



**ORDO IURIS INSTITUTE FOR LEGAL CULTURE
COLLEGIUM INTERMARIUM UNIVERSITY**

**INTERNATIONAL OBSERVATION MISSION IN HUNGARY
FOR PARLIAMENTARY ELECTIONS AND REFERENDUM**

ON 3RD OF APRIL 2022

- FINAL REPORT -

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**Ordo Iuris Institute for Legal Culture
4th of April, 2022**

TABLE OF CONTENTS

1. EXECUTIVE SUMMARY.....	4
1.1 ELECTION ADMINISTRATION	4
1.2 ELECTION FUNDING	4
1.3 MEDIA LANDSCAPE.....	5
1.4 REFERENDUM ISSUES	6
1.5 CIVIL SOCIETY	6
2. INTRODUCTION	8
3. ROLE AND PRINCIPLES OF THE INTERNATIONAL OBSERVATION MISSION	9
4. ELECTORAL ADMINISTRATION	12
4.1 INTRODUCTION	12
4.2 GENERAL INFORMATION	13
4.3 REGISTRATION OF CANDIDATES.....	14
4.4 POSTAL VOTING.....	15
4.5 INSTITUTIONS WHICH ORGANIZE ELECTION IN HUNGARY	18
4.6 HUNGARIAN ELECTIONS IN COMPARISON TO INTERNATIONAL STANDARDS.....	20
4.7 ELECTION DAY OBSERVATION	23
4.8 CONCLUSIONS.....	24
5. ELECTION FUNDING	25
5.1 STANDARDS OF FAIR ELECTION FUNDING	25
5.2 OBSERVATIONS.....	26
5.4 MECHANISM TO ENSURE FAIR FUNDING INCLUDING LIMITATIONS ON DONATIONS AND SPENDING FOR ELECTION CAMPAIGNS AND LIMITATIONS ON FUNDING FOR POLITICAL PARTIES.....	28
5.5 CONTROL PROCEDURE	29
5.6 TRANSPARENCY OF THE FUNDING FRAMEWORK	29
5.6.1 <i>General framework</i>	29
5.6.2 <i>Advertising funding</i>	30
5.6.3 <i>Oversight over and enforcement of the funding limitations</i>	31
5.6.4 <i>Impact of concurrent organization of the parliamentary elections and referendum on fairness and transparency of funding</i>	32
5.7 RECOMMENDATIONS	33
5.8 SUMMARY.....	33
6. MEDIA LANDSCAPE	34
6.1 EUROPEAN STANDARDS – MEDIA PARTICIPATION DURING ELECTION CAMPAIGN.....	34
6.2 LEGAL FRAMEWORK	34
6.2.1 <i>Constitution</i>	34
6.2.2 <i>Election Code</i>	35
6.3 LEGAL AND ORGANIZATIONAL MEDIA BACKGROUND	37
6.3.1 <i>Regulatory context and ownership</i>	37
6.4 PUBLIC ENTITIES - CONTROL OF MEDIA.....	38
6.5 CENTRAL EUROPEAN PRESS AND MEDIA FOUNDATION (HUN. <i>KÖZÉP-EURÓPAI SAJTÓ ÉS MÉDIA ALAPÍTVÁNY, KESMA</i>).....	39
6.6 MEDIA ENVIRONMENT – MEDIA MARKET IN HUNGARY	40
6.6.1 <i>Television channels, radio stations, internet portals</i>	40
6.6.2 <i>Social Media</i>	43
6.7 MEDIA ACTIVITY DURING THE ELECTION PROCESS.....	46
6.8 MEDIA ATTITUDE DURING THE ELECTION CAMPAIGN – MEETINGS WITH LOCAL POLITICIANS, MEDIA, AND OTHER REPRESENTATIVES	47
6.9 CONCLUSIONS.....	49
7. REFERENDUM ISSUES	50
7.1 BACKGROUND AND POLITICAL CONTEXT.....	50
7.2 REFERENDUM SYSTEM AND LEGAL FRAMEWORK	52
7.3 APPLICATION OF AN INTERNATIONAL STANDARDS.....	54

7.4	GOVERNMENTAL REFERENDAL CAMPAIGN	58
7.5	NON-GOVERNMENTAL PRO-REFERENDAL CAMPAIGN	60
7.6	LGBT ORGANIZATIONS ANTI-REFERENDUM CAMPAIGN	61
7.7	OPPOSITION ANTI-REFERENDUM CAMPAIGN	64
7.8	SUMMARY	64
8.	CIVIL SOCIETY IN HUNGARY.....	66
8.1	THE ROLE OF CIVIL SOCIETY IN THE PERSPECTIVE OF THE INTERNATIONAL STANDARDS	66
8.2	CONDITION OF HUNGARIAN NGO AS OF MARCH / APRIL 2022.....	67
8.3	HUNGARIAN NGO DURING THE PARLIAMENTARY ELECTION CAMPAIGN	69
8.4	NGO RELATED TO THE PARTIES	69
8.5	THE ACTIVITIES OF THE WATCHDOG ORGANIZATIONS.....	71
8.6	NGO INVOLVEMENT IN THE REFERENDUM CAMPAIGN.....	72
8.7	IMPACT OF THE FOREIGN ORGANIZATIONS (NOT REGISTERED IN HUNGARY).....	73
8.8	NGO ACTIVITIES CONCERNING VOTERS LIVING ABROAD	74
8.9	SUMMARY	75

1. Executive Summary

1.1 Election administration

- A. After full inquiry of election administration regulations, their practical implementation on all levels of electoral administration, followed by observation in 60 Election Commissions on 3rd of April, Election and Referendum Observation Mission states that parliamentary elections and referendum complied with all national and international standards and principles, effectively providing for universal, direct, secret, free and equal voting.
- B. On election day no circumstances were encountered that would violate the principles of fair and free expression of the vote.
- C. No changes to the law concerning the electoral system had been introduced over the course of one year that may undermine stability of the system or undermine compliance with the principle of equality in its aspect of equality of opportunities. Election system provisions were found to fulfill principles of pluralism, stability, free expression, neutrality, and provide for free election protest procedure.
- D. In order to increase the transparency of elections, it is recommended to unify the ballot boxes by using closed transparent boxes made of solid material (e.g. plastic).

1.2 Election funding

- E. International Election Observation Mission has concluded that there were no material deviations from European standards and Hungarian law defining the legality, fairness and transparency and relevance of the electoral process, that it has been entrusted to observe.
- F. Considering the regulations, interviews and documents studied for the preparation of this report, the International Elections Observation Mission concludes that the Hungarian electoral financing system is fully embedded in the general European framework without substantive deviations.
- G. Hungarian legal system implements to a similar degree as the rest of the European national systems the international recommendations and standards concerning: (i) equal suffrage assured by equality of opportunities; (ii) transparency of political parties, candidates and campaign funding of the Venice Commission.
- H. Hungarian regulations for the financing of parties and electoral processes have transparent, fair and equal rules for all contenders, establish proper system of administrative control bodies and provides for adequate procedures and sanctions for

the case of non-compliance. The number of complaints filed with these control bodies is low as compared to other European countries (e.g., Spain).

- I. Hungarian system provides for limited control of third parties founding (e.g., NGOs, foundations, individual citizens) from national or international sources. Which seems to be a compromise between regulative requirements for transparency of third sector involvement in elections campaign and protection of basic freedoms of civic society participation and freedom of speech.

1.3 Media Landscape

- A. Depending on the sources invoked, television channels or online sources tend to be most important source for news, while importance of printed sources steadily decline with many titles in deep financial crisis.
- B. Strong private sector, with mostly viewed television channels (RTL Group, ATV), is popularly perceived as highly supportive towards opposition parties and their narratives. Public media are popularly perceived as highly supportive towards government views and opinions (Duna Media). Presence of private commercial television group also perceived as lining towards governmental perspective (TV2 Group) provides for more balanced media landscape. As a result of wide offer of television channels and market fragmentation, Hungarian voters have a wide range of media from which they can draw information about the political, economic and social reality surrounding them.
- C. While all sides of political scene claim inequality in media coverage, analysis led to conclusions, that wide range of leading privately owned media supporting opposition parties is counterbalanced by emerging private media sector more supportive to governmental perspective and public media unquestionably leaning towards governing parties and political perspective of the government.
- D. According to a survey conducted in the third quarter of 2021, 81.6% of the Hungarian audience consume pro-government media and 80.6% consume anti-government media. The proportion of those who consume exclusively progovernment media products was 5.7%, a third smaller than those who consume exclusively anti-government media (9.2%).
- E. 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 antigovernment media content is well balanced and roughly the same size.
- F. Due to biased interference in the election process by practice of shadow banning and selective banning of political figures and political parties' profiles by leading social media providers, observers express concern over lack of proper legal guarantees

providing for equality of opportunities in cases of abuse of dominant position by some social media providers.

1.4 Referendum issues

- A. The Hungarian checks and balances system with regard to the referendum procedure is efficient and functioning independently of the executive power (government). This is evidenced by the fact that the Hungarian Supreme Court refused to approve one of the five referendum questions originally proposed by the government, and that the amendment to the law allowing a referendum to be held on the same day as the parliamentary elections was voted unanimously with the opposition, at the request of one of the MPs from a party opposing the government.
- B. The referendum was conducted in the legal framework defined by the regulations of Hungarian Constitution, by the Hungarian Referendum Act of 2013 and – respectively – by the Hungarian Election Act of 2013. It also met the standards recommended to nation states by the Council of Europe and the Venice Commission.
- C. Hungarian non-governmental organizations participated in the referendum campaign on the side of voting „four times no” (according to interlocutors from pro-family organizations – as many as 22 organizations) and on the side of invalid voting (18 different organizations, including 12 financed by George Soros and Open Society Foundations for the amount \$6.734.409).
- D. The government campaigned by paying for billboards and publishing videos urging citizens to vote in the referendum. However, government officials did not disclose how much money was allocated to these activities.
- E. The referendum campaign lost relevance in the eyes of the public due to Russia's invasion of Ukraine. Were it not for the war, the public debate would certainly have focused more on this topic. On the other hand, the experiment showed that holding a referendum on election day works correctly.

1.5 Civil society

- A. NGOs play a significant role in the functioning and development of Hungarian society. They remain very active in almost every sphere of social life, and this activity does not differ from other European countries. It should also be emphasized that the nation has a large and diverse range of different NGOs, which creates a balanced environment also for the appropriate development of political life.

- B. NGOs have the freedom and public space to express their positions and to be involved in dialogue with civil society in order to pursue their legitimate objectives. NGOs are free and have access to the information they need to carry out their activities.
- C. The observation mission draws attention to the need for changes in access to public information and the shortening of the waiting time for access to information, especially during the election campaign, when transparency in the functioning of public authorities is particularly necessary.
- D. The observation mission encourages the local authorities to maintain and improve vigilance over entities with foreign capital to avoid any possible interference in electoral processes.

2. Introduction

On March 16, 2022, an International Observation Mission, organized within the framework of Ordo Iuris Institute and Collegium Intermarium University, was formed to verify the course of the electoral process in Hungary. The duties of election observers are performed by the 20 representatives of academic research institutes, think tanks, social organizations, lawyers and journalists from Poland, Bulgaria, Croatia, Spain and Ukraine¹.

The first observation phase, which included an analysis of the legal framework for various aspects of the electoral process and the situation of the media, has been completed by 24th of March, when mission arrived in Hungary and commenced second phase, which included meetings with key representatives of the areas that are the subject of the report - election administration, media, campaign financing and civil society, as well as the conduct of the national referendum.

By the election day, members of mission have met with leaders or representatives of political parties and coalitions that responded to our invitations (Fidesz – Magyar Polgári Szövetség, Egységben Magyarorszáért, Kereszténydemokrata Néppárt, Magyar Szocialista Párt, Magyarország Zöld Pártja, Mi Hazánk Mozgalom, Magyar Kétfarkú Kutya Párt), with public and private media outlets (Átlátszó, Magyar Nemzet, Mediaworks, 888.Hu, Vilaggazdaság, HIR.TV, ORIGO, TV2, Klubrádió, Madiner.hu), academics from Mathias Corvinus Collegium, Eötvös Loránd University Faculty of Law, NGOs active in the referendum or elections campaign (i.a. Alapjogokért Központ, Családtudományi Szövetség, Ökopolisz Alapítvány, Századvég Economic Research Institute, Magyar Patrióták Közössége, Három Királyné Mozgalom) and key public institutions (Constitutional Court, Supreme Court, National Election Office, National Election Commission, Ministry of Justice, National Media and Intercommunications Authority, State Audit Office).

Third phase of the election observation was performed on the election day, when members of the mission visited 60 election polling places across the country. The compliance with principles of equal, secret, and direct voting were under the scrutiny as observers questioned members of the polling commission and witnessed performance of the polling stations from the moment of their opening until last vote cast.

Final phase of the election observation mission will continue during the counting procedures and will include monitoring of the handling of election protests both by election administration and courts.

¹ Due to Russian aggression, three Ukrainian members of the observation mission took part only in the preparatory phase of the mission.

3. Role and Principles of the International Observation Mission

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provide the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuinely democratic elections are internationally recognized human rights². Free elections and the rule of law are recognized as fundamental to build democratic society in the states that are committed to the ideals of democracy and political pluralism³. Free elections by secret ballot, hold at reasonable intervals as established by law, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives are essential to the full expression of the inherent human dignity and the equal and inalienable rights of all human beings⁴. As effect free elections play an essential role in securing citizens' principle right to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes⁵ and to have a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate⁶.

Observation of elections plays an important role as it provides evidence of whether the electoral process has been regular or not⁷. The primary duty of election observers (both domestic and international) is to ascertain whether any irregularities occurred before and after election day as well as on election day itself. This is the only way to ensure that the election has been conducted in accordance with domestic legislation and international rules and standards for democratic elections and has been organized in a democratic and transparent manner⁸.

States participating in Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990) agreed to recognize the presence of observers, both foreign and domestic, as an opportunity to enhance the electoral process. They therefore invite observers from any other

² Declaration of Principles for International Election Observation, The United Nations Electoral Assistance Division (UNEAD), The National Democratic Institute for International Affairs (NDI), The Carter Center (TCC), endorsed by (i.a.) the Venice Commission at its 64th plenary session (Venice, 21-22 October 2005), European Commission, Organization for Security and Cooperation in Europe, Office of Democratic Institutions and Human Rights (OSCE/ODIHR), page 1, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2005\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2005)036-e) (access: 24.03.2022).

³ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (OSCE Copenhagen Document), 1990, Preamble.

⁴ Document of the Copenhagen Meeting..., point (5).

⁵ Document of the Copenhagen Meeting..., point (6).

⁶ Document of the Copenhagen Meeting..., point (5.2).

⁷ European Commission for Democracy Through Law (Venice Commission), Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report. Adopted by the Venice Commission at its 51st and 52nd session (Venice, 5-6 July and 18-19 October 2002), Chapter 3.2., <https://rm.coe.int/090000168092af01> (access: 24.03.2022), paragraph 86.

⁸ European Commission for Democracy Through Law (Venice Commission), Guidelines on an Internationally Recognized Status of Election Observers, Adopted by the Council for Democratic Elections at its 31st meeting (Venice, 10 December 2009) and by the Venice Commission at its 81st plenary session (Venice, 11-12 December 2009), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)059-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)059-e) (access: 24.03.2022), paragraph 12.

State participating in the Conference on Security and Co-operation in Europe and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law⁹.

Fundamental mission of election observers is to safeguard five internationally recognized principles underlying Europe's electoral heritage, characterized by universal, equal, free, secret and direct suffrage. However, the role of the election observers is not only to monitor compliance with those hard core, constitutional principles of electoral law, but also to consider if certain basic and necessary conditions of a democratic state based on rule of law, are met¹⁰.

According to the Declaration of Principles for International Election Observation as established by the United Nations on 27 October 2005¹¹, international election observation must be conducted with respect for the sovereignty and the laws of the host country, as well as national authorities, including electoral bodies. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted on the basis of the highest standards for impartiality concerning national political competitors. Observers may not interfere in the electoral proceedings¹².

Impartiality, as one of the fundamental characteristics of international electoral observation, is achieved and demonstrated by systematic, comprehensive, and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment. The impartial and professional analysis of such information and the drawing of conclusions about the character of electoral processes must be based on the highest standards for accuracy of information and impartiality of analysis.

According to the international standards and principles, the findings of international election observation missions must provide a factual common point of reference for all persons interested in the elections, including the political competitors¹³. International election observation missions are expected to issue accurate and impartial statements to the public¹⁴. Venice Commission Guidelines on an Internationally recognized status of Election Observers goes even further, suggesting that election observers as individuals must avoid any comments in mass-media and should decline requests for interviews¹⁵.

This in mind, International Observation Mission for 2022 Hungarian Parliamentary Elections and Referendum decided to adopt the following Declaration of Principles, along with reaffirming of the generally recognized Code of Conduct for ODIHR Election Observers¹⁶,

⁹ Document of the Copenhagen Meeting..., point (8).

¹⁰ Code of Good Practice in Electoral Matters. Explanatory Report, paragraph 2.

¹¹ Declaration of Principles for International Election Observation...

¹² Document of the Copenhagen Meeting..., point (8).

¹³ Declaration of Principles for International Election Observation..., paragraph 7.

¹⁴ Declaration of Principles for International Election Observation..., paragraph 7.

¹⁵ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.5.

¹⁶ Code of Conduct for ODIHR Election Observers, published by OSCE, 2017, <https://www.osce.org/odihr/elections/322891> (access: 02.04.2022).

based on the best international practices and recognized *modus operandi* of international observation missions:

- A. **Impartiality and non-interference.** Election observers must not interfere in the electoral process and must be politically impartial¹⁷ with strict respect for the principle of impartiality and non-interference¹⁸. International election observers should never exhibit any personal bias or preference related to issues which may have political or electoral implications and should abstain from doing any political, partisan activity¹⁹.
- B. **Accuracy and verifiability of conclusions.** Observers must base their reports and conclusions on factual and verifiable evidence, with professional accuracy and strict respect to impartiality²⁰.
- C. **Compliance with domestic law and culture.** Election observers should comply with all national laws and regulations of the host country²¹. The status of election observer implies a strict respect for the legal framework of the country holding the elections²². Election observers must present a respectful attitude towards electoral officials, other national authorities and all other participants of the process²³ and finally should behave at all times, including in their leisure time, in a professional and irreproachable manner²⁴.
- D. **Neutrality and professionalism in media appearances.** The findings of international election observation missions provide a factual common point of reference for all persons interested in the elections, including the political competitors²⁵, international election observation missions are expected to issue accurate and impartial statements to the public. In mass-media appearances observers should always distinguish their individual views from observations officially supported by the International Observation Mission.
- E. **Formulation of recommendations, not accusations.** Principles of impartiality, respect for the sovereignty and non-interference of international election observers should be expressed in formulation of recommendations rather than accusations concerning the pre-voting phase, the voting day phase and the post-voting phase of elections.

¹⁷ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.3.

¹⁸ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.8.

¹⁹ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.4.

²⁰ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.9.

²¹ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.2.

²² Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.8.

²³ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.6.

²⁴ Guidelines on an Internationally Recognized Status of Election Observers..., paragraph 2.7.

²⁵ Declaration of Principles for International Election Observation..., paragraph 7.

4. Electoral administration

4.1 Introduction

Parliamentary elections are the foundation of the democratic system. To assure that the elections fulfill their role and that they were more than a superficial procedure, both the election campaign and the elections themselves must meet the basic requirements.

The elections are organized and conducted not only according to the provisions of electoral law, but also to newly emerging rules of comparable importance, which are referred to as the "basic principles of elections". These principles include regularity, pluralism, and fairness of elections. Voting right is recognized as one of the basic human rights²⁶

The first step in assessing if the elections could be described as democratic is to define the more general rules that must be met. This should be followed by a more detailed analysis of the principles defining the election system.

The electoral administration should be structured and organized in such a way as to ensure that the election process complies with the principles set out below, which provide the foundations to conduct elections in a fair and democratic manner.

The principle of regularity of elections means that they must be held at as similar intervals as possible. The term of office of the elected body must be synchronized with the rhythm of election procedures.

The principle of pluralism of elections means that they must reflect the current distribution of political electoral preferences and their institutional expression in the diversity of political parties and organizations. This diversity cannot function without the constant process of alternation, i.e. "changing places" by the currently ruling groups and the groups remaining in opposition. This principle must be take placed within the framework of free competition of political parties and their programs. The principle of pluralism is often referred to as the principle of freedom of choice

The principle of fairness in elections means that the entire electoral process should be subject to politically neutral regulations. This prohibits the creation of regulations or the use of practices that facilitate the retention of power by the current ruling majority to the detriment of other groups. It also prohibits taking actions in bad faith when seemingly neutral regulations or practices are used to distort the real will of the electorate or to make it difficult to express it freely. It also requires the creation of an extensive system of guarantees to protect against abuses of the above-mentioned nature. It is particularly important to separate the election process from the political parties in power and entrust this process to a non-partisan,

²⁶ Lech Garlicki; European standards of fairness in elections (Venice Commission and European Court of Human Rights; Constitutional Review 4/2020 p. 145)

independent body representing all participants of the election process. The preservation of independence of the court ruling on election matters is essential to assurance of election fairness.

Finally, a democratic electoral system should be characterized by universality, equality, directness, proportionality, and secrecy of voting (the so-called formula of five-adjective elections).

The principle of universality expresses the requirement that all adult citizens enjoy full civil and political rights to vote.

The principle of directness requires that voter cast their votes directly and not through multi-stage elections, where the final election of deputies is made by electors (one-stage election act).

Sometimes the principle of directness is equated with the personal nature of voting in elections.

The principle of equality should be applied in both formal and material sense when regarding active electoral right and with regard to passive electoral rights, the general principles of the equality of subjects under the law should be applied. In a formal sense, the principle of equality requires each voter to have one vote, and in a material sense, that each vote has the same power.

The principle of secrecy means that voters are provided with appropriate conditions to participate in the election act to make decisions in conditions excluding openness.

4.2 General information

Hungarian parliamentary elections are regulated by the 2011 Fundamental Law (Constitution), the 2011 Act on the Elections of the Members of Parliament (Elections Act), the 2013 Act on Election Procedure²⁷, the 2013 Act on the Transparency of Campaign Costs (Campaign Finance Act),²⁸ the regulations issued by the Minister of Justice and non-binding guidelines for election bodies adopted by the National Election Commission.

