



Office for Democratic Institutions and Human Rights

REPUBLIC OF HUNGARY
PARLIAMENTARY ELECTIONS
11 April 2010

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

27-29 January 2010



Warsaw
18 February 2010

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Republic of Hungary from 27 to 29 January 2010 in connection with the parliamentary elections due to take place on 11 April. On 28 January, the OSCE/ODIHR received an invitation from the Hungarian Minister for Foreign Affairs to observe these elections. The OSCE/ODIHR NAM comprised Dr. Beata Martin-Rozumilowicz, Deputy Head of the OSCE/ODIHR Election Department, and Mr. Igor Dolgih, OSCE/ODIHR Election Adviser.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the parliamentary elections and to advise on the modalities for a possible OSCE/ODIHR election observation activity. The OSCE/ODIHR NAM met with representatives of the state authorities, the National Election Office, the National Election Commission, representatives of political parties, the media, civil society and the international community (see annex for a list of meetings).

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs of Hungary for its assistance and co-operation during the course of the NAM.

II. EXECUTIVE SUMMARY

The 11 April 2010 parliamentary elections are the second to be held since Hungary's accession to the European Union. The OSCE/ODIHR last observed parliamentary elections in 2002 and concluded that the elections "were conducted in a manner consistent with international standards and commitments for democratic elections". However, several shortcomings were noted, including the lack of binding authority of the National Election Commission (NEC) over lower-level commissions, the requirement to submit coupons in support of candidates, deficient campaign finance legislation, inefficient resolution of media-related complaints, and limited opportunities for the representation of parties with regional or minority support.

Since 2002, Hungary has addressed several recommendations outlined in the OSCE/ODHIR final report. Particularly, the legal framework has been amended to clarify the respective competencies of the NEC and the National Radio and Television Commission (ORTT) in resolving election-related complaints in the media. Changes in the absentee voting system have also eliminated the possibility of double voting in the second round through cross-checks undertaken between rounds.

However, several issues remain unaddressed in the legal framework, particularly a gap in ensuring minorities' representation in parliament, as established by article 68 of the constitution and by Constitutional Court rulings. Regulations on campaign financing that

could increase transparency and accountability, as well as concomitant income/expenditure reporting mechanisms also have yet to be introduced.

The requirement that candidates submit ‘endorsement coupons’ in order to register remains unchanged. The system continues to be the subject of controversy. Although enhanced security features are being introduced for the 2010 parliamentary elections, other aspects of the coupon system remain unaddressed and some political contestants noted their concern to the OSCE/ODIHR NAM over its possible abuse.

OSCE/ODIHR NAM interlocutors underscored the broad public confidence in the impartiality and professionalism of the four-tiered election commissions composed of elected and party nominated members and election offices staffed by civil servants.

The campaign environment and the media sphere, including electronic and print media, are generally free and pluralistic. Only one political party claimed restricted media access in its discussions with the OSCE/ODIHR NAM.

On the basis of the findings described above, the OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM) for the parliamentary elections. Among other things, the OSCE/ODIHR EAM would examine issues related to candidate nomination and registration, particularly with regard to the functioning of the ‘endorsement coupon’ system, the participation and representation of minorities, campaign finance issues, and candidates’ access to media. Since none of the OSCE/ODIHR NAM interlocutors expressed any particular concerns with regard to the conduct of election day, the OSCE/ODIHR will not undertake any systematic and comprehensive election day observation.

III. FINDINGS

A. ELECTION SYSTEM AND POLITICAL BACKGROUND

The 11 April 2010 elections are the second parliamentary elections to be held since Hungary’s accession to the European Union. The National Assembly of Hungary (*Országgyűlés*) is a unicameral parliament, composed of 386 members elected for four-year terms through two rounds of voting, as follows:

- 176 candidates are elected in single-mandate districts;
- 152 seats are distributed proportionally based on the votes cast for party lists at the county level. A party must win at least five per cent of the county list votes aggregated nationwide to be eligible for the distribution of seats; and
- 58 compensatory seats are distributed among national party lists using the unused votes cast for unsuccessful candidates in the district contests and surplus votes remaining after applying the formula for distribution of seats elected proportionally among the county lists.

