



NÉZŐPONT INTÉZET

# BEFORE A FREE AND FAIR ELECTION

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20 CHARGES AND FACTS IN LIGHT OF  
THE 2018 OSCE REPORT



## Summary

- The Hungarian electoral system's 2011 reform met several social, political and legal expectations. In spite of this, the new regulation has been criticised in the past decade. The majority of the objections have been made by opposition parties or civic groups that are critical of the government, based on political rather than professional aspects.
- Not only is the Hungarian public sphere used regularly to undermine trust in the electoral system, but international media and organisations also often echo these charges. 62 members of the European Parliament called for a strict on-site monitoring of the Hungarian elections, and 20 anti-government Hungarian civic groups urged OSCE in a letter to deploy a full election observation mission to Hungary.
- On this occasion, Nézőpont Institute collected the 20 most widespread criticisms in the 2018 OSCE report on Hungary to objectively analyse whether they are factual and still valid.
- Half of the criticism in the report was already unfounded at the time when it was put forward. The reasoning behind these objections primarily followed the opposition's rhetoric, for example with regards to the situation of civic groups, ruling party advertising, the public service media, media pluralism, media freedom, the media authority, or out-of-country voters.
- Some objections in the report can be seen as outdated, as either the regulations have been modified or the situation has changed. For example, a tightening of the law has limited the opportunities of the so-called "business parties". The possibility of errors when reviewing election disputes has been reduced. The long wait times and delays caused by absentee voting have become easier to prevent after the law was amended.

The criticisms that are still valid contain claims that can be held against the opposition just as much, if not more, as against the government. These include the lack of substantive debates, intimidating rhetoric or influencing the minority. The regrettable underrepresentation of women among the candidates comes from the political culture and not from the lack of quotas. At the same time, reviewing and adjusting constituency boundaries again are tasks yet to be done by the legislative assembly.

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## Background

On 3 April 2022, parliamentary elections will be held in Hungary, the ninth since the regime change and the third under the rules of the new electoral system, adopted in 2011.<sup>1</sup> The amendment 11 years ago kept certain parts of the previous regulation but also resulted in some substantial changes.

The reform met several social, political and legal expectations. One of the first measures of the ruling majority of the parliament elected in 2010 was to remedy an old issue, to grant the right to vote to ethnic Hungarians living abroad. Yet another longstanding obligation was fulfilled when the 13 national minorities in Hungary were granted the opportunity to elect representatives and nationality advocates. Fidesz-KDNP's Programme of National Cooperation already mentioned a smaller parliament as the "most important expectation related to public law, a decade in the making". Fulfilling this, the number of MPs was cut from 386 to 199.<sup>2</sup> Partly because of this, and partly because of existing significant disproportionalities, the number of constituencies and some of their boundaries were revised. The two-round system, seen as too expensive, was replaced with a single round, in line with European trends. The use of surplus votes was changed, too. Today, every vote counts. Votes cast for any candidate who failed to win the mandate and votes not needed for the victory of the winner are counted on the national list. The new regulation values ensuring governability; based on this principle, the majority elements were given more weight.

The new electoral system and its amendments have been met with diverse criticism. The amendment on the pre-registration of voters was subject to a lively public debate, then vetoed by the Hungarian president, after which the Constitutional Court ruled it unconstitutional. Some valid criticism call on the reforms to continue. For example, concerns have been raised about the disproportionality of constituencies. Due to internal population movement, the number of persons eligible to vote has changed in some constituencies; this requires further intervention.

Most of the criticism, however, has undoubtedly been politically motivated. The opposition parties have identified their smaller-than-ideal parliamentary strength that could be used during the making of the new law with the lack of substantive debate. The new law containing the new constituency boundaries and the new electoral system was adopted after three months of substantive debate at the end of 2011 by the parliament. Real life also made a mockery of the charge that abolishing the second round would deprive the opposition parties of the opportunity to coordinate their election efforts. As shown by the coordinated selection of candidates in 2018

and the complete cooperation in 2022, parties have the chance for this even before the election. More recently, the amendment to tighten the rules on drawing up national lists, targeting “business parties”, has been used by the opposition to come up with political charges. They accused the ruling majority of controlling the electoral choices of the opposition, even though a number of opposition leaders had earlier spoken up for drawing up joint lists.

Raising prior concerns about the fairness of the elections has become a usual part of election campaign communication in the past decade. The joint opposition’s candidate for prime minister suggested already in November 2021 that “Fidesz is preparing for organised electoral fraud.”<sup>3</sup> Not only is the Hungarian public sphere used regularly to undermine the trust in the electoral system, but international media and organisations also often echo these politically motivated charges.

Observers from the Organization for Security and Co-operation in Europe (OSCE) have regularly been deployed to the Hungarian elections for decades, with the exception of 2006. In line with usual practices, they come to Hungary at the invitation of the government. In a nearly unprecedented manner, this January OSCE proposed a full election observation mission in Hungary.<sup>4</sup> The unusual proposal is risky for OSCE, too, as making this decision in line with the expectations of opposition figures threatens its “free and fair” expression of opinion. Nearly 20 anti-government Hungarian civic groups<sup>5</sup> have urged OSCE in a letter to deploy a full election observation mission to Hungary. 62 members of the European Parliament<sup>6</sup> have also called for strict monitoring of the Hungarian election.

On this occasion, Nézőpont Institute collected the most significant criticisms of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) report on the country’s 8 April 2018 parliamentary elections<sup>7</sup> and examined them objectively, freely and striving for a fair assessment to see whether they are well-grounded and still valid today.