The elections are ordered by the President of Hungary and are held in the spring of the fourth year of the parliamentary term²⁹.

²⁷ The 2020 amendments increased the threshold for parties to run in the national part of elections – it requires the simultaneous nomination of at least 71 single-mandate candidates in a minimum of 14 of the 19 counties and in Budapest, from the previous level of 27 candidates and 9 counties.

²⁹ Kubas S., *Węgierski parlamentaryzm: od narodzin do stanu obecnego z uwzględnieniem Konstytucji z 2011 r.* „Przegląd Sejmowy”. https://www.researchgate.net/publication/342003826_Wegierski_parlamentaryzm_od_narodzin_do_stanu_obecnego_z_uwzględnieniem_konstytucji_z_2011_r (dostęp 17.03.2022 r.). s. 210

The electoral system in Hungary is a mixed system - majority-proportional³⁰, with the so-called compensation mechanism, with no minimum attendance requirement³¹.

There is a preferential threshold for each of the 13 national minorities in Hungary, which may submit a candidate list that is voted on by self-declared voters of the respective minority. To win a preferential mandate, a minority list must obtain one fourth of the electoral quota required for a mandate from a proportional list.

The Hungarian Parliament is called the National Assembly. It is a unicameral parliament³² with 199 deputies elected for a 4-year term. 106 Members of Parliament (MPs) are elected in 106 single-member constituencies by a simple majority system, and 93 seats are filled from the national party list^{33 34}, based on a proportional system (one round)³⁵. The distribution of seats from the national list is done using the d'Hondt method.

4.3 Registration of candidates

In order to register the national list, a political party is obliged to first submit at least 71 candidates in single-member constituencies (out of a total of 106) in at least 14 out of 19 counties (one of the levels of the Hungarian administrative division). National party lists are submitted to the National Electoral Commission. The deadline for submission for the elections of 2022 expired on February 26, 2022.

A candidate for a deputy must obtain at least 500 signatures of persons entitled to vote in a given single-mandate constituency. One voter may only support one candidate. A candidate nominated by a political party in a single-member constituency may only be included in the list of the party which supports him at the national level.

The passive electoral right may be exercised by persons who:

- are 18 years of age and be a Hungarian citizen³⁶,
- have no criminal record³⁷.

³⁰ Bugaj M., *Wybory parlamentarne na Węgrzech - prawo wyborcze, partie polityczne i wyniki wyborów w latach 1990-2002*, Annales Universitatis Paedagogicae Cracoviensis. Studia Politologica 2, 99-119. https://bazhum.muzhp.pl/media/files/Annales_Universitatis_Paedagogicae_Cracoviensis_Studia_Politologica/Annales_Universitatis_Paedagogicae_Cracoviensis_Studia_Politologica-r2004-t2/Annales_Universitatis_Paedagogicae_Cracoviensis_Studia_Politologica-r2004-t2-s99-119/Annales_Universitatis_Paedagogicae_Cracoviensis_Studia_Politologica-r2004-t2-s99-119.pdf

³¹ <http://czasopisma.ltn.lodz.pl/index.php/Studia-Wyborcze/article/view/1080/985> (dostęp 17.03.2022 r.)

³² „Przegląd Sejmowy”.

https://www.researchgate.net/publication/342003826_Wegierski_parlamentaryzm_od_narozdin_do_stanu_obecnego_z_uwzglednieniem_konstytucji_z_2011_r (dostęp 17.03.2022 r.). s. 209.

³³ Op. cit. s. 210

³⁴ https://depot.ceon.pl/bitstream/handle/123456789/20580/CMR-WP_125183.pdf?sequence=1&isAllowed=y (dostęp 17.03.2022 r.) Héjj D., Lesińska M., Wilczewski D., *Udział Diaspory w wyborach krajowych. Przypadek Litwy, Polski i Węgier w ujęciu porównawczym*. Warszawa 2020. CRM Working Papers 125/183. s. 26.

³⁵ Halász I., *Rozwój Węgierskiego prawa wyborczego po 2010 roku*, „Studia Wyborcze”, tom 30, 2020. <http://czasopisma.ltn.lodz.pl/index.php/Studia-Wyborcze/article/view/1080/985> (dostęp 17.03.2022 r.) s. 34.

³⁶ http://archive.ipu.org/parline-e/reports/2141_B.htm (dostęp 17.03.2022 r.).

³⁷ http://archive.ipu.org/parline-e/reports/2141_B.htm (dostęp 17.03.2022 r.).

Procedure of nominating candidates for elections:

- an organization that intends to propose a candidate or a list registers with the National Electoral Commission as the proposing organization³⁸,
- a candidate may be recommended on the recommendation form,
- an independent candidate or a nominating organization may apply for a recommendation form³⁹,

All the recommendation forms obtained by an independent candidate or a proposing organization must be submitted to the election office. Failure to do so will result in the imposition of an ex officio fine by the election committee. The fine for each missing recommendation form is one thousand forints⁴⁰.

The National Electoral Office maintains a public, electronic register of notified and registered nominating organizations, candidates and lists, with the data specified in Annex 4. Changes to the register are entered into the register by the election office at the election committee, which registers or removes them.

4.4 Postal voting

Voters who do not have a domicile or registered residence in Hungary may cast their vote in postal voting procedure on a party list and stand for election as a candidate. Voters can only exercise their right to vote, when the National Election Office has entered them in the electoral register. One can apply to be entered in the electoral register at any time. It must be received by the National Electoral Office no later than 25 days before the day of the elections. Voting ballots are delivered to previously registered citizens. The National Election Commission is using national postal service to dispatch the ballots.

To cast a vote by mail, a voter must complete a declaration providing personal information, mark the party for which he/she votes on the ballot card and then put the vote in the envelope intended for the ballot card and seal it. Next, the voter must put the declaration and the sealed envelope with a ballot into the main envelope and send it to the address of the National Election Office (NAO).

After receiving the vote, the employee opens the envelope and verifies its contents. For a valid vote, the envelope should contain: a correctly completed declaration, an envelope with the vote. At this stage, an official of the NAO checks the declaration in the system, determining whether the declaration data is correct in the system. If so, he puts away the envelope with the ballot paper, which will be opened only after the end of voting on the election day.

³⁸ 2013. évi XXXVI. Törvény a választási eljárásról <https://net.jogtar.hu/jogszabaly?docid=a1300036.tv> § 119 (1)

³⁹ ³⁹2013. évi XXXVI. Törvény a választási eljárásról <https://net.jogtar.hu/jogszabaly?docid=a1300036.tv> § 120 (2)

⁴⁰ 2013. évi XXXVI. Törvény a választási eljárásról <https://net.jogtar.hu/jogszabaly?docid=a1300036.tv> § 135 (1)

Voting by post office is possible where the post office is “safe and reliable.” The right to vote by post may be granted to persons in hospital or prison or persons with reduced mobility, or to voters living abroad. There must be no fraud and intimidation point. The voter must be able to vote at the polling station. Postal services are secure, i.e. free from intentional interference and reliable in the sense of proper functioning”.⁴¹

Dr. Attila Nagy, President of the National Election Office (NEO) and dr. Andras Teglassi, President of the National Election Commission (NEC)⁴² stated that voting is connected to the voters’ domicile and therefore concerns that there may be a possibility of voting with a “virtual address”, voting tourism and bussing voters to tightly contested constituencies to cast a vote are unfounded. It is possible for a voter to change their legal residency until Friday before election Sunday, but it requires a confirmation of actual residence. Absentee ballots can be cast in districts different than the domicile but it will be counted for the election of the domicile (in 2013, Constitutional Court confirmed it). The residence registration data is published on a weekly basis to monitor any changes in domicile and detect “election tourism”. As regard to the reduced voting rights regarding voting of Hungarian citizens that do not have domicile in Hungary (who can vote only for national party list, and not for the individual candidate in any constituency) Mr. Teglassi stated that this practice is in line with the ruling of the Strasbourg court⁴³.

According to the President of the Constitutional Court, dr. Tamás Sulyok⁴⁴, postal voting was already reviewed by Constitutional Court that found it fulfilling the constitutional principles, with universal, equal and secret voting guaranteed by law. Nevertheless, administrative measures - that are out of the constitutional review scope - should be implemented to provide full protection of those principles. The evaluation of that is up to election administration and Supreme Court.

Academic interlocutor from the Department of Law⁴⁵ said that controversy concerning different power of votes of Hungarians permanently and temporarily abroad was reviewed by Constitutional Court, which did not find it to be unconstitutional (3086/2016. (IV. 26.) AB határozat). Also, as to the postal voting, in 2018 Kuria (Supreme Court) agreed with the National Election Commission (contrary to the opinion of the government), that when the envelopes containing the postal votes are damaged or opened before counting they must not be counted as valid votes (Kúria Kvk.III.37.503/2018/6.)

⁴¹ Lech Garlicki, European standards of reliability of elections Europejskie standardy rzetelności wyborów (Venice Commission and European Tribunal of Human Rights; Przegląd Konstytucyjny 4/2020 str. 157; Report on Electoral Law and Electoral Administration in Europe, CDL-AD (2006)018, Study no. 352/225, par. 152.

⁴² Information obtain during the meeting on March, 31th 2022.

⁴³ The European Court of Human Rights (Second Section); 17 February 2015 Application no. 48145/14; Zsófia VÁMOS against Hungary and 8 other applications; The European court of human rights in Strasbourg, stated that that States are not obliged to provide the vote for non-residents, and even if they grant them suffrage, States do not need to implement measures to allow expatriates to exercise their suffrage from abroad. According to the Court, this part of the election law does not violate the right to free election ensured by international law.

⁴⁴ Information obtained during the meeting on March, 31th 2022.

⁴⁵ Information obtained during the meeting on March, 29th 2022.

Krisztián Hildebrand, representative of the Two-Tails Dog Party⁴⁶ pointed out two alleged issues with the postal voting invoking the case of voters living in Serbia. There is an option to request the delivery of postal ballot to the home address of the voter. It has been alleged that due to the large volumes of postal ballots, the Serbian Post accepted the assistance of the party of Serbian Hungarians in delivering the ballots. It was also alleged that the person delivering the ballot may offer bringing them to the polling station.

Dr. Attila Nagy, President of the National Election Office (NEO) and dr. Andras Teglassi, President of the National Election Commission (NEC)⁴⁷ as regards to the question about the safeguards provided within the system of postal balloting, Mr. Nagy said that the system is the same as in the other countries. Other countries (i.a. Serbia) also use Hungarian postal services to dispatch the ballots. Due to the international agreement between two postal service providers (Hungarian and Serbian) the postal service provider of Serbia is delivering the ballots to the Serbian Hungarians. There was an accusation raised that the ballots were delivered by the party of Serbian Hungarians affiliated with Fidesz. Mr. Teglassi said that this concern was found among 2 or 3 persons out of approximately 68 000 of Serbian Hungarians. NEC reviewed the situation and decided that the NEO acted according to the law. Supreme court confirmed it⁴⁸.

The Minister of Justice Judit Varga⁴⁹ said that as regards to the information alleging the discovery of partially burned ballots in Romania, she did not have specific information about the case apart from the media coverage. She added that the Romanian police have initiated an investigation and that the National Election Commission will have a resolution on whether an infringement is applicable or not. It needs to be stated that the voting of non-resident nationals in the embassy or via mail is a well established practice in Europe. Hungary applied this method in 2014 and 2018 and it was not contested.

According to László Toroczkai from the Mi Házank Mozgalom party, burned ballots found in Romania (of which some were marked as votes for Mi Házank Mozgalom) may be the effect of a flawed practice of replacing personal sending of postal votes by collecting postal votes and their collective sending by NGOs active in areas inhabited by the Hungarian community. This, in turn, enables easy election fraud.

The mission's established that above claims are false. To selectively burn postal votes cast on one political bloc would require opening of all inner envelopes containing the votes. Thus, all votes would be considered invalid in the light of the administrative practice and jurisprudence of the Supreme Court. A visit to the election administration which opened the outer envelope showed that all votes reaching the election administration were properly closed, keeping the principle of secret voting. Further investigation will be needed to solve the case of found burned ballots.

⁴⁶ Information obtained during the meeting on March, 30th 2022.

⁴⁷ Information obtained during the meeting on March, 31th 2022.

⁴⁸ <https://www.kuria-birosag.hu/hu/valhat/kvki3935420225-szamu-hatarozat> (access: 1.04.2022).

⁴⁹ Information obtained during the meeting on March, 29th 2022.

4.5 Institutions which organize election in Hungary

The National Electoral Commission is the central electoral body which consisting of 7 permanent members and 3 alternates⁵⁰. This body oversees the elections so that they are conducted in accordance with the law.

Permanent National Electoral Commission members are elected by National Assembly from among candidates proposed by the president of Hungary. The term of office of permanent members of the commission is 9 years.

Additionally, the political parties represented in the parliament nominate 1 member to the National Electoral Commission for the duration of the parliamentary term. Before the elections, each party and coalition running in the elections introduces 1 member to the National Electoral Commission (currently there are 7 political parties in Hungary)⁵¹.

The election of a member and a deputy member of the National Electoral Commission by the Parliament shall require a two-thirds of majority.

The National Election Commission issues guidelines to election bodies with a view to ensuring the uniform interpretation of legislation related to elections, decides on the registration of nominating organizations, decides on the timeframe for broadcasting political advertisement of nominating organizations in the linear media services of public media service, adjudicates on lodged complaints regarding the work of election offices at foreign representations, adjudicates on all complaints that do not fall in the competence of parliamentary single-member constituency election commission, or that of the territorial election commission and acts that are not possible to determine where they were committed, adjudicates appeals against decisions issued by parliamentary single-member constituency election commissions or territorial election commissions, adjudicates complaints submitted regarding the participation of media content providers, the press and cinemas, initiates procedures by the body with the relevant authority, if it discovers a breach of the law⁵². The most important task of the National Election Committee (NEC) is to establish the results of the elections, ensure the fairness and legality of the elections, enforce impartiality and, if necessary, restore the legal order of the elections.

Electoral commissions are independent voter bodies, subject only to the law, whose primary task is to determine the result of elections, ensure the legality of elections, enforce impartiality and, if necessary, restore the legal order of elections⁵³.

Election commissions are divided into:

- the National Election Commission,
- territorial election commissions,

⁵⁰ Kancelaria Senatu Biuro Analiz i Dokumentacji OT – 635 Lipiec 2015. Procedury wyborcze w krajach europejskich. s.105. https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/130/plik/ot-635_do_internetu.pdf (dostęp 17.03.2022 r.) s. 104.

⁵¹ Op. cit. s. 104.

⁵² <https://www.valasztas.hu/web/national-election-office/national-election-commission>

⁵³ 2013. évi XXXVI. Törvény a választási eljárásról <https://net.jogtar.hu/jogszabaly?docid=a1300036.tv>. § 14 (1).

- parliamentary single-member constituency election commissions,
- local election commissions,
- polling station commissions.

As regards to the allegations regarding the lack of impartiality of the election commissions, dr. Attila Nagy, President of the National Election Office (NEO) and dr. Andras Teglassi, President of the National Election Commission (NEC)⁵⁴ confirmed that the lower-level commissions are independent from the National Election Commission.

Election commissions shall consist of at least five members. Three members are nominated by the local governments; they must live in the town where the electoral commission is located or in the constituency in question. The remaining two committee members are delegated by specific political parties⁵⁵. Due to that lower election commissions are independent of the election commissions of higher level.

A voter with an address in the central register (registered address: Hungarian) may be a member of the commission, a candidate for deputy may not be a member of the committee.

Members of election commissions count the votes. After the ballot boxes (including mobile ones) are emptied, ballots are counted manually at least twice. After the counting is completed, the person responsible for recording the results shall submit them by phone (or otherwise, as determined by the election commission) to the local electoral commission (higher-level). Written minutes are made in duplicate copies and must be signed by members of the election commission.

The person responsible for recording the election results along with the other members of the committee provides all related documents with conducted voting of the local electoral commission.

After verifying the data provided, the local electoral commission enters them into the electoral IT system. The counting of votes is monitored by representatives of political parties. Foreign observers also have the right to observe the work of election commissions, the course of voting, and the counting of votes.

Mission visit to (...) polling places confirmed full compliance with the election regulations and proper protection of fundamental election principles. Members of the polling stations' commissions were well prepared to execute their duties, with procedures ready to meet special needs of the voters with disabilities, illiterate voters, voters who do not speak Hungarian. Among members of the commissions were representatives of different political parties (with one exception of commission without representative of FIDESZ). Only few minor issues were observed without significant influence on the outcome of elections (last minute change in the commission due to the positive COVID test of one of the members; remnants of seals from

⁵⁴ Information obtained during the meeting on March, 31th 2022.

⁵⁵ Chancellery of the Senate Office of Analysis and Documentation OT - 635 July 2015. electoral procedures in European countries, s.105. https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/130/plik/ot-635_do_internetu.pdf (access 17.03.2022 r.) s. 104.

previous elections on the ballot box giving false impression that the sealed closure has been broken).

4.6 Hungarian elections in comparison to international standards

According to the Venice Commission and the case law of the European Court of Human Rights, parliamentary elections should be conducted according to the principles of pluralism, stability, free expression, neutrality, free election protest.

Pluralism - which means the freedom of political parties to compete with each other and their diversity of programs⁵⁶.

Hungary has had a multi-party system since 1990. Nine political parties take part in the 2022 parliamentary elections. In December 2020, 6 opposition parties created a joint bloc of opposition parties under the name: "Together for Hungary". The bloc includes the Hungarian Green Party, Dialogue for Hungary, Momentum, the Hungarian Socialist Party, Jobbik, and the Democratic Coalition. Two other opposition parties that are not part of the bloc take part in the elections, i.e., Dog with Two Tails and Our Fatherland party. The party currently in power is Fidesz. The parties participating in the elections represent a broad spectrum of ideologies: conservatism, Christian democracy, national conservatism, social democracy, green liberalism, liberalism, center.

Stability - the electoral system should not be changed at least one year before the elections (including members of electoral commissions and constituency boundaries).

Based on the meetings held during the observation mission, it has not been established that there have been changes to the law in the last year regarding the electoral regulations. Accordingly, the principle of legal stability was respected.

The President of the Supreme Court⁵⁷ said that they could not indicate if there were changes to the electoral law over the last year, but the most important change was in 2014-2018.

The President of the Constitutional Court, dr. Tamás Sulyok⁵⁸ said that no changes to the electoral law were introduced during one-year period before parliamentary elections.

The Minister of Justice Judit Varga said that they did not change in a recent year. The Venice Commission in its 2021 report recommended changes, but it was less than a year before the election. She mentioned that the idea to change electoral system in 2020 was an idea of the opposition and now it is detrimental for them.

An academic interlocutor from the Department of Law pointed to changing electoral law as an issue that has been often raised by those critical of the elections campaign in 2022. However, to their opinion only one change in the law proceeded this year parliamentary elections and

⁵⁶ Davydov and Others v. Russia, par. 211. Zob też: Guide on Article 3 of Protocol No. 1 to the European Convention on Human Rights, Strasbourg 2020 (publikacja ECtHR).

⁵⁷ Information obtained during the meeting on March, 31th 2022.

⁵⁸ Information obtained during the meeting on March, 31th 2022.

should be followed by analysis of its possible influence on the elections outcome (in 2022 only 58 339 voters voted outside their permanent residence, compared to app. 200 000 in 2018: <https://vtr.valasztas.hu/ogy2022/valasztasi-informaciok/valasztopolgarok-szama>).

He also claimed that since this year a voter may register to vote in a different constituency than their permanent place of residence.

He also admitted that opposition initiative that made it possible to organize parliamentary elections at the same time as referendum was detrimental to proper elections campaign that should not be dominated by one issue.

Mr. Atilla Mesterhazy from the Hungarian Socialist Party claimed that a change to the election law- to apply for a national list you have to have an individual candidate in 71 constituencies, 9 counties and Budapest, was made in recent months

Free expression - elections must be conducted under conditions which ensure the free expression of the opinion of the population in the choice of the legislature

Expressing the opinion of a person entitled to vote consists in the possibility of casting a vote through a voting card in a direct manner, i.e., by voting in person at a polling station and indirectly, i.e., in postal elections. Found / Not found The visit to X polling stations and the National Office election, to which votes cast by correspondence, did not give grounds to state that there was a violation of the principle of freedom of expression of the opinion of persons entitled to vote.

Neutrality - elections should be characterized by the principle of neutrality and the prohibition of involvement - especially by executive authorities - in the election campaign in a way that supports the election interests of the ruling group⁵⁹.

Mr. Attila Mesterhazy from the Hungarian Socialist Party⁶⁰ stated that the OSCE 2014 electoral process observation described the then election as “free but not fair” and he maintained that this election should be considered as such as well. He attributed the alleged unfairness of the elections to the fact that the changes to the electoral laws and political environment of the elections are making it very difficult for the opposition parties to compete with the ruling parties on equal terms. He mentioned that the reduction of the size of the Parliament from 386 to 199 seats and the introduction of the “reward for the winner” system in 2010, which was justified by its effect of increasing stability of the political system, while according to his opinion it was not a required change, as the system was not unstable. He who was also commenting the increase of the minimum threshold to register a nationwide party list from over 20 to 71 candidates registered for the election, which according to his opinion forced the opposition parties to enter into unnatural electoral coalitions, which result in losing some of the supporters. This is further strengthened by elimination of the second round of elections, which in the past allowed the opposition to enter into coalitions on an as “needed basis” instead of

⁵⁹ European Court of Human Rights Verdict of April 27, 2010, *Tanase v. Moldova*, sec. 179; ECHR of April 21, 2014, *Danis and Association of Ethnic Turks v. Romania*, sec. 46.

⁶⁰ Information obtained during the meeting on March, 31th 2022.

being forced into them in advance of the election. He says that the main excuse for electoral system in Hungary is that the same concepts, institutes and problems are existing in other countries (USA, Italy etc.) but the problem is that all those elements blended together, according to Mr. Attila are making the unfair system of Hungary.

Based on a meeting with representatives of the National Electoral Commission, it was found that one of the charges against this standard concerns the speech by Victor Orban on March 15, 2022, given in connection with the celebration of Independence Day by the Hungarians. The allegation concerns the content of the speech of the Prime Minister in connection with the holiday, focusing on issues related to the parliamentary elections. In response to the allegation, Minister of Justice Judit Varga, during a meeting with observers, stated that the allegation was too far-reaching. The Prime Minister performed ordinary activities related to his function.

