



Office for Democratic Institutions and Human Rights

**HUNGARY**  
**PARLIAMENTARY ELECTIONS**  
**8 April 2018**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT**

**29 January to 1 February 2018**



Warsaw  
23 February 2018

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**HUNGARY**  
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**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an official invitation to observe the upcoming parliamentary elections scheduled for 8 April 2018 and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 29 January to 1 February. The NAM included Alexander Shlyk, Head of the ODIHR Election Department, Ulvi Akhundlu and Tamara Otiashvili, ODIHR Election Advisers.

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

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

**II. EXECUTIVE SUMMARY**

Hungary is a parliamentary republic with legislative power vested in the unicameral parliament and executive power exercised by the government, led by the prime minister. Out of 199 members, 106 will be elected from single-member constituencies under a one-round majoritarian system and the remaining 93 members under a nationwide proportional system.

The political landscape is dominated by the governing coalition, which retained its support despite losing the two-thirds majority in the 2015 by-elections. The government has received criticism from the European Commission on actions taken towards civil society. ODIHR NAM interlocutors opined that an increased number of court cases with the European Court of Human Rights reflects the current state of the rule of law.

While the legal framework remains largely the same as in previous elections, some changes were made in 2014 pertaining to candidate registration and public funding of election campaigns. The ODIHR NAM was informed on other draft proposals which failed to secure the two-thirds majority required for the adoption of cardinal laws. Interlocutors that the ODIHR NAM met with opined that the legal review would have benefited from consideration of previous ODIHR recommendations and recognized the need for continued electoral reform.

The National Election Office (NEO) supervises the administrative part of the elections, while the National Election Commission (NEC) primarily oversees compliance with the law by election commissions and electoral contestants. They are supported by the lower-level offices and commissions. Despite an appointment mechanism that is perceived as partisan, ODIHR NAM

interlocutors expressed general trust in the ability of both bodies to organize elections professionally and transparently.

Voter registration is passive and voter lists are extracted from a central voter register maintained by the NEO. Every citizen over 18 years of age by election day with a residence in Hungary is automatically included in the register. Citizens without residence in Hungary, or those wishing to vote for the national minority list, have to actively register their interest or preference to vote with the NEO. While no major concerns were raised in respect of the accuracy of the voter register, some ODIHR NAM interlocutors opined that the voter registration process abroad lacks sufficient safeguards and could potentially lead to multiple registrations and abuse, including for postal voting.

The right to stand as a candidate is granted to every citizen with voting rights. A candidate may run in a single-member constituency and on a national list concurrently. Some ODIHR NAM interlocutors raised concerns on the timing of adoption and the interpretation of the NEC guidelines on the required number of candidates on constituency lists. Nevertheless, all political parties that the ODIHR NAM met with expressed confidence in the candidate registration process and did not raise major concerns.

The official campaign period starts 50 days before election day and continues until the end of election day. Campaign is expected to focus on migration, socio-economic matters, fight against corruption, and relations with the European Union. Parties that the ODIHR NAM met with generally did not raise issues regarding the ability of candidates to campaign freely, although expressing concerns about biased coverage of the campaign by all media and limited availability of billboard space for all parties except two. Some ODIHR NAM interlocutors anticipated pressure on voters and vote-buying, specifically targeting vulnerable groups, such as the Roma.

The regulatory framework for campaign finance remains unchanged bar one change which decreases the threshold from two to one per cent for returning public funds when a candidate or a nominating organization is not elected. ODIHR NAM interlocutors welcomed this change as a safeguard against registration of lists of those parties established primarily to receive financial assistance. Fines were recently imposed by the State Audit Office on prominent opposition parties for violation of campaign finance rules and were assessed by ODIHR NAM interlocutors as politically motivated.

Formally, a significant number of electronic and print media outlets provide for diversity in the media landscape. ODIHR NAM interlocutors opined that while media freedom generally allows for a broad range of views, it is often influenced by the concentration of media ownership in the hands of business groups aligned with the governing coalition. ODIHR NAM interlocutors noted the overall lack of critical reporting that could offer the public balanced analyses of candidate platforms and views. While paid political advertising is banned on commercial broadcasters, several broadcasters intend to air political advertisements free-of-charge along with the public broadcaster that is obliged to do so.

