rules against corruption in the funding of political parties and electoral campaigns" recommends that states "consider the possibility of introducing rules limiting the value of donations to political parties".

the threshold aimed to discourage the practice of filing national lists to profiteer from public funds. Following the elections, 16 parties with national lists were required to return public funding, having failed to clear the threshold.<sup>76</sup> However, repayment has been limited.<sup>77</sup>

The SAO and ST exercise oversight over party and campaign financing. Parties are audited on a biannual basis, which recently resulted in fines for several parties, including a total of HUF 663 million for *Jobbik* for violating spending regulations.<sup>78</sup> ODIHR LEOM interlocutors among the fined parties regretted that there was limited scope for challenging the SAO's conclusions in a timely manner.<sup>79</sup>

In terms of campaign finance expenditure, candidates and parties in receipt of funds for single-member constituency races (HUF 1 million) have 15 days from the announcement of results to submit detailed financial reports to the ST. The ST acknowledges that it has limited powers to establish the veracity of these reports.<sup>80</sup> There are no reporting requirements for the national list funding, though candidates and parties have 60 days to publish statements on the amount, source and use of all campaign funds. These statements, however, contain little detail.

The SAO subsequently publishes results of campaign finance audits of the parliamentary parties and members of parliament elected from single-member constituencies, but these do not sufficiently elaborate expenditures of parties or candidates.<sup>81</sup> The limited monitoring of campaign spending and the absence of thorough reporting on sources of campaign funds undercuts campaign finance transparency and voters' ability to make an informed choice, contrary to international obligations and good practice.<sup>82</sup>

*To encourage transparency in campaign finance, prevent possible fraud and abuse of public funding, itemized reporting on income and expenditures for individual candidates and parties should be published by the SAO, including online and in a searchable format. The SAO could consider conducting a preliminary review of campaign financing and publishing its results before election day.*

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<sup>76</sup> The law makes party leaders personally responsible for the repayment of public funds. After the elections, *Egyutt* collected donations towards the sum of HUF 150 million that party leaders were obligated to repay.

<sup>77</sup> Of the HUF 327 million to be returned to the ST following the 2014 elections, only HUF 42 million had been paid back by April 2018.

<sup>78</sup> The SAO's remit includes determination of the nature of the violation, and the amount involved; according to the SAO's recommendation, the ST and the tax authority are to either withhold or collect the amounts.

<sup>79</sup> The possibility to challenge the SAO's conclusions in court is afforded to political party only when the tax authority has taken the decision to collect the fine. Such decision can be challenged in court, following a regular procedure. Paragraph 231 of the 2010 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "There should be legal provisions to challenge any decision by regulatory authorities which negatively impact the free association of political parties or other protected rights [...] All parties should have the ability to seek appropriate recourse for decisions made by a regulatory body in a court of law".

<sup>80</sup> The ST indicated to the ODIHR LEOM that it depends on parties and candidates to provide accurate receipts, but that it is difficult to establish the authenticity of these receipts or the campaign activities they purport to document.

<sup>81</sup> For example, the SAO report on the 2014 elections contained only three pages on the audit of *Fidesz*. Individual campaign finance audits did not exceed one page and were confined to generalities.

<sup>82</sup> Article 7.3 of the [United Nations Convention Against Corruption](#) obliges states to "consider taking appropriate legislative and administrative measures, (...) to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties". Paragraph 194, 200 and 206 of the ODIHR and Venice Commission [Guidelines on Political Party Regulation](#) state that "voters must have access to the relevant information as to the financial support given to political parties in order to hold them accountable. It requires timely publication of financial reports in a format understandable for the general public".

The government's information campaigns that directly reinforced the ruling coalition's message did not figure in any campaign finance calculations, which may serve as a way to circumvent campaign expenditure limits. The estimate of these expenses dwarfs the campaign limits for even the largest parties.<sup>83</sup>

The law does not provide for the oversight of third-party financing. For example, the large-scale 15 March "peace march", organized by a CSO, was not subject to campaign finance oversight. Further, the ODIHR LEOM observed instances of party-affiliated CSOs distributing goods on behalf of candidates. The lack of oversight of third-party spending undermines the effectiveness of the overall campaign finance system and impedes the ability of political actors to compete on a level playing field.

*To ensure equal opportunities, campaign finance legislation should incorporate provisions on third-party financing of election-related campaigns.*

## **XI. MEDIA**

### **A. MEDIA ENVIRONMENT**

The media landscape comprises a large number of outlets, split along political lines. Since 2014, most international media groups have left the market, enabling a growing concentration of media ownership in the hands of party-affiliated entrepreneurs at the national and regional levels.<sup>84</sup> In addition, the advertising market is skewed by a pervasive influx of government publicity campaigns in a situation where commercial advertising revenues can rarely cover outlets' operational costs. Consequently, the media is largely dependent on their owners' financial subsidies and/or government advertisements. The latter is distributed to selected media outlets through restricted public tenders and lacks sufficient transparency and robust audit measures.<sup>85</sup> Such a media environment limits space for critical reporting and pluralism, including during the election campaign.

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<sup>83</sup> The campaign is estimated to have cost at least HUF 12 billion in 2017, according to CSO interlocutors and documents assessed by the ODIHR LEOM. The costs of the 2018 information campaign were not made public prior to the elections.