According to dr. Attila Nagy, President of the National Election Office (NEO) and dr. Andras Teglas, President of the National Election Commission (NEC)⁶¹, complains concerning speech of Prime Minister on March 15 were investigated and rejected in a 10-page decision.

Electoral protest - free access to courts should be ensured regarding possible election protests⁶².

Complaints on violations in single-mandate constituency elections, including against local media, are filed with CoECs, while complaints on nationwide election issues are considered by the NEC. Most CoEC decisions can be appealed to the NEC.⁶³ All NEC decisions, including on complaints and appeals, are subject to judicial review by the Supreme Court.⁶⁴ The constitutionality of Supreme Court decisions can be challenged to the Constitutional Court.

Despite previous ODIHR recommendations, there is no guarantee to a public hearing of election related complaints by the courts. NEC deliberations on complaints and appeals are public, and its decisions have been published on the NEO website in a timely manner, as were relevant Supreme Court decisions.⁶⁵

On the basis of the provisions of substantial law the observers' meeting at the seat of the Supreme Court, it was established that Hungarian law guarantees access to the court with regard to filing an election protest. The Supreme Court hears election protests within 3 days of their receipt by the Court. The complainant should attach to the election protest any evidence confirming the allegations mentioned in the protest.

Participation of political parties in elections (setting new requirements immediately before the elections without leaving sufficient time for all competing groups to comply with them).

⁶¹ Information obtained during the meeting on March, 31th 2022.

⁶² European Court of Human Rights Verdict of December 1, 2020, *Astradsson v. Iceland*, where it was established that the improprieties in the procedures of nominating judges may be a violation of the right to thew “legally established court” in cases adjudicated with their participation.

⁶³ As per the 2018 amendments, appeals against CoEC decisions on candidate registration are filed with RECs.

⁶⁴ REC decisions on appeals regarding candidate registration are also subject to judicial review by the Supreme Court. Voter registration cases can be submitted to the competent Regional Court.

⁶⁵ The NEC started considering complaints related to upcoming elections and referendum prior to the appointment of party-delegated members, mostly related to violations of campaign rules.

It was not found that during the year new requirements were introduced immediately before the elections that would affect the passive electoral rights of political parties.

Restriction on practices that facilitate the retention of power by the current ruling majority and work to the detriment of other groups.

Over the last year, no changes have been made to the election law that would facilitate the retention of power by the government or difficulties in gaining power by other opposition parties.

The President of the Constitutional Court, dr. Tamás Sulyok⁶⁶: In the previous years nearly one hundred cases concerning electoral law were decided by the court. Most were rejected, some lead to decisions declaring unconstitutionality of the legislative acts. In recent months Constitutional Court annulled a decision of the Supreme Court (<https://www.kuria-birosag.hu/hu/valhat/kvkv3936220222-szamu-hatarozat>) on the newsletter sent to the Hungarian citizens' e-mail addresses, concerning war in Ukraine. One sentence of the newsletter mentioned "opposition". According to the Constitutional Court, government has the right to address citizens in exceptional times, as in time of war in the neighboring country and one sentence of the mailing that mentioned political opposition referred facts did not express opinions.

According to dr. Attila Nagy, President of the National Election Office (NEO) and dr. Andras Teglas, President of the National Election Commission (NEC)⁶⁷, some of complains as far concerned speech of Prime Minister on March 15. Complains were investigated and rejected in a 10-page decision. Most cases concerned absence of data on posters and leaflets regarding the printer or owner of the leaflet.

4.7 Election Day Observation

On April 3, 2022, international observers visited 60 Election Commissions.

Voters were identified on the basis of identity documents by authorized persons from election commissions, received ballots for voting in referendums and parliamentary elections. There was no situation observed in which the election comities or any third parties infringed the right of a voter to take part in election. The ballots were watermarked this prevented form authorized casting a additional votes by the voters of members of commission.

Voters appeared in person at polling stations. Voters who were unable to appear in person at the polling station could use the mobile ballot boxes.

Each voter collected three ballots (for a referendum, for the electoral list and for a candidate) and filled in the ballots in a specially prepared voting booth which guaranteed secrecy.

⁶⁶ Information obtained during during the meeting on March, 31th 2022.

⁶⁷ Information obtained during during the meeting on March, 31th 2022.

Additionally, the voter could put all three circled ballots in an envelope and then cast the votes into an opaque sealed ballot box. The voter cast his vote in an anonymous manner.

Voters freely voluntarily exercised their right to vote.

In the course of the conducted observations, members of the observation mission stated that there were individual incidents during the voting process, which consisted in particular of attempts to agitate in the mass media by: (i) manifesting election decisions or making public statements about voting acts, (ii) by writing slogans referring to the election process in the voting booths. In two cases members of the observation mission witnessed members of the family trying to influence voting decisions of voter. Members of the polling commission reacted immediately.

Two types of ballot boxes were found - plastic and cardboard. All plastic ballot boxes were properly sealed with seals. As for the cardboard ballot boxes, single violation of the seals securing the ballot box was witnessed.

Polling commissions were properly prepared to assist voter with special needs (voter with disabilities, illiterate voters, voter who do not speak Hungarian).

According to the observers, none of the violations, jointly or separately, resulted in a violation of European electoral standards. Members of the election commissions did not oppose the presence of international observers. They answered all questions regarding the conduct of the elections. They did not raise any objections. The committees were composed of persons appointed by political parties (opposition and government), as well as independent members elected by the local government.

4.8 Conclusions

After full inquiry of election administration regulations, their practical implementation on all levels of electoral administration, followed by observation in 60 Election Commissions on 3th of April, Election and Referendum Observation Mission states that parliamentary elections and referendum complied with all national and international standards and principles, effectively providing for universal, direct, secret, free and equal voting.

On election day no circumstances were encountered that would violate the principles of fair and free expression of the vote.

No changes to the law concerning the electoral system had been introduced over the course of one year that may undermine stability of the system of undermine compliance with the principle of equality in its aspect of equality of opportunities. Election system provisions were found to fulfill principles of pluralism, stability, free expression, neutrality, and provide for free election protest procedure.

In order to increase the transparency of elections, it is recommended to unify the ballot boxes by using closed transparent boxes made of solid material (e.g. plastic).

5. Election funding

5.1 Standards of fair election funding

As stipulated by the “Guidelines on Elections adopted by the Venice Commission at its 51st Plenary Session (Venice, 5-6 July 2002)” equal suffrage is assured by the assurance of equality of opportunities, which “must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to: (i) the election campaign; (ii) coverage by the media, in particular by the publicly owned media; (iii) public funding of parties and campaigns”. Equality may be strict or proportional to the results achieved in previous elections and applies to radio and tv time, public funds and other forms of backing. A minimum access to privately owned audiovisual media should be provided for all participants of in elections by a legal provision. Transparency of political parties, candidates and campaign funding must be assured. Political party campaign spending may be limited⁶⁸.

The above principles are further elaborated in the “Explanatory Report adopted by the Venice Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)” to say that funding of political parties and electoral campaigns should be regulated and transparent. The transparency should be assured for campaign funds... Cost of organization of the election should be born by the state. Funding of political parties from public funds must be accompanied by supervision of the parties’ accounts by specific public supervisors. States should encourage the financial openness of political parties receiving public funding⁶⁹.

According to the “Guidelines and Report on the Financing of Political Parties” (CDL-INF (2001)8), donations from foreign states or enterprises (but not from nationals living abroad) must be prohibited and “Other limitations may also be envisaged. Such may consist notably of a prohibition of contributions from enterprises of an industrial or commercial nature or religious organizations.”⁷⁰

According to the Venice Commission report of 2020 point 137, “the CoE’s (Council of Europe) Committee of Ministers in its Recommendation to member states on common rules against corruption in the funding of political parties and electoral campaigns (Rec (2003) 4) provides that states should limit, prohibit or otherwise regulate donations from foreign donors.”

“...Such prohibitions may be considered necessary in a democratic society to ensure, inter alia, the fairness and integrity of electoral competition and the responsiveness of elected

⁶⁸ “Guidelines on Elections adopted by the Venice Commission at its 51st Plenary Session (Venice, 5-6 July 2002)” a part of „Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report” by the European Commission for Democracy through Law (Venice Commission).
<https://rm.coe.int/090000168092af01> point 2.3 Equality of Opportunity (accessed April 2, 2022).

⁶⁹ “Explanatory Report adopted by the Venice Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)”, 3.5 Funding.

⁷⁰ “Guidelines adopted by the Venice Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001)” point 10.

representatives to the national electorate. In the light of political cooperation at the European level, however, a less restrictive approach might be considered, at least within Europe.”⁷¹

5.2 Observations

To assure the conduct of free and fair elections and referendums, which assure the equality of opportunities to the participants of the democratic process and a true representation of the voters in the elected bodies, certain minimum requirements must be met and certain standards must be observed. For this purpose, a number of procedural safeguards must be maintained including the establishment, execution and oversight of the rules for funding of elections and referendums, which assure transparency and fairness of funding, so that it does not distort the result of the democratic process.

To ascertain that these safeguards are effectively implemented and maintained this Observatory Mission undertook to verify the existence, compliance with democratic standards and appropriate Codes of Good Practice of the Venice Commission.⁷² It also verifies that their goal is the assurance of transparency, fairness and impartiality of funding in order to provide for free and fair elections and referendums.

5.3 Legal framework for the funding of electoral campaigns and elections.

The existing legal framework sufficiently regulates the electoral campaign spending by the political parties and funding of the political parties and electoral campaigns with a few noteworthy gaps.

As has been previously noted by various parties, there is a gap in the regulatory framework, which allows for third party engagement (i.e., funding and conducting activities that are indirectly affecting public opinion by non-political parties, especially individuals and NGOs). However, such situation takes place in many countries and is connected with the exercise of the legitimate right to freedom of expression, and it therefore very difficult to limit or restrict. According to the Ministry of Justice, the Hungarian system is among the most restrictive in Europe in this area⁷³.

Another notable gap in the regulatory framework is the limitation of monitoring of electoral campaign spending to the period of official electoral campaign, i.e., 50 days prior to the election

⁷¹ “Report on Electoral Law and Electoral Administration in Europe. Synthesis study on recurrent challenges and problematic issues by Mr. Michael Krennerich (Expert, Germany). Taken note of by the Council of Democratic Elections at its 69th online meeting (7 October 2020) and the Venice Commission at its 124th online Plenary Session (8-9 October 2020)”

⁷² „Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report” by the European Commission for Democracy through Law (Venice Commission). <https://rm.coe.int/090000168092af01> (accessed April 2, 2022); „Code of Good Practice on Referendums, adopted by the Council for Democratic Elections at its 19th meeting (Venice, 16 December 2006) and the Venice Commission at its 70th plenary session (Venice, 16-17 March 2007)” [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2007\)008rev-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007)008rev-cor-e) (accessed April 2, 2022);

⁷³ Meeting with the senior representatives of the Ministry of Justice, on March 31, 2022 at 3 p.m.

day. This allows the political parties and electoral coalitions to spend for the purposes of obtaining voter support prior to the start of the election campaign. Such spending may be associated with party events, primary elections (as was the case with the opposition coalition organizing primary elections in the fall of 2021), which allow for the circumvention of limit on spending for electoral campaign purposes.

The funding of political parties and electoral campaigns regarding the parliamentary elections and the referendum campaigns is regulated by the laws of Hungary, including the Constitution i.e. the Fundamental Law of Hungary⁷⁴, Act LXXXVII of 2013 on the Transparency of Campaign Costs related to the Election of the Members of the Parliament⁷⁵, Act CCXXXVIII of 2013 on Initiating Referendums, the European Citizens' Initiative and the Referendum Procedure, Act XXXVI of 2013 on Electoral Procedure, Act CCIII of 2011 On the Elections of Members of Parliament⁷⁶.

The funding of the political parties and electoral campaigns is regulated in the Act on the Transparency of Campaign Costs, which sets out an algorithm for the distribution of funding from public subsidies, the limitation on the permissible election campaign spending and provides for the transparency of expenditures for the electoral campaigns and transparency of funding. The funding takes shape of the subsidy to political parties which achieved certain threshold of support in the previous elections.

Public funding is provided to candidates for the National Elections according to the above-mentioned act and following the principles that:

Each candidate for a single mandate seat of Member of Parliament is entitled to a subsidy of HUF 1,182 million (EUR 3 087) from the central state budget. This may only be used to cover real campaign costs as defined under the Act on Electoral Procedure⁷⁷.

Each party which registers a party list for the elections is entitled to a percentage of the subsidy depending on the number of constituencies in which they register candidates with the maximum subsidy of HUF 706 million (EUR 1,84 million) available to parties, which register candidates in all single mandate constituencies.

Funding of political parties and electoral campaigns from private and corporate sources is regulated. The funding of political parties is only permitted by individuals and by the state subsidy.

NGOs may be funded from foreign and domestic sources and they have to report the funding in their annual financial reporting.

⁷⁴ Full text available in English on the website of the National Election Office of Hungary.
https://njt.hu/translation/TheFundamentalLawofHungary_20201223_FINrev.pdf (accessed April 2, 2022)

⁷⁵ English language translation on the website of the National Election Office of Hungary:
<https://www.valasztas.hu/web/national-election-office/act-lxxxvii-of-2013-on-the-transparency-of-campaign-costs-related-to-the-election-of-the-members-of-the-parliament> (accessed April 2, 2022)

⁷⁶ English language translations of the main acts available on the National Election Office of Hungary:
<https://www.valasztas.hu/web/national-election-office/law> (accessed April 2, 2022)

⁷⁷ https://njt.hu/translation/J2013T0036P_20211120_FIN.PDF (accessed April 2, 2022)

5.4 Mechanism to ensure fair funding including limitations on donations and spending for election campaigns and limitations on funding for political parties

The OSCE recently reflected in its report⁷⁸ that some of the recommendations of its Office for Democratic Institutions and Human Rights (ODIHR) remain unaddressed, including those related to the misuse of administrative resources and the confusion of state and party roles. Politicians, and transparency in the financing of campaigns, act in such a way that it seems appropriate to devote special attention to these matters.

The limitations on donations and other party financing rules are the first control mechanism to guarantee the neutrality of the system and the equality of all the parties in the electoral system. They should not only be assessed in monetary terms. The possible use of public resources which is not impartial and therefore improper, could be considered a material abuse in terms of electoral financing, since such behavior combines a violation of the constitutional principle of state neutrality with a violation of the principle of fidelity in the custody and use of public funds and resources.

The strictly quantitative limitation on donations or loans that the parties may receive is often supplemented by absolute limitations on the type of donors or lenders; thus, Hungarian law prohibits the financing of parties by foreign entities.

In the EU as a whole, in general, and in Hungary in particular, parties and candidates can finance their campaigns from public and private Hungarian sources, as well as from state subsidies provided to participants for campaign purposes. Political parties, party foundations and parliamentary groups receive annual public subsidies. The spending by third parties, who play an active role in the campaign, is not regulated. The practices that the European Union is promoting imply the collaboration of the private sector with the public. The defense of this principle of collaboration means in the strict sense the obligation to allow and favor the participation of civil society organizations and even individuals in electoral processes in ways that are sometimes very informal and therefore difficult or impossible to audit.

The complaint about the difficulty in controlling the financing of all the organizations or even individuals who in one way or another try to legitimately exercise their influence is understandable, but it must be understood as a lesser evil that is difficult to avoid in the framework of the European commitment to a system of governance. The OSCE's criticism of the above could be accepted within the theoretical framework, but it must be understood that the situation it denounces is inseparable from the system of governance that the European Union itself is promoting among its member states.

In its report the OSCE demands that Hungary tighten the control of books and accounts and extend the supervision of political parties to all entities under the direct or indirect control of a political party. They recommend the introduction of limits on donations to and regulation of

⁷⁸ https://www.osce.org/files/f/documents/8/e/514318_0.pdf (accessed March 24, 2022)

expenses of third parties for purposes linked to elections, which would constitute a significant increase in control and guarantee measures. Demanding this control of entities that are directly dependent on the political parties is possible, but it is not realistic to demand the same with respect to those entities whose connection with a certain political party may be simply ideological or purely circumstantial.

Contrary to a previous ODIHR recommendation, the Hungarian law does not require disclosure of campaign finances prior to Election Day. This recommendation from the ODIHR is within what is theoretically desirable but unattainable in practice. Since the Hungarian electoral law has suppressed the “day of reflection” - pre-election silence, it is possible that the parties receive donations and spend them on the campaign events until the day of voting.

The analysis and dissemination of financing data after the campaign is also considered sufficient and reasonable in many other countries of the European Union and it does not seem fair to demand of Hungary, what is not required of the others.

5.5 Control procedure

It is up to the State Audit Office (SAO) to audit campaign finances. After the electoral campaign, the report is presented to the State Treasury within 15 days, following the establishment of the official results of the elections. If the candidate allocated the subsidy to the party, the report is submitted by the party, as opposed to reporting it individually. These reports are audited by the SAO within one year of the election.

Candidates and list nominators must publish a statement of their campaign income and expenses within 60 days of Election Day. The SAO audits candidates' campaign finances and lists nominators who have won mandates.

Spending on referendum campaigns, however, is not limited or subject to any disclosure or reporting requirements.

5.6 Transparency of the funding framework

5.6.1 General framework

Hungarian law states that the candidate must submit a report to the treasury within 15 days after the results of the individual constituency of the election of members of parliament are final, enclosing a copy of all receipts on the use of the amount of support.

In auditing the accounts, the Treasury will verify compliance with the financing regulations, especially if expenses are included in the statement in accordance with the accounting law, e.g., that the expense has been paid during the campaign period or no later than the third business day after the end of the campaign period, by treasury card or bank transfer.

If the candidate does not obtain at least 1% or the party setting up a party list fails to obtain 2% of the valid votes cast in an individual constituency, they are obliged to repay the allocation⁷⁹; the National Electoral Office will notify the Treasury to that effect.

Within 60 days after the parliamentary election, all candidates and nominating organizations shall publish in the Hungarian Gazette the amount, source and method of use of state and other funds and material subsidies spent in the election. The State Audit Office shall audit the use of other funds specified in the Law on the Operation and Management of State Elections and Political Parties within one year after the election with respect to the candidates and nominating organizations chosen by the Parliament *ex officio*, and other nominees or nominating organizations with respect to other candidates and nominating organizations.

A candidate or a nominating organization that violates the legal provisions on this matter must pay twice the total amount available for the election to the central budget within 15 days upon request of the State Audit Office. The law provides the administrative procedure for the payment of these amounts.

In terms of electoral financing there is, therefore:

- a clear and detailed legal framework that prohibits political parties from receiving funds from foreign powers and anonymous donations
- a mechanism to control expenses *a posteriori*
- a system that establishes the consequences, some very burdensome, in case of non-compliance.

5.6.2 Advertising funding

On November 25, 2021, the European Commission agreed on a proposal on transparency and segmentation of political advertising, with measures aimed at preserving transparency in the financing and integrity of elections. The following was approved, among others:

- All political ads are clearly labeled as such and include information about who paid for them and what they cost.
- That political segmentation and amplification techniques will have to be publicly explained in great detail and will be prohibited when sensitive personal data is used without the express consent of the person concerned⁸⁰.

Practically, no European country has yet implemented these measures. In this context, a segmented data acquisition operation by opposition parties with a well-known company dedicated to big data that seems to also suggest financial support from foreign entities. In the days leading up to the elections, it has been suggested that the data has been processed by

⁷⁹ Act LXXXVII of 2013 on the Transparency of Campaign Costs related to the Election of the Members of the Parliament; section 8A and 8C

⁸⁰ European Commission, Proposal of new rules about political advertising electoral rights and party funding of November 25, 2022

illegal means. The company DatAdat has been expressly pointed out publicly⁸¹. According to these suggestions, the company takes the data of Hungarians from abroad, presumably to circumvent the restrictive Hungarian laws in defense of the private data of its citizens. It is not possible to determine, at the time of preparing the report, the veracity and, if applicable, the exact scope of these actions. A prominent politician from the opposition side stated that these suggestions are not validated⁸², while some members of the ruling coalition have reported receiving unsolicited campaign related messages in favor of opposition candidates. The Hungarian press publishes an estimate of two million messages⁸³. Beyond the scope of this report, the concerns regarding the stolen data seem to suggest that there could be high amounts of illegal campaign funding.

On the other hand, the opposition accuses the government of violation of the electoral law by sending text messages to people who provided their email addresses to the government as part of the Covid vaccination process. The addresses were provided with the understanding that they will be used for health-related communication.⁸⁴ This was filed as an election complaint and resolved through exhausting all formalized legal avenues with the decision of the Constitutional Court. “The Constitutional Court has annulled the ruling of the Kúria, Hungary’s top court, according to which the government had violated the law on electoral procedure by sending a newsletter to electorates at the end of February. In the newsletter, the government wrote that they considered it irresponsible and did not support “the opposition’s stance that Hungary should send soldiers and weapons to Ukraine.” This claim has been refuted by the opposition many times. The Constitutional Court found that the term “opposition” in the newsletter did not refer to a specific political party, but defined the non-governmental position in relation to the government’s position as a generic, catch-all term”⁸⁵. Also, according to the National Election Commission and National Election Office Presidents, the action did not violate the Personal Data Protection laws, as it was examined by the National Authority for Data Protection and Freedom of Information and it was established that there was a clause in the GDPR documentation permitting “other” communication from the government⁸⁶.

5.6.3 Oversight over and enforcement of the funding limitations

The Hungarian Government issued Information Note dated September 12, 2018 provides strict rules on campaign financing and its monitoring. These rules exceed the strictness of the

⁸¹ <https://www.origo.hu/itthon/20220331-nacs-lorinc-bajnai-gordon-ficsor-adam-datadat.html>

⁸² Interview with Mr. Atilla Mesterhazy, one of the leaders of the Hungarian Socialist Party (MSZP) on Thursday, March 31, 2022 at 11:30

⁸³ <https://www.origo.hu/itthon/20220331-amessengerbol-gyujthettek-adatok-at-a-baloldal-smskampanyahoz.html>

⁸⁴ Interview with Mr. Atilla Mesterhazy, one of the leaders of the Hungarian Socialist Party (MSZP) on Thursday, March 31, 2022 at 11:30

⁸⁵ <https://hungarytoday.hu/constitutional-court-top-court-kuria-ruling-govt-suspected-election-law-violation/>

⁸⁶ Interview with the Presidents of the National Election Office dr. Attila Nagy and National Election Commission dr. Andras Teglesi, on March 31, 2022, 3 p.m.

regulations in many other EU member states, in some of which there are no legislative definitions covering political advertisement. For example, failure to submit financial statements within 15 days requires the candidate to pay double the amount of support received.⁸⁷

As per the Law of 2013 on electoral procedure, voters who have evidence of breaches to legal election regulation, process or principles can object to the Electoral Commission within 30 days, with validated objections assessed within 3 days of the receipt of the objection. Where relevant, fines may be issued to persons and/or political parties. Case resolutions can then also be appealed.⁸⁸ However, this only applies to candidates and political parties, not third parties, who are not regulated.

