



On the Hungarian election system in light of the 2018 parliamentary elections

Two elections in Hungary in 2019

On 26th May, the Hungarian voters will elect 21 members of the European Parliament.

In October, voters will vote on members of local government. In this elections, voters might vote on five different positions:

- every voter
 - will vote on mayors;
 - and local government representatives ;
- certain voters
 - will elect county assembly members;
- those voters who registered as minority voters can also elect the representatives of minority self-government;
- voters in Budapest will elect mayors not only in their own districts but also the Mayor of the Capital.

International evaluation of the 2018 parliamentary elections

The ODIHR Limited Election Observation Mission of the Office for Democratic Institutions and Human Rights (OSCE) observed the Hungarian Parliamentary Election in 2018.¹ According to the Statement of Preliminary Findings and Conclusions², the parliamentary elections “*were characterized by a pervasive overlap between state and ruling party resources, undermining contestants’ ability to compete on an equal basis. Voters had a wide range of political options but intimidating and xenophobic rhetoric, media bias and opaque campaign financing constricted the space for genuine political debate, hindering voters’ ability to make a fully-informed choice. The technical administration of the elections was professional and transparent*”.

National evaluation of the 2018 parliamentary elections by watchdogs

The HCLU has operated an Election Rights Program in 2018. In the framework of the program the HCLU monitored the elections and provided legal aid for voters and candidates and we followed also other NGOs work in this field. Political Capital, Atlatzso.hu, K-Monitor and Transparency International Hungary were the most important sources for the HCLU’s work, while other members

¹ Available: <https://www.osce.org/odihr/elections/hungary/385959?download=true>

² Available: <https://www.osce.org/odihr/elections/hungary/377410?download=true>

of civil society also conducted research and monitoring.³ The most crucial and typical infringements and frauds in the organization's assessment include:

- **Different state and local municipality bodies as well as state- or local-municipality-owned companies provided illegal support to the governing parties** (FIDESZ and KDNP) in the election campaign. It is reasonable to assume that these actors will repeat that unlawful behaviour during the 2019 campaign periods. A billboard campaign was already financed by the state in support of the EP campaign of FIDESZ⁴. It was removed from the streets due to the political pressure from the European People's Party.
- **Campaign.** The Hungarian media market is highly distorted by governmental influence. A major share of Hungarian media companies is owned by the Central European Press and Media Foundation, a progovernment media empire.⁵ This perfectly organized media machine is able to disseminate the messages of the governing parties to most of the voters including even fake news. The media empire is able to influence relevantly the campaign and thus the outcome of the election too.
- **Government overruling court decisions.** The courts maintained their independence from the state. The national courts brought down several decisions during the 2018 election cycle protecting the fairness of the campaign. However, the Government submitted a comprehensive amendment to the Act on Electoral Procedure, which in effect overruled these decisions of the independent courts. The most important amendment concerned the lawfulness of collecting supporting signatures in private places. The Curia (the Hungarian Supreme Court) decided that collecting signatures is lawful in private places open to the public, e.g. a parking area of a supermarket. After the elections the Parliament amended the relevant legislation, overruling this court decision. According to the current legislation, collecting signatures is only allowed if the owner of the property grants permission. This constitutes a serious barrier for small parties in collecting signatures supporting their candidates.
- **The government made it more difficult for small parties to compete.** As part of the above mentioned comprehensive amendment, the government limited the physical spaces available for campaign posters and obliged parties to seek permission from local municipalities for the placement of these. Since smaller parties lack resources to finance billboard campaigns, installing street posters is a vital tool for them in the campaign. It is reasonable to expect that FIDESZ run localities will provide less spaces to opposition party posters, which they can do without any legal consequence. The rules concerning financial responsibility of party leaders and candidates have also

³ Political Capital

[http://www.politicalcapital.hu/library.php?category_list=1&category_id=27&category_gb=Election%202018], Átlátszó.hu [<https://english.atlatszo.hu/category/election-2018/>], K-Monitor [<http://k-monitor.hu/home>] and Transparency International [<https://transparency.hu/en/>].

⁴ See: *Commission hits back over Hungary's anti-Juncker campaign.*

[<https://www.politico.eu/article/commission-hits-back-over-hungarys-anti-juncker-campaign/>]

⁵ See: *Data visualization: this is how the pro-government media empire owning 476 outlets was formed.*

[<https://english.atlatszo.hu/2018/11/30/data-visualization-this-is-how-the-pro-government-media-empire-owning-476-outlets-was-formed/>]

been amended. The current regulation can keep away potential candidates from participation in elections since both the party leadership and every candidate are financially and collectively responsible for the management of state aid received.

