



## ASSESSMENT REPORT

### on the Implementation of the Recommendations Set Forth in the OSCE/ODIHR LEOM *Final Report on the Parliamentary Elections in Hungary, 6 April 2014*

Budapest, 14 February 2018

In this assessment report, the Hungarian Civil Liberties Union (HCLU) evaluates the extent to which recommendations made by the **OSCE/ODIHR Limited Election Observation Mission in its *Final Report on the Parliamentary Elections in Hungary, 6 April 2014*** (Warsaw, 11 July 2014; henceforth: “Final Report”) have been implemented. Evaluations are based on legal regulation in effect on February 5th, 2018, as well as publicly available factual information. The present report follows the order and structure of the recommendations of the Final Report, classifying each recommendation as ‘**satisfactorily implemented,**’ ‘**partly implemented,**’ ‘**not implemented,**’ or ‘**not implemented, positively counteracted.**’ A recommendation is classified as positively counteracted if legal regulations have been modified contrary to that recommendation, or the application of the same regulations that were in force during the general parliamentary election of 2014 has taken a direction contrary to that recommendation, since the publication of the Final Report.

Abbreviations of legal sources are as follows:

Ve. = Act XXXVI of 2013 on the electoral procedure

Vjt. = Act CCIII of 2011 on the election of members of Parliament

Kftv. = Act LXXXVII of 2013 on the Campaign Finance

Mttv. = Act CLXXXV of 2010 on the Media Services and Mass Communication

**Table 1. Assessment summary**

| Evaluation                               | Number of recommendations | Recommendations classified   |
|--|---------------------------|--|
| Satisfactorily implemented               | None                      | N/A  |
| Partly implemented                       | 4 recommendations         | 7, 13, 15, 18  |
| Not implemented                          | 27 recommendations        | 1, 3, 4, 5, 8, 9, 10, 11, 12, 14, 16, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 |
| Not implemented, positively counteracted | 5 recommendations         | 2, 6, 17, 19, 21   |

## A. PRIORITY RECOMMENDATIONS

**1. The authorities should develop and implement safeguards to ensure a clear separation between the State and party, so as to prevent candidates from unduly using the advantage of their office for electoral purposes.**

**Not implemented.** The Government conducted a more or less continuous communication campaign in the previous years,<sup>1</sup> with immigration and refugee policy (these two entirely conflated), safety and national security, and George Soros's alleged backing of immigration as its main thematic foci. These campaigns included television and radio broadcasts as well as poster advertisements in public spaces. Government officers, such as ministers (or even the prime minister) and state secretaries often appear at (sometimes even non-)political public events and recommend to support the local politician or candidate of the governing parties, using their government office as an instrument to gain authority.<sup>2</sup>

**2. Public media, including at the local level, should be subject to strict rules prohibiting government interference. Internal pluralism should be guaranteed and supervision could be provided by an independent body representing all relevant stakeholders.**

**Not implemented, positively counteracted.** State authorities responsible for upholding a diverse media market and the fairness of market competition did not hinder fusions of media companies in the hands of government-friendly proprietors in the past 4 years.<sup>3</sup> This has also contributed to the fact that the media market has become heavily concentrated, and a small number of business persons with strong ties to the government have obtained significant share in print and online media.<sup>4</sup> Academic research has confirmed the view that media pluralism has decreased considerably in Hungary since 2014.<sup>5</sup>

**3. In order to ensure effective legal redress, election commissions and courts should refrain from handling complaints formalistically and should give thorough and impartial consideration to these cases. Decisions should be made in a consistent manner and**

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<sup>1</sup> [http://hvg.hu/itthon/20150604\\_Kiderult\\_milyen\\_feliratok\\_lesznek\\_meg\\_a\\_k](http://hvg.hu/itthon/20150604_Kiderult_milyen_feliratok_lesznek_meg_a_k)  
[http://hvg.hu/itthon/20150610\\_Uj\\_menekultellenes\\_reklamok\\_jelentek\\_meg](http://hvg.hu/itthon/20150610_Uj_menekultellenes_reklamok_jelentek_meg)  
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<sup>2</sup> [http://hvg.hu/itthon/20150209\\_Pinter\\_szerint\\_a\\_BM\\_mukodese\\_fugg\\_a\\_ketha](http://hvg.hu/itthon/20150209_Pinter_szerint_a_BM_mukodese_fugg_a_ketha)  
[http://hvg.hu/itthon/20150409\\_Orban\\_Tapolca](http://hvg.hu/itthon/20150409_Orban_Tapolca)

<http://www.vasarhely24.com/vasarhely/valasztasi-forumokat-tart-lazar-janos-es-hegedus-zoltan>

<sup>3</sup> See, foremost, Decision No. VJ/26/2017. of the Hungarian Competition Authority.

<sup>4</sup> See the following charts, in Hungarian: <https://atlatso.hu/2017/11/22/kilenc-grafikon-a-kormany-media-tulsulyarol-igy-ervenyesul-a-sokszinu-tajekoztatas-elve-magyarorszagon/>) and the following articles as examples: <https://budapestbeacon.com/hungarys-2018-general-election-likely-to-be-less-fair-than-2014s-after-fidesz-media-takeover/>, <http://hungarianspectrum.org/2016/10/13/heinrich-pecina-orbans-accomplice-in-the-repression-of-hungarys-free-press/>, <https://budapestbeacon.com/politics-taken-hungarian-media/>

<sup>5</sup> <https://cmds.ceu.edu/article/2018-01-16/explore-government-friendly-media-empire-hungary>

**within their jurisdiction. In addition, consideration should be given to removing the requirement for legal representation in each case.**

**Not implemented.**

- Formalistic handling (rejection) of complaints is statutory required in cases where certain personal data of the complainant are missing from the complaint [Ve. S. 212. Para. (2) *b*]]. This is in conflict with the public interest in the legality of the electoral procedure, which requires that complaints should be examined on their merits as whistle-blowing, even if the whistle-blower would risk too much by revealing their identity.
- Formalistic rejection of complaints are also facilitated in some cases by courts' narrow interpretation of the requirement that complaints state the statutory violation complained about [Ve. S. 212. Para. (2) *a*]]. If narrowly interpreted, this requires complainants -- even those without representation -- to precisely refer to a specific statutory provision that has been violated in their view. This is a very high threshold for a procedure that is meant to serve the public interest.
- Legal representation is still necessary for judicial review in the electoral procedure [Ve. S. 224. Para. (5)].
- Further: cases pursued in the public interest (without the complaints' rights being affected) cannot be taken to court. Bottleneck structure of remedies: complaints may be submitted to electoral commissions in the public interest, without victim status (the complaints' rights being affected), decisions may also be appealed to appellate electoral commissions -- yet the *judicial* review of the final decisions of the electoral commissions may only be initiated by complainants whose rights are affected by said decisions. Although victim status ("affectedness") is a statutory requirement for initiating judicial review, its particularly narrow interpretation within the electoral procedure has been established by the Supreme Court's jurisprudence.