Overall, the ODIHR NAM interlocutors noted that the presence of an ODIHR observation activity could help enhance public confidence and improve the electoral process. In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. While most of ODIHR NAM interlocutors expressed general confidence in the electoral administration, they raised particular concerns with regard to the interpretation and implementation of the legal framework, some aspects of the campaign, including possible voter intimidation and vote-buying, media coverage of the elections

and the effectiveness of the complaints and appeals process. The ODIHR NAM interlocutors did not raise serious concerns regarding the conduct of election day proceedings.

Based on the findings of this report, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to assess the 8 April parliamentary elections. In addition to a core team of experts, the ODIHR NAM will request the secondment of 10 long-term observers from OSCE participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR's standard methodology, the LEOM would include a media monitoring element.

### III. FINDINGS

#### A. POLITICAL BACKGROUND

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 four-year term, with a two-term limit.

In the 2014 parliamentary elections, the Hungarian Civic Union (Fidesz), together with the Christian-Democratic People's Party (KDNP), won 133 out of 199 mandates and formed a coalition government, securing the two-thirds majority. Viktor Orbán, leader of Fidesz, was subsequently elected prime minister. The remaining seats were distributed among the Hungarian Socialist Party (MSZP), the Movement for a Better Hungary (Jobbik) and Politics Can Be Different (LMP). Despite internal conflicts and corruption allegations that followed the 2014 elections, the governing party regained much of its support during the European 'migration crisis' in the summer of 2015, when Prime Minister Orbán announced the construction of a fence along the southern border with Serbia. The governing coalition remains dominant even though it lost its two-third majority as the party suffered defeats at two parliamentary by-elections in February and April 2015.

In October 2016, a controversial referendum was held on the ability of the European Union (EU) to resettle migrants in Hungary without the Hungarian parliament's approval. Although the turnout in the referendum was below the 50 per cent threshold necessary for its validity, due to a successful opposition campaign, the cabinet, referencing an overwhelming support by those who cast their ballots, decided to submit a constitutional amendment to the parliament. The amendment would have enshrined in the constitution that "foreign population cannot be settled in Hungary." The motion, however, failed after Jobbik voted against it.

Following the referendum, government rhetoric toward civil society grew increasingly antagonistic, and, on 13 June 2017, the parliament introduced new restrictive provisions regulating the operation of foreign funded non-governmental organizations (NGO Law). On 4 October 2017, the European Commission started legal proceedings against Hungary for "failing to fulfil its obligations under the Treaty provisions on the free movement of capital, due to provisions in the NGO Law which indirectly discriminate and disproportionately restrict donations from abroad to civil society organizations."<sup>1</sup>

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<sup>1</sup> See the European Commission [Press release](#). Prior to this, the Commission sent a formal notice on 14 July 2017.

On 18 January 2018, the government launched additional amendments to three laws.<sup>2</sup> If adopted, organizations that receive foreign funding would be required to register at court as such, acknowledging such “illegal” activity. Any income from foreign sources received for “supporting illegal migration” for organizations that register would be subject to a 25 per cent tax.

ODIHR has observed four parliamentary elections in Hungary since 1998.<sup>3</sup> Most recently, ODIHR deployed a Limited Election Observation Mission (LEOM) for the 7 April 2014 parliamentary elections. The final report included a number of recommendations for the authorities on how the electoral process may be improved and brought more closely in line with OSCE commitments.<sup>4</sup>

## B. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the Fundamental Law (Constitution), the Act on the Elections of Members of Parliament, the Act on Election Procedures, and the Act on the Transparency of Campaign Costs related to the Election of the Members of the Parliament. These are supplemented by other acts and non-binding guidelines of the National Election Commission (NEC).

In 2014, the Act on Election Procedures was amended mainly with regard to candidate registration provisions, and the Act on the Transparency of Campaign Costs related to the Election of the Members of the Parliament in what concerns public funding of election campaigns. The ODIHR NAM was informed about other draft proposals that failed to secure the two-thirds majority required for the adoption of cardinal laws.<sup>5</sup> The Ministry of Justice informed the ODIHR NAM that the adopted legislation, as well as drafts, were made public for possible comments and suggestions.<sup>6</sup> Interlocutors of the ODIHR NAM opined that the legal review would have benefited from consideration of previous ODIHR recommendations and recognized the need for continued electoral reform. The ODIHR NAM was informed that several legislative proposals and legal analyses put forward by civil society organizations have not been addressed by parliament or government agencies.