<sup>84</sup> Since 2014, major foreign media holdings have sold local assets (tabloid *Blikk* and *RTL Klub* being exceptions). In 2016, Lőrinc Mészáros, the mayor of the prime minister's hometown, via a set of companies, bought *Mediaworks Hungary Zrt.* which publishes 14 regional newspapers, the economic daily *Világgazdaság*, sports papers and magazines. The chief executive of *Mediaworks Hungary Zrt.* bought the daily *Magyar Idők* in 2015 and the company also started *Karc FM* radio in 2016. In 2015, a company owned by one of the prime minister's former advisors launched free daily and weekly papers *Lokál* and *Lokál Extra*. One of the organizers of the "peace march" owns the daily *Magyar Hírlap* since 2005. The government's film commissioner owns a company that operates TV2 since 2016, bought the publishing house that prints the tabloid *Bors* and two regional newspapers in 2017. This company also owns the largest commercial radio station, as the Media Council in 2016 allowed the Budapest-based *Rádió 1* to merge in a network with other 30 regional radios. The weekly *Figyelő* was acquired by one of the government's commissioners in 2016. Lajos Simicska, who is often identified as opposing the government, owns companies publishing weekly *Heti Válasz*, *HírTV*, and until recently published *Magyar Nemzet* and *Lánchíd Rádió*. In 2016 daily newspaper *Népszava* was acquired by the former treasurer of Socialist party, László Puch, who also bought weeklies *Vasárnapi Hírek* and *Szabad Föld* in 2017.

<sup>85</sup> During the campaign the so-called "public service advertisements" (PSAs) were about the reduction of the heating bills and against migration, and generic advertising about Visegrad. Four groups were aired. ODIHR LEOM media monitoring showed that during primetime, the government was the largest political advertiser, occupying 51 per cent or almost 140 minutes of all primetime political advertising. In comparison, around 40 minutes were devoted to voter education. PSAs were aired on the public broadcaster *M1*, *TV2* and, to a lesser extent, on *ATV*.

*Government advertisement contracts should follow a transparent procurement process, according to a clear set of criteria, in a manner that does not inhibit fair competition, and be subject to audit by an independent body. Government information activities should strictly avoid any appearance of seeking to influence voting.*

Television is the country's most popular medium. Its market leader is *RTL Klub* with entertainment-oriented programming and limited news and political coverage. Other market leaders' editorial choices during the campaign reflected the owner's political preferences. The regional newspapers have higher circulation than the national ones, and are also largely controlled by government-leaning figures.<sup>86</sup> In 2016, the respected daily *Népszabadság* was suspended and closed shortly after changing its owner, while three days after the parliamentary elections, the closure of the pro-opposition daily *Magyar Nemzet* and *Lánchíd Rádió* was announced. In both cases, economic difficulties were cited as the reason.

In 2015, the public broadcaster's television, radio and online platforms and the state news agency *Magyar Távirati Iroda* (MTI) were consolidated in a single structure, *Duna Médiaszolgáltató Nonprofit Zrt* (*Duna*).<sup>87</sup> MTI's news is offered free of charge to media outlets. One third of regional radio stations rebroadcast news bulletins published by MTI, while *Duna* is often the only outlet admitted to state functions. *Duna* exists alongside a foundation, *Médiaszolgáltatás-támogató és Vagyonkezelő Alap* (MTVA), which holds the former's budget, produces its editorial content, and acts as its technical supplier. The head of MTVA is appointed by the president of the Media Council (MC), the sector's regulatory body, without an open competition. The president of the MC also nominates candidates for the executive director of the public broadcaster, who, after being confirmed by the MC, is proposed for consideration to the public broadcaster's board of trustees.<sup>88</sup>

The aforementioned financial and organizational particulars of the public broadcaster, as well as the appointment system for its leadership, hinder *Duna's* ability to offer impartial programming, and are at odds with international standards.<sup>89</sup> The ODIHR LEOM media monitoring revealed clear patterns of political bias on the part of the public broadcaster.<sup>90</sup>

*Safeguards for genuine independence of the public broadcaster should be considered to ensure editorial pluralism, which include an open and inclusive appointment of the management, and a transparent and sustainable financing system.*

The lack of critical reporting in the traditional media was partially offset by lively election coverage on the Internet and social media, which offered a platform for pluralistic, issue-oriented political debate.

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<sup>86</sup> On 7 April, all their websites published an identical interview with the prime minister, where he capitalized on the government's anti-migrant and anti-Soros campaigns and called on citizens to vote for *Fidesz*. The interview did not contain any critical questions.

<sup>87</sup> *Duna* operates seven TV channels, seven radio stations, five online platforms, and the state news agency MTI.

<sup>88</sup> The president of the MC and four of its members are elected by two thirds of parliamentary deputies present, for a nine-year term. All current members were elected while the ruling coalition held a super-majority in the parliament.

<sup>89</sup> In line with paragraph 16 of CCPR General Comment No. 34, states should guarantee the independence and editorial freedom of public media and should provide for sustainable funding.

<sup>90</sup> The ODIHR LEOM media monitoring sample included ATV, *Hír TV*, M1, *RTL Klub*, TV2 and *Blikk*, *Magyar Idők*, *Magyar Nemzet* and *Népszava*. TV channels were monitored from 18:00 to midnight from 13 March to 7 April.

## B. LEGAL FRAMEWORK

The legal framework for the media includes the Constitution, which grants the freedom of expression, and a number of laws, including the Freedom of Press and Media Acts that outline the sector's modalities. Both media laws, introduced since 2010 and described as "limiting media pluralism" by the OSCE Representative on Freedom of the Media (RFoM), have not been significantly amended, and impact election coverage.<sup>91</sup> Particular concerns cited by RFoM include the lack of media's editorial independence, restrictive content requirements as well as absence of a politically independent regulatory body, among others. The politicization of media ownership, coupled with a restrictive legal framework and absence of an independent media regulatory body, had a chilling effect on editorial freedom, hindering voters' access to pluralistic information.

Defamation is a criminal offence, punishable by up to three years imprisonment. Professional journalism during the election campaign was, at times, hampered by restrictions on the free coverage of political events.<sup>92</sup> Such restrictions are odds with paragraph 7.8 of the 1990 OSCE Copenhagen Document.<sup>93</sup>

*Criminal defamation provisions should be repealed in favour of civil sanctions.*

The Act on Election Procedures obliges the media to grant all contestants equal opportunity, but vaguely defines provisions for its implementation.<sup>94</sup> The law envisages 600 minutes of free airtime on the public broadcaster and permits paid political advertising in the print and online media. Paid political advertisements are banned on commercial radio and TV, but such media may provide airtime free of charge on an equal basis.