**4. The appointment mechanism for election commissions at all levels should enjoy broad political consensus, and the law could be amended to ensure this with the aim of enhancing impartiality and public confidence in the work of the election administration and in an inclusive process.**

**Not implemented.** Appointment for the National Election Commission (NEC), local election commissions (LECs) and polling station commissions (PSCs) is widely seen as a mechanism without any need for political consensus.

- Elected members of the NEC, elected by 2/3rd of the Members of Parliament present at voting [Ve. S. 20 Para. (2)]. were elected for 9 years in 2013, when the governing party MPs had a 2/3rd majority in Parliament. The NEC is statutorily authorized to make decisions even if it has only elected members (and no party delegates), as it is the case once the date of a general parliamentary election is promulgated, before party lists are established [Ve., S. 27, Para. (2); S. 33, Para. (1), point *b*]].
- Elected members of LECs and PSCs may be chosen from a set of candidates proposed by the local (municipal) self-government's notary (who can be dismissed by the mayor),

and they are elected by the municipal representative bodies [Ve. SS. 22-23, S. 24 Para. (1), S. 66, Para. (2)-(3)].

**5. The provision for “balanced coverage” should be overseen by a genuinely independent implementing body. It should act upon complaints or ex officio upon monitored violations in a timely manner. Remedies imposed by the body should not prevent the media from carrying out their activities or encourage self-censorship among journalists.**

**Not implemented.** There are no relevant changes in legislation, nor in the structure and composition of the Media Council and of the National Media and Infocommunications Authority [Mttv., S 124 and 125 ] The president of the National Media and Infocommunications Authority is nominated by the Prime Minister and appointed by the President of the Republic [Mttv., 111/A]. She is also the President of the Media Council [Mttv., S. 111. Para. (1) point *a*) and Para. (2) point *a*)]. However, she is elected as President of the Media Council, by a 2/3rd majority of Members of Parliament present at voting [Mttv., S. 124 Para. (1) and Act XXXVI of 2012 on the National Assembly, S. 61/A Para. (1)]. The current President was elected for 9 years in 2013, when the governing party MPs had a 2/3rd majority in Parliament, pre-empting any need for opposition support or political consensus.

**6. In light of the obligation to equal suffrage, legislation and procedures should provide the same methods for citizens abroad, be they residents or non-residents, to register and to cast their ballots.**

**Not implemented, positively counteracted.** The electoral procedural code continues to restrict the use of mail-ballots to non-resident voters [Ve. S. 266. Para. (2)].

The HCLU represented a voter with residence in Hungary who took up a job in the UK that did not allow our client to leave the job site on election day. The *Constitutional Court* decided [Case no.: IV/1578/2013, decision no.: 3086/2016. (IV. 26.)] on the merits of said person’s complaint, submitted on October 29, 2013, well before the general parliamentary election of 2014. The decision, dated April 19, 2016 -- i.e., more than 2 years after the election to which the complaints referred --, ruled that the different availability of the mail-in ballot procedure to citizens who stay abroad on election day, depending on whether they are resident or non-resident citizens, is not discriminatory. On the contrary, the Court held that a higher burden may be placed on those voters who have a tighter link to the homeland (objectively manifested in their residence).<sup>6</sup>

The European Court of Human Rights (ECtHR) found applications by Hungarian resident voters who voted or wanted to vote abroad by mail-in ballots manifestly ill-founded (*Vámos and Others v. Hungary*, App. no. 48145/14, March 19, 2015). While technically, no decision was made on the merits, the Court hinted in its reasons that the cases did not involve any discrimination. The Constitutional Court relied heavily on this reasoning, ignoring the fact that the ECtHR technically only decided on admissibility.

**7. The regulatory framework for campaign finance should be reviewed to take account of the gaps and ambiguities identified in this report, as well as by the Council of Europe’s**

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<sup>6</sup> The decision is available here:

<http://public.mkab.hu/dev/dontesek.nsf/0/CAFD6E70427E4CFAC1257C3100212BE1?OpenDocument>

**Group of States against Corruption (GRECO).** In particular, they could consider the possibility of introducing limits for private donations, establish dedicated bank accounts for electoral contestants, and ensure that requirements apply to all candidates and parties. Consideration could be given to consolidating all campaign finance legislation in a single law.

**Partly implemented** No legislation was introduced regarding dedicated bank accounts for private donations for electoral contestants. Only state subsidies are handled by means of a mandatorily used dedicated bank account [Kftv., SS. 2, 2/A], no similar requirements apply to the handling of private campaign contributions. All the parties receiving public funding and obtaining less than 1% of the votes are obliged to repay public funding. Parties receiving public funding and obtaining at least 1% of the votes are subject to ex officio monitoring of the State Audit Office [Kftv. S. 8/C, Para. (2-2a), introduced in 2017].

Regarding the regulatory framework of the transparency of party funding, the Addendum to the Second Compliance Report on the “Transparency of Party Financing” in Hungary, GRECO stated in 2015 that only two out of ten recommendations have been implemented or dealt with in a satisfactory manner.<sup>7</sup> Third party campaigning is still not regulated or subjected to monitoring within the election campaign periods. Fragmented campaign finance regulation has not been consolidated into a single legal code.

**8. Legislation should foresee periodic review of constituency boundaries by an independent commission to account for population changes. When constituency boundaries are redefined, it should be done in a transparent, impartial and inclusive manner. Concrete constituency boundaries should not be enshrined in cardinal laws that require a two-thirds majority to amend and consideration should be given to introducing a formula that would allow flexibility in adjusting boundaries.**

**Not implemented.** Constituency boundaries are still set in a cardinal law by Parliament [Vjt. S. 4 Para. (6), Vjt. Appendix 2]. They can only be amended by a 2/3rd majority of MPs present at voting [Fundamental Law, Article 2. (1)].