The OSCE Interim Report indicated that of the 49 complaints made since early March to the National Election Office, 21 were dismissed and none eventuated in serious violations. According to the President of the National Election Commission the number of complaints is increasing before the elections, with just the week prior to the election seeing 10 complaints per day for the first three days and 30 complaints on Thursday. Most of the complaints concerned the absence of data identifying owners and publishers on posters and leaflets. The most important complaint regarded the speech made by the Prime Minister during the celebration of the anniversary of the Hungarian uprising of 1848 on March 15, 2022. The complaint was rejected in a extensively supported decision⁸⁹.

5.6.4 Impact of concurrent organization of the parliamentary elections and referendum on fairness and transparency of funding

There are no legislative constraints regarding funding of referendum campaigns, thus they can be unlimited without any reporting requirements.

During the election/referendum campaign period, there has not been a strong focus on the referendum issue. The ideological nature of the referendum may well support the mobilization of right leaning voters to the election polls on election day. However, we have not seen a major media coverage from the opposition or the government on this issue, despite the great interest that the “LGBTQ issues” usually trigger in the media. It seems that one of the reasons for this may be that the war in Ukraine overshadowed the referendum and became more impactful to the campaign.

If anything, if the referendum increases voter participation on election day, this will increase the fairness of the election outcome.

⁸⁷ Information Note to the General Affairs Council of the European Union by the Hungarian Government on the Resolution on Hungary adopted by the European Parliament on 12th of September 2018, p. 36

⁸⁸ Act XXXVI of 2013 on Electoral Procedure, chapter 12, Section 208-220.

⁸⁹ Interview with the Presidents of the National Election Office dr. Attila Nagy and National Election Commission dr. Andras Teglesi, on March 31, 2022, 3 p.m.

5.7 Recommendations

Current regulations do not account for the existence of the primary elections, which is a political event which could affect the later electoral campaign. Therefore, it is advisable to consider the inclusion of the process into the legal and regulatory framework.

Spending by political parties and NGOs during the primary election is not subject to the oversight of the State Audit Office and National Election Commission. The financing of these events, which clearly influence the election outcomes, may be used to circumvent the limits on spending for election purposes, which are designed to assure fairness of election. It is therefore advisable to consider the control of the spending for these events by political parties and NGOs within a certain period prior to the start of the election campaign.

5.8 Summary

In summary, in the area of the electoral financing, this International Election Observation Mission has concluded that there are no material deviations from European standards and Hungarian law defining the legality, fairness and transparency and relevance of the electoral process, that it has been entrusted to observe.

Considering the regulations, interviews and documents studied for the preparation of this report, the International Elections Observation Mission concludes that the Hungarian electoral financing system is fully embedded in the general European framework without substantive deviations.

Hungarian legal system implements to a similar degree as the rest of the European national systems the international recommendations and standards concerning: (i) equal suffrage assured by equality of opportunities; (ii) transparency of political parties, candidates and campaign funding of the Venice Commission.

Hungarian regulations for the financing of parties and electoral processes have transparent, fair and equal rules for all contenders, establish proper system of administrative control bodies and provides for adequate procedures and sanctions for the case of non-compliance. The number of complaints filed with these control bodies is low as compared to other European countries (e.g., Spain).

Hungarian system provides for limited control of third parties founding (e.g., NGOs, foundations, individual citizens) from national or international sources. Which seems to be a compromise between regulative requirements for transparency of third sector involvement in elections campaign and protection of basic freedoms of civic society participation and freedom of speech.

6. Media landscape

6.1 European standards – media participation during election campaign

Freedom of expression is an integral part of a democracy and should be guaranteed in a country's legal framework. This fundamental right guarantees that members of a society can communicate and receive information without prior censorship, restraint, or interference.

According to the Venice Commission's 2002 Code of Good Practice in Electoral Matter, equality of opportunity must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to coverage by the media⁹⁰.

Full media landscape, including public and private media outlets, should be analyzed in order to establish whether principle of equal opportunity has been fulfilled and rights of all parties to the political struggle has been guaranteed. The way media operate is a crucial point for keeping "equal opportunities" by the participants of electoral process of the electoral process. In this way, the role of public media is "linked with the principle of equality of elections, which is an obvious element of the "European electoral heritage of "European electoral heritage"⁹¹.

The basic idea is that the political parties and candidates running in the elections should be able to voice their opinions and reach average voter through the media landscape of the country. This way right to free and informed political decision in the election process should be secured by pluralistic media offer.

One of the most impartial measures of equality of opportunity in the aspect of media landscape is to track, whether candidates and parties are awarded sufficiently balanced amounts of airtime or advertising space, including private and public media outlets, from television channels, radio stations, internet portals, printed press and in social media.

6.2 Legal framework

6.2.1 Constitution

Article IX of the Hungarian Constitution reaffirms *freedom and diversity of press* and guarantees *free dissemination of information necessary for the formation of democratic public opinion*⁹². Under the constitutional regulation, *in the interest of the appropriate provision of information as necessary during the electoral campaign period for the formation of democratic*

⁹⁰ Code of good practice in electoral matters, Venice Commission, Opinion no. 190/2002, p.7.

⁹¹ Garlicki, L. (2021). Europejskie standardy rzetelności wyborów (Komisja Wenecka i Europejski Trybunał Praw Człowieka). *Przegląd Konstytucyjny*, (4), 142–185. Pobrano z <https://www.przegląd.konstytucyjny.law.uj.edu.pl/article/view/713>, [Eng.: European standards for election integrity (Venice Commission and European Court of Human Rights). *Constitutional Review*, (4), 142-185. retrieved from <https://www.przegląd.konstytucyjny.law.uj.edu.pl/article/view/713>], p. 163.

⁹² Article IX (2) of the Constitution.

public opinion, political advertisements may only be published in media services free of charge, under the conditions guaranteeing equal opportunities, laid down in a cardinal Act⁹³. Under the Article IX right to freedom of expression may not be exercised with the aim of violating the human dignity of others⁹⁴, and the right to freedom of expression may not be exercised with the aim of violating the dignity of the Hungarian nation or of any national, ethnic, racial or religious community⁹⁵.

6.2.2 Election Code

The rules and conditions for media participation in election campaigns are set out in section 71 of the Electoral Procedure Act⁹⁶ "Political advertisements". The political advertisements of organizations nominating candidates and of independent candidates shall be published by the media service provider on equal terms regarding, in particular, the number, the order of appearing, duration and broadcast time of political advertisements. The nominating organizations of a joint candidate or joint list shall be jointly entitled to order political advertisement⁹⁷. In addition, no opinion or judgement shall be attached to political advertisements⁹⁸, and media service providers shall not demand or accept consideration for publishing political advertisements⁹⁹. Provisions of the Election Procedure Act prohibit the publication of political advertisements on voting day¹⁰⁰.

Section 147/A of the Election Procedure Act contains regulations on the participation and role of public media during the election campaign period. During the campaign period before general election of the Members of the National Assembly, the public media service provider shall be obliged to broadcast, as part of linear media services, political advertisements of the nominating organizations that drew up national list in a duration determined, after the registration with final and binding effect of all national lists, by the National Election Commission in accordance with paragraph (2)¹⁰¹. Additionally, it is indicated that during the campaign period before the general election of the Members of the National Assembly, the length of time for broadcasting political advertisements shall be four hundred and seventy minutes for nominating organizations that drew up party list and one hundred and thirty minutes for nominating organizations that drew up national minority list. The length of time available

⁹³ Article IX (3) of the Constitution.

⁹⁴ Article IX (4) of the Constitution.

⁹⁵ Article IX (5) of the Constitution.

⁹⁶ Act XXXVI of 2013 on Electoral Procedure (as in force on 20 November 2021), hereinafter as: Electoral Procedure Act.

⁹⁷ Section 147 (1) of the Electoral Procedure Act.

⁹⁸ Section 147 (2) of the Electoral Procedure Act.

⁹⁹ Section 147 (3) of the Electoral Procedure Act.

¹⁰⁰ Section 147 (4a) of the Electoral Procedure Act.

¹⁰¹ Section 147/A (1) of the Electoral Procedure Act.

to the nominating organizations shall be distributed equally among the party lists and national minority lists¹⁰².

The public media service provider shall broadcast political advertisements in equal shares as part of its linear audio-visual and radio media services that have the highest annual average audience share¹⁰³. He also has a responsibility to provide for the uninterrupted broadcasting of political advertisements three times daily, in time slots starting between 6.00 and 8.00, 12.00 and 14.00, and 18.00 and 20.00. The political advertisements of nominating organizations that drew up party list and of nominating organizations that drew up national minority list shall be broadcast successively. The order in which the political advertisements appear shall be changed daily to ensure equal opportunities¹⁰⁴.

The public media service provider shall be obliged to broadcast the political advertisement on the day and in the time slot specified by the nominating organizations. The nominating organizations may request that a political advertisement be broadcast in a certain time slot once a day and for not longer than thirty seconds¹⁰⁵. The media service provider shall be obliged to broadcast the political advertisement if the nominating organization hands over the political advertisement created by it not later than on the third day before broadcasting¹⁰⁶.

Media activities during an election campaign are subject to control. This area is regulated by Section 151 of the Electoral Procedure Act. The National Election Commission shall assess objections relating to the participation in election campaigns of media service providers, the press and movie theatres in violation of the provisions of this Act. The parliamentary single-member constituency election commission of the seat or domicile of the media content provider shall assess objections relating to a district, local or on-demand media service or a press product that is distributed in an area smaller than the whole country at the election of the Members of the National Assembly, and the regional election commission of the seat or domicile of the media content provider shall do so at the election of the Members of the European Parliament, the election of local government representatives and mayors and the election of national minority self-government representatives¹⁰⁷.

For a violation of law in the page-for-page electronic copy of a printed press product, the time limit for submitting the objection shall expire on the third day after the publication of the printed press product¹⁰⁸. If the election commission grants the objection, it shall: establish the violation¹⁰⁹; order the violator to cease the violation¹¹⁰; annul and have repeated the election

¹⁰² Section 147/A (2) of the Electoral Procedure Act.

¹⁰³ Section 147/A (3) of the Electoral Procedure Act.

¹⁰⁴ Section 147/A (4) of the Electoral Procedure Act.

¹⁰⁵ Section 147/A (5) of the Electoral Procedure Act.

¹⁰⁶ Section 147/A (6) of the Electoral Procedure Act.

¹⁰⁷ Section 151 (1) of the Electoral Procedure Act.

¹⁰⁸ Section 151 (2) of the Electoral Procedure Act.

¹⁰⁹ Section 218 (2) a) of the Electoral Procedure Act.

¹¹⁰ Section 218 (2) b) of the Electoral Procedure Act.

process or the part of it affected by the legal remedy¹¹¹, and also it may impose a fine for the violation of the rules of the election campaign or for a breach of an obligation under section 124 (2) or section 155¹¹².

6.3 Legal and organizational media background

6.3.1 Regulatory context and ownership

Section 109¹¹³ of Act CLXXXV of 2010 on Media Services and on the Mass Media established National Media and Infocommunications Authority (hun. *Nemzeti Média és Hírközlési Hatóság - NMHH*), to oversee all public news and communication production. The functions of the NMHH, and of its three component entities (the President, the Media Council, and the Bureau of the NMHH) are covered under chapter 1 of Part Four of the Act, on supervision of media services and press products (section 109-202).

The five-member Media Council *is an independent body of the Authority reporting to Parliament and possessing the status of a legal person. The Media Council is the legal successor of the National Radio and Television Commission* (section 123). The President and four members of the Media Council are elected by Parliament, with a two-thirds majority of the votes of the members in attendance, for a term of nine years (section 124¹¹⁴).

Section 182 of the Act sets forth the scope of responsibilities and competence of the Media Council. It has the power to determine whether certain media coverage is unbalanced or what constitutes an event of considerable importance to Hungarian society for purposes of media coverage. Acting in its capacity as an Authority, the Media Council *(u) shall proceed in relation to complaints on imbalanced communication that may arise in media services provided by media service providers with significant powers of influence and by public service broadcasters (...)* *(v) shall define events with high importance for the society under its official decision (...)*.

The Act also proscribes certain types of commercials; for example, those that *infringe upon human dignity*; contain or support discrimination on grounds of gender, racial or ethnic origin, nationality, religion or belief, physical or mental disability, age or sexual orientation. (section 24).

In cases of infringement of regulations on media administration, the Media Council has the right to impose fines and other punitive measures (e.g., suspension of service, termination of contract) on the infringer (sections 185-187).

¹¹¹ Section 218 (2) c) of the Electoral Procedure Act.

¹¹² Section 218 (2) d) of the Electoral Procedure Act.

¹¹³ Established: by paragraph (3) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012

¹¹⁴ Established: by Subsection (6) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections

The authority employs about 650 professionals in four locations in Budapest and five in rural areas: Szeged, Pécs, Debrecen, Miskolc and Sopron¹¹⁵.

6.4 Public entities - control of media

According to sections 84-94 of the Media Act Parliament *shall establish The Public Service Foundation* (hun. *Közzszolgálati Közalapítvány*). The state-controlled Foundation is the owner of Duna Media Service Nonprofit Private Limited Company (hun. *Duna Médiaszolgáltató Zártkörűen Működő Nonprofit Részvénytársaság*)¹¹⁶.

The Board of Trustees is the body responsible for the management related issues of *The Public Service Foundation*. The Parliament elects six members of the Board¹¹⁷. Both governing political faction and opposition nominate 3 members of the Board. The Members of the Board of Trustee are elected for a term of 9 years¹¹⁸. The long tenure and faction cooperation support independence of the members of the Board.

All the public media's content acquisition and program production is performed by the MTVA (Media Service Support and Asset Management Fund). At the same time, the editorial responsibility for the content lies with another organization, Duna Media Service Provider Non-Profit Corporation (hun. *Duna Médiaszolgáltató Nonprofit Zrt*)¹¹⁹.

The Fund is a trust and monetary fund appropriated to provide support for the structural transformation of public media services, the Public Service Foundation, community media services and the public media service provider, the production and support of public service programs, fostering the careful management and expansion of State property over which the Fund is entitled to exercise ownership rights and its own assets, as well as promoting and implementing other related activities¹²⁰.

The Fund's revenue shall, in particular, comprise media service license fees, tender fees, default penalties levied for breaches of broadcasting contracts and compensations, fines, public service contributions, surplus frequency fees transferred by the Authority to the Fund pursuant to Subsection (5) of Section 134, contributions paid according to Subsection (8) by media service providers specializing in linear audiovisual media services, target subsidies from the central government budget, proceeds from the utilization and sale of assets and from business operations, interest received and donations received¹²¹.

¹¹⁵ Transzparens Újságírást, *The summary of the media situation in Hungary*

¹¹⁶ Section 84 (1) of the Act CLXXXV of 2010 - on Media Services and on the Mass Media

¹¹⁷ Section 85 (1) of the Act CLXXXV of 2010 - on Media Services and on the Mass Media

¹¹⁸ Section 86 of the Act CLXXXV of 2010 - on Media Services and on the Mass Media

¹¹⁹ Transzparens Újságírást Alapítvány, *Summary – The Media Situation in Hungary*, p. 4

¹²⁰ Section 136, subsection (1) of the Act CLXXXV of 2010 – on Media Services and on the Mass Media, established by: Subsection (1) of Section 24 of Act CVII of 2014. Amended by Paragraph b) of Section 37 of Act CXII of 2018, Point 18 of Section 83 of Act LXIII of 2019.

¹²¹ Section 136, subsection (3) of the Act CLXXXV of 2010 – on Media Services and on the Mass Media, established by: Subsection (1) of Section 24 of Act CVII of 2014, effective as of 1 January 2015

The Fund is an economic operator with legal personality, managed by the Media Council. The Fund is the successor in title of the Broadcasting Fund (hun. *Műsorszolgáltatási Alap*) and the Broadcasting and Support Trust Fund (hun. *Műsorszolgáltatás Támogató és Vagyonkezelő Alap*)¹²².

The legal supervision of the institution relies on Media Council. Its chairperson has a right to appoint, dismissal of the Fund's deputy directors¹²³.

The Media Service Support and Asset Management Fund (MTVA) is the umbrella organization of the Hungarian public service media. Since its foundation in 2011, it has unified content production, supporting services and asset management for all Hungarian public service media organizations. MTVA with its 2,500 employees has become the biggest media enterprise in Hungary exploiting the opportunities provided by five television channels (M1, M2, M3, Duna, Duna World), seven radio channels (MR1-Kossuth, MR2-Petőfi, MR3 – Bartók, Dankó Radio, Duna World, Parliamentary and National Minority Broadcasts), the national news agency and all of their online surfaces as well as a print program magazine in order to achieve its public service remit, i.e. to provide globally relevant information, quality entertainment and cultural values to the public of Hungary¹²⁴.

6.5 Central European Press and Media Foundation (hun. *Közép-Európai Sajtó és Média Alapítvány, KESMA*)

Since 2018 newly established KESMA plays an important role in shaping media landscape of Hungary. The aim of the Foundation is to promote those activities of the print, radio, TV and online sections of the Hungarian mass media which serve to build values and strengthen Hungarian national consciousness.

Primary goal is to guarantee the essential values expressed in articles IX and XI of the Fundamental Law of Hungary – especially the promotion of local (county, city, district) Hungarian media, its widest possible distribution in the interests of providing local communities with the fullest possible information, and the continuation of its community-building work. Goal is to strengthen Hungarian print media and to establish structural cooperation between other media (TV, radio, online), which in the long term will assure preservation of the culture of the traditional Hungarian print media.

Another goal is the assurance and creation of conditions – both within and outside the Carpathian Basin – for assisting the media to be able to provide credible conceptual and practical solutions to the questions arising from the increased need for social responsibility in the media (including issues related to its role, and to sustainability and ethics).

¹²² Section 136, subsection (6) of the Act CLXXXV of 2010 – on Media Services and on the Mass Media, established by: Subsection (2) of Section 24 of Act CVII of 2014, effective as of 1 January 2015.

¹²³ Section 136, subsection (10,11) of the Act CLXXXV of 2010 – on Media Services and on the Mass Media

¹²⁴ Transzparens Újságírási Alapítvány, *Summary – The Media Situation in Hungary*, p. 9

A further goal is for the Foundation to contribute – through research, education, mentoring and other organizational and community coordination activities - towards shaping Hungarian public discourse and towards raising a next generation of our community with members who will profess national values¹²⁵.

Contrary to criticism formulated by some of the media representatives and politicians, KESMA should be treated as a private media holding with primary functions concerning development of competitiveness on the media market.

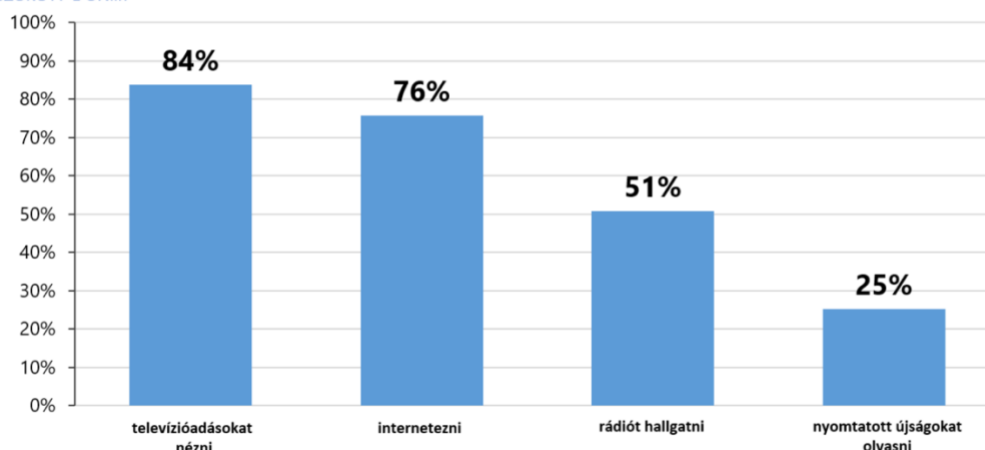
6.6 Media environment – media market in Hungary

6.6.1 Television channels, radio stations, internet portals

Depending on the sources invoked¹²⁶, television channels or online sources tend to be most important source for news, while print sources steadily decline with many titles in deep financial crisis.

MÉDIAFOGYASZTÁS

SZOKOTT-E ÖN...?



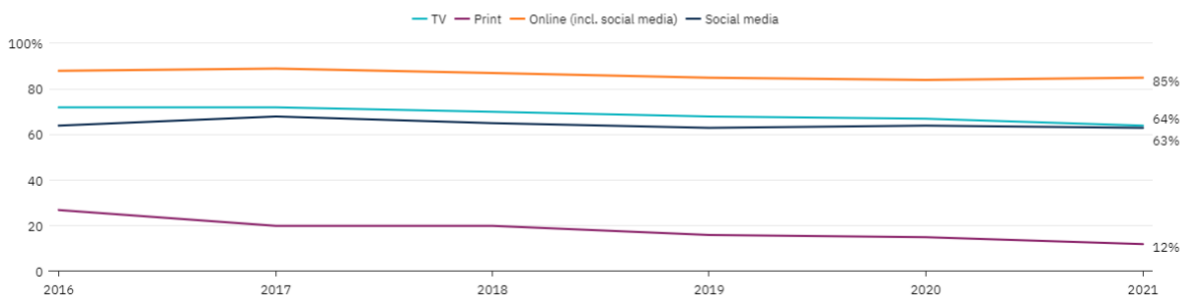
¹²⁵ Central European Press and Media Foundation, *The Foundation's aims by its Articles of Association*, <https://cepmf.hu/#sectionGoals> (access: 02.04.2022).

¹²⁶ Eva Bognar. Reuters Institute. 'Hungary'. 2021. <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021/hungary>; Nézőpont Intézet „Médiapluralizmus Magyarországon 2021” presentation of research.