The legal framework pertaining to election dispute resolution remains the same, including the absence of public hearing in case of appeals to the Supreme Court.<sup>7</sup> Judges that the ODIHR NAM met with noted that short deadlines for election-related cases would make it impossible to decide on cases in open session, hence an administrative procedure is used for such cases. Transparency is ensured by simultaneously communicating decisions to the parties concerned and uploading them online. To speed up the adjudication process, both the Constitutional Court and the Supreme Court have introduced a signalization system, which electronically informs each judge of an assigned case and relevant supporting documents for adjudication.

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<sup>2</sup> These are the draft Law on the Social Responsibility of Organisations Supporting Illegal Migration; the draft Law on Immigration Financing Duty and the draft Law on Immigration Restraint Order.

<sup>3</sup> See [previous ODIHR election reports](#) on Hungary.

<sup>4</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

<sup>5</sup> The governing coalition lost the two-thirds majority following the 2015 by-elections in three constituencies.

<sup>6</sup> The current public consultation process is regulated by the 2010 Law on the participation of the community in the preparation of laws, according to which draft laws must be made available to the public and put to debate and discussion with the broader community, with the exception of specific laws where information is classified.

<sup>7</sup> Paragraph 12 of the 1990 OSCE Copenhagen Document provides that “proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.”

## C. ELECTORAL SYSTEM

Parliament is elected under a mixed electoral system. Of 199 seats, 106 are elected through one-round majoritarian contests from single-member constituencies. The remaining 93 seats are elected through a nationwide proportional system provided that a party passes a threshold of 5 per cent, 10 per cent in case of a joint party list, and 15 per cent if more than two parties form a joint list. The votes for candidates who did not win a seat in the majoritarian contest, as well as the votes obtained by winning candidates beyond the 50 per cent plus 1 threshold required to win, are allocated to the proportional contest. A number of ODIHR NAM interlocutors pointed out that the electoral system heavily favours the winning party.

The 13 recognized national minorities can choose to register for ‘minority elections’, which then excludes them from voting in the national, proportional-list elections. National minority lists enjoy a preferential threshold and receive a non-voting parliamentary spokesperson should they fail to win a seat.<sup>8</sup>

Constituency boundaries were not amended for these elections. The National Election Office (NEO) informed the ODIHR NAM that it made a proposal to the parliament to establish a commission to review boundaries; however, this proposal was not adopted due to the lack of a two-thirds majority. Nevertheless, the NEO opined that there are only small deviations from the legally required 15 per cent as there was no remarkable internal migration since 2014.

## D. ELECTION ADMINISTRATION

The parliamentary elections are administered by two administrative structures: a three-level system of election commissions supported by a parallel set of election offices, acting as secretariats of the commissions. The NEC is a permanent body, comprising a president and six members, appointed for a nine-year term by a two-thirds majority of the parliament.<sup>9</sup> In addition, parties contesting the elections can each appoint one member with full voting right.<sup>10</sup> The 106 Constituency Election Commissions (CoECs) and approximately 10,300 Polling Station Commissions (PSCs) each include a chairperson and two members, elected by local governments upon nominations from the heads of the respective election offices. The same principle of extending the commission composition applies to the CoECs and PSCs.<sup>11</sup>

The NEC is responsible for the overall conduct of the elections, including registering nominating organizations for national lists, deciding on complaints, issuing non-binding guidelines to other commissions, and establishing final election results. There are two women among the NEC’s permanent members. CoECs are responsible for registering candidates running within the single mandate constituencies and deciding on complaints regarding decisions and actions of the PSCs.

The responsibility for the actual preparations and conduct of the elections is vested with a three-level structure of electoral offices, including the NEO, 97 Constituency Election Offices (CoEOs) and some 1,280 Local Election Offices (LEOs). The NEO is an autonomous government agency

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<sup>8</sup> The first candidate on a national minority list is entitled to become a parliamentary spokesperson.

<sup>9</sup> The NEC, in its current composition, was appointed in September 2013, when the governing coalition held a two- third majority in parliament.

<sup>10</sup> National minority lists can each appoint an additional commissioner who can only vote on national minority issues.