**9. Consideration could be given to introducing temporary special legislative measures to promote women candidates, including possibly introducing gender quotas for party lists that place women in winnable positions. Political parties could consider nominating a minimum number of candidates of each gender.**

**Not implemented.** No amendment was made to electoral legislation concerning the representation of women. In 2017, a social movement called “Közös Ország Mozgalom” (“Country for All”) proposed a entirely new electoral system with a draft bill backed by 8 opposition parties (including all parliamentary opposition parties except for Jobbik Magyarországért Mozgalom). This bill contained provisions that aimed to introduce a system of nomination in which persons belonging to either gender would amount to at least one third of the candidates on party lists.<sup>8</sup> The bill was submitted to Parliament, but it was blocked by the

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<sup>7</sup> <https://rm.coe.int/16806c6b5f>

<sup>8</sup> <https://4cdn.hu/kraken/raw/upload/74XL5b7V8nhA.pdf>, Article 11 Para 7.

assigned committee, dominated by MPs affiliated with the governing parties, and hence substantial debate of the bill was prevented.

**10. Authorities should ensure that special measures for national minority representation allow for competition between national minority candidates and meaningful participation of national minorities in parliamentary decision-making, while ensuring the secrecy of the vote. Genuine consultation with national minorities should be sought in this process.**

**Not implemented.** No changes have been implemented in the parliamentary representation of national minorities. Minority voters may only vote for one single national minority list [Vjt. S. 12, Para. (2)]. These lists are established by the national self-government of the given minority, in a top-down fashion, although a very small number of supporting signatures are also required for the registration of minority lists [Vjt. S. 9, Para (1)-(2)]. Accordingly, this system of representation does not allow for any competition either between lists or candidates of the given minority, or between minority lists and party lists.

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework**

**11. The legal framework should be reviewed to address past and present OSCE/ODIHR recommendations and bring it closer in line with OSCE commitments and other international obligations for democratic elections. Legislative reforms should be undertaken well in advance of elections, through open and inclusive consultations between all election stakeholders.**

**Not implemented.** As this Assessment Report indicates, several recommendations have not been carried out. MPs affiliated with the governing party no longer have the 2/3rd supermajority in Parliament necessary to amend electoral legislation, since the faction lost a single-member constituency seat to an independent MP on February 22, 2015.<sup>9</sup> This contributes to the foreseeability of electoral regulations, while also blocking necessary electoral reforms. Given this legislative context, generally applicable changes in the application of electoral regulation are mostly due to Supreme Court decisions and so-called guidelines issued by the National Election Commission (NEC). Hence, the timing of NEC issuing guidelines gains particular significance regarding the foreseeability of the application of electoral regulations. A [very recent](#) guideline (No. 1/2018.) issued by the NEC (see our assessment below the Recommendation 14 of the Final Report) raises serious concerns in this regard. This guideline was issued in reflection to no particular legal debates which could have justified its timing. Said guideline (no. 1/2018) engages with an alleged unclarity regarding the circumstances in which party lists may be struck out that could have been anticipated immediately after the general parliamentary elections of 2014-- if there really had been any genuine unclarity regarding the application of relevant regulations. At the same time, this guideline could have a substantial effect on the chances and strategies of the opposition parties as late as a mere 4 months before the general parliamentary election of 2018.

**12. Restrictions on voting rights for prisoners and ex-prisoners should be reviewed to ensure that any limitation is proportionate to the crime committed and clearly outlined in**

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<sup>9</sup> <http://www.valasztas.hu/orszaggyuleksi-valasztasok1/veszprem-1.-oevk-20150222>

**the law. Similarly, the courts' current practice of depriving nearly all people convicted of a crime of their suffrage rights for a period longer than their prison sentence should be reviewed.**

**Not implemented.** Section 61, Para. (1) of the Criminal Code provides that “Any person who is sentenced to executable imprisonment for an intentional criminal offense, and is *deemed unworthy* of the right to participate in public affairs, shall be deprived of these rights”, including the right to vote. No statutory provisions clarify the consideration that should bear on a judgment of “unworthiness”. The HCLU provided the Ministry of Justice with a detailed legal analysis and recommendations as to how to reduce arbitrary decision-making concerning the disenfranchisement of convicts, including statutory guarantees. The Ministry responded that the current regulation respects judicial independence by providing ample space for judicial discretion to consider all relevant circumstances in deciding whether or not the convict should be disenfranchised due to unworthiness. It is to be noted, further, that the current regulation is not in line with the ECtHR judgment in *Frodl v. Austria* (App. no. 20201/04, April 8, 2010) which elaborates that convicts should not be disenfranchised “based purely on what might offend public opinion”. Instead, unlike the generality of the current regulation, the Convention allows for “the possibility of restrictions on electoral rights being imposed on an individual who has, for example, seriously abused a public position or whose conduct has threatened to undermine the rule of law or democratic foundations”. Such a specific link between the nature of the criminal act and disenfranchisement need not be established either as a statutory requirement or in the jurisprudence of Hungarian courts.

**13. In line with international obligations, restrictions on the suffrage rights of persons with mental disabilities should be removed or be decided on a case by case basis, depending on specific circumstances.**

**Partly implemented.** Restrictions on the suffrage rights of persons with mental disabilities have not been removed [Section 13/A of Ve.].

Guardianship ordered by courts based on the new Civil Code (S. 2:29 of Act V of 2013 on the Civil Code) can still restrict the suffrage [Fundamental Law of Hungary, Article XXIII (6); SS. 2:19 and 2:21 of Act V of 2013 on the Civil Code; Ve., S. 13/A]. However, it is a welcome development that courts must revise such restrictions no less often than every 10 years [S. 2:29 Para. (1) of Act V of 2013 on the Civil Code]. Revision of restrictions, based on the new Civil Code, have started. Thus, persons deprived from their right to vote have at least a formal opportunity to have their franchise restored in a procedure that is initiated *ex officio*. Unfortunately, no statistical data are available concerning the results of these court procedures -- i.e., the number of persons who have been re-enfranchised as their result -- as of today. It is not known either whether these procedures are conducted in a largely formalistic manner, especially given the substantial case burden they create, or franchise-related capacity is subjected to genuine review.

## Election Administration

**14. As a permanent body responsible for the overall conduct of elections, the NEC should anticipate and address potentially unclear provisions in the law as early as possible in the electoral process.**

**Not implemented.** The National Election Commission (NEC) may address potentially unclear provisions in the law by issuing so-called “guidelines” [Ve. S. 51]. As the NEC is regularly in session between general elections too, it has had ample opportunity in the past 4 years to issue guidelines regarding unclear statutory provisions related to general parliamentary elections. Yet it decided Yet it issued its first guideline since 2015 in early 2018, on the legal conditions of striking out party lists. Said guideline (no. 1/2018.) thus engages with an alleged unclarity which (if there really had been any unclarity) could have been anticipated immediately after the general parliamentary elections of 2014. This guideline was issued in reflection to no particular legal debates which could have justified its timing. (Further, regarding its timing, it is noteworthy that this guideline was issued at a time when the membership of the NEC consisted exclusively of elected members, with no party delegate members -- see more on this under Recommendation 4.) At the same time, this guideline could have a substantial effect on the chances and strategies of the opposition parties as late as a mere 4 months before the general parliamentary election of 2018.