## 1. Demanding citizen election observers rather than opposition observers

In their 2018 report, OSCE observers noted with concern that “the legislation does not provide for citizen election” in the elections.<sup>8</sup>

This is only a half-truth. While the legal environment, indeed, rules out citizen observation from civic groups, the report itself concedes that independent candidates and political parties that have registered party lists can appoint up to two delegates each to serve as full members of each polling station commission. While the standpoint of party delegates is known, civic delegates appearing as independent could easily distort the proportionate composition of party delegates keeping each other in check. Although the opposition had the right to send its own delegates to polling stations, its organisational weakness resulted in leaving a significant part of polling stations without an opposition delegate in 2018. It is up to left-wing parties’ efforts, rather than a legal change, to avoid a repeat of this disproportionate scenario from four years ago. Among other things, this is why the opposition has launched the “20,000 for fair elections in 2022” (20k22) movement. It is also the reason for civic groups’ Let’s Count Together Movement. According to the latest media reports, nearly 30,000 citizens have signed up to be on the polling station commissions within this framework.<sup>9</sup>

## 2. Mistaking civic groups for NGOs

The fact that the report contains charges that go beyond the topic of election observation, such as remarks about the political situation of civic groups, is proof that the report echoes the rhetoric of the opposition. According to the 2018 report, “Legislative constraints on the operation of certain types of CSOs, coupled with intimidating rhetoric by government officials against civil society, potentially stifled initiative and contributed to a climate of self-censorship.”<sup>10</sup>

However, this is a conceptual error, mistaking non-political civic organisations for NGOs involved in politics. In Hungary, trust in NGOs has been shaken once they started putting pressure on the policies of the majority-elected government, while they have no political mandate and they have been abusing the legally institutionalised framework of volunteer civic activities. One of the most severe examples of interference took place in 2020 when some institutions in the Soros network, posing as independent and professional, tried to persuade the leaders of the European Union to sanction the Hungarian government during the pandemic

defence.<sup>11</sup> The latest scandal erupted in February this year when the director of the *World Association of Newspapers and News Publishers*, a group financed by the Open Society Foundation, revealed that they conduct research in Hungary with the aim of influencing Hungarian public opinion.<sup>12</sup>

### 3. Parallels between the advertisements of the government and of the ruling party

Another OSCE objection stated, “Throughout the campaign there was a ubiquitous overlap between the ruling coalition’s campaign messages and the government’s anti-migration, anti-Brussels, anti-UN, and anti-Soros information campaigns ... The widespread government information campaign was largely indistinguishable from Fidesz campaigning, giving it a clear advantage.”<sup>13</sup>

As in 2018, the charge cited is unjustified in 2022. The government’s advertisements concern the referendum on the child protection law, to be held on the same day as the general elections, in addition to calling for preserving Hungary’s peace and safety in the current wartime. As far as the latter issue go, the ruling parties and the opposition parties are of the same view.

### 4. Issues concerning the financing of government campaigns and ruling party campaigns

According to the 2018 report, “the ability of contestants to compete on an equal basis was significantly compromised by the government’s excessive spending on public information advertisements that amplified the ruling coalition’s campaign message.”<sup>14</sup>

Since 2010, the Hungarian government has been running information campaigns to draw voters’ attention to certain issues of public interest; at the same time, the largest ruling party focuses on the same issues in its own campaigns. Under an agreement and for a contractually set price, the government has agreed to give non-exclusive usage rights on the information campaign’s visual identity for Fidesz. Fidesz has been given the rights for use of trademarks for the related slogans.<sup>15</sup> This is the way the slogan “Hungarian reforms work” was given to Fidesz and its parliamentary group in 2015, and to the Association of the Hungarian Civic Cooperation (MPPE) in 2016. MPPE obtained the slogan “Hungary is getting stronger” in a similar way for free in February 2017. In the same way, these are available for use for everyone who wants to communicate the positive messages of the government’s campaigns.<sup>16</sup>

## 5. Overrating business parties

The report covered campaign financing and the quality of monitoring the related expenses. It states, “Overall, the electoral legal framework forms an adequate basis for democratic elections. However, a number of important aspects of the electoral process are insufficiently regulated, in particular, campaign finance and the use of state resources during the campaign.”<sup>17</sup> The report touches on fraudulent, unknown new parties. “While the misappropriation of public funds was the most commonly cited ground by ODIHR LEOM interlocutors for the proliferation of these parties, other reasons included their potential for dividing the vote, particularly in tightly contested races.”<sup>18</sup>

While it is factually correct that these organisations, commonly referred to as “bogus parties” or “business parties” might have taken votes away from other parties, this risk may be the same for every real party. In 2022, no party lacking community support could draw up a national list. This means such parties can only get into the parliament with individual candidates. At the end of 2020, the ruling parties backed an amendment of the electoral law that would have increased the number of candidates needed for parties to register a national list from 27 to 50 in nine counties. In the end, an even stricter proposal by independent MP János Volner was adopted, making the minimum requirement 71 candidates in 14 counties in order for a party to register a national list. Additionally, the electoral law has in recent years become stricter in campaign finance issues, too. The law also requires parties with national lists to pay back the subsidies received to the Hungarian State Treasury if the party is unable to reach at least one percent of the valid votes cast for party lists or if the party list drops out from the election on the basis of the law on the electoral procedures. Under the Hungarian electoral rules, if a candidate in a single-member constituency wants to take advantage of the HUF 1 million campaign subsidy, he/she must sign an agreement with the Hungarian State Treasury. The Treasury opens a card coverage account for the candidate and issue a Treasury card. The support may only be used to cover costs related to campaign activities. Under the agreement, candidates must submit a financial statement to the Treasury within 15 days after the individual results of the election in the relevant single mandate constituency have become effective. The statement is reviewed by the Treasury. It is important to note that parties this year are receiving more support than ever before. Parties that have candidates in at least 71 districts receive HUF 470 million; those that have candidates in at least 80 districts receive HUF 588 million, and parties with candidates in every constituency get HUF 706 million (nearly €2 million) from the central budget.