Currently, there are five political parties represented in the parliament: the Hungarian Socialist Party (*Magyar Szocialista Párt*, MSZP – 190 seats), the Alliance of Free Democrats (*Szabad Demokraták Szövetsége*, SZDSZ – 20 seats), the Hungarian Democratic Forum (*Magyar Demokrata Fórum*, MDF – 11 seats), the Hungarian Civic

Union (Fidesz - *Magyar Polgári Szövetség*) and the Christian-Democratic People's Party (KDNP) – 164 seats on a joint Fidesz-KDNP list.

The MSZP has governed Hungary in partnership with the SZDSZ since 2002. In 2006, the coalition won a decisive election victory, the first time a governing party had won consecutive terms since 1990. However, in the last four years, Hungary has faced government instability. The coalition broke up in May 2008, a minority socialist government was formed, and Prime Minister Ferenc Gyurcsány resigned in April 2009 after failing to push through measures to revive Hungary's crisis-hit economy.

Mr. Gordon Bajnai, who had been Minister for National Economy and Development in Mr. Gyurcsány's government, agreed to take over as the prime minister until the 2010 parliamentary elections on condition that parliament pass stringent economic measures. A series of demonstrations was launched by the opposition and some civil organizations at the beginning of 2009, calling for early elections, and protesting against the election of Mr. Bajnai as prime minister.

B. LEGAL FRAMEWORK

The conduct of parliamentary elections is primarily regulated by the constitution, by Act No. XXXIV on the Election of Members of Parliament of 1989 (hereinafter, the Election Law), and by Act C of 1997 on the Electoral Procedure (hereinafter, the Procedural Law). A number of other laws and regulations have particular relevance to the conduct of the elections.¹

As noted in the previous OSCE/ODIHR reports, the legal framework generally establishes a sound basis for democratic elections. The constitution provides safeguards for ensuring universal suffrage, rights of association and assembly, and freedom of speech and the press. Laws related to the registration of political parties are liberal.² Political parties have wide access to election-related documents and information and have the right to serve on election commissions at all levels.

Several amendments have been made to the legal framework since the 2002 parliamentary elections, partially meeting some of the OSCE/ODIHR's previous recommendations. The amendments include clarification of the respective competencies of the National Election Commission (NEC) and the National Radio and Television Commission (ORTT) in resolving election-related media complaints, and changes in absentee voting system preventing double voting in the second round through cross-checks undertaken between rounds.

¹ These include: Act I of 1996 on the Media and Standing Procedures of the Complaint Committee of the National Radio and Television Commission (ORTT); Act LXXXVII of 1993 on the Rights of National and Ethnic Minorities; Act VI of 1978 on the Criminal Code; Law XXXIII of 1989 on the Operation and Financial Functioning of Political Parties, and Law LXII of 1990 containing modifications to the earlier law; and Decrees of the Ministry of Local Government under which the National Election Office (NEO) is established.

² By law, a political party is a special type of non-governmental organization established on a voluntary basis. Political parties are established upon registration by consent of at least ten private persons. The application for registration is submitted to the county or Metropolitan Court. According to the National Council of Justice, 141 political parties are currently registered in Hungary (May 2009). In order to contest an election, political parties shall apply for registration at the National Election Commission before nominating candidates and lists.

However, several issues remain unaddressed, particularly a legal gap in ensuring minorities' participation in the parliament as established by article 68 of the constitution, and regulations aimed at increasing transparency and accountability of campaign finance, as well as related income / expenditure reporting mechanisms. Many of OSCE/ODIHR NAM interlocutors emphasized the deficiencies in campaign finance regulations. By law, the spending limit during campaign is established at HUF 386 million per party³ or HUF 1 million per candidate,⁴ whereas a one-minute television ad costs around HUF 1 million. Some interlocutors suggested that political parties spend as much as five-fold of the official ceiling amount on their campaigns. Even though parties are obliged to publish their campaign finance reports in the Official Gazette, no party was ever sanctioned for not respecting the spending limits.