<sup>11</sup> The majoritarian candidates are entitled to appoint one member to the respective CoEC and two members to each of the respective PSCs.

and has a wide range of responsibilities in administering the elections.<sup>12</sup> The head of the NEO is appointed by the president based on a proposal from the prime minister for a nine-year term. The head appoints up to three deputies and together they manage electoral offices at all levels. At the local level, LEOs support voting in PSCs across the country. In response to a number of grievances from voters abroad, the number of PSCs in diplomatic representations has increased from 97 to 117.

The NEO informed the ODIHR NAM that election preparations were ongoing, including logistical arrangements, voter education campaigns, and training for election officials. Specific efforts will be undertaken to facilitate voting for persons with disabilities. A comprehensive NEO website offers information for voters pertaining to the entire electoral process.

Several ODIHR NAM interlocutors noted that the current appointment mechanism for election commissions at all levels provides the governing coalition with a possibility to exercise influence over commissions ahead of the elections before political party representatives are appointed, potentially undermining their impartiality. Nevertheless, they expressed trust in the election administration's ability to organize elections professionally and transparently.

## **E. VOTER RIGHTS AND REGISTRATION**

The Constitution grants every adult citizen the right to vote, however, some limitations are imposed by the Act on Election Procedures. All citizens 18 years or older by election day (16 years in case of marriage) who have residence in Hungary have the right to vote. Disenfranchised are those with mental or intellectual disabilities, convicted of a crime, or subject to an additional punishment. Although following the 2013 amendments to the Constitution, only individuals convicted of a serious crime or found mentally incompetent by an individualized court decision are not eligible to vote, the disenfranchisement based on mental capacity remains overly restrictive and at odds with international obligations, which exclude any restriction upon the suffrage rights of such persons irrespective of the type of disability.<sup>13</sup> In addition, the current restrictions on prisoner and ex-prisoner voting rights have been assessed by the ODIHR as lacking proportionality.<sup>14</sup> The ODIHR NAM was informed by the NEC that there are currently around 76,000 citizens, who are ineligible to vote in these elections, including some 49,000 persons with mental disability and 27,000 prisoners.

Voter registration is passive and voter lists are extracted from the central voter register maintained by the NEO on the basis of the population register. Legislation provides for active registration of those voters abroad who do not have a registered residence.<sup>15</sup> These voters can apply directly to the

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<sup>12</sup> It acts as a secretariat for the NEC, maintains the central electoral register, provides information to the public and electoral contestants, trains polling staff at all levels and accredits international observers.

<sup>13</sup> Article 29 of the 2006 Convention on the Rights of Persons with Disabilities (CRPD) requires states to "guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others." See also, paragraph 9.4 of the 2013 CRPD Committee's Communication No. 4/2011 which stated that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, 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, within the meaning of article 2 of the Convention."

<sup>14</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," while paragraph 24 provides that "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." Paragraph 14 of the 1996 UN Human Rights Committee General Comment 25 on Article 25 of the International Covenant on Civil and Political Rights (ICCPR) states that "if a conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offense and the sentence."

<sup>15</sup> Voters abroad are required to actively update their records in the voter register once every 10 years.



NEO. While those voters abroad who maintain in-country residence can vote in both proportional and majoritarian contests, those without residence are only eligible for the proportional vote. The way voters abroad cast their ballot also varies. Those without in-country residence can vote by post or deliver the ballot in person or by proxy to a diplomatic and consular mission or a CoEO. In contrast, voters who are abroad but retain their residence could only vote in person at diplomatic missions. Although the NEO increased the number of polling stations abroad, a number of ODIHR NAM interlocutors opined that the different methods of voting disadvantage those voters who have to travel long distances to vote. In April 2016, the Constitutional Court found that different ways of voting for voters abroad was not discriminatory, including by making references to the European Court of Human Rights decision on inadmissibility of several complaints regarding alleged discrimination of certain categories of voters abroad.<sup>16</sup>

ODIHR NAM interlocutors generally expressed trust in the voter register and did not signal major concerns with its accuracy. However, some opined that the voter registration process abroad, including for postal voting, lacks safeguards and could potentially lead to multiple registrations and abuse.<sup>17</sup>