## 6. Criticism of rules on billboard space

The interlocutors, probably belonging to the opposition, asked by the 2018 mission “pointed to difficulties securing billboard space due to the politically polarized nature of the advertising market.”<sup>19</sup>

Since then, the amendment of the electoral law coming into effect on 1 September 2018 made the usage of billboards in the campaign period more transparent. It requires putting the name and address of the publisher and the person responsible for the publication on the poster. Yet the law does not put forward detailed rules for posters as it does for the regulation of political advertisements.<sup>20</sup> In 2020, the State Audit Office of Hungary confirmed<sup>21</sup> that the election billboard market must be further regulated. At the same time, the Audit Office report also highlighted that in 2014-2019, the number of publications wishing to publish political advertising relating to the same successive elections decreased. This shift is exemplified by the fact that in the first official month of the 2022 campaign, between 13 February and 14 March, HUF 69 million was spent on Péter Márki-Zay’s Facebook adverts and HUF 32 million on Viktor Orbán’s Facebook ads.<sup>22</sup> Billboards are thus less relevant than they were four, eight or 12 years ago. The campaign today takes place primarily on social media where the market is not limited. Regulating social media, not billboards, may be the great challenge in the future.

## 7. One-sided criticism of public service broadcasting

The OSCE report four years ago was concerned that “clear patterns of political bias on the part of the public broadcaster”<sup>23</sup> were revealed.

However, this issue is not limited to Hungary. Public service media all over the world have been criticised for their pro-government practices. Even Germany, France, Italy, Greece and Spain have recently got similar comments for their public media.<sup>24</sup> In a ruling in 2014 that tried to ensure the public broadcaster’s independence from the state, the German Constitutional Court said that German political parties influenced ZDF.<sup>25</sup> Some groups that are critical of the government have taken to calling the German public service broadcaster “*Lügenpresse*” (lying press).<sup>26</sup> What is more, the German public broadcaster in the Hungarian electoral campaign supports the left by presenting the Hungarian opposition’s narrative in a one-sided manner, supported with factual errors<sup>27</sup> or by running a documentary that discredits the Hungarian government.<sup>28</sup>

The Hungarian public media were not anti-government before 2010 and they have not been anti-government since then. For example, in 2006, under the left-liberal government, the public service media were completely silent about the police brutality against the nationwide anti-government demonstrations.

In addition to the public service media, Hungary also has publications by local councils operating on public funding. Regarding these publications, it is worth noting that since the 2019 local elections, Budapest and most of its districts have been under the control of the opposition. The same is true for 10 out of 23 Hungarian cities. In most places, the change in the local government brought about a change in the editors-in-chief. Local council's publicly funded publications in opposition-led towns have started to present the values of the left-liberal side and have started to spread messages in line with their interests. They have been doing this even though local publicly funded media are also public service media. That is, on the local level the opposition is not worried about the loyalty of these publications to the (local) government.

## 8. The alleged lack of media pluralism

Assessing the situation of the media, the observers in 2018 complained that the regulations adopted in 2010 were unchanged although according to the OSCE Representative on Freedom of the Media they are “»limiting media pluralism«” and they “impact election coverage.”<sup>29</sup>

This claim is factually incorrect; media research shows an increase, rather than a decrease, in media diversity in Hungary in the past 12 years. Between 2010 and 2022, the number of media outlets critical of the government has grown from 35 to 55.<sup>30</sup> In this period, 26 new, anti-government media outlets were established and only six ceased publication. Considering the election campaign, it is important to note that the pro-government and the anti-government media have similar potential audience reach. According to our survey conducted in the third quarter of 2021<sup>31</sup>, 81.6% of the Hungarian audience consume pro-government media and 80.6% consume anti-government media. The proportion of those who consume exclusively pro-government media products was 5.7%, a third smaller than those who consume exclusively anti-government media (9.2%). It is clear, then, that since 2010 media pluralism in Hungary has not decreased but increased, and that the potential reach of pro-government and anti-government media content is well balanced and roughly the same size.

## 9. Concerns about media freedom

The report also had concerns about “the lack of media’s editorial independence,” and “restrictive content requirements.”<sup>32</sup>

This observation is also questionable, as Hungary’s constitution<sup>33</sup> and its laws<sup>34</sup> *de jure* guarantee the freedom of the press and the freedom of expression, and the Hungarian media market *de facto* brings these freedoms into effect. Memorable examples of taboo-free journalism include the cover of anti-government weekly Magyar Narancs depicting Viktor Orbán with a Hitler moustache<sup>35</sup> or as transgender<sup>36</sup>. Another example is critical daily Népszava’s caricature of Jesus Christ<sup>37</sup>.