Sources of news

2016–2021

Hungary

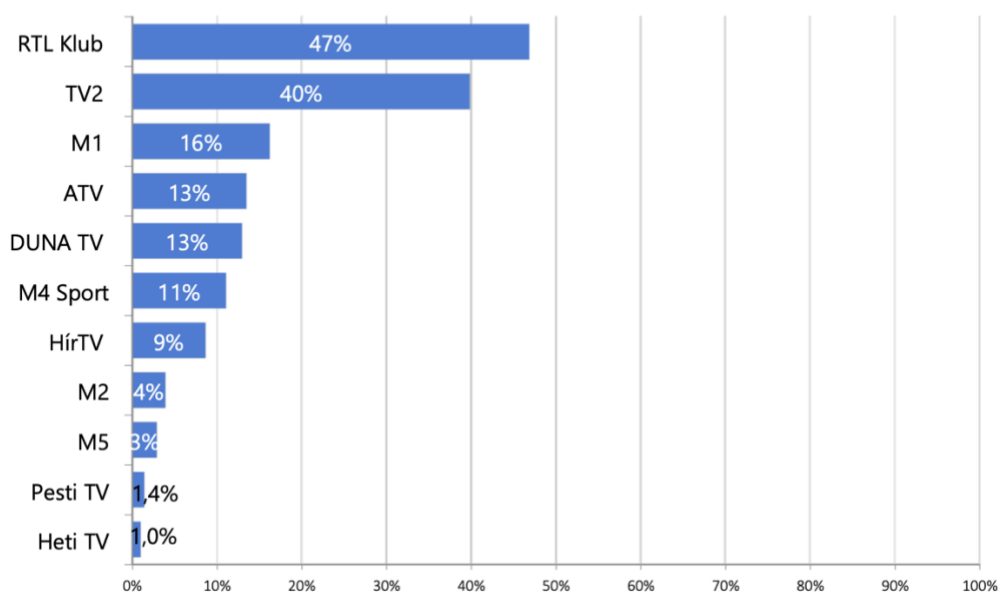


Strong private sector, with mostly viewed television channels (RTL Group, ATV), is popularly perceived as highly supportive towards opposition parties and their narratives. Public media are popularly perceived as highly supportive towards government views and opinions (Duna Media). Presence of private commercial television group also perceived as lining towards governmental perspective (TV2 Group) provides for more balanced media landscape. As a result of wide offer of television channels and market fragmentation, Hungarian voters have a wide range of media from which they can draw information about the political, economic and social reality surrounding them.

TOP televíziók

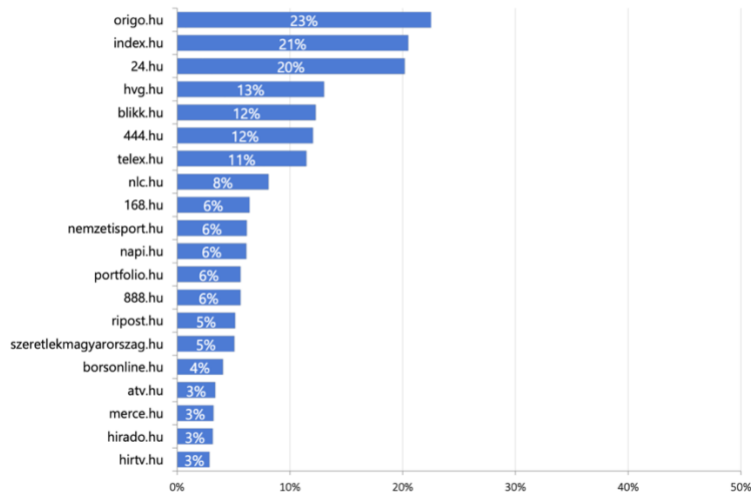


NÉZŐPONT INTÉZET



Televíziók nézettségi aránya (előző héten, hírműsorok), 2021 Q3

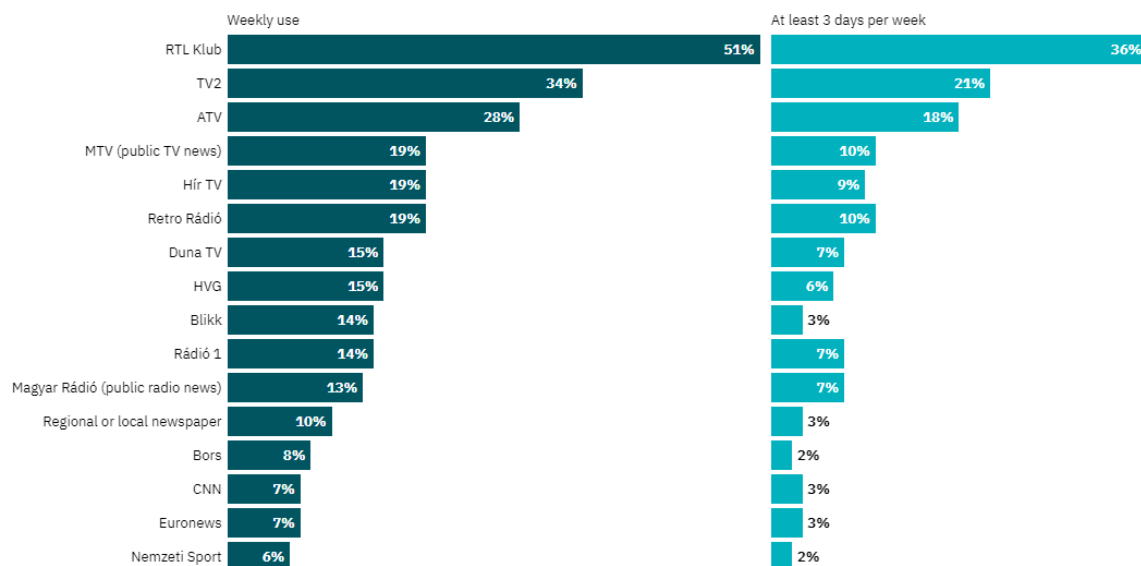
TOP online hírportálok



Online hírportálok olvasottsági aránya (előző héten, közéleti-politikai-gazdasági hírek), 2021 Q3

Weekly reach – Offline¹²⁷

(TV, Radio, Print)

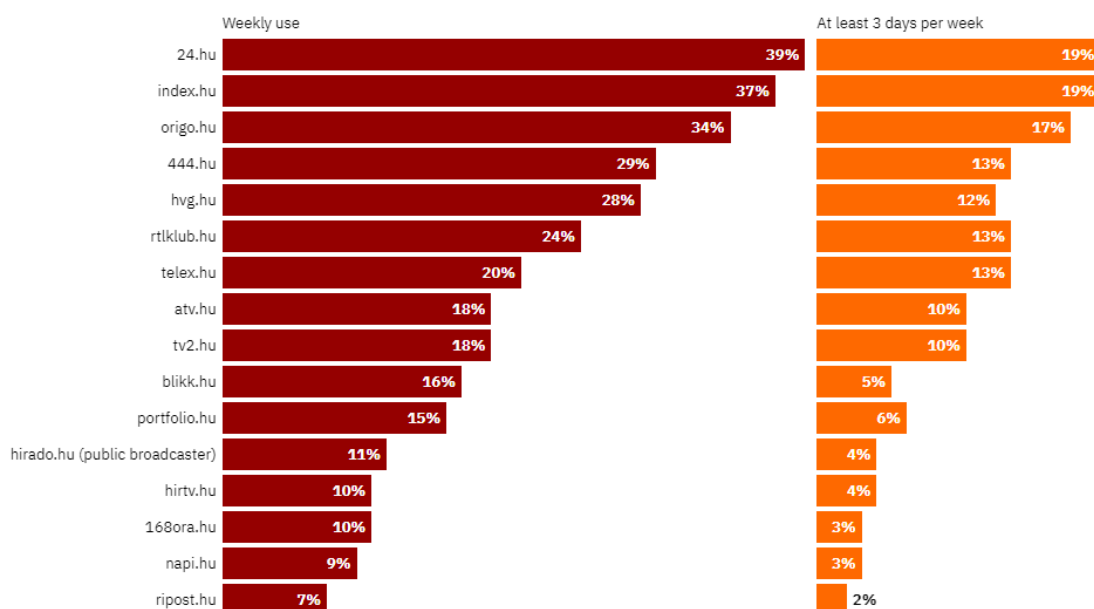


Weekly reach - online¹²⁸

(TV, Radio, Print)

¹²⁷ Eva Bognar. Reuters Institute. 'Hungary'. 2021. <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021/hungary>

¹²⁸ Eva Bognar. Reuters Institute. 'Hungary'. 2021. <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021/hungary>



While all sides of the political scene claim inequality in media coverage, analysis led to the conclusion that a wide range of leading private-owned media supporting opposition parties is counterbalanced by an emerging private media sector more supportive to the governmental perspective and public media unquestionably lining towards governing parties and the political perspective of the government.

6.6.2 Social Media¹²⁹

Internet users in Hungary

- There were 8.01 million internet users in Hungary in January 2021.
- The number of internet users in Hungary increased by 366 thousand (+4.8%) between 2020 and 2021.
- Internet penetration in Hungary stood at 83.0% in January 2021.

Social media statistics for Hungary

- There were 7.09 million social media users in Hungary in January 2021.
- The number of social media users in Hungary increased by 550 thousand (+8.3%) between 2020 and 2021.
- The number of social media users in Hungary was equivalent to 73.5% of the total population in January 2021.
- The number of social media users accessing via mobile phones was 6.71 million.

¹²⁹ Simon Kemp. 'Digital 2021: Hungary'. 11 February 2021. Facebook. <https://datareportal.com/reports/digital-2021-hungary#:~:text=There%20were%208.01%20million%20internet,at%2083.0%25%20in%20January%202021.>

- The percentage of total social media users accessing via mobile was 94.7% in January 2021.

FACEBOOK¹³⁰

- Potential audience that Facebook reports can be reached using adverts on Facebook is 6.00 million.
- Facebook's potential advertising audience compared to the total population aged 13+ is 71%.
- The 53,3% of its ad audience that Facebook reports is female and 46,7% male.
- The 94,7% of Facebook users access via phone, 5,3% via laptop or desktop computers only, and 48,5% both.

**Audience figures may not represent unique individuals, or match the active user base.*

YOUTUBE¹³¹

- Potential audience that Google reports can be reached using adverts on YouTube is 7.09 million.
- Youtuber's advertising audience aged 18+ compared to the total population aged 18+ is 78%.
- Percentage of its ad audience that YouTube reports is female: 50,5%. Male: 49,5%.
- Most followed Hungarian music channel: Pamkutya
- Most followed Hungarian brand channel on YouTube: Lidl Magyarország
- Most followed vlogger: Videómánia
- Top Youtube search queries on 2020:

¹³⁰ Simon Kemp. 'Digital 2021: Hungary'. 11 February 2021. <https://datareportal.com/reports/digital-2021-hungary#:~:text=There%20were%208.01%20million%20internet,at%2083.0%25%20in%20January%202021.>

¹³¹ Simon Kemp. 'Digital 2021: Hungary'. 11 February 2021. Youtube <https://datareportal.com/reports/digital-2021-hungary#:~:text=There%20were%208.01%20million%20internet,at%2083.0%25%20in%20January%202021.>

#	SEARCH QUERY	INDEX
01	TELJES	100
02	FILMEK	62
03	FILMEK MAGYARUL	49
04	TELJES FILM	46
05	TELJES FILM MAGYARUL	40
06	TELJES FILMEK	37
07	TELJES FILMEK MAGYARUL	37
08	ZENE	29
09	MESE	23
10	ZENÉK	19

**Audience figures may not represent unique individuals, or match the active user base.*

TWITTER¹³²

- Potential audience that Twitter reports can be reached with adverts on Twitter: 278,4 thousand.
- Twitter's potential advertising audience compared to the total population aged 13+: 3,3%
- Quarter-on-quarter change in Twitter's advertising reach: -7,1% (-21 thousand)
- Percentage of its ad audience that Twitter reports is female: 20,5%. 79,5% male.

**Audience figures may not represent unique individuals, or match the active user base.*

INSTAGRAM¹³³

- Potential audience that Facebook reports can be reached using adverts on Instagram: 2.50 million
- *Instagram's potential advertising audience compared to the total population aged 13+: 29,6%.*
- *Quarter-on-quarter change in Instagram's advertising reach: +4,2% (+100 thousand)*
- *Percentage of its ad audience that Instagram reports is female: 53,8%. Male: 46,2%.*
- Most popular Hungarian on Instagram: Palvin Barbara

¹³² Simon Kemp. 'Digital 2021: Hungary'. 11 February 2021. Twitter <https://datareportal.com/reports/digital-2021-hungary#:~:text=There%20were%208.01%20million%20internet,at%2083.0%25%20in%20January%202021.>

¹³³ Simon Kemp. 'Digital 2021: Hungary'. 11 February 2021. Instagram <https://datareportal.com/reports/digital-2021-hungary#:~:text=There%20were%208.01%20million%20internet,at%2083.0%25%20in%20January%202021.>

**Audience figures may not represent unique individuals, or match the active user base.*

6.7 Media activity during the election process

The War in Ukraine has significantly changed the agenda of the Hungarian media. Despite being in the middle of the electoral process, the news about the war and the internal events in Hungary affected by the war have taken over a large part of the information space in the country. Domestic political news has taken a backseat, with information relating to the war being the one that has aroused the most interest in the weeks leading up to the elections. Although the fact that the country is immersed in an electoral process is palpable in the media, the truth is that the War in Ukraine has distorted the media agenda prior to the elections.

Regarding political advertising, the law stipulates that in order to provide adequate information during an election campaign, political advertising may be advertised only free of charge and under conditions that ensure equal opportunities. The Hungarian law stipulate that a media service provider may not request or accept remuneration for the publication of political advertisements, nor may it attach any opinion or evaluation to political advertisements. In addition, the law stipulates that the media service provider may publish the political advertisements of the nominating or listing nominating organizations and independent candidates on equal terms, in particular as regards the number, order, duration and timing of political advertisements.

The public service media service provider is obliged to ensure the publication of political advertisements three times a day, in the time zones between 6-8, 12-14 and 18-20. The order in which political advertisements appear should be changed daily to ensure equal opportunities. There is only one ad-related restriction on campaign silence: no political advertising can be posted on polling day (April 3, 2022).

In 2022, MTVA's most accessible television and radio channel (Duna Televízió and Kossuth Radio) and the national commercial RTL Klub television are entitled to publish political advertisements¹³⁴.

Since 7th of March, Hungarian television has been broadcasting advertisements for political parties as part of the election campaign.

According to reports, the televisions are not equitable in terms of the image they project of the different parties. These studies ensure that the image given to the government party, Fidesz, is positive in 54% of the cases on commercial television RTL Klub and up to 72% on public

¹³⁴ National Media And Infocommunications Authority (NMHH). 'Election 2022'. 31 march 2022. https://english.nmhh.hu/article/227483/Valasztas_2022

television Duna Televízió. In contrast, he considers that RTL Klub projects a positive image of the opposition in 67% of cases, compared to 22% for Duna.

Based on the data, on the national public television, Duna Televízió, a total of 175 announcements of political parties have been seen until March 27, of which only 51 corresponded to the current ruling party, Fidesz¹³⁵.

In the case of the country's largest commercial television, RTL Klub, in the same period 260 advertisements for political parties were broadcast, of which only 24 belonged to the ruling party Fidesz, which barely represents 9.2% of the total political party advertisements¹³⁶.

Considering the election campaign, it is important to note that the pro-government and the anti-government media have similar potential audience reach. In the third quarter of 2021, 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%). Nowadays, the potential reach of pro-government and anti-government media content is well balanced and roughly the same size¹³⁷.

6.8 Media attitude during the election campaign – meetings with local politicians, media, and other representatives

The observatory mission held meetings with Index.hu, Origo, Atlatszó, TV 2, Klub Radió, Lőrinc Nacsa (KDNP), Adam Balazs (Fidesz), Krisztian Hildebrand (*Magyar Kétfarkú Kutya Párt*), Attila Mesterházy (*Magyar Szocialista Párt* former Prime Minister candidate and President of the Party), László Toroczkai (leader of *Mi Hazánk*), broadcasters and newspapers organized in KESMA (Central European Press and Media Foundation).

Representatives of media perceived as supportive to the opposition expressed concern about freedom of media being limited in Hungary, as well as pointed to several media ownership changes (Origo, Index, Tv 2, and Népszabadság) as politically motivated. The same representatives expressed opinion, that creation of KESMA has increased the political dependency and pressure towards media. From their perspective, freedom of press and their independency in the last years significantly has dropped down^{138,139,140}.

The director of Klub Radió (Mihály Hardy) claimed that there is almost no free press in Hungary. At the same time, he labelled some of the political groups as *antisemitic*, *antiroma*,

¹³⁵ Mérték Médiaelemző Műhely. 'Hungarian News Monitoring, 2022 Election Campaign'. 11 March 2022. <https://mertek.eu/en/2022/03/11/hungarian-news-monitoring-2022-election-campaign-part-2/>

¹³⁶ National Media And Infocommunications Authority (NMHH). 'Election 2022'. 31 march 2022. https://english.nmhh.hu/article/227483/Valasztas_2022

¹³⁷ Nézőpont Intézet. 'Before a free and fair election'. March 2022. <https://nezopont.hu/en/before-a-free-and-fair-election-20-charges-and-facts-in-light-of-the-2018-osce-report/>

¹³⁸ Meeting with Atlatszó (29.03.22).

¹³⁹ Meeting with Attila Mesterházy (31.03.22).

¹⁴⁰ Meeting with Klub Radió (31.03.22).

nazi for which there is no place in Klub Radió. He expressed opinion, that part of the radio's mission is *Orban criticism*¹⁴¹.

Also opposition politician Atilla Mesterházy expressed opinion that the part of the media are in fact a governmental propaganda machine and criticized the fact, that private media, which accept free election advertisements are forced to air all political lists. As a result opposition media refuse to do so, in order to avoid airing some parties which are not acceptable to them¹⁴². Media united in KESMA argue that due to KESMA formation they have increased total share in the market, take advantage of better organizational and expert background, and due to economics of scale they reached more final consumers and have improved financial results¹⁴³. The government coalition politician and some of the media representatives claim that media ownership changes were motivated economically, were performed by private entities, and government nor state had no interests or influence on them^{144,145}.

Atlatszó stated that Hungarian news agency provides free of charge news content influenced by government and ruling coalition. That content is supposedly easily accepted by broad range of media outlets (mostly local radio stations) and *average Hungarian* in the countryside has no access to free media¹⁴⁶.

Contrary to the claims of some media representatives, acquired data show steady growth of number (from 33 to 48 media outlets from 2010 to 2020) and revenue (from 54,6 billion HUF to 79,3 billion HUF from 2015 to 2020) of media outlets perceived as skeptical towards government¹⁴⁷. At the same time 5 out of top 6 internet media outlets are perceived as supporting opposition¹⁴⁸.

László Toroczkai declared that Mi Házánk party was refused to access RTL Klub which rejected appearances of the party and its candidates. Party candidates and leadership had a narrow opportunity to present their program in the public TV channels and broad access to the private TV Channel ATV¹⁴⁹.

In the opinion of observers, the polarized political scene of Hungary has led to practices of few major private media outlets, equivalent to restricting the freedom of speech, directed primarily against politicians and views perceived as radical. Those practices were supported by shadow banning and selective banning of political figures and political parties' profiles by leading social media providers. This in turn may have influenced the equality of opportunity principle.

¹⁴¹ Meeting with Klub Radió (31.03.22).

¹⁴² Meeting with Atilla Mesterházy, 31.03.22.

¹⁴³ Meeting with local media (Magyar Nemzet, Hir TV, Origo, 888.hu and others).

¹⁴⁴ Meeting with Lőrinc Nacsa and Adam Balazs (29.03.22).

¹⁴⁵ Meeting with local media (Magyar Nemzet, Hir TV, Origo, 888.hu and others).

¹⁴⁶ Meeting with Atlatszó, 29.03.22.

¹⁴⁷ Nézőpont Intézet „Médiapluralizmus Magyarországon 2021” presentation of research

¹⁴⁸ Meeting with local media (Magyar Nemzet, Hir TV, Origo, 888.hu and others).

¹⁴⁹ Meeting with László Toroczkai – Mi Házánk leader, 01.04.2022.

The negative huge role in the very final stage played Facebook which totally banned the third, in accordance to pools¹⁵⁰, political movement in Hungary – Mi Házank and the Facebook page of his leader - László Toroczkai. In case of MKKP and Mi Házank Facebook was the major communicator to their sympathizers. Reaching in case of MKKP 320 000 followers¹⁵¹.

6.9 Conclusions

Depending on the sources invoked, television channels or online sources tend to be most important source for news, while importance of printed sources steadily decline with many titles in deep financial crisis.

Strong private sector, with mostly viewed television channels (RTL Group, ATV), is popularly perceived as highly supportive towards opposition parties and their narratives. Public media are popularly perceived as highly supportive towards government views and opinions (Duna Media). Presence of private commercial television group also perceived as lining towards governmental perspective (TV2 Group) provides for more balanced media landscape. As a result of wide offer of television channels and market fragmentation, Hungarian voters have a wide range of media from which they can draw information about the political, economic and social reality surrounding them.

While all sides of political scene claim inequality in media coverage, analysis led to conclusion, that wide range of leading private owned media supporting opposition parties is counterbalanced by emerging private media sector more supportive to governmental perspective and public media unquestionable lining towards governing parties and political perspective of the government.

According survey conducted in the third quarter of 2021, 81.6% of the Hungarian audience consume pro-government media and 80.6% consume anti-government media. The proportion of those who consume exclusively progovernment 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 antigovernment media content is well balanced and roughly the same size

Due to biased interference in the election process by practice of shadow banning and selective banning of political figures and political parties' profiles by leading social media providers, observers express concern over lack of proper legal guarantees providing for equality of opportunities in cases of abuse of dominant position by some social media providers.

¹⁵⁰ Politico, *Europe-pool-of polls – Hungary*, <https://www.politico.eu/europe-poll-of-polls/hungary/> (access: 02.04.22).

¹⁵¹ The Hungarian Two Tailed Dog Party Facebook profile, <https://www.facebook.com/justanotherwordpresspage> (access: 02.04.22).

7. Referendum issues

7.1 Background and political context

On 15 June 2021, the Hungarian National Assembly, with 157 votes against 1, adopted Law T/16365 „on stricter action against pedophile offenders and amendments to certain laws in order to protect children” (*A pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról*)¹⁵². On 23 June 2021, the act was signed by President János Áder¹⁵³ and published in the Hungarian Journal No. 118 on 23 June 2021¹⁵⁴.