The MC conducted extensive media monitoring during the campaign, but refrained from enforcement and entrusted this role to the NEC.<sup>95</sup> Positively, the NEC fined three broadcasters, including the public broadcaster, and several regional media organizations for political bias.

*The legislative framework and existing practices affecting the ability of media organizations and journalists to operate freely and professionally should be revised to conform with OSCE commitments and other international obligations, including with regard to the independence of media regulatory bodies.*

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<sup>91</sup> International organizations noted that media legislation introduced since 2010 violates [OSCE media freedom commitments](#) and [negatively affects](#) free speech and [media pluralism](#). In 2015, the [Venice Commission called for](#) the narrowing of content-related restrictions. [The CCPR in 2018](#) concluded that the current legislative framework does not fully ensure an uncensored and unhindered press, and the media regulator lacks sufficient independence and has overly broad regulatory and sanctioning powers.

<sup>92</sup> The ODIHR LEOM was informed about restrictions on covering government events, to which only government-leaning outlets or the public broadcaster were invited. *HírTV* filed a complaint to the NEC on the removal of its news crew from a *Fidesz* campaign event on 25 March. The complaint was rejected on formal grounds. During the "peace march", a *Magyar Nemzet* journalist was attacked by security guards after asking questions about a corruption case, and *24.hu* and *444.hu* journalists were fined for obstructing traffic while covering demonstrations.

<sup>93</sup> Paragraph 7.8 of the 1990 OSCE Copenhagen Document commits participating States to "provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process".

<sup>94</sup> The same applies for the requirement of "balanced coverage" in both media laws.

<sup>95</sup> The NEC fined *MI* on 16 March, and *TV2* on 23 March and 6 April for political bias as they failed to invite opposition candidates. On 10 April, *TV2* was fined HUF 3.45 million for violating the Media Act as its presenters participated in a clip calling on citizens to vote for the prime minister. *HírTV* was found in breach of equal opportunities on 3 April by not showing the MSzP candidate in a programme devoted to one constituency.





## C. MEDIA MONITORING FINDINGS

Media covered the campaign extensively, but in a divisive manner. Opposition-leaning and independent outlets focused on corruption, while the public broadcaster and the government-leaning media amplified anti-migration rhetoric. There was one televised debate among three opposition prime ministerial candidates, conducted by the most popular commercial broadcaster on its own initiative. The incumbent prime minister declined to participate in any debates, limiting voters' ability to compare key candidates directly. Overall, across the media monitored, only 6 of the 23 parties that ran national lists were afforded meaningful coverage in the media's editorial programming and only 15 used the free airtime on the public or commercial broadcasters, thus strengthening the perception among ODIHR LEOM interlocutors that the new, unknown parties played a dubious role in the elections.

The public broadcaster fulfilled its legal obligation to divide free airtime equally, but not all parties availed themselves of the opportunity and some used their airtime to criticize the broadcaster for ignoring them outside of the campaign.<sup>96</sup> In its editorial coverage, *MI* showed bias in favour of the ruling coalition and the government, which received around 61 per cent of the news coverage. On average, 96 per cent of it was positive in tone, while 82 per cent of the coverage devoted to the opposition was negative. This is at odds with OSCE commitments and international standards on fair access to the public broadcaster's programmes and undermined the public's "corresponding right to receive media output".<sup>97</sup>

The monitored commercial TV stations displayed editorial bias either for ruling or opposition parties. While *TV2* allotted more time in newscasts to the opposition parties, 92 per cent of the coverage was negative, while 96 per cent of coverage allotted to the government and the ruling coalition was positive. Contrasting coverage was offered by *HirTV* and *ATV* whose newscasts portrayed the government and *Fidesz* primarily in a negative tone, with 76 and 64 per cent, respectively. *RTL*'s coverage was slightly more positive for the opposition than for the government and *Fidesz*.<sup>98</sup>

TV stations *ATV* and *RTL Klub* and three *Class FM* radio stations chose to air free advertisements, citing the need to give a platform to smaller parties, which did not have equal access to the media.<sup>99</sup>

The coverage was equally polarised in the newspapers. Two of the four monitored print outlets, *Magyar Nemzet* and *Népszava*, allotted 63 per cent of their news and editorials to the governing coalition, yet 80 and 85 per cent of the coverage, respectively, was negative. On *Magyar Idők*, 88 per cent of the coverage afforded to the government and ruling party was positive, while 72 per cent of the coverage devoted to the opposition was negative. Tabloid *Blikk* featured the governing coalition slightly more positively than the opposition, but the volume of the coverage was limited. *MSzP* was the only party that bought advertising in newspapers monitored.<sup>100</sup>

<sup>96</sup> The public broadcaster invited parties with national lists to present their programmes in five-minute slots on *MI* and aired advertisements on *Duna TV* and *Kossuth Rádió*.

<sup>97</sup> As called for in paragraph 13 of CCPR General Comment No. 34. See also paragraph 16 of the same General Comment, which calls on "state parties to ensure that public broadcasting services operate in an independent manner (...), guarantee their independence and editorial freedom". See also paragraph 7.8 of the 1990 OSCE Copenhagen Document.

<sup>98</sup> *ATV* covered government and *Fidesz* in 40 per cent of the political news and editorial programmes, *HirTV* in 57 per cent, *RTL Klub* in 55 per cent and *TV2* 41 per cent.

<sup>99</sup> *ATV* devoted 94 minutes, *RTL Klub* approximately 120 minutes from the permitted 300 minutes.

<sup>100</sup> The government bought seven times as much advertising space as *MSzP* across monitored media.