**15. The election administration could consider conducting a broader voter education campaign, through diverse channels, especially when new elements of the electoral process are introduced. Specific efforts could be made to reach out to national minority voters.**

**Partly implemented.** The National Election Office (NEO) launched some new, broader voter education campaigns in the past years. Video materials related to the general parliamentary election of 2018 have been produced and made available online by the NEO (available in Hungarian: <http://www.valasztas.hu/2018.-evi-orszaggyulesi-valasztasok>), and they have been broadcast broadly on public televisions and a radio channel: 4 information videos can be seen and heard every day on three nationally broadcasting television channels, and 1 nationally broadcasting radio channel every day. 2 further videos will be produced and broadcast until election day.

Additionally, the National Election Office has been organizing a multi-round contest on electoral law and elections for secondary school students in Hungary and also outside of the country for ethnically Hungarian students resident in the Carpathian Basin. These contests could reach 1,500-2,000 students altogether in the last 3 years, which is a significant reach, but would not be considered a very wide range for a means that is meant to serve general voter education.

## Voter Registration

**16. Legislation should be amended to ensure that data required to amend voter registration details are secure, unlike those that are collected on candidate signature sheets.**



**Not implemented.** The only amendment made in the past years in this regard was the one stated in the Final Report (requiring that notifications of changes to a voter's registration be sent to the voter's permanent address immediately). Since 2014, no further amendments were made. Satisfactory implementation would require an amendment that prescribes the use of "Ügyfélkapu" for changing one's voter registration for those holding such an account. "Ügyfélkapu" ("client gateway") is a government operated channel that enables citizens to securely and authentically identify themselves and initiate administrative procedures.

### **Candidate Registration**

**17. Consideration should be given to introducing a mechanism for investigating complaints concerning entries in candidate signature sheets. Such a mechanism should be established inclusively, sufficiently in advance of elections and be communicated in due time to all stakeholders.**

**Not implemented, positively counteracted.** Once all electoral bodies declared themselves incompetent in examining complaints concerning entries in candidate signature sheets, the Hungarian Civil Liberties Union launch a campaign to empower voters who suspected abuse of their personal data (viz., copying their data without permission from one candidate's signature sheets onto others' signature sheets). According to Act CXII of 2011 on Informational Self-Determination and Freedom of Information [S. 15, Para. (1)], data subjects of personal data have a right to request information regarding what personal data of theirs are processed by specific data controllers. Since single-member constituency election offices were in possession of signature sheets that contained voters' personal data, we encouraged voters who suspected abuse to request information from the relevant election offices as to which candidates' signature sheets contained their own personal data, in order to reveal potential abuses.<sup>10</sup> Election offices routinely denied these requests. The National Data Protection Authority (NDPA) supported this practice by issuing a remarkable resolution,<sup>11</sup> in which the authority supports this practice as lawful, without reference to any positive legal grounds for the denials. In response, in 5 cases, the HCLU provided representation to sue the election offices on behalf of those whose requests had been denied. The Budapest-Capital Regional Court ["Fővárosi Törvényszék"] delivered a final judgment in some cases, clearly declaring the argumentation of the NDPA unlawful; whereas in others, election offices decided to comply without pursuing litigation.<sup>12</sup> *However, once successful litigation restored voters' rights to know whose signature sheets their data appear on, the legislator decided to entrench restrictions previously supported by the NDPA into statutory provisions* [thus introducing S. 2, Para 4 into Ve., in effect from June 18, 2014]. While the Constitutional Court annulled some of the new statutory restrictions (viz., temporal limits on information requests) [Decision No. 26/2014. (VII. 23.)], it did not rule of the restriction on the scope of data about which information may not be requested. However, a case is pending before the Constitutional Court since January 2016,

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<sup>10</sup> For our campaign call, see <https://tasz.hu/politikai-reszvetel/az-adataival-melyik-part-elt-vissza-jarjon-utana>

<sup>11</sup>Resolution No. NAIH-703-3/2014/V., see [http://www.naih.hu/files/703\\_2014\\_allasfoglalas\\_ajanloivek\\_taj\\_jogrol.pdf](http://www.naih.hu/files/703_2014_allasfoglalas_ajanloivek_taj_jogrol.pdf)

<sup>12</sup> See more on this litigation <http://tasz.hu/politikai-reszvetel/nem-titok-tobbe-ki-masolta-le-az-alairasod-az-ajanloivere>

in which the HCLU's client asks the Court to nullify the remaining part of the restrictive provision [Case no. IV/157/2016].<sup>13</sup>

**18. The process of issuing fines for the late return or loss of candidate signature sheets should be reviewed, given that the return of such sheets does not necessarily protect the data contained in them.**

**Partly implemented.** After the general parliamentary election of 2014, Ve. S. 124. was modified based on the experiences of the election, reducing the fine from 50,750 HUF to 10,000 HUF per signature sheet. (Each sheet provides room for 8 signatures, so at least 63 sheets are needed for the 500 signatures required for candidacy.) The legislator argued that the fine for the late or entirely omitted returning of the candidate signature sheets was excessive, and execution of the fines was inefficient. Furthermore, the modification exempts candidates (and parties) from paying the fine if they return the sheets within 24 hours after the deadline, but only if the late-returned sheets do not contain any signatures and personal data.

Otherwise, no other relevant amendments were carried out. Further regulations that could serve data protection more effectively were not introduced.

