



INTERNATIONAL ELECTION OBSERVATION MISSION Hungary – Parliamentary Elections, 6 April 2014

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Budapest, 7 April 2014 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the OSCE Parliamentary Assembly (OSCE PA).

Adão Silva (Portugal) was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Baroness Jenny Hilton of Eggardon (United Kingdom) headed the OSCE PA delegation. Ambassador Audrey Glover (United Kingdom) is the Head of the OSCE/ODIHR Limited Election Observation Mission (LEOM), deployed from 5 March 2014.

The assessment was made to determine whether the elections complied with OSCE commitments, and Hungary's international obligations, including Council of Europe standards for democratic elections, as well as domestic legislation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Standing Committee meeting in Baku on 28 June 2014.

PRELIMINARY CONCLUSIONS

The 6 April parliamentary elections were efficiently administered and offered voters a diverse choice following an inclusive candidate registration process. The legal framework for these elections was amended substantially in recent years. While some changes were positive, a number of amendments negatively affected the election process, including important checks and balances. The main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage and campaign activities that blurred the separation between political party and the State.

The Fundamental Law (the constitution) and a large number of cardinal laws, including electoral legislation, were passed using procedures that circumvented the requirement for public consultation and debate. This undermined support and confidence in the reform process. A number of aspects of this legal overhaul undermined checks and balances, such as a reduction of the oversight powers of the Constitutional Court.

In a widely welcomed change, legal amendments reduced the number of parliamentary seats from 386 to 199, necessitating alteration in constituency delimitation. The legal requirement to have constituencies of a more equal size is positive. However, the need for a two-thirds majority for redrawing of constituency boundaries may make it difficult to change the boundaries in the future. The delimitation process was criticized by several OSCE/ODIHR LEOM interlocutors for lacking transparency and inclusiveness. There were allegations of gerrymandering; it remains to be seen how this translates into results.

The election administration functioned efficiently and met all electoral deadlines. However, in the current political context, the process of appointing permanent National Election Commission (NEC)

members resulted in a partisan commission. Lower-level commissions and offices enjoyed public confidence. The limited voter education was of concern given the large number of changes introduced in the electoral process.

The candidate registration process was inclusive. The NEC registered 18 party and joint party lists with a total of 1,610 candidates, including 379 women, for the 93 seats distributed through a nationwide proportional system. The Constituency Election Commissions registered 1,531 candidates, including 395 women, for the 106 single-member constituencies elected through majoritarian contests.

Female candidates were hardly visible, and the contestants did not specifically address issues of gender equality in their programmes. There are no legal requirements aimed at enhancing the participation of women in political life. Only two political parties have gender quotas.

Overall, there was confidence in the quality of the voter register and its accuracy, although some concern was raised regarding the register of non-resident citizens abroad, which was not public. The 2010 amendments to the Act on Hungarian Citizenship provided the opportunity to obtain citizenship to large numbers of Hungarians living abroad. The vastly different voting procedures for voters abroad undermine the principle of equal suffrage and were perceived as an attempt to differentiate voting rights on partisan grounds.

Affirmative measures in favour of minority voters gave them the opportunity to register for a separate minority voting process. By having to publicly register, and given that only one choice was available on the ballot for minority lists, their choice was limited and secrecy of the vote was violated. As well, the measures did not appear to enhance their participation or visibility in the process.

The campaign was low-key overall and almost indiscernible in rural areas. The tone of the campaign was negative and dominated by alleged corruption cases at the expense of discussion on substantive issues. The use of government advertisements that were almost identical to those of the Fidesz-Hungarian Civic Union (Fidesz) contributed to an uneven playing field and did not fully respect the separation of party and state, as required in paragraph 5.4 of the 1990 OSCE Copenhagen Document.

While the introduction of new campaign finance legislation is a step forward, certain areas remain unregulated, including third party campaigning. Financial activities of contestants are not monitored during the campaign. The legislation provides repayment regulations for individual candidates that received state funds, but not for political parties. Collectively, this limits the transparency and accountability of the process.