## F. CANDIDATE RIGHTS AND REGISTRATION

The right to stand as a candidate is granted to every citizen with voting rights. A candidate may run in a single-member constituency and on a national list concurrently. Parties wishing to nominate candidates in the single-member constituencies have to register as nominating organizations with the NEC. A candidate has to collect at least 500 signatures from eligible voters in a constituency. National minority self-governments can submit candidate lists that appear on a separate ballot for national minorities. They have to collect signatures from at least 1 per cent of the voters included in the minorities register, but no more than 1,500 signatures. There are no legal requirements to promote women and internal party policies to promote women candidates are limited.<sup>18</sup> The law sets restrictions on candidacy, disqualifying those who have a criminal record regardless of the crime committed and those subject to forced medical treatment.

Signatures are collected on forms approved by the NEO, which are then submitted to the respective CoEC by each nominating organization. A voter can support more than one candidate. The 2014 amendments to the Act on Election Procedure reduced the fine for non-submission of forms for signature collection from HUF 50,000 to 10,000 and waived it for not returning blank forms, which was previously sanctioned.<sup>19</sup> In addition, while voters have a right to request information on which candidate signature sheets contain their personal data, a complaint regarding implementation of this legal provision is pending with the Constitutional Court.

On 26 January 2018, the NEC adopted guidelines by which it interpreted the legal provision regarding the required number of candidates on a constituency list. According to the Act on Election Procedures, the deletion of the national list is possible only if the number of its majoritarian candidates falls below 27 at the time of registration. In order to set up the national list,

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<sup>16</sup> See the [Constitutional Court Decision No 3086/2016](#). This judgment also complied with the 2015 decision of the ECtHR in the case of *Vámos and others v. Hungary* where the court argued that having more-demanding voting requirements for expatriates is not discriminatory since they cast ballots both for candidates in electoral districts and for party lists unlike out-of-country voters without a permanent address, who only vote for party lists.

<sup>17</sup> Special ballot papers are printed for voters eligible to cast their ballot by post. The Act on Electoral Procedures spells out separate process for postal voting, including the deadlines for delivery of envelopes to different levels of election administration.

<sup>18</sup> Women's representation in the parliament currently stands at 10 per cent.

<sup>19</sup> The official exchange rate is HUF 306 for EUR 1.

an additional condition must also be fulfilled: at least 27 candidates from the nominating organization must run in at least 9 counties as well as in Budapest. According to the newly-issued guidelines, the constituency distribution of the candidates should be maintained throughout, otherwise the nominating organization will be deregistered. The NEC informed the ODIHR NAM that this interpretation was necessary to bring the Act on Election Procedure in conformity with provisions of the Act on the Elections of Members of Parliament of Hungary. The NEC also noted that it issued this interpretation following a question it received on the matter, and that the guidelines are not legally binding and only serve as a recommendation, and any specific decision based on the guidelines can be challenged in the Supreme Court.

Some ODIHR NAM interlocutors raised concerns regarding this interpretation, as well as the timing of its adoption.<sup>20</sup> Although a certain number of constituency candidates has always been a requirement for setting up national lists, several political parties assessed an interpretation of this requirement as applicable throughout the electoral period as politically motivated and aimed at preventing the opposition parties from coordinating their candidacies in majoritarian contests. Nevertheless, all political parties that the ODIHR NAM met with expressed confidence in the candidate registration process and did not raise other major concerns with registration requirements.

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

The official campaign period starts 50 days before election day and continues until the end of election day. There is no campaign silence period, but it is prohibited to actively campaign within 150 meters from a polling station on election day. As per the 2014 amendment to the Act on Election Procedure, a voter may seek assistance, but organized transportation for this purpose is prohibited to prevent multiple voting through the bussing of voters.

All ODIHR NAM interlocutors expect an active campaign conducted through small public meetings, door-to-door outreach, posters, billboards, and free advertisements in the media, as well as the active use of online and social media. Parties that the ODIHR NAM met with generally did not raise issues about the ability of candidates to campaign freely, however concerns were expressed about biased coverage of the campaign in all media and limited availability of billboard space for all parties except the two with favorable business connections. While the campaign has not yet started, it is expected to focus on migration, socio-economic matters, fight against corruption, and relations with the European Union. Some ODIHR NAM interlocutors anticipated pressure on voters and vote-buying, specifically targeting vulnerable groups, such as the Roma.