### Election Campaign

**19. The authorities should issue clear and comprehensive guidelines on the use of public and private space for campaign purposes to ensure equal opportunity and sufficient access for all electoral contestants.**

**Not implemented, positively counteracted.** Until 2014, the majority of public advertisement surfaces (e.g. billboards) belonged to companies owned by Mr. Lajos Simicska, one of the wealthiest people of the country and then close friend of Prime Minister Orbán. As the Final Report stated, this ownership structure “contributed to an uneven playing field” (p. 13). In early 2015, however, a widely publicized conflict emerged between Mr. Simicska and Mr. Orbán that coincided with, and plausibly resulted in, a swift shift in advertising policies. Mr. Simicska reportedly used his remaining advertisement capacity to support opposition party Jobbik Magyarországért Mozgalom in 2017.<sup>14</sup> This triggered a legislative change (Article 11/G. of Act LXXIV of 2016 on the Protection of the Visual Appeal of Streetscapes) carried out by MPs affiliated with the governing party, which made it financially unreasonable for political parties to advertise their agenda outside the strictly defined campaign period of 50 days before elections.<sup>15</sup> (Press reports claim that Fidesz has failed to observe these new restrictions, thereby potentially saving ca. 30% of the price it would have had to pay for poster placements in 2018 to date according to the new regulations.<sup>16</sup>) In addition, the amendments have authorized local governments to levy taxes on advertising spaces (e.g., billboards for posters) from January 2018.<sup>17</sup>

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<sup>13</sup> The submission as well as the date of the positive decision on admission (22 June, 2016) can be seen on the Court's homepage here:

<http://public.mkab.hu/dev/dontesek.nsf/0/EC4B846BDF8C2754C1257F4F005E2A88?OpenDocument>

<sup>14</sup> [http://hvg.hu/itthon/20171129\\_Simicska\\_Lajos\\_kimondta\\_a\\_Jobbikra\\_szavaz](http://hvg.hu/itthon/20171129_Simicska_Lajos_kimondta_a_Jobbikra_szavaz)

<sup>15</sup> [https://index.hu/belfold/2017/06/23/rendkivuli\\_parlamentiu\\_ulesen\\_szavaznak\\_a\\_plakattorvenyrol/](https://index.hu/belfold/2017/06/23/rendkivuli_parlamentiu_ulesen_szavaznak_a_plakattorvenyrol/)

<sup>16</sup> <https://24.hu/belfold/2018/02/12/a-fidesz-maga-dokumentalta-hogy-kijatszotta-a-plakattorvenyt/>,

[https://index.hu/belfold/2018/02/12/sajat\\_plakattorvenyet\\_jatszotta\\_ki\\_a\\_fidesz\\_a\\_soros-plakatokkal/](https://index.hu/belfold/2018/02/12/sajat_plakattorvenyet_jatszotta_ki_a_fidesz_a_soros-plakatokkal/)

<sup>17</sup> [https://index.hu/gazdasag/2018/01/25/oriasplakat\\_ado/](https://index.hu/gazdasag/2018/01/25/oriasplakat_ado/)

This change has resulted in a significant increase of campaign costs that apparently affects the parties and candidates to varying degrees.

### **Campaign Finance**

**20. Consideration could be given to introducing interim reporting as well as shorter reporting deadlines, in line with international good practice.**

**Not Implemented.** Legislation has not changed in this respect (Kftv., S. 8).

**21. The legal framework should be amended to have clear oversight and monitoring powers assigned to the State Audit Office. Timely oversight mechanisms for campaign finance violations during the campaign could also be provided.**

**Not implemented, positively counteracted.** The SAO is empowered to monitor the legality of the financial management of political parties [Act LXVI of 2011 on the State Audit Office, S. 5, Para. (11)]. The SAO carries out monitoring the finances of political parties and party foundations receiving state subsidies in every two years [Act XXXIII of 1989 on political parties, S. 10, Para. (2)]. Monitoring of the use of state subsidies during election campaigns is carried out within one year after the elections (Kftv. S. 8/B). In this regard the SAO operates as a quasi-authority: political parties that have accepted pecuniary contributions in violation of party financing rules (for example, from forbidden business activities or from anonymous donors) are obliged to pay the sum of that contribution – once the SAO issues a call for payment – to the state budget within 15 days. In case of delay, if necessary, this sum may be collected by electronic funds withdrawal or confiscation of assets, in the same procedure used for collecting overdue taxes. In addition, the budgetary subsidy of the party is to be reduced by the sum of the pecuniary contribution accepted, following a proposal of the SAO [Act XXXIII of 1989 on political parties, S. 4. Para. (4-5)]. Therefore the SAO applies the law in individual cases: its decisions are obligatory and final, with no effective judicial oversight [Act LXVI of 2011 on the State Audit Office, S. 1, Para. (6)].

While the SAO was granted the sanctioning power described above effective January 1st, 2014, it started to apply this power only recently, just months before the general parliamentary election of 2018. Further, the SAO has applied its sanctioning power in what appears to be a discriminative manner. Although the SAO claims that it follows a politically neutrally scheduled monitoring schedule, it has only sanctioned opposition parties so far.<sup>18</sup> Its monitoring resulted, among other sanctions, in imposing an extremely heavy fine on the biggest single opposition party, Jobbik Magyarországért Mozgalom. While the timing of the monitoring is foreseeable, given the SAO's public monitoring schedule,<sup>19</sup> the sanctioning practices and, *a fortiori*, the measure of the fines, were contrary to previously established monitoring practice. Additionally, an unwelcome development in some of the SAO's recent monitoring reports is that they lack substantive

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<sup>18</sup> See, among several others, the press release of the SAO: <https://asz.hu/hu/sajtokozlemenyek/az-allami-szamvevoszek-reagalasa-a-partok-ellenorzesével-kapcsolatos-felrevezeto-nyilatkozatokra>. It is noteworthy that the SAO has dedicated a considerable number of press releases to deny allegations of political parties, experts, and civil society organizations (specifically, the HCLU too), without much substantive argumentation as to why it decided to schedule its monitoring activities in such a way that only opposition parties would be monitored little before the general parliamentary election of 2018: <https://asz.hu/hu/sajtokozlemenyek>.

<sup>19</sup> <https://asz.hu/hu/az-asz-ellenorzesi-terve>

argumentation and data in support of their findings of illegal party financing practice (e.g., calculations backing up sum total findings are entirely missing).<sup>20</sup> The lack of sufficient reasons for the monitoring findings makes it impossible for affected, sanctioned political parties to respond in substance to the SAO's allegations. These developments, as the HCLU's legal analysis sustained argument shows,<sup>21</sup> offer good reasons to suspect indeed that SAO exercises its sanctioning powers over political parties in a discriminative manner. While the non-discriminative exercise of sanctioning powers could be a significant means of upholding a level playing field in electoral competitions (see, e.g., GRECO's Addendum to the Second Compliance Report on the "Transparency of Party Financing" in Hungary, 2015, esp. regarding the implementation of *Recommendation x*<sup>22</sup>), the appearance of discriminative sanctioning that is left unjustified both in professional terms and in the eyes of the wider public undermines, rather than contributes to, the freedom and fairness of elections.