Formally, numerous electronic and print media outlets provide for media diversity. Increasing ownership of media outlets by businesspeople directly or indirectly associated with Fidesz and the allocation of state advertising to certain media undermined the pluralism of the media market and resulted in self-censorship among journalists. Furthermore, a lack of political balance within the Media Council combined with unclear legal provisions on balanced coverage created uncertainty for media outlets. The Public Service Broadcaster followed its legal obligation to allocate free airtime for contesting parties albeit with limited impact. The OSCE/ODIHR media monitoring results showed that three out of five monitored TV stations displayed a significant bias towards Fidesz by covering nearly all of its campaign in a positive tone while more than half the coverage of the opposition alliance was in a negative tone.

In the current media environment, this as well as regulations which led to the absence of political advertisements on nationwide commercial television, and a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media. This is contrary to paragraph 7.8 of the 1990 OSCE Copenhagen Document.

There were a large number of complaints filed during the electoral process with the election administration and courts; the majority were rejected on formalistic grounds. Decisions were not consistent. Collectively, this did not guarantee effective redress as required by paragraph 5.10 of the 1990 OSCE Copenhagen Document.

Election day was generally conducted in an organized and transparent manner, and election procedures followed in the limited number of polling stations visited by international observers. The counting and tabulation process visited was carried out in an orderly manner.

PRELIMINARY FINDINGS

Background

The 6 April elections were the fourth observed by the OSCE/ODIHR.¹ The 2010 parliamentary elections resulted in a victory of the Fidesz-Hungarian Civic Union (*'Fidesz-Magyar Polgári Szövetség,'* Fidesz) and the Christian-Democratic People's Party (*'Kereszténydemokrata Néppárt,'* KDNP).

The ruling coalition obtained a two-thirds majority within parliament, which enabled them to overhaul the legal framework, including the adoption of the Fundamental Law (the constitution) and revision of a great number of cardinal laws, including election legislation. Following proposals from individual members of parliament, some 800 laws were passed and modified without public consultation or inclusive dialogue with opposition parties.² This circumvented the rules set out in Act CXXXI of 2010 on Participation of Civil Society in the Preparation of Legislation, which provides that all laws proposed by the government need to go through its procedures for public consultation. In addition, the constitutional changes reduced the oversight powers of the Constitutional Court. This legal overhaul is unprecedented, drawing criticism for the numerous changes, as well as the use of constitutional amendments to override some decisions of the Constitutional Court. A number of aspects of this legal overhaul undermined checks and balances.³

Legal Framework and Electoral System

The conduct of the elections is primarily regulated by the Fundamental Law, the Act on Elections of Members of Parliament (Elections Act), and the Act on Election Procedures (Election Procedures Act).⁴ The new legal framework introduced major changes in the electoral system; in

¹ Previous OSCE/ODIHR reports on Hungary are available at: <http://www.osce.org/odihr/elections/hungary>.

² See the Council of Europe's Commission for Democracy through Law (Venice Commission) Opinion on the Fourth Amendment of the Fundamental Law of Hungary [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)012-e).

³ See the Request for the Opening of a Monitoring Procedure in Respect of Hungary, 25 April 2013. http://www.assembly.coe.int/Communication/amondoc08_2013.pdf. See also, European Parliament resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012) (2012/2130(INI)) Available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-315>.

⁴ The Fundamental Law entered into force on 1 January 2012 and was amended five times, most recently in September 2013. The Elections Act was adopted in December 2011, and was amended four times, most recently in July 2013. The Election Procedures Act was adopted in October 2012, and was amended three times, most recently in December 2013.

particular it modified seat allocation, redrew constituency boundaries, and restricted campaign advertisement. The manner in which these laws were adopted and frequently amended, including in the year prior to these elections, led to legal uncertainty and did not provide for effective and inclusive public consultation, contrary to national legislation and good practice.⁵

Every adult citizen has the right to vote and be elected, except those with limited mental capacity or convicted of a crime.⁶ In a positive step, the new legislation requires a court decision in both cases. However, the current court practice usually results in disenfranchising these citizens, which falls short of meeting international standards.⁷ Some 57,000 citizens with mental disabilities were disenfranchised and over 37,000 for a criminal sentence.