## XII. CITIZEN AND INTERNATIONAL OBSERVERS

Contrary to OSCE commitments, the legislation does not provide for citizen election observation either prior to or on election day.<sup>101</sup> CSOs involved in civic education, voter awareness and get-out-the-vote activities reported to the ODIHR LEOM a general hesitance to participate in activities that could be considered political. Legislative constraints on the operation of certain types of CSOs, coupled with intimidating rhetoric by government officials against civil society, potentially stifled initiative and contributed to a climate of self-censorship, not conducive to civil society monitoring of the electoral process. Also, in contrast to previous elections, CSOs were not involved in the monitoring of campaign financing, including due to the lack of funding. Consequently, the public's access to national non-partisan assessment of the elections was limited.<sup>102</sup>

*The Act on Election Procedures should be amended to allow observation by non-partisan citizen observers of all stages of the electoral process, in accordance with OSCE commitments.*

The legal framework provides for international observation of the entire process. For party observers, the right to work alongside the NEO and verify postal voting documents was afforded to up to five observers from each national list mandated to appoint NEC members. Independent candidates and parties fielding lists could also delegate two observers to each polling station in diplomatic missions.<sup>103</sup> Contestants could appoint up to two delegates to serve as full members of each PSC, but did not have an opportunity to designate party observers or proxies. Accredited media representatives could be present at polling stations at all times.

## XIII. COMPLAINTS AND APPEALS

The legal framework affords effective remedy for the violation of a citizen's right to participate in public affairs. Every citizen and legal entity can challenge decisions, actions, or inaction that are in violation of election legislation. Election commissions hear all election-related complaints in the first instance, the respective CoEC in cases regarding a single-member constituency or the local media, and the NEC for all other matters. All NEC decisions are subject to judicial review by the Supreme Court. The constitutionality of Supreme Court decisions can be appealed to the Constitutional Court.

There is an expeditious review process for all election disputes. Complainants and appellants are given three days from the violation/decision to file, and commissions have three days to review the matter. Commendably, all disputes were reviewed expeditiously and largely within legal deadlines. In eight per cent of cases (42), the NEC slightly exceeded the three-day deadline.

There is no guarantee to a public hearing at any level of the dispute process. Complainants and respondents are not notified in advance that their case will be reviewed, but if present at the election commission, they can request to be heard. The ODIHR LEOM observed the review of 451 complaints, and this never occurred. Appellants cannot request a public hearing before the Supreme

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<sup>101</sup> Paragraph 8 of the 1990 OSCE Copenhagen Document provides that "the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place".

<sup>102</sup> Paragraph 19 of CCPR [General Comment No. 25](#) to the ICCPR states that "voters should be able to form opinions independently, free of (...) compulsion, inducement or manipulative interference of any kind".

<sup>103</sup> Ninety observers were accredited to observe voting procedures at foreign representations: *Jobbik* 33; *Fidesz-KDNP* 31; *MSZP-Dialogue* 10; *Momentum* 10 and; *Egyutt* 6.

Court or the Constitutional Court. This is at odds with OSCE commitments and international good practice.<sup>104</sup>

The NEO prepares draft decisions for the NEC commissioners who receive them shortly before the session. Only the NEC chairperson has the opportunity to provide input into the draft decisions, while the other commissioners can briefly state their opinions during the session.<sup>105</sup> In sessions observed, decisions were generally taken after a *pro forma* debate. In only three per cent of cases (16), draft decisions were amended after the discussion. The procedures for review do not allow for genuine deliberation and limit the input of NEC commissioners, at odds with international good practice.<sup>106</sup>

*The law should be amended to ensure that complaints are reviewed by the election commissions and the courts in sessions that give the complainant and the defendant the right to be heard. Further, NEC procedures could provide all commission members greater opportunities to contribute to the formulation of draft decisions. The drafting process should be inclusive and open to the deliberation of alternative decisions.*

Prior to the elections, the NEC reviewed 505 cases, of which 274 were related to candidate registration, including 33 about allegedly forged support signatures. The majority of other complaints were in regard to the content and placing of campaign materials (57), media coverage of contestants (50), and unlawful campaigning (26). In line with the commitment of equal treatment before the law, the NEC consistently found violations and fined media outlets for political bias, candidates from the ruling coalition and the opposition for campaigning in schools, and the local governments for restricting the placement of posters.<sup>107</sup> While deciding on issues concerning state and party overlap in government advertising, the NEC took decisions favouring the ruling coalition.

In nine cases, complainants challenged the content of campaign materials and alleged false statements. Six cases pertained to *Fidesz* campaign materials and whether its content was statement of facts or opinion. The NEC and the courts consistently ruled that the campaign messages did not include objectively false statements and thus were protected speech.

One-fifth of the cases (102) were rejected by the NEC on formal grounds (for example, for not having complete personal information, identification number, and full address of the complainant or the registration information of the nominating organization). Some rejected cases were filed by well-established political parties. A further 221 complaints were rejected for not being fully reasoned, not citing the exact legal reference, or lacking specificity.<sup>108</sup> The strict application of the

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<sup>104</sup> Paragraph 12 of the 1990 OSCE Copenhagen Document ensures that “proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments”. In addition, see Section II 3.3 of the Venice Commission Code of Good Practice.

<sup>105</sup> Three minutes were allocated to each commissioner; additional time is at the discretion of the chairperson.

<sup>106</sup> Paragraph 100 of the [Guideline and Explanatory Report](#) on the Venice Commission Code of Good Practice recommends that “the appeal procedure should be of a judicial nature, in the sense that the right of the appellants to proceedings in which both parties are heard should be safeguarded”.

<sup>107</sup> After the NEC fined the prime minister HUF 350,000 for campaigning in a kindergarten, the prime minister publicly scolded the NEC chairperson, who in turn apologized to the prime minister for issuing a fine. The video with the respective episode was published on the prime minister’s official Facebook account.