Finally, concerns over the current sanctioning practice of the SAO are exacerbated by the current regulation which excludes any effective remedies against the sanctions imposed by the SAO. Formally speaking, the SAO is not an administrative authority, but operates as a quasi-authority with sanctioning power. While the HCLU is convinced that an independent, impartial body with sanctioning powers is necessary to ensure that illegal financial contributions do not upset a level playing field between political parties, such powers must be exercised in line with rule of law requirements and the constitutional right to effective judicial remedy.

## **22. Any campaigning by third-parties in the electoral process could be subject to campaign finance legislation.**

**Not Implemented.** Kftv. has not changed from this aspect. This act obliges [S. 9, Para (1)] candidates and nominating organizations to report their campaign expenditures. State subsidies for the campaign [S. 1-6] and campaign expenditure ceilings [S. 7] concern also only candidates and nominating organizations. No third-parties campaigning in the interest of candidates or nominating organizations are subject to these regulations.

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<sup>20</sup> See reports concluding the monitoring of opposition parties, in alphabetical order or party names:

1. Demokratikus Koalíció: <https://www.asz.hu/storage/files/files/jelentes/2018/18014.pdf?ctid=762>, and: <https://www.aszhirportal.hu/hu/hirek/lezarult-a-dk-es-az-mlp-ellenorzese>

2. Együtt Magyarország: <https://www.asz.hu/storage/files/files/jelentes/2018/18015.pdf?ctid=1233>, and: <http://www.aszhirportal.hu/hu/jelentesek/lezarult-az-egyutt-ellenorzese>

3. Jobbik Magyarországért Mozgalom: <https://www.asz.hu/storage/files/files/jelentes/2018/18012.pdf?ctid=1233>, and: <https://www.aszhirportal.hu/hu/hirek/lezarult-a-jobbik-magyarorszagert-mozgalom-ellenorzese>

4. Lehet Más a Politika: <https://www.asz.hu/storage/files/files/jelentes/2018/18016.pdf?ctid=762>, and: <http://www.aszhirportal.hu/hu/hirek/veget-ert-a-pm-az-lmp-es-az-mszp-ellenorzese>

5. Magyar Liberális Párt – Liberálisok: <https://www.asz.hu/storage/files/files/jelentes/2018/18017.pdf?ctid=762>, and: <https://www.aszhirportal.hu/hu/hirek/lezarult-a-dk-es-az-mlp-ellenorzese>

6. Magyar Szocialista Párt: <https://www.asz.hu/storage/files/files/jelentes/2018/18013.pdf?ctid=762>, and: <http://www.aszhirportal.hu/hu/hirek/veget-ert-a-pm-az-lmp-es-az-mszp-ellenorzese>

7. Párbeszéd Magyarországért Párt: <https://www.asz.hu/storage/files/files/jelentes/2018/18018.pdf?ctid=762>, and: <http://www.aszhirportal.hu/hu/hirek/veget-ert-a-pm-az-lmp-es-az-mszp-ellenorzese>

For comparison with the sketchy, and at best partially argued findings of the reports on Jobbik Magyarországért Mozgalom and Együtt Magyarország, see [Report No. 17094](#), concluding the monitoring of the political party MSZP in June 2017, which bases its findings on several detailed calculations in a number of appendices.

<sup>21</sup> <https://tasz.hu/hirek/allasfoglalasunk-az-allami-szamvevoszek-ellenzeki-partokat-ert-szankcioirol>

<sup>22</sup> <https://rm.coe.int/16806c6b5f>

## Media

**23. State advertisement contracts should be procured transparently and be subject to audit by an independent body. Consideration could be given to allocating state advertising only to outlets that require full transparency of media ownership and compliance with an internal code of conduct and self-regulation.**

**Not implemented.** State spending on advertising is not transparent. The Cabinet Office of the Prime Minister (not to be confused with the Prime Minister's Office) will typically not disclose media advertisement contracts voluntarily, but only in response to FOI requests.<sup>23</sup>

- State advertising expenditures typically go to government-friendly media outlets owned by oligarchs<sup>24</sup> and businesspersons close to Mr. Rogán, Minister of the Cabinet Office.<sup>25</sup>
- Heavy advertisement spending by the Government tilts the media market, making the Prime Minister's Office the second biggest advertiser on the market in 2017.<sup>26</sup>

**24. Article 13 of the Freedom of the Press and the Fundamental Rules of Media Content Act should be amended in order to provide for a precise definition of what constitutes “balanced coverage” in broadcast news.**

**Not implemented.** No amendment was made to Article 13 of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content Act.

**25. Criminal defamation provisions should be repealed in favour of civil sanctions designed to restore the reputation harmed. Sanctions should be strictly proportionate to the actual harm caused and the law should prioritize the use of non-pecuniary remedies.**

**Not implemented.** No amendment was made to Article 226 of the Criminal Code, which criminalizes defamation.

**26. In the current media environment, in order to foster equal opportunities for contestants, consideration could be given to amending the law to provide for both free and paid political advertising in broadcast media.**

**Not implemented.** No amendment was made to Article IX of the Fundamental Law, which prohibits paid political advertising in commercial broadcast media.

**27. Provisions in the legal framework that can be used to provide for the broadcasting of government advertisements during an election campaign should be amended in order to prevent the governing party having an undue campaign advantage.**

**Not implemented.** According to Mttv. S. 32. Para. (3), political advertisements can be broadcast on television and on the radio only within the 50-day-long election campaign periods, and during

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<sup>23</sup> <https://atlatzo.hu/2017/03/10/3-milliard-forintot-koltott-a-kormany-a-kvotakampany-vegere/>

<sup>24</sup> <https://444.hu/2016/02/04/fidesz-kozeli-tevek-lapok-es-a-kozmediumok-jartak-jol-a-mukodo-reformokrol-szolo-kampanyal>

<sup>25</sup> <https://budapestbeacon.com/orbans-new-propaganda-minister-antal-rogan/>

<sup>26</sup> <https://24.hu/media/2017/10/25/a-miniszterelnokseg-az-egyik-legnagyobb-hirdeto/>

referendum procedures once Parliament has resolved that a referendum will take place. Both in election campaigns and referenda, Ve. specifies the conditions of broadcasting political advertisements.

By contrast, so-called public interest advertisements (“társadalmi célú hirdetés”) can be broadcast without any temporal limitations. The government currently in office has been using this instrument instead of (and beyond) political advertisement: the government’s messages (such as the recent anti-immigration and anti-Soros campaigns) are broadcast under this classification throughout the year.