A related, and recurrent, part of the OSCE report is that defamation is a criminal offence, punishable by up to three years imprisonment. The report’s authors suggest that this regulation creates uncertainty, hampering professional journalism. To rectify it, they recommend that criminal defamation provisions should be repealed in favour of civil sanctions.<sup>38</sup>

In reality, the cited criminal offence was adopted in reaction to a severe abuse of the freedom of the press, namely a video forgery scandal during the interim local election in October 2013 in the town of Baja.<sup>39</sup> In the campaign, the socialist party tried to discredit Fidesz with a fake video recording, but their attempt was exposed. It was exactly to avoid such attempts at election fraud and in order to ensure fair elections that the making and publication of false audio or video recording tending to harm a person’s reputation was regulated as a special case of slander.<sup>40</sup>

## 10. Questioning the independence of the media regulatory authority

The 2018 OSCE report raised concerns over the “absence of a politically independent regulatory body.”<sup>41</sup>

Yet a 2020 analysis based on the decisions of the Media Council of the National Media and Infocommunications Authority by Médianéző Centre shows that between 2012 and 2020, over two-thirds of the penalties issued were linked to right-wing media outlets, and less than one-third to left-liberal outlets.<sup>42</sup> In the period studied, 66% of the fines, HUF 357 million was levied on pro-government media outlets, while critical media paid HUF 183 million, or 34% of the fines. Based on the fines, we can conclude that the Media Council closely monitors the activities of the pro-government media, and it cannot be accused of being biased in its decisions. It is

clear, then, that the legal environment created since 2010 has not hindered the growth of Hungarian media outlets, has not decreased media diversity, and it has not restricted the freedom of the press and the freedom of expression, either. Factually speaking, there is no doubt as to the independence of the media authority.

## 11. Dispute about dispute resolution

Complaints can be submitted to the election committee on the basis of the electoral law, and the decision of the committee can be appealed.<sup>43</sup> The 2018 OSCE report states that although all disputes were reviewed expeditiously, ” there is no guarantee to a public hearing at any level of the dispute process.”<sup>44</sup>

It is key for election disputes to reach decisions in a reasonable time. For this reason, the electoral law sets tight deadlines for decision-making. The three-day deadline prescribed by law could not be met having public hearings. The process is not public, but public hearings would lead to prolonged procedures that would prevent the relevant bodies from meeting the legally set decision-making deadlines, especially given the increased number of cases at election times.

The report criticises the National Election Committee (NEC) for rejecting a large number of complaints and appeals “on formal grounds (for example, for not having complete personal information, identification number, and full address of the complainant or the registration information of the nominating organisation).”<sup>45</sup>

Yet in April 2018, NEC decided, with 17 votes for and 8 against<sup>46</sup>, to require the National Election Office to prepare a sample submission<sup>47</sup> to help submitting election complaints or appeals.

## 12. Lacking a debate among prime ministerial candidates

The 2018 report raised objections to the fact that “there was one televised debate among three opposition prime ministerial candidates” and that “the incumbent prime minister declined to participate in any debates, limiting voters’ ability to compare key candidates directly.”<sup>48</sup>

The current Hungarian prime minister has created a tradition of having debates between prime ministerial candidates in Hungary. Among currently active politicians, he is the one who has participated in such debates the highest number of times. At the same time, no public figure has any legal requirement to take part in such debates. If the claim that “voters’ ability to compare

key candidates directly” was limited was indeed true, this would be reflected in the popularity of the candidate that rejects the debate.

Just because candidates for prime minister agree to participate in a televised debate, it does not mean that a substantive debate will take place. As the 2006 case shows, such a programme can easily be abused if it is not focused on factual arguments but is dominated by brags and exaggerations that are hard to check in the crunch time before the election. This genre is unsuitable for identifying and exposing large-scale false political statements covering a range of areas. With his lies in 2006, Ferenc Gyurcsány, the most influential leader of the opposition, has contribute to the disillusionment with the genre.

At the same time, Viktor Orbán has never avoided his official duties to respond to members of the parliament or to engage in debates with them in the parliament. In the 2018-2022 parliamentary cycle, the prime minister has been interpellated or given questions 1,394 times in the parliament.<sup>49</sup> DK MPs used this tool of parliamentary control 435 times, Jobbik’s representatives 409 times, LMP representatives 171 times, MSZP MPs 164 times, Párbeszéd MPs 105 times, and independent MPs 110 times. There could be, then, space for substantive debate, but the quality of parliamentary questions has significantly fallen in the past few years, thanks to the disorderly, provocative and often vulgar style the opposition has taken to the parliament.<sup>50</sup>

### 13. Dissatisfaction with the proportion of women in the parliament

The 2018 report raises the criticism that “women are underrepresented in political life and there are no legal requirements to promote gender equality in elections.”<sup>51</sup> It said that some 30 percent of candidates had been women and the empowerment of women had received scant attention.

This point is one of the less professional and more political objections. This statement by OSCE observers approaches women’s parliamentary role from an ideological standpoint. It understands gender equality as having the same number of men and women in office and not as having equal opportunity to be elected or appointed to office. Regarding the proportion of women in parliament, Rwanda is the world leader with an outstanding 61%. Sweden ranks only 12th with 46%.<sup>52</sup> Yet this does not mean that women’s equality has progressed farther in the African country than in Sweden. Hungary has no women’s quota, because requiring a set proportion of genders would limit consideration for individual competency and achievement. The importance of the political positions women can reach matters more than the proportion of

women in politics. In a significant development, the Hungarian parliament on 10 March 2022 elected Katalin Novák, a 44-year-old mother of three the president of Hungary. It is also worth noting that the Hungarian government had three female ministers until the end of 2021 (20%).

#### 14. Disproportionate single-member constituencies

The report discusses single-member constituencies being disproportionate, saying “five constituencies exceed the 15 per cent deviation allowed by law... Such discrepancies challenge the equality of the vote.”<sup>53</sup>

The problem is still valid; internal migration beyond the district reforms is the reason behind it. In the election in 2006, the single-member district with the highest number of registered voters had 2.5 times as many voters as the district with the lowest number of voters; in 2010, the difference was 2.75 times.<sup>54</sup> Thanks to the 2010 electoral reform, the 2014 election took place in more proportionately sized constituencies. The territorial division of single-member constituencies was set in law, which provides a higher level guarantee than before. It took away the theoretical right the government had to redraw the district boundaries without going to the parliament. The new regulation allows a 20 percent deviation from the average. If this is exceeded, the parliament must automatically modify the district boundaries. Some districts in Pest county register the largest deviation with a higher number of voters than the average, while some districts in Tolna and Somogy have much smaller populations than the average. Constituencies cannot be modified in the time period between the first day of the year preceding the parliamentary election and the day of the election. No reform was adopted by 31 December 2020. Revising the districts will be a task for the parliament to be elected in 2022.