<sup>108</sup> For example, 99 cases of candidate registration appeals were rejected because the appellant did not specify the exact sheet and line number of the signatures that should have been considered valid.

formal requirements unduly limited access to review of administrative decisions, at odds with OSCE commitments and international good practice.<sup>109</sup>

*To enhance access to an effective remedy, concrete measures should be taken to aid election stakeholders in the filing of complaints and appeals. The NEC should further be empowered to consider an issue on the merits ex-officio when the complaint raises a valid point of concern, but would otherwise be rejected on formal grounds.*

The Supreme Court reviewed 116 appeals, upholding all but 14 decisions. Those court decisions limited the local government's right to restrict the posting of campaign materials, allowed privately owned public space to be used for campaigning, defined standards for balanced campaign coverage in municipal newspapers and interpreted the law enabling more political party nominations to CoECs. The Supreme Court also found that the government's information campaign – specifically its billboards with the word “Stop” superimposed over a group of would-be migrants – served no clear state interest while overlapping with the campaign materials of the ruling coalition. Although the Supreme Court ruling took effect immediately on 6 April, and was not appealed, the government took no apparent steps to implement the decision.<sup>110</sup> Eight matters were further appealed to the Constitutional Court, which upheld all but one decision. The latter dealt with a *Fidesz* campaign billboard, featuring the prime minister, bearing resemblance to the government's information materials.

Cases that may constitute criminal offences are referred to law enforcement, but the lengthy investigations do not ensure timely remedy; cases from previous elections were still pending.<sup>111</sup> The police informed the ODIHR LEOM that as of 13 April they had received 384 reports related to which there are 353 investigations in progress. According to the prosecutor's office, almost all of the pre-election complaints concerned the collection of signatures. The police received many reports of damaged posters, but did not investigate them, as the Supreme Court ruled that vandalism of posters is protected as free speech.

## **XIV. ELECTION DAY**

### **A. POLLING, COUNTING AND TABULATION**

In accordance with the standard LEOM methodology, the ODIHR LEOM did not undertake a systematic or comprehensive observation of election day proceedings. In the limited number of polling stations visited by the ODIHR LEOM, election day procedures were generally conducted efficiently and in accordance with the law. PSC members were knowledgeable and operated transparently. The secrecy of the vote was at times compromised as voters in congested polling stations marked their ballots outside the voting booths.

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<sup>109</sup> Paragraph 5.10 of the 1990 OSCE Copenhagen Document states: “everyone will have an effective means of redress”. Paragraph 96 of the Venice Commission Code of Good Practice states: “the procedure must also be simple, and providing voters with special appeal forms helps to make it so. It is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases”. Paragraph 102 states, “where higher-level commissions are appeal bodies, they should be able to rectify or annul ex officio the decisions of lower electoral commissions”.

<sup>110</sup> The NEC declined to rule that the government's information materials too closely resembled *Fidesz* campaign materials and could mislead the voters. On 6 April, however, the Supreme Court overturned the NEC decision and ordered the government to correct the violation. While the respective billboards should have been taken down immediately, they remained on public display during and for a considerable period after the elections.

<sup>111</sup> On 14 March, the Prosecutor General announced the indictment of 18 persons accused of violating the orderly conduct of the elections in connection with the submission of forged signature sheets during the 2014 elections.

Long, yet efficiently managed, queues were noted at the polling stations dedicated to absentee voting.<sup>112</sup> Although the law provides that the number of voters in each polling station should be between 600 and 1,200 voters, in the majority of polling stations with ‘transferred voters’ the number exceeded 3,000 voters, reaching as many as 10,000 in a few cases. In line with the law, all voters who arrived at polling stations by 19:00 were allowed to vote regardless of the length of the queue.<sup>113</sup> Even if ‘transferred voters’ were instructed to seal the special envelope, international observers noted instances where it was not done, thus affecting the validity of their vote.

*To avoid long queues and overall delays in the process, polling stations handling absentee voting should operate in line with the legal limit of voters per regular polling station.*

The government and party campaigning continued on social media on election day. Campaign posters remained within the vicinity of polling stations, and party activists carried out voter mobilization efforts.<sup>114</sup> On election day, four incidents of attempts to unduly influence voters were reported to law enforcement officials and investigations were opened.

On election day, the NEO website crashed and was replaced by the substitute NEO website. Throughout the day, the website provided regular updates on voter turnout per constituency and polling station and maintained a list with election-related incidents. Gradually, NEC decisions and contact details for CoECs and CoEOs appeared on the website. According to the NEO, an investigation was launched to establish the cause of the problem. Nevertheless, some ODIHR LEOM interlocutors stated that citizens had no access to information that had been available on the regular website, such as the possibility to file a complaint electronically.

The NEO began releasing preliminary results disaggregated by polling station on election night, contributing to the overall transparency of the process. In a further effort to enhance confidence in the process, the NEO uploaded the original protocols per polling station on its website, to be compared with the electronic ones. The NEO reported the preliminary voter turnout at 67.08 per cent.

The absentee and foreign representation ballots, after being sorted centrally per constituency, were counted in the 106 designated polling stations, one in each constituency on 14 April. The verification of voting documents (the declaration form and the validity of outer and inner envelopes) and the counting of postal voting continued for several days at the NEO’s premises. The lengthy verification and counting process was well organized with respect for secrecy and integrity of the vote and was conducted, at times, in the presence of party observers and media.

## **B. ANNOUNCEMENT OF RESULTS**

In line with the legal provisions, the final results for single-member constituencies were announced on 14 April and the final results for the national lists were announced on 27 April. All results were posted on the NEO’s website. The final turnout was reported at 69.73 per cent.