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

The Act on the Transparency of Campaign Costs Related to the Election of the Members of the Parliament regulates campaign finance, including public funding, campaign expenditure limits and reporting requirements. Private donations are regulated by the 2012 Act on the Operation and Financial Management of Political Parties. Contestants' campaigns can be financed from public and private sources. Donations from foreign sources are prohibited. A candidate can spend up to HUF 5 million during the campaign.

Every majoritarian candidate receives HUF 1 million in public campaign financing from the National Treasury Office (NTO). As per the 2014 amendment to the Act on the Transparency of Campaign Costs, nominating organizations and independent candidates have to return funds unless they receive one per cent of the vote.<sup>21</sup> ODIHR NAM interlocutors welcomed this change as a

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<sup>20</sup> At the time the guideline was adopted, the NEC did not have members from political parties.

<sup>21</sup> Previously the threshold of two per cent was applicable.

safeguard against registration of lists of those parties established primarily to receive financial assistance. In addition, each party having candidates nationwide is eligible to receive between HUF 150 million and 600 million depending on the number of candidates registered.<sup>22</sup> While public funding is monitored through the card issued by the NTO, there is no requirement for dedicated bank accounts for following third-party and individual donations. Campaigning by third-parties is not subject to campaign finance legislation. Previously, ODIHR recommended reviewing the regulatory framework for campaign finance to take into account all identified gaps and ambiguities, including those identified by the Council of Europe's Group of States against Corruption (GRECO).

The State Audit Office (SAO) and NTO are tasked with the overall supervision of campaign finance regulations. All contestants are obliged to submit to the SAO and NTO a report, accompanied by invoices, on campaign contributions, donations and expenditures no later than 15 days after the election results are published. Only donations over HUF 500,000 are disclosed in campaign finance reports. Possible third-party contributions, such as activities of non-governmental organizations and private individuals, are not subject to supervision by the SAO. There is no obligation to submit interim reports before election day.<sup>23</sup>

The legislation imposes penalties for failure to report or for exceeding the campaign spending limit. In addition, the SAO carries out the audit of political parties every two years within the framework of provisions of the Act on Political Parties on the accounting of contributions and donations. As a result, in January 2018, the SAO issued fines to the LMP in the amount of HUF 9 million, and for Jobbik in the amount of HUF 663 million for allegedly accepting "forbidden campaign contributions" in the form of heavily discounted office premises and campaign billboards, respectively. A number of ODIHR NAM interlocutors opined that this conclusion lacks legal basis and is politically motivated to make it impossible for Jobbik to effectively campaign in the months leading up to the elections. On 10 January 2018, the Ministry of National Development advised the SAO not to enforce its conclusion until after the elections. In addition, some ODIHR NAM interlocutors expressed concern that conclusion of the SAO do not fall under judicial review, contrary to the OSCE commitment.<sup>24</sup>

## I. MEDIA

Formally, a significant number of electronic and print media outlets provide for diversity in the media landscape. Most ODIHR NAM interlocutors noted the overall lack of critical reporting that could offer the public balanced analyses of candidate platforms and views. While television is the predominant source of news and information, especially in rural areas, the Internet, and social media, are increasingly utilized for political information, with the main newspapers developing online content. In addition, there are a number of print media, but their circulation is declining which, coupled with failing advertising revenues, has left newspapers weakened and vulnerable to both political and corporate pressure, particularly in the regions.

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<sup>22</sup> The maximum amount is calculated based on the total number of mandates at stake (199) multiplied by HUF 5 million. A party receives 15 per cent of the maximum amount if it nominates candidates in at least 27 constituencies, 30 per cent (at least 54 constituencies), 45 per cent (at least 80 constituencies), and 60 per cent (all constituencies).

<sup>23</sup> Article 7.3 of the 2003 UN 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".

<sup>24</sup> 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." Also, see section II.3.3b of the 2002 Venice Commission Code of Good Electoral Practice which recommends that "procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals."