The 2010 amendments to the Act on Hungarian Citizenship provided the opportunity for a large group of Hungarians living abroad to apply for citizenship, resulting in some 550,000 new citizens, mostly living in neighbouring countries.

The parliament is elected for a four-year term in a mixed electoral system. The 106 seats from single-member constituencies are elected through majoritarian contests. The remaining 93 seats are distributed through a nationwide proportional system among candidate lists from parties passing a five per cent threshold.⁸ All unused votes from the majoritarian contest are allocated to the proportional contest provided that the five per cent threshold is met.⁹ The 13 recognized national minorities can choose to register for minority elections, which then excludes them from voting in the national list elections. The minority lists get a preferential threshold and attain a non-voting parliamentary spokesperson if they fail to win a seat. Some OSCE/ODIHR LEOM interlocutors see this as enhancing the visibility of minorities in public life. However, apart from minority issues, the spokespersons do not have the right to vote, a limitation that does not adequately reflect the principle of participation in political decision-making processes.

The constituency delimitation resolved previous inequality issues between the numbers of voters in different constituencies by providing that constituencies should not deviate more than 15 per cent from the national average.¹⁰ However, based on current voter registration figures, some constituencies do not respect this principle. The process of delimitation of constituencies was criticized by several OSCE/ODIHR LEOM interlocutors for lacking transparency and inclusive consultation. There were allegations of gerrymandering in the process, however it remains to be seen how this translates into results.

⁵ The Venice Commission Code of Good Electoral Practice, Paragraph 2.2.b provides that “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election”; see at [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf). See also Existing Commitments for Democratic Elections in OSCE Participating States, paragraph 3.2, at <http://www.osce.org/odihr/elections/13957>.

⁶ A court sentence may include up to 10 years of further disenfranchisement after release from prison.

⁷ According to paragraph 24 of 1990 OSCE Copenhagen Document “any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of the law.” Article 29 of the UN Convention on the Rights of Persons with Disabilities provides that “States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others.”

⁸ The threshold is 10 per cent for lists with two parties and 15 per cent for lists with more than two parties.

⁹ Unused votes include votes cast for candidates, who did not win a constituency seat, and those obtained by the winning candidate over and above the total votes of the candidate with the second largest vote share in the constituency plus one.

¹⁰ The Code of Good Practice in Electoral Matters of the Venice Commission, paragraph 2.2, provides that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances”.

Election Administration

The elections are administered by a three-tiered election administration: the National Election Commission (NEC), 106 Constituency Election Commissions (CoEC) and 10,386 Polling Station Commissions (PSC). A parallel set of election offices act as secretariats for the commissions, including the National Election Office (NEO), 97 Constituency Election Offices (CoEO) and 1,297 Local Election Offices (LEO). For voting abroad, 97 PSCs were established at diplomatic representations.

The NEC consists of seven members proposed by the president and elected for nine-year terms by the parliament.¹¹ In addition, each of the 18 national lists registered to contest these elections could appoint a temporary NEC member with full voting rights; 14 used this opportunity. National minority lists appointed 5 additional commissioners, who could only vote on national minority issues. Of 21 commissioners 6 are women.

The NEO is a government agency responsible for preparing and conducting the elections. Its head is appointed by the president for a nine-year term based on a proposal from the prime minister. The CoECs and PSCs consist of three members elected by local governments as proposed by the head of the CoEOs and LEOs respectively. In addition, each candidate in the constituency was entitled to appoint one member to the respective CoEC and two members to the respective PSCs.¹² The election administration met all legal deadlines and generally carried out their work in an efficient and organized manner. Each level of the administration provided training to lower levels.

The NEC conducted its work in an efficient manner with its sessions open to the public and decisions published on its website. However, in the current political context, the process of appointing permanent NEC members resulted in a partisan commission. Decisions were generally proposed by the NEO. Most decisions were adopted unanimously without debate, while issues of substance were rarely addressed. This dynamic changed when more members were appointed to the NEC and the Supreme Court began to overturn some NEC decisions.