Although there is a general agreement amongst election stakeholders including contestants, election administrators and voters on the need to introduce the necessary amendments in the election legislation, the OSCE/ODIHR NAM interlocutors pointed out to the complexity of reaching the two-thirds parliamentary majority required by the constitution as a major obstacle in making necessary changes.

The legal framework provides for the presence of domestic observers⁵ and allows observation of the voting abroad at the country's foreign representations. The accreditation and work of international observers is regulated by the decision issued by the Head of the National Election Office (NEO).

C. ELECTION ADMINISTRATION

The structure of the electoral authorities comprises four levels: national, regional, constituency and polling station, each having (1) an election commission composed of elected and party-nominated members, and (2) a corresponding election office (composed of civil servants) in charge of providing logistical and administrative support to the election.

The NEC is an independent deliberative body responsible for ensuring the fairness, impartiality and legality of the election process. It is composed of five members elected by the parliament and additional delegates appointed by political parties that present a national candidate list. Twenty Regional Election Commissions (RECs), 176 Constituency (district) Election Commissions and over 10,000 Polling Station Commissions (PSCs) have a similar composition.⁶

The administrative management of the election process is accomplished by the NEO, which is part of the Ministry of Local Government. The NEO and its subordinate Elections Offices at the regional and district levels are responsible for preparing, organizing and conducting elections, and providing information for voters and candidates. In general, civil servants staff election offices.

³ Approximately 1,400,000 EUR.

⁴ Approximately 3,500 EUR.

⁵ Article 7 (A) of the Procedural Law.

⁶ The commissions at sub-national level consist of at least three members elected by the relevant local legislative body and members from political parties and independent candidates.

In its 2002 Final Report, the OSCE/ODIHR recommended that certain administrative decisions of the NEO which might have political consequences (e.g. ballot paper design, procedures for mobile voting, etc.) should require approval of the NEC. Although the formal approval mechanism is not yet implemented, both the NEO and the NEC confirmed to the OSCE/ODIHR NAM that interaction has improved and that effective working procedures have been established between the two bodies.

Throughout the OSCE/ODIHR NAM, interlocutors underscored that there is a broad public confidence in the impartiality and professional administration of elections.

D. VOTER AND CANDIDATE REGISTRATION

The registration of voters is based on the population registry which is maintained and updated by the Central Data Processing Office of the Ministry of Local Government and at the sub-national level by local election offices. Voters are informed of their inclusion in the list by an announcement sent by mail. Also, the voter list is publicly displayed 60 days before election day for the period of eight days. Voters can request updating their data in the registry at the local election offices, and those not included in the voter lists can cast their ballot on election day at the polling station upon producing official identity cards stating their residence in the respective area.

The candidate nomination process starts on 8 February, and candidate lists are to be finalized by 23 March. The nomination of a candidate requires the submission of 750 'endorsement coupons', which are sent by mail to eligible voters, signed by them and given to their chosen candidate. Voters should be resident in the district in which the candidate seeks office. As in the past, the coupon system remains the subject of controversy and allegations of fraud. Several OSCE/ODIHR NAM interlocutors stressed that the coupons, as they are currently administered, are vulnerable to abuse. Some interlocutors stated that there is a market in such coupons with unsigned coupons being sold or exchanged.

Although this system has been in place for almost two decades, no amendment to the election law has been adopted to address the concerns that emerge during each election cycle.

Although the NEO has introduced enhanced security features⁷ (partially meeting the OSCE/ODIHR recommendations) for the 2010 parliamentary elections, other concerns regarding the coupon system remain unaddressed and were criticized by a broad range of election stakeholders during the OSCE/ODIHR NAM.

E. MEDIA

The media environment in Hungary is open and pluralistic, which is reflected in the variety of media outlets operating in the country. There are over 30 TV channels broadcasting nationwide, including the public service broadcaster, *Magyar Televízió* (MTV), which has one terrestrial and one satellite channel and regional studios. In late

⁷ For the 2010 parliamentary elections, an endorsement coupon features a watermark of Hungary's map silhouette in its upper left corner.