This act amended 11 individual legal acts, ensuring, *inter alia*, that „in the system of child protection, the state protects the right of children to an identity according to their sex of birth”, „advertisements that promote sexuality as an end in itself or that promote gender derogation, gender reassignment and homosexuality are prohibited for persons under the age of 18”, „a program that may adversely affect the physical, mental or moral development of minors, in particular by promoting violence, promoting gender identity, gender reassignment and homosexuality, or treating sexuality as an end in itself, should be included in the category V. Evaluation of such a program: not recommended for children under the age of eighteen”, „pornography, the treatment of sexuality as an end in itself, or the promotion of gender deviation, gender reassignment and homosexuality, may not be made available to persons under the age of eighteen” or „during classes in sexual culture, sexuality, sexual orientation and sexual development, special attention should be paid to the provisions of Article XVI section 1 of the Constitution [*Every child shall have the right to the protection and care necessary for his or her proper physical, mental and moral development*]. These sessions should not be aimed at promoting gender segregation, gender reassignment or homosexuality”. On 8 July 2021, the European Parliament adopted a resolution „on breaches of EU law and of the rights of LGBTIQ citizens in Hungary as a result of the legal changes adopted by the

¹⁵² T/16365 *A pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról*,

https://www.parlament.hu/web/guest/napirend?p_p_id=hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=AFHut3X1&hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Fogy_irom.ir_om_adat%3Fp_ckl%3D41%26p_izon%3D16365 (access: 02.04.2022).

¹⁵³ *Közlemény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról szóló törvényről*, 23.06.2021,

<https://www.keh.hu/sajtokozlemenyek/2869-Kozlemeney-a-pedofil-bunelkovetokkel-szembeni-szigorubb-fellepesrol-valamint-a-gyermekek-vedelme-erd-ekben-egyes-torvenyek-modositasarol-szolo-torvenyrol> (access: 02.04.2022).

¹⁵⁴ Hungarian Journal No. 118, 23.06.2021,

<https://magyarkozlony.hu/dokumentumok/ba643dee7b59c2a1901132e6e3320483d2245b56/megtekintes> (access: 02.04.2022), p. 2.

Hungarian Parliament” (2021/2780(RSP))¹⁵⁵. MEPs accused the Hungarian state of allegedly „restricting severely and intentionally the rights and freedoms of LGBTIQ persons, as well as children’s rights” by adopting the law.

Hungarian Prime Minister Viktor Orbán stated that „the European Parliament and the European Commission want that we let LGBTQ activists and organizations into the kindergartens and schools. Hungary does not want that” and „Brussels bureaucrats have no business at all, no matter what they do we will not let LGBTQ activists among our children”¹⁵⁶. On 23 July 2021, the Prime Minister announced a national referendum on this matter¹⁵⁷.

On 30 November 2021, the Hungarian parliament called for a consultative referendum containing four questions initiated by the Hungarian government. The relevant parliamentary resolution was published in the Hungarian Journal No. 217 on 30 November 2021¹⁵⁸. The referendum asked voters to decide:

- Do you support the teaching of sexual orientation to minors in public education institutions without parental consent?
- Do you support the promotion of sex reassignment therapy for underage children?
- Do you support the unrestricted exposure of underage children to sexually explicit media content that may affect their development?
- Do you support the showing of sex-change media content to minors?

The original intention of the government was to ask in a referendum also a fifth question: „Do you support the availability of non-conversion treatments for minors?”, but this one was canceled by the Supreme Court of Hungary (*Kúria*), and although the Constitutional Court overturned the decision in December 2021 following a complaint by the government, the government did not want to reopen the question¹⁵⁹.

¹⁵⁵ Texts adopted, European Parliament resolution of 8 July 2021 on breaches of EU law and of the rights of LGBTIQ citizens in Hungary as a result of the legal changes adopted by the Hungarian Parliament (2021/2780(RSP)), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0362_EN.html (access: 02.04.2022).

¹⁵⁶ Krisztina Than and Gabriela Baczynska, *Hungary's clash with EU over LGBT rights deepens*, 08.07.2021, <https://www.reuters.com/world/europe/orban-says-hungary-will-not-let-lgbtq-activists-into-schools-2021-07-08/> (access: 02.04.2022).

¹⁵⁷ *Ezért van szükség a gyermekvédelmi népszavazásra - jelentette ki a miniszterelnök a Kossuth rádióban*, 23.07.2021, <https://kormany.hu/hirek/brusszel-megamadta-magyarorszagot2> (access: 02.04.2022).

¹⁵⁸ Hungarian Journal No. 217, 30.11.2021, <https://magyarokozlony.hu/dokumentumok/b3f57cffe2dc687adfd611995609afff2a422a35/megtekintes> (access: 02.04.2022), p. 142.

¹⁵⁹ Júlia Tar, *Constitutional Court Decided: There Will Be Referendum on „Child Protection”*, 07.01.2022, <https://hungarytoday.hu/hungarian-child-protection-law-referendum-questions-hungary/> (access: 02.04.2022).

On 4 January 2022, the Hungarian Constitutional Court (*Alkotmánybíróság*) stated that the referendum initiative was consistent with the Constitution¹⁶⁰. On 11 January 2022, the President called a referendum on 3 April 2022¹⁶¹, the same day as the parliamentary election¹⁶².

7.2 Referendum system and legal framework

The basic issues related to the conduct of a national referendum in Hungary are regulated by Article 8 of the Hungarian Constitution¹⁶³, by the Hungarian Referendum Act of 2013¹⁶⁴ and – respectively – by the Hungarian Election Act of 2013¹⁶⁵.

The referendum of 3 April 2022 was ordered by the National Assembly at the initiative of the government, meeting the requirements of Article 8 section 1. Pursuant to Article 8 section 4, a national referendum shall be valid if more than half of all voters have cast valid votes, and it shall be conclusive if more than half of those voting validly have given the same answer to the question asked. Pursuant to Article XXIII of the Constitution of Hungary, every adult Hungarian citizen shall have the right to be a voter (section 1), and every person entitled to vote in elections of Members of Parliament shall have the right to participate in national referenda (section 7). All information necessary for the correct participation of citizens in voting, both in parliamentary elections and in the national referendum, has been posted on the website of the National Election Office (*Nemzeti Választási Iroda*), where everyone can read it without additional payment¹⁶⁶.

¹⁶⁰ Judgment of the Constitutional Court of 4 January 2022, VI/04778/2021, <http://public.mkab.hu/dev/dontesek.nsf/0/FD9E0DD034F8DFEFC12587A700476CD6> (access: 02.04.2022).

¹⁶¹ *Közlemény a népszavazás időpontjának kitűzéséről*, 11.01.2022, https://www.keh.hu/sajtokozlemenyek/2939-Kozlemeny_a_nepszavazas_idopontjanak_kituzeserol (access: 02.04.2022).

¹⁶² *Az országgyűlési képviselők 2022. évi általános választása időpontjának kitűzéséről*, 11.01.2022, https://www.keh.hu/sajtokozlemenyek/2938-Az_orszaggyulesi_kepviselok_2022_evi_altalanos_valasztasa_idopontjanak_kituzeserol (access: 02.04.2022).

¹⁶³ Article 8 of the Constitution of Hungary of 2011, https://hunconcourt.hu/uploads/sites/3/2021/01/thefundamentallawofhungary_20201223_fin.pdf (access: 02.04.2022):

(1) [...] The National Assembly may order a national referendum at the initiative of the President of the Republic, the Government or one hundred thousand voters. The decision made on a valid and conclusive referendum shall be binding on the National Assembly.

(2) National referendums may be held about any matter falling within the functions and powers of the National Assembly.

(3) [...]

(4) A national referendum shall be valid if more than half of all voters have cast valid votes, and it shall be conclusive if more than half of those voting validly have given the same answer to the question asked.

¹⁶⁴ Hungarian Referendum Act (no. CCXXXVIII) of 2013 (consolidated text of 20 November 2021), <https://njt.hu/jogszabaly/2013-238-00-00>. English version: Hungary – Act CCXXXVIII of 2013 – Initiating Referendums, the European Citizens' Initiative and Referendum Procedure, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2021\)063-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2021)063-e) (access: 02.04.2022).

¹⁶⁵ Hungarian Election Act (no. XXXVI) of 2013 (consolidated text of 20 November 2021), <https://njt.hu/jogszabaly/2013-36-00-00> (access: 02.04.2022).

¹⁶⁶ Nemzeti Választási Iroda, *Országgyűlési képviselők választása 2022*, 15.11.2021, <https://www.valasztas.hu/hu/ogy2022> (access: 02.04.2022).

The procedure for organizing and voting in a national referendum is set out in Articles 65 to 79 of the Referendum Act. Pursuant to section 67 of the Act, The President of the Republic shall fix the date of the referendum within fifteen days after the inconclusive expiry of the deadline for legal remedy against the parliamentary resolution ordering the referendum, or – in the case of a legal remedy – after the adjudgment of that legal remedy.

Prior to November 2021, section 3 of this paragraph stated that „no national referendum shall be called on the day of the general election of Members of Parliament, [...] and within a period of forty-one days before and forty-one days after that day”. However, on 17 November 2021, the Hungarian National Assembly adopted Law T/17004¹⁶⁷, that deleted this section from the paragraph, and Law T/17265¹⁶⁸, which regulated new rules of conducting referenda. On 17 November 2021, the acts (CXVII and CXVIII) were signed by President János Áder and published in the Hungarian Journal No. 208 on 17 November 2021¹⁶⁹.

It is definitely worth emphasizing that the parliamentarians who submitted both of these bills do not belong to the parliamentary club of the ruling party Fidesz. The first of these projects, the more important one, was presented by MP Tímea Szabó, representing the opposition party Dialogue for Hungary, and supported unanimously by 183 MPs. The second one was presented by MP János Volner, elected from the Jobbik list, who has been an independent parliamentarian since 2020.

Thus, not only the government, but also the opposition agreed to hold a referendum and parliamentary elections on the same day. The same opinion was expressed by a deputy state secretary responsible for civil society relations in the Prime Minister's Office on 29 March 2022.

Pursuant to section 4 of this paragraph, the resolution ordering the referendum and calling the date of the referendum shall be published in the Official Gazette of Hungary.

In accordance with paragraph 68:

Organizations organizing the initiative but not having any political group in Parliament may appoint a common member to the National Election Commission.

¹⁶⁷ T/17004 Az országos népszavazási eljárás módosításáról, https://www.parlament.hu/web/guest/folyamatban-levo-torvenyjavaslatok?p_p_id=hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=xrCIQWg7&hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Fogy_irom.irom_adat%3Fp_ckl%3D41%26p_izon%3D17004 (access: 02.04.2022).

¹⁶⁸ T/17265 Egyes választási tárgyú törvények módosításáról, https://www.parlament.hu/web/guest/iromanyok-egyszerusített-lekerdezese?p_p_id=hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=OlqQHhU&hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Fogy_irom.irom_adat%3Fp_ckl%3D41%26p_izon%3D17265 (access: 02.04.2022).

¹⁶⁹ Hungarian Journal No. 208, 17.11.2021, <https://magyarkozlony.hu/dokumentumok/1fedd9876c9d6380e1d9eeea0049e35d9dadbf66/megtekintes> (access: 02.04.2022), p. 107.

The organizers of the initiative may appoint a common member to a parliamentary single member constituency election commission. Political parties not involved in the organization of the initiative but having their respective groups in Parliament may appoint one member each.

The organizers of the initiative may appoint two common members to a ballot counting commission and to the local election commission in settlements with one polling district. Political parties not involved in the organization of the initiative but having their respective groups in Parliament may appoint two members each.

The organizers of the initiative and the parties not involved in the organization of the initiative but having their respective groups in Parliament may appoint observers to foreign representations within the meaning of section 5 of the Ve.

The organizers of the initiative and the parties not involved in the organization of the initiative but having their respective groups in Parliament are eligible to appoint observers under subsection (2) of section 245.

The rules of the referendum campaign are set out in paragraph 69. Paragraph 70 specifies the procedures for supplying data from the electoral register, paragraph 71 – the content of the ballot paper, paragraph 72 – the content of the voting package, 73 – the rules for forwarding votes, 74 – the process of voting, 75 and 76 – counting the ballots, 77 and 78 – determining the result of the referendum, 79 – legal remedies.

7.3 Application of an international standards

Application of an international standards

The increased use of referendums does not undermine either the constitutional position of parliaments or the power of representation of the people that such bodies have been assigned to and continue to hold with the sole reservation of the possible direct exercise of the right of participation through referendum.

Such exercise is compatible with parliamentarism because „from the moment in which the power of the State and of its organs is founded on the idea of sovereignty of the general will, it becomes manifestly impossible to deny the ability to deliberate and even to decide to those of whom the general will takes its origin and its consistency, that is, to the citizens who are assembled for this purpose in a single and indivisible college”¹⁷⁰.

In spite of the thesis sustained by certain doctrine¹⁷¹, direct democracy does not question representative democracy, because both can be integrated reciprocally. „Neither the popular

¹⁷⁰ Raymond Carré de Malberg, *Considérations théoriques sur la question de la combinaison du référendum avec le parlementarisme*, Paris 1931, p. 16.

¹⁷¹ Pierre Nuss, *Référendum et initiative populaire en France? De l'illusion en général et de l'hypocrisie en particulier*. „Revue du Droit Public et de la Science Politique en France et à l'étranger” 2000, 5, p. 1448-1456.

initiative, nor the referendum intend to supplant the mechanisms and the normal exercise of the constitutional powers. Their action does not imply an assault on the constitutional State; on the contrary, it is a complement to the system of checks and balances, that most genuinely define and characterize it”¹⁷².

Regulated with the precise guarantees, the referendum broadens the possibilities of participation, involves citizens in the process of adopting collective decisions and reinforces the legitimacy of the political system. The referendum can therefore be an effective instrument of political integration. „It can operate as a proven complement to representative democracy, making possible direct popular participation in the constituent process and in legislative or governmental procedures of collective decision-making”¹⁷³.

Issues related to the organization of a fair, transparent and democratic referendum have been discussed in numerous international and European documents. The following studies remain the most important in the application of the referendum on 3 April:

Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome 1950).

The Article 8 of the ECHR states that everyone has the right to respect for his private and family life, his home and his correspondence. Therefore, certain matters affecting the private life of citizens, such as the education of their children, must be decided by them. This is guaranteed not only by general elections, but also because citizens decide specifically on the matters that most affect them and which they will have to pay for with their taxes. The general practice in Europe is for a national referendum to be provided for in the Constitution, which was affirmed by the Council of Europe itself in 2005. The Parliamentary Assembly considers referendums to be one of the instruments enabling citizens to participate in the political decision-making process.

***Referendums: towards good practices in Europe (Council of Europe 2005)*¹⁷⁴,**

The Parliamentary Assembly stated that referendums represent a long-standing political tradition in a number of Council of Europe member states; in others, the participation of citizens in the decision-making process through referendums is a more recent achievement, coinciding with their passage to pluralist and representative democracies. In opinion of the Assembly,

John Haskell, *Direct Democracy or Representative Government? Dispelling the Populist Myth*, Boulder, Colorado 2001, p. 11-24. Giovanni Sartori, *¿Qué es la democracia?*, México 2007, p. 125-129.

¹⁷² Pedro de Vega, *La reforma constitucional y la problemática del poder constituyente*, Madrid 1985, p. 122.

¹⁷³ Carlos Garrido López, *La utilidad del referéndum como acicate y contrapeso en las democracias representativas*. „Revista de Estudios Políticos” 2018, 181, p. 139.

¹⁷⁴ *Referendums: towards good practices in Europe*. Recommendation 1704 (2005) of the Council of Europe adopted by the Assembly on 29 April 2005 (16th Sitting), <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17329> (access: 02.04.2022).

referendums as one of the instruments enabling citizens to participate in the political decision-making process; it also recognized the essential contribution of organized civil society in the framework of participatory democracy.

Opinion on Parliamentary Assembly Recommendation 1704 (2005) on *Referendums: towards good practices in Europe* (Venice Commission 2005)¹⁷⁵.

The European Commission for Democracy through Law, also known as the Venice Commission, is the European body that for more than two decades has been assigned to study and promote the deepening of democracy throughout Europe. This commission was created by the Council of Europe in 1992. It holds its sessions in Venice and its fundamental role is to offer legal advice to its member states in order to reinforce democratic standards. It disseminates and consolidates the common European heritage in this field. It has a total of 59 experts: 47 from European member states of the Council of Europe and 12 from other non-European countries.

Since its creation, the Venice Commission has been interested in electoral issues, including the use of direct democracy procedures, including the use of direct democratic procedures, such as referendums, which are becoming increasingly common as democracy spreads across Europe. The Recommendation 1704 of the Parliamentary Assembly is very appropriate and useful. It supports the activities in the field of referendums already undertaken by the Venice Commission. The wording of §1 of the Recommendation suggests that holding referendums is now part of the democratic legislation and decision-making process in all the member States of the Council of Europe; in some of them as a long-standing tradition; in the others as a more recent achievement.

Code of good practice on referendums (Venice Commission 2007)¹⁷⁶.

On 23 November 2007, the Standing Committee acting on behalf of the Parliamentary Assembly of the Council of Europe, asked by Recommendation 1821(2007) the Committee of Ministers to adopt a recommendation to member states endorsing the Code of Good Practice on Referendums. By Resolution 1592(2007), the Assembly decided to forward the Code of

¹⁷⁵ Opinion on Parliamentary Assembly Recommendation 1704 (2005) on *Referendums: towards good practices in Europe* adopted by the Council for Democratic Elections at its 14th meeting (Venice, 20 October 2005) and the Venice Commission at its 64th Plenary Session (Venice, 21-22 October 2005), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2005\)028-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2005)028-e) (access: 02.04.2022).

¹⁷⁶ Code of good practice on referendums adopted by the Council for Democratic Elections at its 19th meeting (Venice, 16 December 2006) and the Venice Commission at its 70th plenary session (Venice, 16-17 March 2007, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2007\)008rev-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007)008rev-cor-e) (access: 02.04.2022).

good practice to national delegations and parliaments so that it could be applied in Council of Europe member states without delay.

One of the three areas of study of the Venice Commission is entitled Elections, Referendums and Political Parties. After several years of work, studies and previous resolutions, the Venice Commission adopted in 2007 the Code of Good Conduct for Referendums. Section III of the code contains a general rule for referendums: „The use of referendums must comply with the legal system as a whole, and especially the procedural rules. In particular, referendums cannot be held if the Constitution or a statute in conformity with the Constitution does not provide for them, for example where the text submitted to a referendum is a matter for Parliament’s exclusive jurisdiction”.

Point 5 of the explanatory note to the code determines its scope: „It should be made clear that the guidelines apply to all referendums – national, regional and local – regardless of the nature of the question they concern (constitutional, legislative or other). Each reference to Parliament also applies to regional or local assemblies”.

And point 26 of the same formulates another clarification on the principle of the rule of law in any democracy: „The principle of the sovereignty of the people allows the latter to take decisions only in accordance with the law. The use of referendums must be permitted only where it is provided for by the Constitution or a statute in conformity with the latter, and the procedural rules applicable to referendums must be followed”.

In 2007, the Parliamentary Assembly recognised the importance of the Code of Good Practice on Referendums¹⁷⁷, which reflects the principles of Europe’s electoral heritage, as a reference document for the Council of Europe, and as a basis for possible further development of the legal framework for referendums in European countries. The Assembly called on governments, parliaments and other relevant authorities in the member states to take account of the Code of Good Practice on Referendums, to have regard to it, within their democratic national traditions, when drawing up and implementing legislation on referendums and to make sustained efforts to disseminate it widely in the relevant circles, noting that free suffrage includes freedom of voters to express their wishes as well as freedom of voters to form an opinion, based on freedom of the media, neutrality of the public media and respect for the principle of unity of content.

Declaration by the Committee of Ministers on the Code of Good Practice on Referendums (Council of Europe 2008)¹⁷⁸.

¹⁷⁷ Recommendation 1821 (2007), Code of Good Practice on Referendums adopted by the Standing Committee, acting on behalf of the Assembly, on 23 November 2007, <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17601&lang=en> (access: 02.04.2022).

¹⁷⁸ Reply to Recommendation, 15 December 2008. Appendix – Declaration by the Committee of Ministers on the Code of Good Practice on Referendums, adopted by the Committee of Ministers on 27 November 2008 at the 1042bis meeting of the Ministers’ Deputies, <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=12096&lang=en> (access: 02.04.2022).

The Committee recalled that democracy is one of the foundations of the Council of Europe and that it is expressed not only through elections but also through referendums, noting that free suffrage includes freedom of voters to express their wishes as well as freedom of voters to form an opinion, based on freedom of the media, neutrality of the public media and respect for the principle of unity of content. The Committee recalled that the rule of law implies that recourse to referendums complies with the entire body of law, including procedural rules. So, if the referendum is legal, it has been called in accordance with national law, there is no possible argument against it, as it is a way to ensure democracy and citizen participation.

Referendum campaign

7.4 Governmental referendal campaign

On 11 February 2022, the Hungarian government announced the official launch of its pre-referendum information campaign:

„The government is launching an information campaign on the referendum.

We believe that it is parents, and not activist groups, who have the exclusive right to give sex education to their children. Many European governments have taken decisions in this area without seeking the views of citizens. The Hungarian government provides this opportunity.

By participating in the referendum, we can stand up for the Child Protection Act, and thus for the protection of our children. That is why we encourage everyone to take part in the referendum. In addition to the traditional interfaces, the information campaign will also take place on Internet interfaces, and an information website will be launched shortly”¹⁷⁹.

On 28 February 2022, Renáta Uitz, professor of constitutional law (Central European University) wrote a journalistic opinion, in which she stated that the upcoming referendum „is a test of popular support for Prime Minister Viktor Orbán – or for the democratic opposition. The government has little to lose. Speaking in formal legal or constitutional terms, if the referendum is successful, it will confirm popular support for constitutional and legal measures in place. If turnout is lower than required for validity, it will not affect the legal validity of measures already in place, but will still bring pro-government voters to the polls. Thus, in addition to its election campaign, the opposition may still need to enter into a campaign against

¹⁷⁹ Magyarország Kormánya, *A kormány tájékoztató akciót indít a népszavazásról*, 11.02.2022, <https://www.facebook.com/kormanyzat/posts/255009793468900> (access: 02.04.2022).

the government's referendum, urging voters to vote against protecting their children and grandchildren”¹⁸⁰.