A limited amount of voter education was implemented by the election administration including television spots and posters for polling stations. Given the scale of changes to the election process, the authorities did not provide sufficient information on elements such as the new candidate nomination process and the national minority election process. Some minority self-governments independently organized voter education on the minority elections within their communities.

Voter Registration

The central voter register is extracted from the population register and is maintained by the NEO. Citizens with a permanent address in Hungary and who are over 18 are eligible to vote on election day, as are married citizens who are 16 years or older, upon their request. The number of eligible voters for this election was 8,244,957. The NEO also maintains the register of those disenfranchised.

Voters were provided with ample opportunity to view the voter lists at LEOs and make amendments at the LEOs and online until 4 April. If a polling station was not accessible to a voter, she or he

¹¹ The NEC commissioners are elected by a two-thirds majority of parliament. If such a majority is not received, the current commissioners remain. The current NEC will also administer at least the next two parliamentary elections. Previous legislation set the mandate to four years.

¹² A total of 40,854 party delegates were appointed to PSCs. As such, each polling station could be scrutinized by at least two opposing parties. These party representatives could assist in the voting and counting process.

could register for an accessible one within the constituency. In a positive new development, the visually impaired could apply for braille materials to vote independently. Mobile voting was available for voters with disabilities, for health reasons or for those in detention. Citizens could also request to vote in a designated polling station in a constituency other than where they are registered. On 4 April, the NEO computer system was overloaded with some 25,000 requests. This caused a website slowdown that some voters claim blocked them from registering to vote as absentee.

A few weeks before the elections, the NEC was notified that data obtained on candidate signature sheets could be used by persons other than the voter to alter a citizen's voting place by requesting absentee or out-of-country voting or registering as a minority voter. The NEC partially addressed this on 27 March by requiring that notifications of changes to a voter's registration be sent to the voter's permanent address immediately. As well, the polling station where the voter was originally registered was to have information on affected voters offering details on where they could then vote.

The Election Procedures Act relaxed the registration requirements of non-resident voters abroad, while those voters abroad with residence in Hungary had to submit registration data exactly matching official records. Some 26,643 citizens with permanent residence in Hungary who were out of the country on election day registered with the NEO and could vote for both contests. Some 197,007 new citizens abroad without in-country residence could only vote for the proportional contest. The list of non-resident voters is not public which led to allegations of manipulation. The authorities stated that this is intended to protect Hungarian citizens in countries prohibiting multiple citizenships.

Voters living abroad without permanent residence in Hungary can vote in the elections by post, as well as by other means.¹³ In contrast, voters that are abroad but retain residence in Hungary can only vote in person in diplomatic representations. Several OSCE/ODIHR LEOM interlocutors expressed serious concern about the different voting procedures for out-of-country voters and about the security of postal voting.¹⁴ The vastly different voting procedures for the two types of voters abroad undermined the principle of equal suffrage and were perceived as an attempt to differentiate rights on partisan grounds.¹⁵

Registration of Candidates

Candidate registration was inclusive. Candidates could run in single-member constituencies and on national lists concurrently. In each single member constituency, a candidate had to collect at least 500 signatures from eligible voters in that constituency. The new legislation allowed voters to sign in support of more than one candidate.

The CoECs registered 1,531 candidates, of which 395 were women. Only two political parties have gender quotas. A total of 849 candidates were rejected, mostly because they did not collect enough support signatures. Several CoECs confirmed that a number of parties had suspiciously similar voter data on their signature sheets, which may have led to some candidates obtaining registration in this manner.¹⁶ Police are investigating a number of such cases; however no parties were removed from the registration process. These issues negatively affected voters' perception of the nomination

¹³ Voters can mail their ballot to the NEO, or deliver it in person or by proxy to a diplomatic mission or a CoEO.

¹⁴ Ballot packages were mailed to any address requested, including within Hungary.

¹⁵ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that "the participating States will ... guarantee universal and equal suffrage to adult citizens".

¹⁶ Some CoECs confirmed to the OSCE/ODIHR LEOM that they could not investigate these matters. The nominations were verified based on the identification number of the signatory and not based on actual signatures.

process.¹⁷ Fines were imposed on signature sheets returned late or lost.¹⁸ While these fines were justified by data protection concerns, data collected on these sheets could be copied at any time.