2009, MTV established a special department dealing with the forthcoming parliamentary elections that aims to ensure that campaign coverage will be impartial, objective and balanced. Each political party with registered candidates in at least 7 of the country's 20 constituencies will have the opportunity to broadcast its messages two times during the campaign period free of charge. Also, it is anticipated that a party representative, normally the party leader, will be interviewed by MTV. In addition, political parties can purchase broadcast time on MTV on a commercial basis with no restrictions on the amount of time or resources spent.

The public service radio broadcaster, *Magyar Rádió* (MR), operates three networks. During the campaign period, MR will allocate three slots of one minute's free airtime for each registered political party, starting from 23 March. Similarly to television broadcasting, political parties can acquire additional air time on a commercial basis.

There are numerous daily and weekly newspapers published in Hungary with broad circulation, including the dailies *Népszabadság* (over 100,000 copies), *Magyar Nemzet* (around 60,000 copies) and others. Interlocutors informed the OSCE/ODIHR NAM that many print outlets in the country were affected by the economic crisis, with falling readership and advertisement and decreasing circulation. At the same time, they noted that the number of Internet users has grown over 700 per cent since 2000, and that current Internet penetration is close to 60 per cent.⁸ Some political parties informed the OSCE/ODIHR NAM that they intend to utilize Internet resources in reaching voters through their party websites and through social networks.

The Media Law establishes an independent body, the National Radio and Television Commission (ORTT), to oversee and monitor radio and television broadcasters. The ORTT is charged with issuing licenses, assigning broadcast frequencies, monitoring media compliance and resolving media disputes and complaints, which are reviewed by its complaint committee.

Some of the media representatives noted that Hungarian media sphere has become increasingly stratified in recent years with some media outlets leaning towards one or the other side of the political spectrum. Nevertheless, most of the OSCE/ODIHR NAM interlocutors expressed confidence in an open and pluralistic media environment in Hungary. The only exception was the *Jobbik* party, which claimed a biased approach towards it on the part of the media and voiced concerns about restricted media access during the campaign period.

F. PARTICIPATION OF MINORITIES

The constitution provides that minorities have the right to participate in the "sovereign power" of the people. Furthermore, article 68 provides that the state is to ensure their collective participation in public affairs and mandates that the laws are to ensure their representation. In spite of the Constitutional Court's rulings in 1992 and 1994 obliging parliament to enact legislation for parliamentary representation of minorities and a provision in the 1993 Law on the Rights of National and Ethnic Minorities referencing

⁸ As of 2009, there were 5,873,100 Internet users in Hungary (out of a total population of 9,905,596). Source: Internet World Stats at www.internetworldstats.com/stats4.htm.

such a law, no such legislation has yet been enacted due to the alleged difficulty to reach the required two-thirds parliamentary majority.

In Hungary, there are 13 recognized minorities including Germans, Slovaks, Croats, Romanians, Poles, Bulgarians, Greeks, Armenians, Ruthenians, Serbs, Slovenes and Ukrainians. Roma represent the largest minority population, generally estimated between 200,000 and 600,000.⁹ This figure is only an estimate because identification of minority status is based on self-declaration. OSCE/ODIHR NAM interlocutors noted that discrepancies over such figures and different estimates have caused previous proposals for minority representation to be rejected. Other minorities are significantly smaller.

While most minorities have been integrated into the mainstream of public life, the Roma population continues to be marginalized. There are no Roma minority parties represented in the parliament and very few Roma representatives have been included in other political parties' lists. Some OSCE/ODIHR NAM interlocutors suggested that the social vulnerability of the Roma may be exploited by certain political parties to organize vote buying.

New political parties on the right have also used nationalistic rhetoric against the Roma, gaining support among voters affected by the economic crisis. This trend has become particularly evident since the 2009 elections to the European Parliament when the *Jobbik* party won three seats (14.7 per cent of the vote).