The media landscape is dominated by private companies with high levels of foreign investment. According to the ODIHR NAM interlocutors, media freedom generally allows for a broad range of views, although it is often influenced by the concentration of media ownership of business groups aligned with the governing coalition. The limited advertisement market and extensive government spending on social advertising encourages media to avoid controversial subjects to maintain good relations with public and private advertisers. Concerns were also expressed with regard to the lack of editorial independence and self-censorship in both public and private media. Despite a prior ODIHR recommendation, defamation remains a criminal offence. ODIHR NAM interlocutors opined that the space for independent journalism was shrinking, with government exercising direct or indirect pressure over critical media.<sup>25</sup>

In June 2014, the parliament approved progressive taxation of up to 40 per cent on advertising revenue above 20 billion HUF. Media companies from all sides of the political spectrum condemned the legislation, with several leading newspapers and websites publishing blank pages and some television stations suspending broadcasting for 15 minutes in protest.

In addition, ODIHR NAM interlocutors expressed concerns about the suspension of the largest opposition newspaper, *Népszabadság*, in October 2016. While the owner of the newspaper cited financial losses for the decision to halt publication, government opponents and media experts, including the editorial staff of the newspaper, rejected the explanation, accusing the governing coalition of trying to control the print media.<sup>26</sup> The OSCE Representative on Freedom of the Media (RFoM) noted that the closure of the newspaper could further limit media freedom and pluralism in Hungary.<sup>27</sup>

Following the 2015 amendments to the Media Act, the four public service broadcasters have been consolidated into a single structure - *Duna Media Service* - which now operates as a sole public service broadcaster, funded entirely from the state budget. The public service broadcaster's political coverage was described by many ODIHR NAM interlocutors as government-leaning and unbalanced. Similar concerns were expressed about the *Hungarian News Agency*, which is the official source for all public media news content. ODIHR NAM was also informed that the Freedom of Information Act, amended in 2016, brought in restrictive changes, including the introduction of high fees for the expenses associated with managing information requests, and new grounds for refusing to respond to requests.

The Act on Election Procedures provides for a total of 600 minutes of free airtime on the Public Broadcaster, to be equally divided among the different candidate lists.<sup>28</sup> The Act bans paid political advertising on commercial broadcasters. However, private media can still choose to provide free-of-charge airtime to all electoral contestants on an equal basis. For these elections, several privately owned broadcasters, including the *RTL Klub*, intend to air political advertisements for free. Contestants can purchase political advertising in print media and online. Several ODIHR NAM

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<sup>25</sup> In September 2017, the pro-government news outlet *888.hu* published an article entitled "The List: Introducing Soros' foreign propagandists" which attempted to name-and-shame journalists who are allegedly in the employ of the American billionaire philanthropist George Soros and "discredit" Hungary in the eyes of the outside world. See also the [OSCE RFoM call](#) on the Hungarian authorities to ensure the safety of journalists covering the refugee crisis.

<sup>26</sup> The *Népszabadság* editorial team criticized the closure as a way of silencing criticism of the government, pointing out that it came days after the paper published stories with corruption allegations against Prime Minister's close allies and a scandal involving the governor of the central bank.

<sup>27</sup> See [Regular Report](#) to the Permanent Council by the OSCE RFoM.

<sup>28</sup> A total free airtime will be split equally between the national lists receiving 470 minutes and the national minority lists receiving 130 minutes.

interlocutors anticipated disproportionate coverage of incumbent candidates due to their institutional appearances.

Media regulation is under the supervision of the National Media and Info-communications Authority (NMHH). Its members are elected by a two-thirds majority in the parliament, and its president also chairs a five-person Media Council tasked with content regulation. The law gives the head of the NMHH the right to nominate the executive directors of all public media. The Media Council is tasked to monitor the implementation of the media-related provisions during the campaign and to monitor the broadcasters. However, it only acts upon complaints. ODIHR NAM interlocutors generally noted that the Council was partially effective in its oversight primarily because the media law lacks clarity on what constitutes “balanced coverage”.

## **J. ELECTION OBSERVATION**

Despite a previous ODIHR recommendation, the legislation does not provide for citizen non-partisan election observation. Nominating organizations, except those from national minorities, and independent candidates have the right to appoint commission members to the NEC, and may appoint up to five observers to work alongside the NEO and verify the voting documents and the legality of the ballot counting.<sup>29</sup> While the presence of observers from political entities at polling stations is not provided for, each political entity registered within the respective constituency may appoint up to two representatives to the PSC and all political parties that the ODIHR NAM met with stated their intention to do so. Nominating organizations are also entitled to deploy its representatives to the PSCs abroad. The legal framework provides for international election observers who may observe the entire process and may request copies of any documentation.