#### 15. Issues linked to absentee voting

The report four years ago discussed that “although the law provides that the number of voters in each polling station should be between 600 and 1,200 voters, in the majority of polling stations with ‘transferred voters’ the number exceeded 3,000 voters, reaching as many as 10,000 in a few cases.”<sup>55</sup> This led to long queues and delays at these polling stations.

Since then, the law on the electoral procedure has been amended, allowing the National Election Office to better manage the extra voters resulting from the transferred votes. The deadline to register for an absentee ballot has been moved to nine days prior to the election. This means the elections offices concerned have more than a week to make the polling station suitable for larger

crowds, knowing the number of absentee voters. They can make arrangements to have bigger staff, more space and more tables for absentee voters.

## 16. Criticism regarding out-of-country votes

According to the 2018 OSCE report, “the differing voting procedures for voters abroad with and without in-country domicile challenged the principle of equal suffrage.”<sup>56</sup>

This charge reinforces the opposition’s narrative that the principle of equal suffrage is violated by the government putting Hungarians without an in-country domicile at an advantage by allowing them to vote by mail, while those with a domicile in-country must come home or go to one of the 146 diplomatic missions to vote. This is a dispute OSCE, echoing the opposition’s rhetoric, has with the Hungarian Constitutional Court. In 2016, the supreme judicial organ of the Hungarian constitutional state declared that the differential treatment has objective, reasonable grounds, following from objective considerations based on perspectives set in the Fundamental Law. Voters with a permanent residence in Hungary can be expected to cast their votes in person, either in Hungary or at a diplomatic mission, considering that they have full voting rights. They can vote for both single-member and national list contests. Those who vote by mail can only vote for party lists.<sup>57</sup> It must be noted that in 2014, postal voting resulted in one parliamentary seat, and in 2018 it resulted in no seat. This contradicts the political narrative that presents out-of-country voting as an election weapon used by the government. In contrast, the votes of Hungarians staying abroad with full voting rights may be decisive in the 106 single-member constituencies in a tight race. Moreover registering one’s permanent address and choosing the way to vote can now be done through a simple procedure with online registration.

Although the report states that there is overall trust in the accuracy and inclusiveness of the voter register, “there was no provision regarding the removal of deceased persons from the voter register” for postal voting.<sup>58</sup> The death of voters without in-country domicile are not legally required to be reported to Hungarian authorities, as this falls under the jurisdiction of other countries. At the same time, the National Election Office urges out-of-country citizens not only to register to vote but also to have deceased relatives removed from the voter register. This has happened a number of times after the notifications were mailed in October. Furthermore, the law on election forbids misusing the names of others. The election results cannot be manipulated legally this way.

## 17. Criticism related to the preferential national minority mandate

A most innovative and inclusive part of the 2011 Hungarian electoral regulation is allowing voters from national minorities to vote for their national minority self-government's list instead of a party list if they wish. But OSCE in 2018 found a reason to criticise even this area. "The nomination of candidates for national minority lists lacks transparency, in particular because there are no established and public procedures regarding the manner by which the self-government selects the candidates. Moreover, an individual choosing to participate in the election as a minority voter has no opportunity to choose among alternative national minority candidates or lists."<sup>59</sup>

This charge is factually incorrect. National minority lists are drawn up by national minority self-governments, and a public (!) meeting of the self-government's general assembly decides how many national minority candidates to nominate and who the candidates will be. Recording the affiliation with a national minority in the central voter registry is of the voter's own free will. Likewise, it is of the voter's free will to choose whether to vote for a national party list or for a national minority list. Thus, voters have a choice. The only requirement is for national minority self-governments to be able to make decisions. Lacking this, the Roma minority in 2022 could not draw up a national minority list.

## 18. Issues related to persons with disabilities

The criticism in the 2018 report touched upon persons "disenfranchised by an individualized court decision due to mental incapacity."<sup>60</sup>

This is factually correct. In Hungary, the court decides, based on the opinion of a medical expert, whether to place a person under partial or general guardianship. In the latter case, until 2011, the person lost their right to vote. In a sign of progress, since then the court may decide to place a person under guardianship without revoking their right to vote. The courts exclude from voting adult persons whose mental capacity required for the exercise of the franchise is permanently or recurrently significantly reduced because of his or her intellectual disability or is permanently and entirely lacking because of his or her psychological condition or intellectual disability.<sup>61</sup> At the same time, the report conceded that positive steps have been taken to facilitate the rights of persons with physical and sensory disabilities to vote. Voters can request registration at a polling station accessible for persons with impaired mobility within their constituency and apply for voting information and a voting template in Braille.