- **The right to appeal restricted.** The latest amendment of the Electoral Procedure Act significantly restricted the right to appeal against unfavourable first-instance decisions. Before the amendment, anyone could appeal a first-instance decision. According to the new rules, only persons *directly affected* by the first-instance decision have the right to challenge it at the courts. As a result, only candidates concerned can expect remedies in these cases, and organizations like the HCLU cannot challenge decisions in public interest lawsuits.
- **Lack of independent polling station commission members.** Since national NGOs are not allowed to observe the election, polling station commissions are the only way to observe the lawfulness and fairness of elections. Only political parties can nominate members to these commissions. Opposition parties were not able to delegate members to every commission in 2018⁶ and we expect the same in 2019. The reason for this is that - based on our experience in the field - voters are afraid to participate in election procedures or other political activities. The lack of independent polling station commission members is a hotbed of election fraud, as it was seen in 2018, thus the lawfulness of the upcoming election can not be guaranteed.⁷ The *Atlatzo.hu* reported that Hungarian citizens from Ukraine were registered in Hungary in order to let them vote not only for the national list but also to individual candidate.⁸ Organized transportation of these voters might be a crime, Political Capital and the HCLU is pursuing to obtain information about this.
- **The disparity of voting procedures for voters abroad with and without in-country domicile infringed the principle of equal suffrage.** Voters living outside of Hungary who keep their Hungarian addresses can only vote at embassies of Hungary which means that sometimes they need to travel long hours and spend several hundred euros. Voters who do not have Hungarian domicile can vote by postal votings. They have typically received their citizenship due to the simplified naturalization which has been introduced by the FIDESZ. It was not a surprise that the 96% of the latter group supported FIDESZ-KDNP parties in 2018.⁹
- **The police and prosecutor offices¹⁰ refused to investigate several election fraud cases.** The only cases in which investigations started were connected to forged support signatures, despite widespread reports and formal complaints of other

⁶ The numbers show it: The number of appointed members at these commission was 32,219. Fidesz-KDNP appointed 15,396 representatives, Jobbik 7,997, MSzP-Dialogue 5,603, DK 2,168, and LMP 423. See: *ODIHR Limited Election Observation Mission Final Report*.

<https://www.osce.org/odihr/elections/hungary/385959?download=true> p. 8.

⁷ See more: Widespread Suspicion About Electoral Fraud In Hungary.

<http://hungarianspectrum.org/2018/04/10/widespread-suspicion-about-electoral-fraud-in-hungary/>

⁸ Phantom residents are voting and collecting pensions near the border with Ukraine.

<https://english.atlatzo.hu/2018/05/25/phantom-residents-are-voting-and-collecting-pensions-near-the-border-with-ukraine/>

⁹ See the numbers:

<http://www.valasztas.hu/documents/20182/649837/825per2018+NVB+hat%C3%A1rozat+mell%C3%A9klet.pdf/76721d40-c8a2-4281-86d5-43ec2db9fc7f>

¹⁰ About the independence of the Prosecutor Office see:

<https://english.atlatzo.hu/2016/07/19/the-master-navigator-portrait-of-attorney-general-peter-polt/>

types of election fraud. The chief prosecutor of Hungary is Péter Polt has been elected by FIDESZ to its position and he has determinative influence investigations thus he is able to order prosecutors in specific procedures.¹¹ These facts makes the independence of investigations questionable.

- **Serious concerns emerged about the independence of state bodies.** The State Audit Office (SAO) scheduled to examine only opposition parties in the year of the 2018 parliamentary election. The SAO consequently only fined opposition parties in disputed procedeeings. The SAO examined FIDESZ only in 2019 when did not find any irregularities and had only one formal recommendation. The independence of the Office is also questionable since it is led by an ex-FIDESZ MP, János Domokos. The fines caused difficulties in the campaign for parties concerned. The lack of independence is also true for the National Election Commission (NEC), as outside of campaign periods the members of the commission are all *de facto* government-appointed. All the running parties are only able to delegate members balancing out the pro-government officials after the official campaign period has started. Due to one important NEC decision which was made before opposition delegates joined to the committee, the electoral alliance between opposition parties became impossible.¹²

The newly established administrative courts will make decisions on electoral cases. Serious concerns were raised regarding the independence of these bodies by the Venice Commission.¹³

¹¹ See:

https://bbj.hu/economy/ti-prosecution-free-from-political-interference-not-available-in-hungary_102929

¹² See about it in Hungarian:

<https://tasz.hu/cikkek/ujabb-papiron-fuggetlen-intezmeny-az-nvb-is-tesz-a-szabad-valasztasok-ellen>

¹³ See:

<https://www.coe.int/en/web/portal/-/hungary-laws-on-administrative-courts-lack-effective-checks-and-balances-in-government-according-to-the-venice-commission>