VI. CONCLUSIONS AND RECOMMENDATIONS

On the basis of the findings described above, the OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM) for the 11 April parliamentary elections. Among other things, the OSCE/ODIHR EAM would examine issues related to candidate nomination and registration, particularly with regard to the functioning of the 'endorsement coupon' system, the participation and representation of minorities, campaign finance issues, and candidates' access to media. Since none of the OSCE/ODIHR NAM interlocutors expressed any particular concerns with regard to the conduct of election day, the OSCE/ODIHR will not undertake any systematic and comprehensive election day observation.

⁹ According to the 2001 census, Roma population in Hungary is 190,000 (source: Hungarian Central Statistical Office, www.nepszamlalas.hu), whereas unofficial estimates raise the number up to 600,000. This figure is actually based on estimates of sociologists projected from representative sociological surveys.

ANNEX: LIST OF MEETINGS

STATE AND ELECTION AUTHORITIES

Prime Minister's Office

H.E. Ferenc GÉMESI, State Secretary for Minority and National Policy
Mr. Jenő BÖSZÖRMÉNYI, Senior Councillor

Ministry of Foreign Affairs

H.E. Gábor IKLÓDY, Secretary of State, Political Director
Mr. Zoltán PECZE, Deputy Director-General
Ms. Kinga SIMON, Head of Department

Ministry of Justice and Law Enforcement

Dr. Gábor PAPP, Secretary of State
Dr. Eszter BODNÁR, Legal Counsellor

National Election Office and National Election Commission

Dr. Rudolf VIRÁG, Director
Mr. András Pál ZUBOR, Deputy Head
Mr. Balázs FÜGI, member of National Election Office

POLITICAL PARTIES

MSZP - Hungarian Socialist Party

Mr. Viktor SZIGETVÁRI, Deputy Campaign Director

FIDESZ - Hungarian Civic Union

Mr. Balázs HIDVÉGI, Deputy Campaign Director

SZDSZ - Alliance of Free Democrats

Mr. Tamás KUGYELA, International Secretary

MDF - Hungarian Democratic Forum

Mr. Szabolcs KERÉK-BÁRCZY, Spokesperson

Jobbik - Movement for a Better Hungary

Mr. Előd NOVÁK, Vice-president
Mr. Zsolt VÁRKONYI, Campaign Chief

LMP - Politics Can Be Different

Ms. Tímea SZABÓ, Committee member

MEDIA

National Radio and Television Commission (ORTT)

Mr. Péter GYURICZA, Committee member
Mr. Tamás TIRTS, Committee member
Mr. András MÁDL, Director
Dr. György OCSKÓ, Head of international relations department

Hungarian Television (MTV)

Mr. Balázs MEDVECZKY, Managing Vice-President
Mr. Gábor SZŰCS, Editor-in-Chief
Ms. Szilvia SUSÁN, Senior liaison officer

Hungarian Radio (MR)

Mr. György SUCH, President
Mr. Jenő MERZA, Deputy Editor-in-Chief
Ms. Géza VÁLYI, Desk officer

InfoRádió

Mr. Szabolcs LENDVAI, Managing editor

Magyar Nemzet (Newspaper)

Mr. Péter CSERMELY, Deputy Editor-in-Chief
Mr. Viktor NYOMÁRKAY, Head of secretariat

Népszabadság (Newspaper)

Mr. Ákos TÓTH, Deputy Editor-in-Chief

CIVIL SOCIETY

Center for Independent Journalism

Ms. Ilona MÓRICZ, Director
Mr. Sándor ORBÁN, Executive Director
Ms. Gabriella HORN, Coordinator

Hungarian Civil Liberties Union

Mr. Balázs DÉNES, Executive Director

Association of Central and Eastern European Election Officials

Dr. Zoltán TÓTH, Secretary-general
Ms. Anna Sólyom, Project manager
Mr. István ÁHIY, Junior project manager

OSCE CHAIRPERSON-IN-OFFICE'S REPRESENTATIVE

Embassy of the Republic of Kazakhstan

Mr. Rymtay KARIBZHANOV, Minister-counsellor
Mr. Baigabyl MAMLIN, Counsellor