A national list was registered by the NEC if the nominating organization had at least 27 candidates in 9 or more counties as well as in Budapest. Of the 31 lists submitted to the NEC, 16 single party and 2 joint party lists were registered with a total of 1,610 candidates, including 379 women.¹⁹

National minority self-governments could submit candidate lists that appear on separate ballots for national minorities. They had to collect support signatures from at least 1 per cent of the voters included in the minorities register as of 17 February, but no more than 1,500 signatures. All 13 minorities registered with a total of 99 candidates, including 42 women.

Campaign Environment

The campaign officially began on 15 February 2014. There is no campaign silence period, however on election day campaign activities are prohibited within 150 meters of a polling station. The campaign was dominated by four political forces: Fidesz-KDNP; the alliance of the Hungarian Socialist Party (MSZP), Together Party for a New Era (*Együtt* 2014), Dialogue for Hungary (PM), Democratic Coalition (DK) and Hungarian Liberal Party (MLP); the Movement for a Better Hungary (Jobbik); and to some extent LMP (Politics Can Be Different). Rallies, billboards, political advertisements in the print media, leaflets, door-to-door canvassing, street campaigning across the country and social media were the primary campaign tools. The tone of the campaign was dominated by alleged corruption cases at the expense of discussion on substantive issues.²⁰ In addition, some OSCE/ODIHR LEOM interlocutors expressed sentiments of fear of losing their employment due to their political affiliation.

The government has been conducting a “*Hungary is performing better*” campaign since March 2013. It then sold Fidesz the rights to use this slogan for EUR 640, after which the government and Fidesz ran similar campaigns.²¹ On 18 March 2014 the Supreme Court ruled that the government campaign was political advertising and overlapped with the Fidesz campaign in content and form.²² Several Fidesz-governed municipalities campaigned in favour of the ruling party.²³ The government’s campaign on behalf of Fidesz is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document, which calls for a clear separation of State and political party.²⁴ Several non-governmental organizations (NGOs) were involved in the election campaign, with billboards targeting some electoral contestants.

¹⁷ Several NGOs called for voters to verify with the LEOs if nominations were made in their name. The National Authority for Data Protection and Freedom of Information stated that such information is not stored digitally.

¹⁸ The fine for lost sheets or late submission is approximately HUF 50,000 (EUR 160) per sheet. More than 200 fines were issued, with one party being fined HUF 651,427,000 (some EUR 2,100,000) in total.

¹⁹ A total of 13 lists were denied registration; 12 failed to reach the 27 candidates required and 1 list had the required number of counties, but failed to secure registration in Budapest.

²⁰ Throughout the campaign the media primarily reported on the arrest of Gabor Simon, a former MSZP deputy chairman, on charges of corruption.

²¹ According to government officials, cost of this campaign in 2013 - 2014 was approximately EUR 4.5 million.

²² The appeal was filed by *Együtt* 2014 against TV2 for violating the law by broadcasting campaign advertising. The Supreme Court prohibited TV2 to further broadcast the spot. According to the Fundamental Law private media are not allowed to broadcast paid political advertisements (see section on media).

²³ OSCE/ODIHR LEOM long-term observers reported on the use of municipality funded media outlets to campaign in favour of Fidesz. This occurred for example in Budapest and Nyiregyhaza municipality.

²⁴ Paragraph 5.4 of the 1990 Copenhagen Document provides for “a clear separation between the State and political parties; in particular, political parties will not be merged with the State.”

Even though the campaign intensified at the beginning of March, apart from Budapest it remained low-key overall and almost indiscernible in rural areas. The majority of campaign billboard spaces were rented by Fidesz. Prominent billboard companies maintain close business ties to this party. Female candidates were hardly visible, and the contestants did not specifically address gender equality issues in their programmes. Opposition parties and candidates had limited access to broadcast media and outdoor advertising space, contributing to an uneven playing field. This restricted voters' access to information and thus potentially their ability of making an informed choice.