The government media made several professional videos promoting participation in the referendum available on television and on the Internet, including the official YouTube channel¹⁸¹. Technically, it did not include a direct incentive to vote „no” as the ruling party will, but in practice the tone was unequivocal – it was an encouragement to vote „in defense of children”, and thus against the theses presented. Internet website Telex.hu announced that „we contacted the Prime Minister's Office, headed by Antal Rogán, to find out how much the government advertising campaign encouraging us to take part in the referendum would cost and which companies received the orders. We will report it when they respond”¹⁸².

During the observers’ meeting with the members of the faculty of law at Eötvös Loránd University, they expressed an opinion that „opposition initiative that made it possible to organize parliamentary elections at the same time as referendum was detrimental to proper elections campaign that should not be dominated by one issue. To their opinion just because of Russian aggression against Ukraine, it had no effect on election campaign”.

During the observers’ meeting with representatives of the conservative media (Hir TV, Origo, Szabadszolgálat, Karc FM) on 30 March 2022, they expressed the opinion that „some of the opposition supporting media do not accept some advertisements from the government regarding the referendum”. During many meetings with observers, various interlocutors agreed that Russia's invasion of Ukraine on 24 February 2022 made the topic of the referendum much less popular for the public. This opinion was expressed, for example, by Lőrinc Nacsa, spokesman for the Christian Democratic People's Party (*Kereszténydemokrata Néppárt*), at a meeting on 29 March 2022.

On 30 March 2022, the observers met with representatives of Századvég Institute, who believed that the action of left-liberal non-governmental organizations encouraging citizens to vote invalid in the referendum will make counting more difficult, and as such it can be treated as an element of the destabilization of the Hungarian elections. Institute representatives believed that even despite the war in Ukraine, the referendum on child protection remains an important issue.

¹⁸⁰ Renáta Uitz, *Hungary's 2022 elections: Prospects for political and constitutional change*, 28.02.2022, <https://constitutionnet.org/news/hungarys-2022-elections-prospects-political-and-constitutional-change> (access: 02.04.2022).

¹⁸¹ *Védjük meg gyermekeinket!*, 29.03.2022, <https://www.youtube.com/watch?v=XnSn-jWXd5E>. *Gyermekeink jövőjéről döntünk a népszavazáson*, 31.03.2022, <https://www.youtube.com/watch?v=TLZ3HILBjU8>.

¹⁸² *Nemi átalakító kezelés matekdoga helyett – itt a kormány népszavazásának reklámja egy magyar kislánnyal*, <https://telex.hu/belfold/2022/03/02/nemi-atalakito-mutet-matekdoga-helyett-itt-van-a-kormany-nepszavazasanak-reklamja-egy-magyar-kislannyal> (access: 02.04.2022).

A high score of „four times no” would be an expression of the Hungarian people's unequivocal support for the government's actions aimed at counteracting the influence of gender ideology on the raising children. An example of a too late awakening of politicians on this important issue is the current dispute over Act 1557 on parental rights in education in the American state of Florida¹⁸³.

7.5 Non-governmental pro-referendal campaign

According to the opinion of representatives of *Családtudományi Szövetség*, those non-governmental Hungarian organizations evaluated positively the referendum:

Szent István Intézet (St. Stephen's Institute),

Emberi Méltóságközpont (Center for Human Dignity)

Professzorok Batthyány Köre (Batthyány Society of Professors),

Családtudományi Szövetség (Family Science Alliance),

Európai Családtudományi Társaság (European Family Science Society),

Három Királyfi, Három Királyné (Three Princes, Three Princesses),

Nagycsaládosok Országos Egyesülete (National Association of Large Families),

Magyar Asszonyok Érdekszövetsége (Association of Hungarian Women),

Fiatalkorú Családok Klubjának Egyesülete (Young Families Club Association),

Keresztény Értelmiségiek Szövetsége (Association of Christian Intellectuals),

Védett Társadalom Alapítvány (Protected Society Foundation),

Alfa Szövetség (Human Life International – Hungary),

Nemzeti Filmkészítők Egyesülete (National Association of Filmmakers),

Hatvanöt Vármegye Mozgalom (Sixty-four County Movement),

Nemzeti Jogvédő Szolgálat (National Law Enforcement Service),

Hozz Világra Még Egy Magyart Mozgalom (Bring Another Hungarian into the World Movement),

Európa Szívében Alapítvány (Foundation for the Heart of Europe),

CitizenGO Hungary

Kárpát-medencei Családszervezetek Szövetsége (Confederation of Family Associations in the Carpathian Basin),

Családlánc (Family Chain Movement),

Szövetség a Közös Célokért (Szlovákia) (Alliance for Common Goals (Slovakia)),

Fiatalkorú Családok Klubja (Club for Young Families).

¹⁸³ CS/CS/HB 1557: *Parental Rights in Education*, 29.03.2022, <https://www.flsenate.gov/Session/Bill/2022/1557> (access: 02.04.2022).

7.6 LGBT organizations anti-referendum campaign

Apart from the government-related billboard campaign, calling on Hungarians to vote „no” on all four referendum questions, the biggest campaign in the public space seems to be the campaign encouraging Hungarians to cast an invalid vote in order to prevent the turnout from reaching 50% level, which according to article 8 section 4 of the Referendum law, makes the referendum „valid”.

On 11 January 2022, ten non-governmental organizations associated with the LGBTQ movement called on citizens to cast an invalid vote – by simultaneously marking both „yes” and „no” on the paper ballot¹⁸⁴. On 4 March 2022, representatives of the Hungarian branch of Amnesty International and the Background Society convened a press conference, during which they called on citizens to cast an invalid vote¹⁸⁵. David Vig, director of the Hungarian branch of AI, declared that „every day for the next month, we will say very loudly why and how harmful the government's referendum is, and why the government's four questions are hateful and meaningless”. On 31 March 2022, at dawn, anti-referendum NGOs (All Out, Háttér Társaság and Amnesty International Magyarország) projected two crossed circles with a rainbow against the side of the Parliament, with a text „invalid answer for an invalid question”¹⁸⁶.

The posters of this campaign in small print contain the following information: „Készült az Amnesty International Magyarország és a Háttér Társaság megbízásából” (*Made for Amnesty International Hungary and the Háttér Társaság*). However, the posters also contain a link to the campaign website <https://www.ervenytelenul.hu/> („érvénytelenul” means „invalid”). Amnesty International's website lists other organizations calling for an invalid vote¹⁸⁷. Together they comprise the following list of 12 organizations with documented financial ties to György Soros' Open Society Foundations, for the total amount of \$6.734.409:

No	Hungarian name	English name (used by OSF)	Website	OSF donations per year	OSF donations in total
1.	Háttér Társaság Magyarország	Hatter Society	https://hatter.hu/	\$15.796 and \$90.000 in 2016,	\$170.709

¹⁸⁴ Szavazzunk érvénytelenül a kormány kiközösítő népszavazán!, 11.01.2022, <https://budapestpride.hu/hirek/szavazzunk-ervenytelenul-a-kormany-kikozosito-nepszavazasan> (access: 02.04.2022).

¹⁸⁵ Bogatin Bence, Két iksszel állítanak meg a kormányt, amely a háború árnyékában is homofób kampányt folytat, 04.03.2022, <https://merce.hu/2022/03/04/ket-iksszel-allitanak-meg-a-kormanyt-amely-a-haboru-arnyekaban-is-homofob-kampanyt-folytat/> (access: 02.04.2022).

¹⁸⁶ Juli Mészáros, Szivárványt és két X-et vetítettek a Képviselői Irodaház oldalára, 31.03.2022, <https://444.hu/2022/03/31/szivarovanyt-es-ket-x-et-vetitettek-a-kepviseloi-irodahaz-oldalara> (access: 02.04.2022).

¹⁸⁷ Szavazzunk érvénytelenül a kormány kiközösítő népszavazásán!, <https://www.amnesty.hu/szavazzunk-ervenytelenul-a-kormany-kikozosito-nepszavazasan/> (access: 02.04.2022).

				\$19.975 in 2019, \$25.000 and \$19.938 in 2020	
2.	Amnesty International Magyarország	-	https://www.amnesty.hu/	\$25.000 in 2020	\$25.000
3.	Magyar LMBT Szövetség	Hungarian LGBT Alliance	https://lmbtszovetseg.hu/	\$14.963 in 2017, \$15.000 in 2018	\$29.963
4.	Transvanilla Transznemű Egyesület	Transvanilla Transgender Association	https://transvanilla.hu/	\$11.000 in 2016, \$10.000 in 2017, \$30.000 in 2018	\$51.000
5.	TASZ – Társaság a Szabadságjogok ért	Hungarian Civil Liberties Union	https://tasz.hu/	\$682.479 and \$120.000 in 2015, \$365.500 and \$110.526 in 2016, \$50.000 in 2018, \$70.000 in 2019, \$93.000 and 181.092 in 2020	\$1.672.597
6.	Magyar Helsinki Bizottság	Hungarian Helsinki Committee	https://helsinki.hu/	\$545.000, \$174.732 and \$105.000 in 2015, \$610.000 in 2016, \$50.000 in 2018, \$850.000 in 2019	\$2.334.732
7.	Szimpozion Egyesület	-	http://www.melegvagyok.hu/	\$6.792 in 2017	\$6.792
8.	Szivárvány Misszió Alapítvány (Budapest Pride)	-	https://budapestpride.hu/	\$13.550 in 2015, \$25.000 in 2016, \$42.000 in 2018, \$58.000 in 2019	\$138.550
9.	Labrisz Leszbikus Egyesületet	-	https://www.labrisz.hu/	\$15.000 in 2016, \$15.000 in 2017, \$15.000 in 2018	\$45.000

10.	Artemisszió Alapítvány	Artemissio Foundation	http://www.artemisszio.hu/	\$109.499 in 2016, \$15.000 in 2017, \$15.000 and \$100.000 in 2018, \$30.000 and \$100.000 in 2019, \$20.000 in 2020	\$389.499
11.	Ökotárs Alapítvány	-	https://okotars.hu/	\$62.740 in 2017, \$73.407 in 2018	\$136.147
12.	Emberség Erejével	Az emberseg erejével - CUM VIRTUTE HUMANITASIS - Alapitvany	https://www.emberseg.hu/	\$500.000 in 2017, \$15.000 and \$500.000 in 2018, \$500.000 and \$19.420 in 2019, \$200.000 in 2020	\$1.734.420

Sources:

Awarded Grants, <https://www.opensocietyfoundations.org/grants/past> (access: 02.04.2022),
Nyílt Társadalom Alapítványok – Magyar Támogatottaink 2015, 08.12.2016, <https://www.opensocietyfoundations.org/uploads/02ae32d2-1f52-4716-8373-efd209564cdf/open-society-hungarian-grantees-hu-20161208.pdf> (access: 02.04.2022),
Nyílt Társadalom Alapítványok – Magyar Támogatottaink 2016, 03.03.2017, <https://www.opensocietyfoundations.org/uploads/d4fd9e9b-685f-4709-8ca3-f3b6302a4bea/open-society-hungarian-grantees-hu-20170303.pdf> (access: 02.04.2022).

It is worth mentioning that the group Cíviscolors meets under the auspices of Alternatív Közösségek Egyesülete, which was financed by \$500.000 in 2017, \$500.000 in 2018, \$200.000 and \$500.000 in 2020 (in total: \$1.700.000), with the OSF logo present on the website (<https://www.altkozegy.hu/>).

In addition to the above-mentioned twelve, six more organizations engaged in encouraging citizens to vote invalidly are:

Prizma közösség (<https://prizma.lgbt/>),
aHang (<https://ahang.hu/>),
noÁr (<https://noar.hu/>),
Artemisszió Alapítvány (<http://www.artemisszio.hu/>),
Cíviscolors (<https://civiscolors.hu/>),
Magyar Aszexuális Közösség (<https://aszexhun.medium.com/>).

The rest do not have their own website, only acting virtually as Facebook pages or group.

7.7 Opposition anti-referendum campaign

On February 10, 2022, the Hungarian Two-Tailed Dog Party called on the citizens to cast an invalid vote¹⁸⁸. On 8 March 2022, representatives of individual opposition parties took part in the debate on the referendum, calling on citizens to cast an invalid vote¹⁸⁹.

The following politicians called for an invalid vote:

Ágnes Kunhalmi – Member of the National Assembly since 2014, from 2020 co-chair of the Hungarian Socialist Party,

Bence Tordai – Member of the National Assembly since 2018, founding member of Dialogue for Hungary.

On 30 March 2022, Democratic Union of Teachers (*Pedagógusok Demokratikus Szakszervezete*), published a statement calling to Prime Minister that „There is no «gender madness» in schools and kindergartens, so there is nothing to stop it, just as there is no education for non-conversion and no other nonsense claimed by the Prime Minister. There is also no basis for the questions asked in the referendum”¹⁹⁰.

7.8 Summary

The Hungarian checks and balances system with regard to the referendum procedure is still efficient and functioning independently of the executive power (government). This is evidenced by the fact that the Hungarian Supreme Court refused to approve one of the five referendum questions originally proposed by the government, and that the amendment to the law allowing a referendum to be held on the same day as the parliamentary elections was voted unanimously with the opposition, at the request of one of the MPs from a party opposing the government.

The conducted referendum was included in the legal framework defined by the regulations of Hungarian Constitution, by the Hungarian Referendum Act of 2013 and – respectively – by the

¹⁸⁸ Nagyon szeretné tudni a Kutyapárt, mi az ellenzék véleménye a kormány „gyermekvédelmi” népszavazásáról, 10.02.2022, https://nepszava.hu/3146083_kutyapart-homofob-nepszavazas-ervenytelen-ellenzek (access: 02.04.2022).

¹⁸⁹ Bogatin Bence, *Megszólt az ellenzék is a homofób népszavazásról, érvénytelen voksra buzdítanak*, 08.03.2022, <https://merce.hu/2022/03/08/megszolalt-az-ellenzek-is-a-homofob-nepszavazasrol-ervenytelen-voksra-buzditanak/> (access: 02.04.2022).

¹⁹⁰ PDSZ – Pedagógusok Demokratikus Szakszervezete, *Üzenet Orbán Viktornek*, 30.03.2022, <https://www.facebook.com/pedagogusok.d.szakszervezete/posts/4766890880086111> (access: 02.04.2022).

Hungarian Election Act of 2013. It also met the standards recommended to nation states by the Council of Europe and the Venice Commission.

Hungarian non-governmental organizations participated in the referendum campaign on the side of voting „four times no” (according to interlocutors from pro-family organizations – as many as 22 organizations) and on the side of invalid voting (18 different organizations, including 12 financed by George Soros and Open Society Foundations for the amount \$6.734.409).

The government campaigned by paying for billboards and publishing videos urging citizens to vote in the referendum. However, government officials did not disclose how much money was allocated to these activities.

The referendum campaign lost relevance in the eyes of the public due to Russia's invasion of Ukraine. Were it not for the war, the public debate would certainly have focused more on this topic. On the other hand, the experiment showed that holding a referendum on election day works correctly.

8. Civil society in Hungary

8.1 The role of civil society in the perspective of the international standards

From the perspective of the UN Human Rights Committee, Citizens take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their self-organizations. This participation is supported by ensuring freedom of expression, assembly and association¹⁹¹.

According to the Handbook for European Union Election Observation “All persons have a right to participate in public affairs, including in civil society activities and, through their right to freedom of association, to form and join civil society organizations. Such organizations play an essential role in democratic development through their ability to represent social interests, advocate policies, provide key services and undertake research activities, often from a non-partisan perspective. They also provide an important function of promoting accountability through their scrutiny of government activities. Any restrictions on the formation, registration and operation of civil society organizations should be reasonable. Civil society organizations will often participate in an electoral process through domestic non-partisan election observation. Such work greatly enhances the transparency of the electoral process and can make a vital contribution to public confidence in the credibility and legitimacy of an election. A legal framework for elections should provide guarantees for the right of domestic non-partisan observer groups, in addition to similar rights provided to candidates, political parties and their agents, to observe all aspects of the electoral process. It is important that non-partisan domestic observer groups enjoy the respect and the confidence of the public. Such groups should play a clearly neutral role and report only accurate and objective findings. This will require the groups to be well-organized, adhere to a credible methodology, and provide quality training for their observers. Civil society organizations may also contribute to the electoral process in other ways, especially by delivering of voter education activities, promoting codes of conduct for contestants, undertaking parallel vote tabulations, hosting public meetings or debates, and proposing and commenting on electoral reform”¹⁹².

In paragraph 6 of the 2010 OSCE Astana Commemorative Declaration, all OSCE participating States acknowledged “the important role played by civil society and free media in helping to

¹⁹¹ UN Human Rights Committee (HRC), *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote)*, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service*, 12 July 1996, CCPR/C/21/Rev.1/Add.7, available at: <https://www.refworld.org/docid/453883fc22.html> (access 02.04.2022)

¹⁹² European Commission, Handbook for European Union Election Observation, 2008, chapter 4.10 http://eeas.europa.eu/archives/eueom/pdf/handbook-eueom-en-2nd-edition_en.pdf (access: 02.04.2022), p.85-86

ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law”¹⁹³.

After the election in 2018, OSCE reminded that “All voters and electoral contestants should be provided with conditions that enable them to freely participate in public affairs. To provide a fully democratic basis for the conduct of elections, including by removing unreasonable hindrances on civil society, the government is encouraged to review the legal framework for compliance with international obligations and standards pertinent to the freedoms of expression and association, and access to information”¹⁹⁴.

8.2 Condition of Hungarian NGO as of March / April 2022

The Hungarian civil society sector can be divided into organizations operating as foundations, associations, federations and corporate non-profit organizations (non-profit enterprises, employers 'and employees' organizations, foundations owned by public entities). This structure is not significantly different from other European countries and is similar when it comes to the size and function.

According to the data of the Central Statistical Office¹⁹⁵, the last 15 years are characterized by a change in the number of third sector entities - while in 2005-2011 it was characterized by an increase from 56.5 thousand to 65.5 thousand, in the following years there was a decrease in this number numbers to reach the value of 60.5 thousand organizations in 2020¹⁹⁶ - of which 13 thousand operate in Budapest alone (20.6% of them)¹⁹⁷.

This decrease may be attributed to the legislative changes, according to which the NGO is terminated by the court in the event of failure to submit the annual accounts¹⁹⁸. Despite the decline in the number of entities in recent years, the statistical data indicate a significant total revenue of Hungarian NGOs, as well as an increase in revenues in terms of the organization - 2005 to 2020, the revenues of both the entire sector and the average per organization increased

¹⁹³ Organization for Security and Co-operation in Europe, Astana Commemorative Declaration Towards a Security Community <https://www.osce.org/files/f/documents/b/6/74985.pdf> (access: 02.04.2022), p.2, paragraph 6

¹⁹⁴ Hungary Parliamentary Elections, 8 April 2018 ODIHR Limited Election Observation Mission Final Report, chapter XVI B. <https://www.osce.org/files/f/documents/0/9/385959.pdf> (access: 02.04.2022) page 5 and page 27

¹⁹⁵ Központi Statisztikai Hivatal/Hungarian Central Statistical Office, Number, distribution and total revenue of non - profit organizations, October 26, 2021, https://www.ksh.hu/stadat_files/gsz/hu/gsz0012.html (access: 02.04.2022).

¹⁹⁶ Központi Statisztikai Hivatal...

¹⁹⁷ Központi Statisztikai Hivatal/Hungarian Central Statistical Office, Nonprofit szervezetek Magyarországon, 2020/Non-profit organizations in Hungary, 2020, <https://www.ksh.hu/docs/hun/xftp/stattukor/nonprofit/2020/assets/tablamelleklet.xls>, table 4.2. (access: 02.04.2022)

¹⁹⁸This reason is directly indicated by the Hungarian Statistical Office: Központi Statisztikai Hivatal/Hungarian Central Statistical Office, A nonprofit szektor legfontosabb jellemzői 2020-ban/Key features of the nonprofit sector in 2020, <https://www.ksh.hu/docs/hun/xftp/stattukor/nonprofit/2020/index.html#footnote-1> (access: 02.04.2022)

threefold¹⁹⁹. According to the opinion of Deputy State Secretary responsible for civil society relations in the Prime Minister Office, about 10,000-12,000 non-governmental organizations in Hungary are basically non-existent, so we should assume the number of about 50,000 active third sector organizations.²⁰⁰

The Hungarian NGO sector is characterized by a relatively high level of state support. In 2020, almost 50% of the organization's revenues came from the state budget, another 40% came from operating or business activities, and private donations accounted for 12% of revenues. The highest share of state subsidies concerns classic organizations of the civic sector - private foundations and associations, of which there are a total of 53,000 in Hungary, so they account for less than 90% of the sector. Two thirds of their revenues come from subsidies, what is more, the difference between public and private support is constantly growing - in 2020 state aid increased by HUF 39 bn, and private by HUF 6 bn. Despite this, the above-mentioned classic third sector organizations achieve only 38% of the influence of the entire NGO sector, they use the work of volunteers much more often, and less often than corporate entities use employment. The above data is important in view of the COVID-19 pandemic, which has significantly translated into the loss of volunteers and funding by the Hungarian NGO sector. About one fifth of non-governmental organizations have a non-profit status.

The organizations we asked assessed the level of freedom to conduct their business and freedom of expression in Hungary. A foundation belonging to one of the political parties indicated that, as a rule, there are no problems with the freedom of speech²⁰¹. Another organization replied that the freedom of speech and activities is better than in western Europe, and because of the new NGO regulations, public life is much cleaner²⁰². The Three Princess, Three Princesses Movement also pointed out that it is possible to cooperate on projects with the government and with local opposition politics.

However, the organizations also indicated that they had some problems with access to public information²⁰³ and problems with the ratio between pro-government and opposition media²⁰⁴. In their opinion, financing could be greater since many organizations are underinvested²⁰⁵.