## 19. Objections to hostile and intimidating rhetoric

OSCE in 2018 complained that “hostile, intimidating and, at times, xenophobic rhetoric featured prominently in the campaign.”<sup>62</sup>

Two years before the start of the official campaign, the most important politician in the left-wing alliance made threatening comments regarding what happens after the election. In 2020, he threatened the director of the National Theatre by saying, “Vidnyánszky & co will stay in position as long as Orbán does. After that, they are out. What’s more, they will be fugitives in every sense of the word.”<sup>63</sup> Less than a year ago he threatened ruling party MPs with imprisonment. “You will be taken, too. It will not be long. In a year, or in one and a half years...”<sup>64</sup>

While the OSCE report four years ago raised concerns about the voting rights of people living with disabilities, in this year’s campaign negative comments about people with disabilities should be recorded. The joint opposition’s candidate for prime minister, Péter Márki-Zay used the term “retarded” in a negative manner to refer to the ruling party’s supporters. His comment was denounced by, among others, the Hungarian Association for Persons with Intellectual Disability, the National Autistic Society, the National Federation of Organisations of People with a Physical Disability, the Mental Health Interest Forum, the Hungarian Association of the Deaf and Hard of Hearing, the Hungarian Deafblind Association and László Szabó, chair of the Hungarian Paralympic Committee. This was not the only time Márki-Zay has made hostile and negative comments. He has called voters who believe that Fidesz is anti-immigrant “dumb”<sup>65</sup>, supporters of the utility cost reduction programme “manure-eating mushrooms”<sup>66</sup>, and parents who worry about the spread of LGBTQ propaganda “insane”<sup>67</sup>. Another example of his negative comments is when he was talking about not understanding “how Fidesz could have more voters now than in 2018”<sup>68</sup>, as the elderly have been decimated by the coronavirus.

If the OSCE mission monitors the current campaign in a fairer way than they did the one four years ago, at this point they would not be able to avoid condemning Márki-Zay’s activities.

## 20. Vulnerable minority

The 2018 OSCE report discussed the particularly vulnerable Roma minority. According to the observers, “there is considerable dependence of the Roma, many living in abject poverty, on the locally-administered public works scheme. ODIHR LEOM interlocutors repeatedly asserted that the fear of losing access to the limited public works funds would force many Roma and

other economically-disadvantaged persons to vote for Fidesz. Further, the ODIHR LEOM observed the distribution of free food in a Roma community on behalf of a Fidesz candidate. This was an instance perceived as vote-buying by Roma interlocutors.”<sup>69</sup>

Yet it is nearly impossible to prove in a statistically sound manner whether the instance was unique or part of a general phenomenon. The report four years ago completely ignored the possibility that people participating in the public works scheme could indeed be grateful for their work-based income to the government that arranged the scheme and they may vote for the government without any manipulation.

Since the parliamentary by-election in the town of Szerencs, the left has kept the accusation of free food distribution by Fidesz on the agenda. Back then, the name of the Fidesz-KDNP candidate was put on a bag of potatoes, making it look like the ruling parties were giving out the package.<sup>70</sup> The risk of threatening people with taking away their work opportunities and livelihood can be present both with right-wing and left-wing local governments. At the same time, the number of participants in the public work scheme has dropped significantly in the past four years, from 126,000 in 2018 to 79,000 in early 2022.

## Notes

<sup>1</sup> Act CCIII of 2011 on the Elections of Members of Parliament of Hungary <https://net.jogtar.hu/jogszabaly?docid=a1100203.tv>

<sup>2</sup> The Programme of National Cooperation, p. 13. [https://www.parlament.hu/irom39/00047/00047\\_e.pdf](https://www.parlament.hu/irom39/00047/00047_e.pdf)

<sup>3</sup> <https://www.atv.hu/belfold/20211124/molnar-zsolt-mar-tobb-mint-15-ezren-jelentkeztek-szavazatszamlaloknak>

<sup>4</sup> OSCE/ODIHR report, <https://www.osce.org/files/f/documents/7/6/511429.pdf>

<sup>5</sup> Amnesty International Magyarország, Autonómia Alapítvány, Civil Kollégium Alapítvány, Emberség Erejével Alapítvány, Eötvös Károly Intézet, Háttér Társaság, K-Monitor Közhasznú Egyesület, Közélet Iskolája Alapítvány, Levegő Munkacsoport, Magyarországi Európa Társaság, Magyar Helsinki Bizottság, Magyar Női Érdekérvényesítő Szövetség, MENŐK – Magyar Európai Nők Fóruma Egyesület, Mérték Médiaelemző Műhely, Ökotárs Alapítvány, Political Capital, Társaság a Szabadságjogokért, Transparency International Magyarország, Unhack Democracy, Védegyelet Egyesület <https://helsinki.hu/wp-content/uploads/2022/01/Magyar-civil-szervezetek-kozos-levele-ODIHR-2022-es-valasztasok-HU.pdf>

<sup>6</sup> <https://www.politico.eu/article/meps-call-for-full-scale-election-observation-in-hungary/>

<sup>7</sup> OSCE/ODIHR (2018) Hungary. Parliamentary elections 8 April 2018 ODIHR Limited Election Observation Mission Final Report. <https://www.osce.org/files/f/documents/0/9/385959.pdf>

<sup>8</sup> OSCE/ODIHR (2018) p. 21

<sup>9</sup> <https://www.szabadeuropa.hu/a/mintegy-30-ezren-jelentkeztek-eddig-szavazatszamlaloknak-de-kik-ok-es-mit-csinalnak/31728599.html>

<sup>10</sup> OSCE/ODIHR (2018) p. 21

<sup>11</sup> Nézőpont Institute (2020) V Soros elbukott kísérlete. A hálózat eredménytelen lépései Magyarország lejáratására a koronavírus-törvény okán (Soros' failed attempt. The unsuccessful steps of the network to discredit Hungary regarding the coronavirus law) [https://nezopont.hu/wp-content/uploads/2020/05/nezopont\\_intezet\\_soros\\_elbukott\\_kiserlete\\_20200507.pdf](https://nezopont.hu/wp-content/uploads/2020/05/nezopont_intezet_soros_elbukott_kiserlete_20200507.pdf)