### **Election Observation**

**28. The election law should be amended to allow observation by citizen non-party observers of all stages of the electoral process, in accordance with OSCE commitments.**

**Not implemented.** There is no legal opportunity for citizen election observers. In the absence of legal empowerment, no Hungarian NGOs may carry out on-site election monitoring activities in their own right (Ve., S. 4). Citizens may only observe the electoral procedure or certain parts of the procedure as representatives of the press, or they may choose to play an active role in polling station commissions as delegate members if they find a party or candidate who wishes to delegate them (Ve. SS. 173, 184). Opposition candidates and parties have often been unable to exploit this opportunity, to date, in a considerable number of smaller towns / villages in the elections and referenda of the past years, presumably due to resource scarcity.<sup>27</sup> However, there is a growing interest in citizen observation: a social movement (“Közös Ország Mozgalom” [“Country for All”]) has undertaken to coordinate opposition parties’ and candidates’ delegation to polling stations.<sup>28</sup> This attempt in civic activism aims to match parties and candidates’ demand with volunteer labor force supply to ensure that no polling station is left without opposition delegates. The movement thus tries to exploit the legal opportunity to take part in the electoral procedure by means of delegation to of polling station commissions.

### **Complaints and Appeals**

**29. The resolution of electoral disputes should be transparent in all jurisdictions, with the parties concerned able to attend public hearings.**

**Not implemented.** Legal regulations have not changed in this respect. Formal requirements of lodging complaints include the “indication of the legal infringement” (Ve. S. 212). The National Election Committee, instead of addressing the problem the OSCE mentioned in its Final Report regarding the high frequency of refusing complaints on merely technical grounds, further entrenched a restrictive interpretation of this provision. In the recent interpretations of NEC resolution, “indicating the infringement” requires that the complainants shall explicitly refer to

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<sup>27</sup> See the statistics of party delegates on the general elections in 2014 (<http://www.valasztas.hu/delegaltak>) and in 2010 (<http://www.valasztas.hu/delegaltak1>). In an HCLU-organized roundtable-discussion on November 28th, 2017, all the opposition parties’ representatives at present (who accepted the HCLU’s invitation) agreed that the presence of the opposition’s delegates in the polling station commissions as high number as possible would be crucial.

For more on this event, see: <https://tasz.hu/politikai-reszvetel/valasztasi-monitoring-programba-kezdunk-2018-parlamenti-valasztasok-kapcsan>

<sup>28</sup> <https://kozososragmozgalom.hu/jelentkezz-szavazatszamlalo-bizottsagi-tagnak/>

the legal source as well as the exact provision within the legal source that they claim has been violated, with section and paragraph precision (Resolutions No. [39/2016.](#), [45/2016.](#) and [83/2016.](#) of NEC). In an essentially administrative procedure that complainants may initiate without mandatory legal representation, and only within an extremely limited timeframe, the strict interpretation of the formal requirements is expected to lead to further, massive amounts of rejections. The restrictive interpretation is also in conflict with the public interest in the settlement of disputes concerning the legality of the electoral procedure.

It is also noteworthy that the NEC has not exhibited any self-restraint in the exercise of its powers in the period during which it operates exclusively with the membership of elected members, without any delegate members (see more on this under Recommendation 4). Among other decisions, it has issued a guideline in 2018 (Guideline No 1/2018.) which significantly affects the opportunities of competing parties in the general parliamentary election of 2018 during the period in which no party delegates had membership in the NEC (see more on the substantive evaluation of the guideline under Recommendations 11 and 14). This lack of self-restraint on the NEC's part results in decisions which significantly affect parties' rights without the affected parties having any chance to voice their views in the decision-making process.

Although affected parties may challenge NEC Resolutions before the Supreme Court, Guidelines are not subject to judicial review. Accordingly, the unjustified timing of NEC decisions on guidelines (more on this under Recommendations 11 and 14) can effectively undermine the realization of the principle *audiatur et altera pars* in decisions that exert a significant influence on the electoral procedure.

**30. To enhance legal stability, the Supreme Court should oversee the interpretation of legislation and apply decisions consistently. In addition, the law should provide for enforcement mechanisms for Supreme Court decisions to ensure they are fully implemented.**

**Not implemented** - Jurisprudence-analysing working groups, established by the Supreme Court ("Kúria") itself, have been addressing issues of consistency in several fields of judicial practice -- including the application of laws related to fundamental rights and freedoms such as freedom of assembly and equal treatment -- in the past years.<sup>29</sup> In the same period of time, jurisprudence-analysing working groups of the Supreme Court has not yet focused on the judicial application of electoral regulations since 2014, despite the fact that new codes of substantive electoral law (Vjt.) and procedure (Ve.) were applied throughout the country for the first time in 2014. This may be explained by the fact that there is little room for different courts to develop inconsistent jurisprudence in parliamentary elections, as the Supreme Court has unique jurisdiction to ultimately review all election commission decisions in these elections, whether or not consistently with its own legal practice.

There is no change in that similar court decisions with wide-ranging significance in electoral procedures mentioned in the Final Report have no enforcement mechanisms.

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<sup>29</sup> <http://lb.hu/en/jurisprudence-analysing-working-groups>

**31. Law enforcement bodies should ensure that persons who commit election-related offenses are promptly brought to justice. Consideration should be given to ensuring that the Criminal Procedure Code also provides for timely investigation and adjudication of cases.**

**Not implemented** - A new Criminal Procedure Code will come into effect on 1st of July, 2018, and will be applied in cases which are still open at the time its entry into force. Therefore, election-related offenses committed in relation with the election of 2018, if any, will be investigated, potentially prosecuted and adjudicated at least partly based on the old Code, i.e. within the regular criminal investigation timeframes, and will be continued based on the new Code. However, the new Code still has not set specific time limits for election-related cases either. Thus regular criminal investigation timeframes will be applicable in the future too.

While presumably, criminal investigations concerning the personal data abuse allegations that dominated the nomination phase of the general parliamentary election of 2014 have been launched,<sup>30</sup> the wider public has not been informed about the outcome of these investigations. This further reduces public trust in law enforcement bodies as ultimate guarantors of the legality and fairness of electoral procedures.

### **Participation of Women**

**32. Further measures to enhance women’s participation should be considered. This could include implementing existing national strategies to promote gender equality, as well as providing gender equality training for public officials and decision-makers.**

**Not implemented.** No regulation or measure was introduced to enhance women’s participation in decision-making or in politics in general. There is no published, accessible information about any recently introduced national strategy that would encourage women’s participation in decision-making or in politics in general. Concerning an opposition initiation that was not supported by the governing parties, see under Recommendation 9.