Out of 23 party lists, 5 parties won parliamentary seats. *Fidesz-KDNP* won 133 seats, thus obtaining a two-thirds supermajority in parliament. With 25 mandates, *Jobbik* came in second. *MSzP-Dialogue* received 20 seats, *DK* 9 seats, *LMP* 8 seats, and *Egyutt* 1 seat. One independent

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<sup>112</sup> The largest numbers of absentee voters per polling station were noted in Budapest’s constituencies 2 (10,764 voters), 1 (10,285), 8 (8,199), 7 (7,865) and 5 (7,695).

<sup>113</sup> For example, in polling station 35 of the Budapest constituency 2, some 2,500 voters were waiting at 19:00 to cast their vote.

<sup>114</sup> As there is no campaign silence period, the Act on Election Procedures only prohibits campaign activities and materials 150 metres from polling stations.

candidate was elected. For the first time, one mandate went to a candidate from a national minority list (a German). The percentage of women in the newly elected parliament is slightly higher than in 2014, at 11.5 per cent.<sup>115</sup>

Following the announcement of the preliminary results, some ODIHR LEOM interlocutors drew attention to the disparity between the percentage of the popular vote received and the share of seats in the parliament. While *Fidesz*-KDNP received some 49 per cent of the popular vote for the national lists, the party obtained 67 per cent of the seats. Conversely, the opposition jointly received some 44 per cent of the national list vote, yet only won 32 per cent of the seats. This disparity reflected the success of *Fidesz*-KDNP in winning 91 of 106 single member constituencies, in many cases by narrow margins. In five cases, the difference between the winning candidate and the runner-up was less than one thousand votes.<sup>116</sup> The results show a distinct difference in voting patterns in the capital and rural districts.<sup>117</sup>

## XV. POST-ELECTION DAY DEVELOPMENTS

### A. POLITICAL DEVELOPMENTS

The post-election environment was calm, but developments reflected deep political divisions and mistrust between the ruling coalition and opposition that was already evident during the campaign.

On election night, the TV2 channel attacked many civil society activists by publicly identifying them by name and linking them to Mr. Soros. After the polls closed, the government spokesperson threatened to “shut down” legal avenues that allow CSOs to “interfere in politics”. Later in the week, the *Figyelo* newspaper published a list of some 150 CSO activists, allegedly connected to Mr. Soros, while the prime minister announced that the elections had given the government a mandate to press ahead with the “Stop Soros Legislative Package”.<sup>118</sup> Citing the government’s effort to “stifle” civil society, the Soros-financed CSO Open Society Foundations (OSF) stated that it was considering closing its offices in Budapest.<sup>119</sup> Several ODIHR LEOM interlocutors reiterated their concern about the government’s increasing hostility towards CSOs and the shrinking space for civic participation.

On 14 and 21 April, Budapest witnessed large demonstrations.<sup>120</sup> Tens of thousands of citizens across the political spectrum voiced their discontent with the election results and the prevailing political environment. The organizers turned to social media to call for greater media freedom, a

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<sup>115</sup> There are 23 women elected to the current parliament, compared to 20 in 2014.

<sup>116</sup> The tightest race was in Miskolc-1, where the *Fidesz*-KDNP candidate won with 127 votes. This was also the constituency where the LEOM ODIHR observed instances of vote-buying (distribution of food) by the winning candidate in majority Roma populated village and was informed about the pressure on Roma voters. The results from the polling station in the respective village show a higher vote share for *Fidesz*-KDNP than the constituency’s average (75 and 72 per cent in Alsószolca versus 38 per cent for *Fidesz*-KDNP constituency-wide). *Jobbik* challenged the results in this consistency; the CoEC and NEC rejected the complaint, the court decision is pending.

<sup>117</sup> *Fidesz*-KDNP achieved a landslide victory outside Budapest, taking all but 3 of the 88 single-member constituencies (the three were won by MSzP-Dialogue in Szeged, *Jobbik* in Dunaujvaros and an independent in Pécs). In the capital city, *Fidesz*-KDNP took 6 constituencies, as compared to 7 for MSzP-Dialogue, 3 for DK, 1 for LMP and 1 for *Egyutt*. The postal vote backed *Fidesz*-KDNP with 96.24 per cent, contributing 1.91 per cent of the ruling coalition’s national list vote total.

<sup>118</sup> In an interview on 20 April, the prime minister expressed his support for publishing the names of individuals allegedly associated with Mr. Soros, citing the need for “transparency”.

<sup>119</sup> The prime minister in an interview on 20 April noted he would not “shed crocodile tears” over the OSF’s departure.

<sup>120</sup> Similar scale demonstrations were organized in Debrecen, Győr, Pécs and Szeged.

review of the electoral system, and a constructive dialogue within the opposition. The chief of the prime minister's cabinet declared that the protests had been organized by Mr. Soros who was thereby manifesting his disagreement with the election results.<sup>121</sup> At the same time, numerous concerns were voiced about irregularities on election day by political parties and calls for recounts in some constituencies were broadly featured in the media.<sup>122</sup> Notwithstanding these developments, parties largely accepted the election results.

## B. COMPLAINTS AND APPEALS

The NEC received a total of 210 appeals of single-member constituency results and complaints about election day irregularities. At least one third were filed by private persons, followed by MSzP-Dialogue, DK, MKKP, *Egyutt* and Momentum. Among others, MSzP-Dialogue requested the elections to be repeated in 46 constituencies and DK challenged the validity of the results in 40 constituencies, while *Jobbik* and LMP challenged the results in a few closely contested constituencies. Most of MKKP's 11 complaints concerned irregularities on election day, including on distributing ballots to voters for both the national list and national minority list contests, contrary to the law. Momentum in its four complaints challenged the fairness of the electoral system, while *Egyutt* mainly complained about the malfunction of the NEO website.

The NEC rejected all but 12 cases, and in a further 6 cases, the NEC partially acknowledged the complaints, establishing a certain violation.<sup>123</sup> Notwithstanding, the NEC did not order any recounts and upheld the results as determined by the CoECs. All but 11 appeals were heard within the legal deadlines, thus ensuring the complainants right to a timely effective remedy.