<sup>12</sup> <https://abouthungary.hu/blog/shocker-head-of-global-media-organization-admits-to-participating-in-campaign-to-push-biased-coverage-of-hungary?fbclid=IwARICG3-OreN1muykNpzzr5NwJ1qv3P-93-ToMuep4PRZbMpW9NQSal5HBPXo>

<sup>13</sup> OSCE/ODIHR (2018) p. 13

<sup>14</sup> OSCE/ODIHR (2018) p. 2

<sup>15</sup> Official registry of contracts, Prime Minister's Cabinet Office

<https://kormany.hu/dokumentumtar/miniszterelnoki-kabinetiroda-hivatalos-szerzodesnyilvantartas-2020-12-31-ig>

<sup>16</sup> [https://index.hu/belfold/2014/02/07/megis\\_fizet\\_a\\_fidesz\\_a\\_kormany\\_nak\\_a\\_kampanyszlogenert](https://index.hu/belfold/2014/02/07/megis_fizet_a_fidesz_a_kormany_nak_a_kampanyszlogenert)

<sup>17</sup> OSCE/ODIHR (2018) p. 5

<sup>18</sup> OSCE/ODIHR (2018) p. 12

<sup>19</sup> OSCE/ODIHR (2018) p. 13

<sup>20</sup> Act XXXVI of 2013, 144.§

<sup>21</sup> Hungarian State Audit Office (2020) A választási kampányidőszakban, az egyes médiafelületeken megjelenő politikai hirdetések jogszabályi környezete. (The legal environment of political adverts published in campaign periods on different media platforms) June 2020

[https://www.asz.hu/storage/files/files/elemezsek/2020/politikai\\_hird\\_20200603.pdf?ctid=1296](https://www.asz.hu/storage/files/files/elemezsek/2020/politikai_hird_20200603.pdf?ctid=1296)

<sup>22</sup> Based on figures from the Meta ad library. <https://www.facebook.com/ads/library/report/?source=nav-header>

<sup>23</sup> OSCE/ODIHR (2018) p. 18

<sup>24</sup> Médianéző Centre (2020) Növekvő sokszínűség. 10 tény a magyar médiáról (Increasing diversity. 10 facts about the Hungarian media). <https://nezopont.hu/novekvo-sokszinuseg-10-teny-a-magyar-mediáról/>

<sup>25</sup>

[https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/03/fs20140325\\_1bvf000111.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/03/fs20140325_1bvf000111.html)

<sup>26</sup> <https://en.ejo.ch/media-economics/accountable-and-or-responsible-public-service-media-in-europe>

<sup>27</sup> Nézőpont Institute (2022) Álobjektivitás és tárgyi tévedések. A német közmédia Magyarország-képe 2021-ben (False objectivity and factual errors. The image of Hungary in the German public service media in 2021. [https://nezopont.hu/wp-content/uploads/2022/02/A-nemet-kozmedia-Magyarorszagrol\\_alobjektivitas-es-targyi-tevedesek.pdf](https://nezopont.hu/wp-content/uploads/2022/02/A-nemet-kozmedia-Magyarorszagrol_alobjektivitas-es-targyi-tevedesek.pdf)

<sup>28</sup> [https://www.3sat.de/kultur/kulturdoku/gegenwind-fuer-viktor-orban-100.html?utm\\_source=mandiner&utm\\_medium=link&utm\\_campaign=mandiner\\_202203](https://www.3sat.de/kultur/kulturdoku/gegenwind-fuer-viktor-orban-100.html?utm_source=mandiner&utm_medium=link&utm_campaign=mandiner_202203)

<sup>29</sup> OSCE/ODIHR (2018) p. 19

<sup>30</sup> Critical media outlets in 2010: 168 óra, 168.hu, 24.hu, ATV, atv.hu, Blikk, Blikk.hu, Élet és Irodalom, Hetek, hetek.hu, Hócipó, HVG, hvg.hu, Index, Klubrádió, kuruc.info, Magyar Narancs, magyarnarancs.hu, mfor.hu, NEO FM, Népszabadság, Népszava, nepszava.hu, nlcafe.hu, nol.hu, Nők Lapja, nyugat.hu, portfolio.hu, privatbankar.hu, Propeller.hu, RTL Klub, stop.hu, szeretlekmagyarorszag.hu, Színes Ász, Vasárnapi Blikk. Critical media outlets launched since 2010: 444.hu, alfahir.hu, atlatszo.hu, azonnali.hu, direkt36.hu, Euronews, ezalenyeg.hu, g7.hu, hírklikk.hu, Jelen, jelen.media, Magyar Hang, hang.hu, merce.hu, napi.hu, noklapja.hu, nyugatifeny.hu, Pesti Hírlap, rtl.hu, pestihirlap.hu, Spirit FM, szabadeuropa.hu, telex.hu, ugytudjuk.hu, valaszonline.hu, zsurpubi.hu

<sup>31</sup> Survey by Nézőpont Institute in July-September 2021, with a personal interview of 6,000 respondents

<sup>32</sup> OSCE/ODIHR (2018) p. 19

<sup>33</sup> The Fundamental Law of Hungary, Article 9

<sup>34</sup> Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content

<sup>35</sup> <https://444.hu/2015/09/10/hitler-bajszos-orbannal-a-cimlapjan-jelent-meg-a-mai-a-magyar-narancs>

<sup>36</sup> Magyar Narancs cover 2021/6 <https://magyarnarancs.hu/interaktiv/elfogyott-a-magyar-narancs-orban-nem-tudott-venni-239943>