¹⁹⁹Központi Statisztikai Hivatal/Hungarian Central Statistical Office, A nonprofit szervezetek száma, megoszlása és összes bevétele/Number, distribution and total revenue of non - profit organizations https://www.ksh.hu/stadat_files/gsz/hu/gsz0012.html (access: 02.04.2022)

²⁰⁰ Meeting with Vince Szalay-Bobrovniczky - Deputy State Secretary responsible for civil society relations in the Prime Minister Office, 29.03.2022

²⁰¹ Meeting with representative of Ökopolisz Alapítvány, 01.04.2022

²⁰² Meeting with Magyar Patrióták Közösség, 01.04.2022

²⁰³ Meeting with Atlatszo Portal redaction team 29.03.22,

Segesvari Csaba, Lélegeztető, ágyszámok, szellem szálloda – ezekre sem kapunk választ a választás előtt, 29.03.2022, <https://atlatszo.hu/kozadat/2022/03/29/lelegezteto-agyszamok-szellem-szalloda-ezekre-sem-kapunk-valaszt-a-valasztas-elott/> (access: 02.04.2022)

²⁰⁴ Meeting with representative of Ökopolisz Alapítvány, 01.04.2022

²⁰⁵ Meeting with Three Princess, Three Princesses Movement, 01.04.2022

8.3 Hungarian NGO during the parliamentary election campaign

One week before the elections, five family organizations (Ficsak - Young Families Club, Three Princes, Three Princesses Movement, Hungarian Women's Interest Association, National Association of Large Families, St. Stephen's Institute) prepared a joint statement in which they asked citizens to take part in the parliamentary elections on April 3 and vote for peace and a secure future²⁰⁶.

About 20 Hungarian NGOs have called on the OSCE to send a full-scale observation mission to the Hungarian elections. The list of initiators includes Amnesty International Hungary, the Hungarian Helsinki Committee, Eötvös Károly Institute, LGBTQI rights organization Háttér Társaság (Background Society), anti-corruption organization K-Monitor, green NGO Levegő Munkacsoport (Clean Air Action Group), Transparency International Hungary, and leftist-liberal think tank Political Capital among others²⁰⁷.

Up until now, OSCE always sent a so-called 'limited election observation mission' to Hungary. A full-scale election observation mission is usually sent to those countries where elections are not completely fair and the competition between the parties is not equal either. It involves a lot more observers for a much longer time period²⁰⁸.

Even if these requests could be described as actions aimed at distraction, it is important to consider that they also represent a way of trying to interfere in the electoral campaign, contaminating it with suspicions about its legitimacy.

8.4 NGO related to the parties

Pursuant to the 2003 Act on Foundations Supporting Scientific, Educational, Research and Educational Activities, Hungarian political parties may establish and run foundations, as well as raise public funds for their activities. According to the representative of Ökopolisz Alapítvány, the amount of support depends on the number of seats of a given party in parliament²⁰⁹.

The transparency in the spending of these funds has been a subject of controversy in the past²¹⁰. There are currently the following foundations of political parties in Hungary (in brackets: Szövetség a Polgári Magyarorszáért Alapítvány (Fidesz), Táncsics Mihály Alapítvány (MSZP - Magyar Szocialista Párt), Magyarorszáért (Hungarian Alapítáldátál.) Barankovics István Alapítvány (KNDP - Kereszténydemokrata Néppárt - Christian Democratic People's Party),

²⁰⁶Origo, A magyar családvédelmi szervezetek kiállnak a béke és az ukrajnai menekültek mellett, 28.03.2022, <https://www.origo.hu/itthon/20220328-a-szent-istvan-intezet-kiall-a-bekeert.html> (access: 02.04.2022)

²⁰⁷Ábrahám Vass, 20 NGOs Want OSCE to Send Full-Scale Mission to Hungarian Elections as 'Situation is Worse than in 2018', 18.01.2022, <https://hungarytoday.hu/worry-ngo-osce-full-scale-mission-elections-fidesz-worse-2018/> (access: 02.04.22)

²⁰⁸ Ábrahám Vass, 20 NGOs Want...

²⁰⁹ Meeting with representative of Ökopolisz Alapítvány, 01.04.2022

²¹⁰Atlatszo, Magyarországon most először: böngésszen a pártalapítványok összes szerződése között!, 31.03.2015, <https://atlatszo.hu/kozpenz/2015/03/31/magyarorszagon-most-eloszor-bongesszen-a-partalapitvanyok-osszes-szerzodesere-kozott/> 2003 XLVII. law on foundations-[kozott/](https://atlatszo.hu/kozpenz/2015/03/31/magyarorszagon-most-eloszor-bongesszen-a-partalapitvanyok-osszes-szerzodesere-kozott/) (access: 02.04.2022)

Megújuló Magyarországért Alapítvány (Párbeszéd Magyarországért - Dialogue for Hungary), Magyarországért Alapítvány (Magyar liberalis part), Indítsuk be Magyarországot Alapítvány (Momentum Mozgalom - Momentum Movement), Savköpő Menyét Alapítvány (Magyar Kétfarkú Kutya Pártoraz - Hungarian Two Tailed Dog Party), and Új Köztársaságért Alapítvány (Demokratikus Koalíció).

According to the regulations, in addition to the obligation to submit annual reports²¹¹, these foundations are audited every two years by the State Audit Office of Hungary (Állami Számvevőszék, SAO)²¹². All the above-mentioned organizations were included in the control plan for the first half of 2022²¹³. According to SAO, a purpose of audit is "to assess whether the financial statements disclosed were in compliance with statutory requirements, whether the relevant legal and internal requirements in bookkeeping and financial management were adhered to, and whether the party used legitimate and eligible resources for its operation; furthermore, whether the party took action to address deficiencies detected by the previous SAO audit, and the regularity of issues identified as essential on the basis of risk indicators. [...] Presenting the regularity of financial management and the volume of the utilized public funds may help the society to form an objective picture about the operation of the political parties"²¹⁴.

According to the representative of Ökopolisz Alapítvány, meeting the annual reporting obligations is difficult. When asked whether the organization passed the inspection announced for 2022 during the election campaign, the representative of the organization replied in the negative²¹⁵.

Observers tried to determine whether it was possible for foundations of political parties to take part in the election / referendum campaign, or financing these campaigns by these foundations, but representatives of the government, organizations and watchdogs²¹⁶ ruled out such a possibility or considered that so far, they have not received information about that type of violations. The government representative indicated that there are no suspicions or cases of political party foundations taking part in an election or referendum campaign. The issue of

²¹¹ Supporting scientific, educational, research and educational activities, §3/A
<https://net.jogtar.hu/jogszabaly?docid=a0300047.t>. (access: 02.04.2022)

²¹² 2003 XLVII. law on foundations... §4, (4),
Act XXXIII of 1989 on the Operation and Financial Management of Political Parties, 10§(3)
<http://www.partylaw.leidenuniv.nl/party-law/4dd27714-1b94-4e59-a9b1-089884e5412d.pdf>, (access: 02.04.2022)

§5 (11) of Act LXVI of 2011 on the State Audit Office of Hungary
https://www.asz.hu/storage/files/files/Angol_portal/Introductions/act_on_sao_july_2013.pdf (access: 02.04.2022)

²¹³ State Audit Office of Hungary, Audit Planning Memorandum, first half of 2022,
https://www.asz.hu/storage/files/files/Tervek/Ellen%C5%91rz%C3%A9si_terv_2022/2022_audit_plan_1st_half.pdf, p. 9-10 (access: 02.04.2022)

²¹⁴ State Audit Office of Hungary, Audit Planning Memorandum..., p.16-17

²¹⁵ Meeting with representative of Ökopolisz Alapítvány, 01.04.2022

²¹⁶ Meetings with: Deputy State Secretary responsible for civil society relations in the Prime Minister Office, Ökopolisz Alapítvány, Atlatszo.hu

allocating funds from their budgets to campaign activities is not verifiable at the moment, it will be possible to determine after the financial reports from the campaign and after the reports of the State Audit Office for Hungary. In the opinion of this government representative, such infringements were, moreover, assessed as too risky and obvious to be tracked in the event of their occurrence.

8.5 The activities of the watchdog organizations

Watchdog organizations in Hungary consider themselves as a counterpower to introduce a non partisan and independent scope in civil society²¹⁷. According to the *2020 Global Go To Think Tank Index Report* published by the University of Pennsylvania, in 2020 there were 54 think tanks operating in Hungary, which is one of the highest numbers in Central and Eastern Europe²¹⁸.

During the election campaign, activity of think tanks undertaking watchdog activities was found. Examples of topics covered by the activity of think tanks were abuses related to collecting signatures under recommendations entitling to run in elections²¹⁹.

According to Atlatszo Portal²²⁰ NGOs unfortunately do not have the opportunity to control the postal voting process, mostly because they consider that there is a problem with obtaining public information. They pointed out that officials use the maximum possible deadlines for responding. Átlátszó also draw attention to the problem related to the repeal of the law prohibiting the taking of photos of voting cards, which may affect the requirement by employers to employees to have evidence of voting for the right parties.

Nezopont institute²²¹ denies Átlátszó's argument that NGO control over postal voting is necessary - according to the institute, independent institutions are responsible for organizing the voting process, and each political party may appoint its representatives to observe the election process. Nezopont points out also that postal voting has a minimal impact on the election result. In 2014, the result of this method of voting decided about one mandate, and in 2018 - none²²². "The death of voters without in-country domicile are not legally required to be

²¹⁷ Hungarian Civil Liberties Union profile, <https://www.liberties.eu/en/about/our-network/hungarian-civil-liberties-union> (access: 02.04.2022)

²¹⁸ James G. McGann, University of Pennsylvania, 2020 Global Go To Think Tank Index Report https://repository.upenn.edu/cgi/viewcontent.cgi?article=1019&context=think_tanks (access: 02.04.2022), p.46

²¹⁹ Szopko Zita, Tömegével élhettek vissza az aláírásokkal a választási ajánlásgyűjtésen, országosan több tucat büntetőeljárás indult, 12.03.2022, <https://atlatszo.hu/kozugy/2022/03/12/tomegevel-elhettek-vissza-az-alairasokkal-a-valasztasi-ajanlasgyujtesen-oroszagosan-tobb-tucat-buntetoeljaras-indult/>, (access: 02.04.2022), Zsilak Szilvia, „Aláírást akart gyűjteni nekünk a Fidesz” – feljelentést tesz a Kutya Párt a föld alól szerzett ívek miatt, 04.03.2022, <https://atlatszo.hu/kozugy/2022/03/04/alairast-akart-gyujteni-nekunk-a-fidesz-feljelentest-tesz-a-kutyapart-a-fold-alol-szerzett-ivek-miatt/>

²²⁰ Meeting with Atlatszo Portal redaction team 29.03.2022

²²¹ Meeting with representative of Nezopont Institute, 30.03.2022

²²² Nezopont Institute, Before A Free And Fair Election – 20 Charges And Facts In Light Of The 2018 Osce Report, 25.03.2022, <https://nezopont.hu/wp-content/uploads/2022/03/Before-a-free-and-fair-election.pdf> (access: 02.04.2022) p.14

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 way²²³”, says Neozopont.

8.6 NGO involvement in the referendum campaign

Issues in the child protection referendum have sparked much debate in recent months. Deputy State Secretary responsible for civil society relations indicated that there were calls for a boycott of the referendum by individual organizations²²⁴. However, he added that NGOs are not directly involved in a referendum campaign, there is actually no such thing as a referendum campaign.

The position of NGOs on the referendum is divided. A certain number of Hungarian NGOs have expressed their positive²²⁵ and negative²²⁶ attitude towards this initiative of the government Magyar Patrióták Közösség pointed out that they expected 10-15% 'yes' votes in the referendum, while at the same time they considered the stance of NGOs calling for a boycott of the elections as undemocratic²²⁷.

On the other hand, on 11 January 2022, ten non-governmental organizations associated with the LGBTQ movement called on citizens to cast an invalid vote by simultaneously marking both “yes” and “no” on the ballot paper²²⁸. On 4 March 2022, representatives of the Hungarian branch of Amnesty International and the Background Society convened a press conference,

²²³ Neozopont Institute, Before A Free..., p.14

²²⁴ Meeting with Deputy State Secretary responsible for civil society relations in the Prime Minister Office, 29.03.2022.

²²⁵ Szent István Intézet, Emberi Méltóságközpont, Professzorok Batthyány Köre, Családtudományi Szövetség, Európai Családtudományi Társaság, Három Királyfi, Három Királyné, Nagycsaládosok Országos Egyesülete, Magyar Asszonyok Érdekszövetsége, Fiatal Családosok Klubjának Egyesülete, Keresztény Értelmiségiek Szövetsége, Védett Társadalom Alapítvány, Alfa Szövetség, Nemzeti Filmkészítők Egyesülete, Hatvannégy Vármegye Mozgalom, Nemzeti Jogvédő Szolgálat, Hozz Világra Még Egy Magyar Mozgalom, Európa Szívében Alapítvány, CitizenGO, Kárpát-medencei Családszervezetek Szövetsége, Családlánc, Szövetség a Közös Célokért (Szlovákia), Fiatal Családosok Klubja – list compiled on the basis of meeting with representative Family Science Alliance, 31.03.2022.

²²⁶ Társaság a Szabadságjogokért, Amnesty International Magyarország, Budapest Pride, Labrisz Lesbikus Egyesület, Háttér Társaság, Magyar Helsinki Bizottság, Magyar LMBT Szövetség, Transvanilla Transznemű Egyesület, Prizma Transznemű Közösség, Szimpozium Egyesület, Szívárványcsaládokért Alapítvány, ENSZ Emberi Jogi Tanácsa - list compiled on the basis of meeting with representative Family Science Alliance, 31.03.2022.

²²⁷ Meeting with Magyar Patrióták Közösség, 01.04.2022

²²⁸ Szavazzunk érvénytelenül a kormány kiközösítő népszavazán!, 11.01.2022, <https://budapestpride.hu/hirek/szavazzunk-ervenytelenul-a-kormany-kikozosito-nepszavazasan> (access: 02.04.2022).

during which they called on citizens to cast an invalid vote²²⁹. David Vig, director of the Hungarian branch of AI, declared that “every day for the next month, we will say very loudly why and how harmful the government’s referendum is, and why the government’s four questions are hateful and meaningless”. Apart from the government-related billboard campaign, calling on Hungarians to vote “no” on all four referendum questions, the biggest campaign in the public space seems to be the campaign encouraging Hungarians to cast an invalid vote in order to prevent the turnout from reaching 50% level, which according to article 8 section 4 of the Referendum law, makes the referendum “valid”. The posters of this campaign in small print contain the following information: „Készült az Amnesty International Magyarország és a Háttér Társaság megbízásából” (Made for Amnesty International Hungary and the Háttér Társaság). However, the posters also contain a link to the campaign website <https://www.ervenytelenul.hu/> („érvénytelenul” means “invalid”)²³⁰.

8.7 Impact of the foreign organizations (not registered in Hungary)

Some NGOs and Watchdog organizations as Átlátszó which claim to be not only neutral but certifiers of the neutrality of others, show in their webpages how Open Society related organizations finance them. In 2017 a 34% of their total income was provided by Open Society/OSIFE. In 2020 the amount increased to 35% of the total financing²³¹.

In this case, European financing of NGOs can be considered, in some sense, a financing from abroad. Programs like European Social Fund²³² contribute with NGOs that have a clear position especially in the issues related with the referendum (Gender, LGTBI+, etc.).

In February 2022, the tapes of Vincent Peyrègne, CEO of the World Association of Newspapers and News Publishers (WAN-IFRA) were published, showing that it was possible to put pressure on Hungary through the European Union and the European Parliament²³³. Other tapes include a Skype conversation with former Open Society Foundation director Andrej Nosko, who admitted that the media published biased material about Hungary and Poland²³⁴. Another

²²⁹ Bogatin Bence, Két iksszel állítanak meg a kormányt, amely a háború árnyékában is homofób kampányt folytat, 04.03.2022, <https://merce.hu/2022/03/04/ket-iksszel-allitanak-meg-a-kormanyt-amely-a-haboru-arnyekaban-is-homofob-kampanyt-folytat/> (access: 02.04.2022)

²³⁰ Népszavazz Te is érvénytelenül április 3-án! <https://www.ervenytelenul.hu/> (access: 02.04.2022)

²³¹ Átlátszó, Beszámolók, közhasznúsági jelentések <https://atlatszoz.hu/kozhasznu-nonprofit-kft/> (access: 02.04.22)

²³² EU budget: a new European Social Fund Plus, 30.05.2018, <https://ec.europa.eu/esf/main.jsp?catId=67&langId=en&newsId=9118> (access 02.04.22)

²³³ Zoltan Kovaks, Shocker: Head of global media organization admits to participating in campaign to push biased coverage of Hungary, 17.02.2022, <https://abouthungary.hu/blog/shocker-head-of-global-media-organization-admits-to-participating-in-campaign-to-push-biased-coverage-of-hungary> (access:02.04.2022)

²³⁴ Zoltan Kovaks, Former Open Society director: Foreign journalists paint a distorted picture of Hungary, 02.02.2022, <https://abouthungary.hu/blog/former-open-society-director-foreign-journalists-paint-a-distorted-picture-of-hungary> (access: 02.04.2022)

of the recordings concerned the former journalist of leading websites, Matyas Kalman, who said that "most NGOs (including Amnesty International) control foreign journalists by manipulating or even bribing the press"²³⁵. Amnesty International has denied these rumors²³⁶. The credibility of the recordings was also undermined by the Átlátszó portal, pointing to the similarities to the situation in 2018, as well as suspicious companies and people involved in the organization and the motives for conducting the recordings²³⁷.

8.8 NGO activities concerning voters living abroad

Átlátszó draw attention to the problem with voting abroad - NGOs are unable to control the process of voting by correspondence²³⁸. The organization also draw attention to problem with voting or making election recommendations by death persons²³⁹. According to the Nezipont Institute, independent institutions are responsible for organizing the voting process, and each political party may appoint its representatives to observe the election process²⁴⁰. Nezipont points out that postal voting has a minimal impact on the election result - in 2014, the result of this method of voting decided about one mandate, and in 2018 - none²⁴¹. "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."

Átlátszó also draw attention to the problem related to the repeal of the law prohibiting the taking of photos of voting cards, which may affect the requirement by employers of employees to prove evidence of voting for the right parties²⁴².

The Civil College Foundation with the participation of Political Capital (PC), the Society for Freedoms (HCLU) and aHang organized The Clean Vote campaign. The participating

²³⁵ Magyar Nemzet, Baloldali újságíró: A legtöbb NGO kézben tartja a külföldi újságírók irányítását, az Amnesty International is + videók, 03.02.2022 <https://magyarnemzet.hu/belfold/2022/02/baloldali-ujsgirok-a-legtobb-ngo-kezben-tartja-a-kulfoldi-ujsgirok-iranyitasat-az-amnesty-international-is-videok> (access:02.04.2022)

²³⁶ Hirado.hu, Tagadja a Soros-szervezet, hogy külföldi újságírókat manipuláltak, 10.02.2022, <https://hirado.hu/belfold/belpolitika/cikk/2022/02/10/tagadja-a-soros-szervezet-hogy-kulfoldi-ujsgirokat-manipulaltak> (access:02.04.2022)

²³⁷ Gabriella Horn, Titkosszolgálati módszerekkel készült kampányvideók: újabb sértetteket találtunk, 11.02.2022, <https://atlatszo.hu/kozugy/2022/02/09/titkosszolgalmi-modszerekkel-keszult-kampanyvideok-ujabb-sertetteket-talaltunk/> (access: 02.04.2022),

Gabriella Horn, Újabb fotókat kaptunk a Magyar Nemzet sorozós lejárató kampányát készítő titokzatos külföldiekről, 24.03.2022, <https://atlatszo.hu/kozugy/2022/03/24/trashed-9/> (access: 02.04.2022)

²³⁸ Meeting with Atlatszo Portal redaction team 29.03.22

²³⁹ Zita Szopko, Police investigating dozens of forged signatures ahead of Hungarian parliamentary election, 17.03.2022 <https://english.atlatszo.hu/2022/03/17/police-investigating-dozens-of-forged-signatures-ahead-of-hungarian-parliamentary-election/> (access: 02.04.2022)

²⁴⁰ Meeting with representative of Nezipont Institute, 30.03.2022

²⁴¹ Nezipont Institute, Before A Free And Fair... p.14 (access: 02.04.22)

²⁴² Meeting with Atlatszo Portal redaction team 29.03.22.

organizations told, that the aim of the Clean Vote is to reduce the incidence of electoral abuse in Hungary through information, awareness-raising and legal assistance and they campaign is party-neutral²⁴³. Via the website <https://tisztaszavazas.hu/> it is possible to report the election abuses, violations, and to get legal information about the legal instruments and information about voting procedure. The participant organizations also drew attention to possible abuse and vote-buying in communes with the Roma minority²⁴⁴. Also, the 444.hu and The Free Hungarian Word in Vojvodina²⁴⁵ were alarming, that the one of Hungarian NGO in Vojvodina might take a part in violations with correspondence voting²⁴⁶.

8.9 Summary

NGOs play a significant role in the functioning and development of Hungarian society. They remain very active in almost every sphere of social life, and this activity does not differ from other European countries. It should also be emphasized that the nation has a large and diverse range of different NGOs within which it can realize itself, which creates a balanced environment also for the appropriate development of political life.

NGOs have the freedom and public space to express their positions and to be involved in dialogue with civil society in order to pursue their legitimate objectives. NGOs are free and have access to the information they need to carry out their activities.

The observation mission draws attention to the need for changes in access to public information and the shortening of the waiting time for access to information, especially during the election campaign, when transparency in the functioning of public authorities is particularly necessary. The observation mission encourages the local authorities to maintain and improve vigilance over entities with foreign capital in order to continue to efficiently avoid any eventual interference in electoral processes.

²⁴³ Tiszta Savazas, Rolunk <https://tisztaszavazas.hu/rolunk/> (access: 02.04.22)

²⁴⁴ <https://444.hu/2022/03/28/ha-el-is-fogadjatok-az-5-10-ezer-forintot-a-fulkebe-nem-mehet-be-veletek-senki> (access: 02.04.22)

²⁴⁵ Illes Szurovecz, „Ha el is fogadjatok az 5-10 ezer forintot, a fülkébe nem mehet be veletek senki”, 28.03.2022, <https://szmsz.press/hirfolyam/boritekolt-botrany-a-levelszavaztat-as-illegalitasa/> (access: 02.04.22)

²⁴⁶ Kaufmann Balázs, Boros Juli, „Nálunk ez úgy működött, hogy hozták a szavazópapírt, és akkor aki hozta, az ki is töltötte nekünk”, 25.03.2022, <https://444.hu/2022/03/25/nalunk-ez-ugy-mukodott-hogy-hoztak-a-szavazopapirt-es-akkor-aki-hozta-az-ki-is-toltotte-nekunk> (access: 02.04.22)