Campaign Finance

Several legal acts regulate campaign finance, however they lack basic requirements for a transparent system. The 2013 Campaign Finance Act regulates state support and spending limits but only establishes limited reporting requirements for electoral contestants. Private donations to parties and party candidates are regulated by the Act on the Operation and Financial Management of Political Parties. The legislation does not regulate third party campaigning, donations to independent candidates, nor does it limit private donations.²⁵ It also does not require separate bank accounts for campaign purposes.

The legislation does not provide for equal treatment between candidates and parties receiving state support. Candidates that receive state funds are held accountable and required to pay back the funds if they do not obtain at least two per cent of the votes cast in the constituency. However, such obligations do not exist for political parties that receive state support.

The financial activities of contestants and other entities involved in the campaign are not monitored during the campaign by any regulatory body. Contestants must publish financial reports only after the elections. Parties that win seats are audited by the State Audit Office (SAO) within one year of the elections.²⁶ This timeline is at odds with international good practice.²⁷ The bulk of campaign expenses were allotted to outdoor advertising. However, price lists for billboards were not publicly available and therefore real costs remain unknown.

Activities of NGOs participating in the campaign are not regulated by the election legislation. The campaign organized by Civil Unity Forum (COF), affiliated with Fidesz was estimated by some OSCE/ODIHR LEOM interlocutors to cost some EUR 1.5 million. This circumvents campaign finance regulations. In the last week of the campaign a "peace march", organized by COF, turned into a large party rally. This also contradicts a Council of Europe Recommendation, which provides that any support to electoral contestants from NGOs should be subject to legislation on funding of elections and political parties.²⁸

Media

The media environment is characterized by a significant number of broadcast and print outlets, mostly publicly associated with either the right or left of the political spectrum. Political pluralism

²⁵ Only donations over HUF 500.000 (EUR 1,600) must be disclosed in party annual reports. Paragraph 6 of the OSCE/ODIHR and Venice Commission Guidelines and Report on the Financing of Political Parties states that a "maximum level for each contribution should be envisaged." See <http://www.osce.org/odihr/37843>.

²⁶ The SAO can audit the parties not represented in parliament only upon request of other contestants.

²⁷ Paragraph 200 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation provides that: "Reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections"; see at <http://www.osce.org/odihr/77812>.

²⁸ See Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, <https://wcd.coe.int/ViewDoc.jsp?id=1194609>.

is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with Fidesz and by the allocation of state advertising to these media outlets. There are few independent media outlets. However, independent news sources are available on the Internet and contribute to pluralism in the public sphere. Journalists critical of the government stated to the OSCE/ODIHR LEOM that the potential withdrawal of state or private advertising threatens the economic viability of media outlets and results in self-censorship.

The lack of critical reporting on television about the government is exacerbated by a lack of independence of the public broadcaster MTVA (Public Service, Media Support and Asset Management Fund). Legislation adopted in 2010 does not guarantee the financial and editorial independence of MTVA. The Director Generals of all public service media, including the National News Agency (MTI), are nominated by the Media Council, part of the newly established media supervisory body. The Media Council is appointed by a two-thirds majority in parliament. Furthermore, the law foresees MTI as the exclusive news source for all public service broadcasters.

Journalists stated to the OSCE/ODIHR LEOM that the absence of cross-party balance within the Media Council and its significant sanctioning power create fear of arbitrary interference.²⁹ Furthermore, there is a lack of legal certainty due to unclear provisions of what constitutes “balanced coverage” in broadcast news. The Media Council has yet to decide on a Jobbik complaint, filed on 25 March, on the lack of “balanced coverage” on National Remembrance Day.³⁰ However, on 27 March the NEC ruled that the commercial TV channel ATV and the newspaper Népszabadság could not hold a debate for prime ministerial candidates without inviting Jobbik. On 1 April, this decision was upheld by the Supreme Court on the grounds that this debate was considered a campaign method “capable of influencing ... choices.” In this case the NEC and the Supreme Court took decisions on editorial content although the sole jurisdiction on this is vested with the Media Council.³¹ No debates took place between prime ministerial candidates.