<sup>37</sup> Caricature of Jesus Christ published in Népszava, 28 April 2020

<https://papaigabor.wordpress.com/2020/04/27/kronikus/>

<sup>38</sup> EBESZ/ODIHR (2018) pp. 19

<sup>39</sup> <https://444.hu/2013/11/02/bajai-kamuvideo-mindenki-azt-szerette-volna-hogy-igaz-legyen>

<sup>40</sup> For the reasoning, see: <https://www.parlament.hu/irom39/12865/12865.pdf>

<sup>41</sup> OSCE/ODIHR (2018) p. 19

<sup>42</sup> Médianéző Centre (2020) Növekvő sokszínűség. 10 tény a magyar médiáról (Increasing diversity. 10 facts about the Hungarian media). <https://nezopont.hu/novekvo-sokszinuseg-10-teny-a-magyar-mediáról/>

<sup>43</sup> Act XXXVI of 2013, Chapter XII

<sup>44</sup> OSCE/ODIHR (2018) p. 21

<sup>45</sup> OSCE/ODIHR (2018) p. 22

<sup>46</sup>

<https://www.valasztas.hu/documents/20182/569180/A+Nemzeti+V%C3%A1laszt%C3%A1si+Bizotts%C3%A1g+%C3%BC1%C3%A9s%C3%A9nek+jegyz%C5%91k%C3%B6nyve+20180427.pdf/194a7aeb-ffa8-4102-8a53-0d193ddfd087?version=1.0>

<sup>47</sup> <https://www.valasztas.hu/jogorvoslat>

<sup>48</sup> OSCE/ODIHR (2018) p. 20

<sup>49</sup> [https://www.parlament.hu/web/guest/interpellaciok-kerdesek-azonnali-kerdesek-cimzettenkent?p\\_p\\_id=hu\\_parlament\\_cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8&p\\_p\\_lifecycle=1&p\\_p\\_state=normal&p\\_p\\_mode=view&hu\\_parlament\\_cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8\\_pairAction=http%3A%2F%2Fwww.parlament.hu%2Finternet%2Fcpql%2Ffogy\\_irom.irom\\_cimzett\\_atal%3FP\\_IROMTIP%3Dnull%26P\\_IROMTIP%3DI%26P\\_ALLAPOT%3Dnull%26P\\_CKL%3D41%26P\\_FRAK%3Dnull%26P\\_CIMZETT%3Dnull%26P\\_CIMZETT%3DME&p\\_auth=wkrrpbPKt](https://www.parlament.hu/web/guest/interpellaciok-kerdesek-azonnali-kerdesek-cimzettenkent?p_p_id=hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=http%3A%2F%2Fwww.parlament.hu%2Finternet%2Fcpql%2Ffogy_irom.irom_cimzett_atal%3FP_IROMTIP%3Dnull%26P_IROMTIP%3DI%26P_ALLAPOT%3Dnull%26P_CKL%3D41%26P_FRAK%3Dnull%26P_CIMZETT%3Dnull%26P_CIMZETT%3DME&p_auth=wkrrpbPKt)

<sup>50</sup> <https://hirado.hu/belfold/belpolitika/cikk/2019/11/20/a-parlamenti-botranyok-megfekezeserol-szolo-vita-ujabb-ellenzeki-botranyhoz-vezetett>

<sup>51</sup> OSCE/ODIHR (2018) p. 2

<sup>52</sup> IPU Parline. Global data on national parliaments (2022) Monthly ranking of women in national parliaments <https://data.ipu.org/women-ranking?month=3&year=2022>

<sup>53</sup> OSCE/ODIHR (2018) p. 6

<sup>54</sup> In 2010, Veszprém county's 6th district had 26,982 registered voters, while Pest county's 12th district had 72,249 voters

<sup>55</sup> OSCE/ODIHR (2018) p. 24

<sup>56</sup> OSCE/ODIHR (2018) p. 10

<sup>57</sup> 3086/2016. (IV. 26.) Constitutional Court ruling <https://alkotmanybirosag.hu/kozlemeny/kozlemeny-a-levelben-torteno-szavazasra-vonatkozó-szabályok-alkotmányossági-vizsgálatáról>

<sup>58</sup> OSCE/ODIHR (2018) p. 10

<sup>59</sup> OSCE/ODIHR (2018) p. 12

<sup>60</sup> OSCE/ODIHR (2018) p. 9

<sup>61</sup> Act XXXVI of 2013, 13/A§

<sup>62</sup> OSCE/ODIHR (2018) p. 14

<sup>63</sup>

[https://www.facebook.com/permalink.php?story\\_fbid=3616746728357763&id=187301974635606&\\_tn=%2CO\\*F](https://www.facebook.com/permalink.php?story_fbid=3616746728357763&id=187301974635606&_tn=%2CO*F)

<sup>64</sup> <https://www.facebook.com/watch/?v=260869029094531>

<sup>65</sup> <https://videa.hu/video/origo-videorovat/hirek-politika/marki-zay-megint-sertegeti-a-faOmZVUFioXakprB>

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<sup>66</sup> <https://www.facebook.com/watch/?ref=external&v=600587784492353>

<sup>67</sup> <https://www.origo.hu/itthon/20211201-markizay-egybol-eltorolne-a-gyermekvedelmi-torvenyt.html>

<sup>68</sup> <https://www.origo.hu/itthon/20220102-lomnici-zoltan-marki-zay-peter-halalkampany-idosek-fidesz.html>

<sup>69</sup> EBESZ/ODIHR (2018) pp. 14

<sup>70</sup> <https://magyarnemzet.hu/belfold/2020/10/a-krumpli-trukkot-is-bevetette-a-baloldal-a-szerencsi-idokozin>