### **Participation of National Minorities**

**33. Any requirements to implement special measures for national minority representation should be proportionate to the aim pursued and ensure that data protection and voluntary self-identification standards are fully respected.**

**Not implemented.** No modifications were carried out in the relevant measures compared to 2014. The system of national minority representation in Parliament remains the same: registered minority voters can only vote for the national list of their own minority instead of a national party list [Ve. S. 7.]. Registration is voluntary [Ve S. 85. Para. (1) Point *a*]; Ve. S. 86.]: voters can freely decide -- well before election day -- whether they choose to vote as minority voters, i.e., for a national minority list, or for a national list of a party or parties. On election day, minority voters who have registered as such receive a ballot on which their own national minority’s list appears as the only option to vote for. This system compromises the secrecy of minority electors voting, as

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<sup>30</sup> See., e.g., <http://444.hu/2014/03/08/csalas2/>, <http://vs.hu/kozelet/osszes/igy-csaltak-a-valasztason-a-kamupartokvideo-0415>, and <http://nepszava.com/2014/03/magyarorszag/valasztasi-csalasokhoz-asszisztalnak-a-hatosagok.html>.



minority voters are identified as such on the registry, in order to ensure that they receive a ballot with the name of their own minority's list only. While technically, such voters may still cast an invalid ballot, the current system of minority voting practically turns minority voter registration into an exercise of open voting. Furthermore, this system of minority voting can easily lead to a direct infringement of the secrecy of the vote, as it is likely that in some polling stations, there is only one registered minority voter belonging to a given national minority. In such cases, the polling station commission responsible for counting the ballots can simply identify the ballot that this voter has cast.

### Election Day

#### **34. Consideration could be given to ensuring that polling stations handling absentee voting also comply with the legal limit of voters per regular polling station.**

**Not implemented.** There is still no legal limit on the number of absentee voters per polling station. Voters can choose any settlement (village, city or capital district) for absentee voting. The fact that there is only one designated polling station available in every settlement for absentee voting makes the situation of absentee voters (and polling station commissions) even more complicated. According to the 2018 election information booklet published by the National Election Office for local election commissions,<sup>31</sup> absentee voters will have to vote in the same polling station which is designated for voters who are registered as residents of a city, town or village (capital district) without any specific street address (p. 24), e.g., several people without shelter. While this regulation is unlikely to cause a serious problem in smaller settlements (as in these places, there is usually only one polling station operating with a more numerous commission [Ve. S. 21]), the same rule might cause serious difficulties or at least result in long queues in major cities, and especially in some districts of Budapest, as experience showed in 2014.<sup>32</sup> At the same time, substitute members of the polling station commissions are called to duty if the number of voters assigned to a polling station exceeds 900 [Ve. S. 24, Para. (3)].

Absentee voters in parliamentary elections receive a ballot with the names of their own electoral district candidates, and their ballots are counted in the electoral district of their residence (and not where they were cast). Thus, efficient, seamless electoral administration and speedy counting are probably the reasons for concentrating all the absentee ballots in a low number of polling stations within each electoral district.

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<sup>31</sup>See the booklet in question, No. 202, here:<http://www.valasztas.hu/documents/20182/305771/202,+SEG%C3%89DLET+helyi+v%C3%A1laszt%C3%A1si+irod%C3%A1k+vezet%C5%91i+r%C3%A9sz%C3%A9re+a+2018.+%C3%A9vi+orsz%C3%A1gy%C5%B1%C3%A9si+v%C3%A1laszt%C3%A1sokhoz/60e47a88-f119-4dc8-b818-7b0d694e8145?version=1.1>.

All the National Election Office's information booklets for other election offices are available at the following address, in Hungarian: <http://www.valasztas.hu/valasztasi-fuzetek>.

<sup>32</sup> <https://mno.hu/belfold/este-8-orara-mindenhol-vege-a-voksolasnak-1220022>  
<http://ujbuda.hu/ujbuda/valasztas-sorban-allas-volt-a-bocskaiaban>

**35. The authorities should consider measures to fully guarantee ballot secrecy. Consideration could be given to eliminating envelopes, so long as ballots are effectively folded for secrecy.**

**Not implemented.** No modifications were carried out in the relevant measures compared to 2014. Using envelopes and polling-booths is still voluntary, ballots may be folded for secrecy without the use of envelopes too. However, using envelopes (and closing them) is obligatory in case of absentee voting and voting at foreign representations - in these cases, the electoral district where the voter is originally registered as resident must be indicated on the envelope [Ve. S. 257. Para (2)]. This does not lead to the infringement of secrecy, as the ballots of absentee voters are mixed together with other ballots in the electoral district of the absentee voters' residence before being counting [Ve. S. 287. Para (1).; Ve. S. 292. Para. (4)]. However, while absentee ballots and ballots cast at foreign representations are not counted if they arrive in their electoral districts in open envelopes [Ve. S. 286], as a further guarantee of the secrecy of the vote, polling station commissions unfortunately have no obligation to warn absentee voters to close their envelopes. Furthermore, infrastructural guarantees of the secrecy of the vote vary considerably between polling stations. Electoral regulations uniformly require that polling stations should be designed in a way that ensures the exercise of the franchise free from undue influence [Ve. S. 165. Para (1), point *b*)]. However, there is still no legal measure that regulates the exact specifications of polling booths (e.g., requiring the presence of curtains).

The National Election Office started to change the paper ballot-boxes to grey, non-transparent plastic boxes before the national referendum in October 2016. Transparent plastic boxes will be used as ballot-boxes at foreign representations. This does not compromise secrecy as voters may cast valid votes at foreign representations only if they put the ballot into the envelope they receive, and close the envelope before casting their vote.

**36. Consideration should be given to ensuring that ink and stamps on ballots are standardized to ensure clarity regarding their validity.**

**Not implemented.** There is still no legal measure that regulates the exact specifications of the ink and stamps to be used on ballot papers. Polling station commissions stamp ballots when providing them to voters [Ve. S. 187. Para (1)]. Ballots provided for voters who ordered a mobile ballot box must be stamped in the polling station, prior to the delivery of the box to the voters [Ve. S. 184. Para (3)]. Ballots are invalid if they are not stamped [Ve. S. 193. Para (1), point *a*)]. However, there is an exception: out-of-country voters' ballots are valid even without stamping. (This only affects the ballots cast by mail, by non-resident voters; a stamp is still required on the voters cast by Hungarian residents abroad, in person, at foreign representation.) These are also the only ballots that are not counted manually, but by means of an IT-system [Decree of the Minister of Justice, 1/2018 (I. 3.), S. 23, Para (1), point *f*)].