MTVA adhered to its legal obligation to provide for 600 minutes of free airtime on each public broadcaster, divided among the candidate lists. However, constitutional provisions permitting commercial TV stations to air only unpaid political advertising led to a *de facto* absence of political advertising on commercial TV with nation-wide coverage. However, government advertisements were broadcast on television, propagating the same slogan as Fidesz until 18 March.³² In the current media environment, the absence of other political advertisements on nationwide commercial TV, combined with a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media, contrary to paragraph 7.8 of the 1990 OSCE Copenhagen Document.³³

²⁹ The Media Council has wide powers to impose sanctions for infringement of any media regulations. In addition, it is the implementing body, acting upon complaints, for content provisions. Fines have to be paid before possible legal review. According to Council of Europe standards the sanction regime lacks proportionality and legal certainty; see http://hub.coe.int/c/document_library/get_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227.

³⁰ The deadline for the Media Council to decide upon complaints can be extended to 23 days, which is too long to provide effective remedies in a 50-day campaign period. The Media Council informed the OSCE/ODIHR LEOM that in 2014 it received five other complaints on the “balanced coverage” provision, of which four were filed by Jobbik. Four complaints were rejected and one refused on formal grounds.

³¹ On 4 April the NEC fined TV2 HUF 5,075,000 (approximately EUR 16,600) for not covering Jobbik in a news program.

³² These advertisements formed a total of almost three hours on four channels monitored by the OSCE/ODIHR LEOM. TV2 did not fully comply with the Supreme Court decision against the channel. The laws do not establish sanctions for noncompliance.

³³ Paragraph 7.8 of the 1990 Copenhagen Document requires 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.”

On 11 March, the OSCE/ODIHR started qualitative and quantitative media monitoring analysis of the campaign coverage, including five newspapers and five TV channels.³⁴ OSCE/ODIHR media monitoring results show that three out of the five monitored TV stations, including the public TV M1, displayed a significant bias towards Fidesz in their news programs. Almost all of the Fidesz campaign was covered in a positive tone. More than half of the coverage of the opposition alliance was negative, although M1 gave a higher amount of coverage to the opposition alliance.³⁵ On M1, 83 per cent of the coverage of the opposition alliance was negative and 87 per cent of coverage of the Fidesz campaign was positive. Hir TV and TV2 covered the opposition alliance with 76 per cent and 55 per cent, respectively, mostly in a negative tone. RTL Klub devoted more positive coverage to the opposition alliance and more negative coverage to Fidesz; however, the amount of campaign coverage on RTL was limited.

Complaints and Appeals

A total of 914 complaints and appeals were dealt with by the NEC within the legal deadlines. At least 60 per cent were rejected on formal grounds. Any technical mistake in complainants' applications led to rejection with no possibility for redress. The majority of decisions appealed to the Supreme Court and the Constitutional Court were also dismissed on formal grounds, largely without being examined on the merits.³⁶ The rejections of complaints on formal requirements often left complainants without effective consideration of their claims, which is at odds with paragraph 5.10 of 1990 OSCE Copenhagen Document.³⁷

Some cases decided by the courts contradicted legislation and led to legal uncertainty. Two important cases were rejected by the Constitutional Court on the ground that complainants were not directly affected. One such case concerned the unequal treatment of voters abroad, and the second case argued that the electoral rights were violated by restricting the posting of posters by governmental decree, contrary to the Election Procedures Act. The Supreme Court provided a divergent judgment on this issue by upholding one case, while overruling the other by stating that only the Election Procedures Act can regulate political advertising and that campaign posters can be placed on lampposts. This judgment was not fully enforced.

Since mid-February, police received some 100 requests for criminal investigations, of which at least 30 alleged falsification or misuse of personal data from signature support sheets. Provided that the investigation can take up to two years, timely and effective redress within the electoral timeframe might not be provided.

Participation of National Minorities

The right of national minorities to vote for a national minority list is a positive measure and can provide minorities with enhanced representation in the parliament. However, some restrictions exist, including that in order to vote in national minority elections, national minorities must register

³⁴ The media outlets monitored are: M1 ATV, *Hír*, RTL Klub and TV2. The monitored print media include *Blikk*, *HVG*, *Magyar Nemzet*, *Metropol* and *Népszabadság*. The monitoring started on 11 March and ended on 6 April. Data in this report covers the period until 4 April inclusive.