A total of 63 cases were appealed to the Supreme Court. All but five were upheld or rejected without consideration on the merits. On the MSzP appeal, the Supreme Court ruled that "the organized transportation of dual citizens violated the principle of fairness of the election," yet did not annul results in the seven towns, as requested by MSzP.<sup>124</sup> Two cases were further appealed to the Constitutional Court.<sup>125</sup> A further five appeals were filed challenging the national party list results; in all cases the results were upheld. The results were considered as final as announced on 27 April and the new parliament was sworn in on 8 May.

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<sup>121</sup> The chief of the prime minister's cabinet made the allegation in remarks on *Kossuth Radio* on 15 April.

<sup>122</sup> The most vocal allegations concerned transportation of dual citizens in constituencies close to the Ukrainian border, vote buying (distribution of goods) on election day in some closely contested constituencies as well as irregularities concerning the vote count. DK, *Jobbik* and LMP were the most vocal critics of the elections.

<sup>123</sup> For example, the NEC established that: CoECs failed to take formal decisions on the results by the deadline; CoECs failed to maintain updated lists of members on their websites; in a few cases the NEC found that voters were given the incorrect ballot papers (national minority and party list or two single-member constituency ballots); other violations concern a PSC refusal of the *Egyutt* appointed member to accompany the protocols to the LEO and where a PSC failed to correct the protocol when the number of ballots cast did not reconcile with the number of voters who voted. In a number of cases the NEC established partial violations where the complaints included complaints about the malfunctioning of the NEO's website. A total of 41 appeals were rejected on formal grounds.

<sup>124</sup> Other cases where the court reversed NEC decision are as follows: MSzP- Dialogue case regarding the IT system. The court ordered the NEO to provide data to the appellants about the use of the IT system. The MKKP case concerning handing out two list ballots to national minority voters. The court acknowledged violation, yet no further actions were ordered. The complaint from the PSC member in Pecs where other polling station staff members were instructing voters and a voter voted twice. The Supreme Court acknowledged those irregularities yet did not annul the results.

<sup>125</sup> The first case was an appeal from *Fidesz* of the results of the postal vote, challenging the determination of invalid ballots. Both the Supreme Court and the Constitutional Court rejected the appeal. The second case was filed by a candidate who campaigned while in pre-trial detention. The candidate appealed disciplinary action taken against him for releasing a statement without the penitentiary's permission. The NEC rejected the complaint as not within its competence under election legislation, the appeal was rejected by both courts.

## **XVI. RECOMMENDATIONS**

These recommendations, contained throughout the text, are offered to further enhance the conduct of elections in Hungary and to support efforts to bring them fully in line with OSCE commitments, other international obligations, and standards for democratic elections.<sup>126</sup> These recommendations should be read in conjunction with past ODIHR recommendations that Hungary has yet to address. The legislative reforms should be undertaken well in advance of elections and through an inclusive consultation, including with the civil society. ODIHR stands ready to assist the authorities of Hungary to further improve the electoral process and address the recommendations contained in this and previous reports.

### **A. PRIORITY RECOMMENDATIONS**

1. All voters and electoral contestants should be provided with conditions that enable them to freely participate in public affairs. To provide a fully democratic basis for the conduct of elections, including by removing unreasonable hindrances on civil society, the government is encouraged to review the legal framework for compliance with international obligations and standards pertinent to the freedoms of expression and association, and access to information.
2. To enhance public trust in the NEC, the legal framework could provide public consultation for the selection of NEC nominees.
3. In considering the obligation of equal suffrage, voting procedures should be the same for all citizens abroad.
4. To level the playing field, steps should be taken to separate government administration and party campaigning, including by adopting legislation that would define and explicitly prohibit the abuse of administrative resources in a campaign.
5. To encourage transparency in campaign finance, prevent possible fraud and abuse of public funding, itemized reporting on income and expenditures for individual candidates and parties should be published by the SAO, including online and in a searchable format. The SAO could consider conducting a preliminary review of campaign financing and publishing its results before election day.
6. Safeguards for genuine independence of the public broadcaster should be considered to ensure editorial pluralism, which include an open and inclusive appointment of the management, and a transparent and sustainable financing system.
7. The Act on Election Procedures should be amended to allow observation by non-partisan citizen observers of all stages of the electoral process, in accordance with OSCE commitments.
8. Rules and procedures for law-making, including election-related laws, should be revised with a view to ensuring opportunities for meaningful public consultation. The possibility for individual MPs to propose amendments that are not subject to public consultation should be reconsidered. Dedicated post-election reviews of legislation could be introduced as a means

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<sup>126</sup>

In paragraph 26 of the 1999 OSCE Istanbul Document, all OSCE participating States committed themselves to follow-up on ODIHR's election assessments and recommendations.



to remedy shortcomings identified by administrative bodies, civil society and international observers

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework and Electoral System**

9. To ensure a common understanding of the regulatory framework, NEC guidelines should be developed well ahead of the elections.
10. To respect the principle of equal suffrage, constituency delimitation should be reviewed with the aim of bringing existing deviations in line with international good practice. A periodic review of constituency boundaries in a transparent, impartial and inclusive manner by an independent body should be considered.

### **Election Administration**

11. Consideration could be given to amending the legislation to ensure cross-party participation in the NEC in the period between the calling of new elections and the point at which all registered national lists have the opportunity for their appointed delegates to take up membership in the NEC.
12. To increase perceptions of impartiality of lower-level election commissions, members should be selected through open and transparent recruitment, based on clear criteria.
13. The election administration could supplement its general voter information with activities targeting marginalized groups that may be vulnerable to pressure or coercion.

### **Voter Registration**

14. Restrictions on the voting rights of persons with mental, intellectual and psychosocial disability should be removed.
15. Consideration should be given to removing any distinctions in enfranchisement based on marital status as they constitute discrimination between citizens.