## **IV. CONCLUSIONS AND RECOMMENDATION**

Overall, the ODIHR NAM interlocutors noted that the presence of an ODIHR observation activity could help enhance public confidence and improve the electoral process. In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. While most of ODIHR NAM interlocutors expressed general confidence in the electoral administration, they raised particular concerns with regard to the interpretation and implementation of the legal framework, some aspects of the campaign, including possible voter intimidation and vote-buying, media coverage of the elections and the effectiveness of the complaints and appeals process. The ODIHR NAM interlocutors did not raise serious concerns regarding the conduct of election day proceedings.

Based on the findings of this report, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to assess the 8 April parliamentary elections. In addition to a core team of experts, the ODIHR NAM will request the secondment of 10 long-term observers from OSCE participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR’s standard methodology, the LEOM would include a media monitoring element.

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<sup>29</sup> Only voters who have taken an oath in front of the PSC chairman may serve as observers.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Csaba Balogh, State Secretary for Public Administration  
Pál András, Ministerial Commissioner for Elections  
László Riskó-Nagy, Head of Consular and Citizenship Department  
Zsolt Kovács, Deputy Head of Security, IT and Telecommunication Department  
Attila Pokol, Head of OSCE-CoE Section, Department for Security and Non-proliferation  
Anikó Bucsi, Legal Advisor, Deputy State Secretariat for Economic Affairs  
Bernadett Tóth, Legal Advisor, Secretariat of the Ministerial Commissioner for Elections  
Éva Császár, OSCE Desk Officer, Department for Security and Non-Proliferation

### **National Election Office**

Ilona Pálffy, President  
Krisztián Gáva, Vice President  
Dániel Listárl, Head of International Department  
Balázs Fügi, International Relations Advisor

### **National Election Commission**

András Patyi, President  
Éva Bozsóki, Vice President

### **Ministry of Justice**

László Salgó, Deputy State Secretary  
András Mázi, Head of Department

### **State Audit Office**

Tihamér Warvasovszky, Vice President  
Magdolna Holman, Secretary General  
Maria Benedek, Supervisory Manager,  
Balint Horvait, Head of International Relations and Communications  
Andrea Kindl, Adviser to President.

### **Constitutional Court**

Tamás Sulyok, President  
Botond Bitskey, Secretary General  
Attila Szabó, Chief of Staff

### **Supreme Court**

Péter Darák, President  
Tibor Kalas, Head of Administrative-Labour Department  
Lipót Hóltzl, Office Director, International Relations and European Legal Office  
Kalman Sperka, Judge

### **Political Parties**

István Hollik, Christian-Democrats (KDNP)  
Bence Rétvári, Christian-Democrats (KDNP)  
Gergely Gulyás, Hungarian Civic Union (Fidesz)  
Bertalan Tóth, Hungarian Socialist Party (MSZP)

Tamás Harangozó, Hungarian Socialist Party (MSZP)  
Gergely Bárányi, Hungarian Socialist Party (MSZP)  
Gábor Harangozó, Hungarian Socialist Party (MSZP)  
Balázs Bárány, Hungarian Socialist Party (MSZP)  
Márton Gyöngyösi, Movement for a Better Hungary (Jobbik)  
Bernadett Szél, Politics Can Be Different (LMP)  
Gergely Gimes, Politics Can Be Different (LMP)  
Roland Reiner, Politics Can Be Different (LMP)

### **Media Council**

András Koltay, Member of the Council  
Kinga Sorbán, Expert on International Affairs

### **Public Service Media**

Menyhért Dobos, *Duna Mediaszolgáltató*  
Balázs Medveczky, Radio and Television Broadcasting  
István Galambos, MTI Hungarian News Agency Corporation  
István Gyukity, Deputy News Director

### **Other Media**

Gábor Horváth, Népszava  
Róbert Kotroczó, Journalist

### **Civil Society**

Marta Pardavi, Hungarian Helsinki Committee  
Róbert László, Political Capital Institute  
Miklós Ligeti, Transparency International  
Attila Mráz, Hungarian Civil Liberties Union  
Miklós Szánthó, Center for Fundamental Rights  
Dávid Szabó, Századvég