³⁵ M1 devoted 51 per cent of its campaign coverage in news programs to the Alliance while Fidesz received 41 per cent. Other contestants received significantly less coverage. The figures refer to the coverage of the campaign of political actors, excluding institutional coverage.

³⁶ Complaints were refused on the grounds of giving wrong information or for not giving personal ID numbers, for providing old party addresses, or not being filed by a legal representative.

³⁷ Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity."

to vote as a national minority and thus choose between the national minority list proposed by the national minority self-government or the national list. Given that only one option was available on their ballots, their choice was limited and their secrecy of the vote was violated.³⁸ The election of the minority self-governments predates the Election Act. Hence these voters were not aware that these bodies would be given the competence to form the national minority lists. Some in the Roma community disagreed with the role given to their minority self-government and set up the Hungarian Roma Party (*Magyarországi cigánypárt*) to compete in the national list elections.

Unless such voters choose to remove themselves from the register, the information on their ethnic affiliation is retained on the permanent voter register, a change minorities have not been informed about nor asked for explicit consent.³⁹ Several election bodies and other authorities responsible for protecting such data showed a lack of awareness regarding these procedures. This raises concerns about the protection of individuals with regard to the processing of their personal data as set out by international standards.⁴⁰

National minority issues have been largely absent from the campaigns. In recent years, patterns of anti-Roma violence by extremist organizations and individuals, together with widespread anti-Roma rhetoric, created an atmosphere of fear among the Roma community.

Citizen and International Observers

Despite previous OSCE/ODIHR recommendations, the law does not provide for citizen non-party observers. However, organizations nominating candidates have the right to appoint members to the NEC. They may also appoint up to five observers to work alongside the NEO to verify postal voting procedures, except those nominating national minority lists. Political entities registered within each constituency could appoint PSC representatives. In a positive development, the Election Procedures Act now allows for international observers, who may observe the entire process.

Election Day

Election day procedures were generally conducted in an organized and transparent manner. In the limited number of polling stations visited by international observers, PSC members seemed knowledgeable about voting procedures. A number of polling stations dedicated to absentee balloting had significant lines and insufficient space to deal with large numbers of voters. Some reportedly had lines over an hour in length, though voters seemed to remain patient. While not prohibited by law, in several instances international observers noted voters completing their ballot outside of polling booths, thus compromising the secrecy of their vote. In some other cases, couples voting together behind the voting screen were noted. The limited number of counting and tabulation processes where international observers were present was carried out in an orderly manner. The NEC began posting preliminary results on its website on election night, broken down to the polling station level. The announced voter turnout for the elections in in-country polling stations was 60.9 per cent.

***The English version of this report is the only official document.
An unofficial translation is available in Hungarian.***

³⁸ Also the Joint Opinion of the OSCE/ODHIR and the Venice Commission on the electoral code which noted that this “limits the choice of minority voters in the proportional race on election day, especially when there is only one list competing for the vote of the respective minority.” <http://www.osce.org/odihr/91534>.

³⁹ A total of 35,289 were registered as minority voters.

⁴⁰ See Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such Data, available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31995L0046>.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Budapest, 7 April 2014 – The OSCE/ODIHR LEOM opened in Budapest on 5 March. It includes 12 experts in the capital and 10 long-term observers deployed throughout Hungary.

In line with OSCE/ODIHR's standard methodology for LEOMs, the mission focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day. The observers visited a limited number of polling stations around the country on election day, although observation was not conducted in a comprehensive fashion. On election day, 75 observers were deployed, including 48 parliamentary observers from the OSCE PA, and 27 long-term observers and experts from the OSCE/ODIHR. In total, there were observers from 32 OSCE participating States.

The observers wish to thank the authorities for their invitation to observe the elections and the NEC and the Ministry of Foreign Affairs for their assistance. They also express their appreciation to other state institutions, political parties, civil society organizations and international community representatives for their co-operation.

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