### **Candidate Registration**

16. To enhance women's political participation, consideration should be given to adopting affirmative measures to encourage the nomination of women candidates.
17. Consideration could be given to reviewing legislative and practical measures aimed at achieving genuine participation of national minorities in elected politics. The review should be conducted with civil society and a broad range of minority representatives, taking into account recent experience as well as OSCE HCNM recommendations. Particular attention should be paid to the system of candidate nomination.

### **Election Campaign**

18. To ensure a level playing field, the law should be amended whereby candidate registration is finalized prior to the start of the campaign period, which should start on the same day for all contestants.

## **Campaign Finance**

19. To prevent individuals from attaining an undue degree of influence, consideration should be given to introducing limits on individual donations. Lists of donors could be published online in a timely and accessible manner.
20. To ensure equal opportunities, campaign finance legislation should incorporate provisions on third-party financing of election-related campaigns.

## **Media**

21. Government advertisement contracts should follow a transparent procurement process, according to a clear set of criteria, in a manner that does not inhibit fair competition, and be subject to audit by an independent body. Government information activities should strictly avoid any appearance of seeking to influence voting.
22. The legislative framework and existing practices affecting the ability of media organizations and journalists to operate freely and professionally should be revised to conform with OSCE commitments and other international obligations, including with regard to the independence of media regulatory bodies.
23. Criminal defamation provisions should be repealed in favour of civil sanctions.

## **Complaints and Appeals**

24. The law should be amended to ensure that complaints are reviewed by the election commissions and the courts in sessions that give the complainant and the defendant the right to be heard. Further, NEC procedures could provide all commission members greater opportunities to contribute to the formulation of draft decisions. The drafting process should be inclusive and open to the deliberation of alternative decisions.
25. To enhance access to an effective remedy, concrete measures should be taken to aid election stakeholders in the filing of complaints and appeals. The NEC should further be empowered to consider an issue on the merits ex-officio when the complaint raises a valid point of concern, but would otherwise be rejected on formal grounds.

## **Voting, Counting and Tabulation**

26. To avoid long queues and overall delays in the process, polling stations handling absentee voting should operate in line with the legal limit of voters per regular polling station.

ANNEX I – ELECTION RESULTS

	National List Results			Constituency	Total		Minority List Results*			
	Votes	% of votes	Seats		Seats Won	Seats	% of Seats	Minority	Registered	Votes
FIDESZ-KDNP	2,824,647	49.28	42	91	133	66.83	German	33,009	26,477	0.46
JOBBIK	1,092,671	19.06	25	1	26	13.07	Roma	18,490	5,703	0.10
MSZP-Dialogue	682,605	11.91	12	8	20	10.05	Croatian	2,269	1,743	0.03
Democratic Coalition	308,070	5.37	6	3	9	4.52	Slovak	1,641	1,245	0.02
LMP	404,428	7.06	7	1	8	4.02	Ruthenian	893	539	0.01
Together	37,562	0.66	-	1	1	0.50	Romanian	794	428	0.01
Independent			-	1	1	0.50	Serbian	424	296	0.01
German Minority	-	-	1	-	1	0.50	Ukrainian	549	270	0.0
Momentum	175,229	3.06			199	100.00	Polish	259	210	0.0
Two Tailed Dog Party	99,413	1.73					Slovenian	252	199	0.0
Worker's Party	15,640	0.27		<b>Number of eligible voters</b>		<b>8,312,173</b>	Armenian	264	159	0.0
CSP	10,641	0.19		Voters in Regular PSs		5,335,736	Greek	235	159	0.0
MIÉP	8,712	0.15		Absentee & Embassy Voters		205,061	Bulgarian	156	104	0.0

SEM	7,309	0.13		By Mail Voters	225, 471	<b>Total</b>	<b>59,235</b>	<b>37,532</b>	<b>0.64</b>
Wanting to Act Movement	5,312	0.09		<b>Total Turnout</b>	<b>5,796,268 69.73%</b>	*Needed 23,829 votes to attain seat			
MCP	4,109	0.07							
Common Denominator	3,894	0.07		Invalid Ballots	59,586 1.03%				
SZEM	3,139	0.05		Rejected by Mail Packages	41,762 15.63%				
KÖSSZ	2,722	0.05							
Compass Party	2,001	0.03							
Order Party	1,708	0.03							
Coalition Party	1,407	0.02							
MEDETE	1,292	0.02							
NET	1,236	0.02							
EU.ROM	1,003	0.02							
<b>Total</b>	<b>5,694,750</b>	<b>99.35</b>							

Source: <http://www.valasztas.hu/dyn/pv18/szavossz/hu/orszjkv.html> and <http://www.valasztas.hu/dyn/pv18/szavossz/hu/150.html>

## ANNEX II - LIST OF OBSERVERS IN THE LIMITED ELECTION OBSERVATION MISSION

### ODIHR LEOM Core Team

Douglas	WAKE	United States of America	Head of Mission
Dimitra	IOANNOU	Greece	
Ahmad	RASULI	Kyrgyz Republic	
Inta	LASE	Latvia	
Sanita	JEMBERGA	Latvia	
Jurga	LUKŠAITĖ-ROEHLING	Lithuania	
Ewa	BIELECKA	Poland	
Jakub	PECZSZ	Poland	
Przemyslaw	WASIK	Poland	
Sergey	RADCHENKO	Russian Federation	
Meaghan	FITZGERALD	United States of America	

### ODIHR LEOM Long-Term Observers

Milan	KUKSA	Czech Republic
Matti	HEINONEN	Finland
Stephanie	MARSAL	France
Silke	TITTEL	Germany
Catalina-Oana	ANI	Romania
Martin	MINDER	Switzerland

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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.

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 150 staff.

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 obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, 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. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

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 people, 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**, 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. 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.

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](http://www.osce.org/odihr)).