



HUNGARIAN
HELSINKI
COMMITTEE

Threat Assessment of the 2024 European Parliamentary and Local Elections in Hungary

Information Note
2 May 2024

Executive Summary

On 9 June 2024, Hungary will hold elections for Members of the European Parliament, local government representatives, and representatives of minority self-governments. These will be the first nationwide elections since 3 April 2022, when Hungary held general elections and a national referendum. In 2022, Hungary hosted a full-scale OSCE/ODIHR Election Observation Mission,¹ and several other international election observers.² The current campaign period started on 20 April 2024 and will conclude on Election Day on 9 June. In this brief, the Hungarian Helsinki Committee provides a summary of some recent legal developments that have taken place since the 2022 general elections. The brief outlines the implementation of some of the OSCE/ODIHR recommendations³ from 2022, which are at concern of the local, minority self-government and European Parliamentary elections. Almost all of the recommendations in the OSCE/ODIHR Election Observation Mission (EOM) Final Report of 2022 remain unaddressed. Furthermore, only three other (non-priority) recommendations set out in the ODIHR LEOM Final Report of 2018 have been implemented in the past six years,⁴ and only two other (non-priority) recommendations set out in the ODIHR LEOM Final Report of 2014 have been implemented in the past ten years.⁵

I. Legal framework

Amendments to the legal framework adopted in the past two years do not indicate that the legislation would have been reviewed to align with OSCE/ODIHR commitments, international standards, and good practices.⁶

Following the national elections in April 2022, the Parliament amended the Electoral Procedure Act in July 2022, changing from the previous practice of holding local and minority self-government elections every five years (while general elections for the Parliament are held in every four years in April or May) in the autumn to holding European Parliamentary and self-government elections on the same day.⁷ While the amendment may result in reducing election organisational costs and increasing electoral participation, it may also make it more difficult for parties and candidates to implement effective campaign strategies and more complicated for the general public to understand the electoral process.

¹ OSCE Office of Democratic Institutions and Human Rights, Hungary: Parliamentary Elections, 3 April 2022: Needs Assessment Mission Report, 4 February 2022 (hereafter 2022 ODIHR NAM report), <https://www.osce.org/files/f/documents/7/6/511429.pdf>.

² E.g. European Network of Elections Monitoring Organizations (ENEMO) International Election Observation Mission, Parliamentary Elections and Referendum, 3 April - Hungary 2022: Statement of Preliminary Findings and Conclusions, 4 April 2022 (2022 ENEMO Preliminary report), <https://enemo.org/storage/uploads/wssq78p6mazaFdontMGU3W3SqwOjY4ykiasiULcF.pdf>.

³ OSCE Office of Democratic Institutions and Human Rights, Hungary: Parliamentary Elections, 3 April 2022, ODIHR Election Observation Mission, Final Report, Warsaw, 29 July 2022 (hereafter 2022 ODIHR EOM Final report), pp. 39-42, <https://www.osce.org/files/f/documents/2/6/523568.pdf>.

⁴ The final report contains 26 recommendations, including 8 priority ones. Recommendations no. 11, 23, 26 were implemented. No priority recommendations have been implemented to any extent. OSCE Office of Democratic Institutions and Human Rights, Hungary: Parliamentary Elections, 8 April 2018, ODIHR Limited Election Observation Mission, Final Report, Warsaw, 27 June 2018 (2018 ODIHR LEOM Final report), <https://www.osce.org/files/f/documents/0/9/385959.pdf>.

⁵ The final report contains 36 recommendations, including 10 priority ones. Recommendations no. 16, 34, 36 were implemented, recommendations no. 15 and 19 have been partially implemented. No priority recommendations have been implemented to any extent. OSCE Office of Democratic Institutions and Human Rights, Hungary: Parliamentary Elections, 6 April 2014, OSCE/ODIHR Limited Election Observation Mission, Final Report, Warsaw, 11 July 2014 (2014 ODIHR LEOM Final report), <https://www.osce.org/files/f/documents/c/0/121098.pdf>.

⁶ 2022 ODIHR EOM Final report, priority recommendation no. 1.

⁷ Chapter XVI of Act XXXVI of 2013 on Election Procedure (hereafter Electoral Procedure Act), <https://njt.hu/jogszabaly/en/2013-36-00-00>.

The Electoral Procedure Act was amended in July 2022 in response to the 2022 general elections' scandals concerning postal voting.⁸ The territorial scope of the Electoral Procedure Act was expanded by the amendment beyond the borders of Hungary. This amendment was necessary as both the National Election Commission and domestic courts concluded during the 2022 electoral campaign that they did not have the competence to decide on complaints (objections) concerning breaches of electoral laws committed abroad because of the limited territorial scope of the Act. The amendment is to be considered as a positive change, but merely deciding on complaints on the merits concerning issues that occur beyond the borders of Hungary would not prevent the abuse of postal voting. Another positive development is that, following the amendment, postal voters may request an additional postal voting package at any foreign representation or single-member constituency election office if they did not receive the package by mail until seven days before the Election Day. The reason behind this is that there were several complaints that voters did not receive the packages by mail and could not exercise their right to vote during the general elections in 2022. Some embassies had already ensured the additional packages for such voters, but this was a more practical, *de facto*, solution without a proper legal basis.⁹ Besides these positive changes, the issue that several voters cannot access the embassies due to distance remains. In the event of the abuse of a voter's data and the breach of confidentiality of correspondence, whereby another individual casts a vote in the name of the voter, the voter may still collect a postal voting package at an appointed location (typically an embassy). However, only the vote received first by the National Election Office will be counted.

The Local Elections Act¹⁰ was amended in May 2023, increasing the threshold for registering a compensation list in the elections of local government representatives in towns and cities with more than 10,000 residents. Before the amendment, nominating organisations were required to nominate candidates in at least half of the single-member constituencies in the settlement to be able to draw up a compensatory list. The amendment increased this threshold to two-thirds of the single-member constituencies of the given settlement. According to Political Capital's analysis published at the time the amendment was passed, this development would force opposition parties to run together, but there is no real chance that the parties would be able to coordinate in all larger towns, therefore, they would run against each other and also against smaller parties and nonpartisan nominating organisations, which are usually not part of the opposition cooperation.¹¹

The Parliament adopted an amendment to the rules of the elections of the local government of Budapest in December 2023.¹² Over the past ten years, the majority of the Budapest City Assembly have been composed of mayors of the capital city's districts. According to the new rules, members of the Budapest Assembly are to be elected directly from party lists. The amendment was not adopted in sufficient time¹³ (only six months before Election Day) to allow the nominating organisations to prepare for elections according to the significant changes.

⁸ Several violations of law (some of them particularly severe) were reported in connection to postal voting, e.g. Fidesz-KDNP ally NGO delivered the voting packages instead of the Post Office in Serbia. For more details and examples see e.g. *Hungarian Helsinki Committee*, Lessons learned from legal remedies: general elections and referendum in Hungary, 2022, pp. 9-10, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/08/Legal_remedy_elections.pdf.

⁹ *Hungarian Helsinki Committee*, Amendments to the electoral law after the Hungarian elections in 2022, 2022 (hereafter Omnibus amendments on electoral law, 2022), https://helsinki.hu/en/wp-content/uploads/sites/2/2022/08/Omnibus-amending-the-electoral-laws_2022.pdf.

¹⁰ Section 10 of Act L of 2010 on the Election of Local Government Representatives and mayors (hereafter Local Elections Act), <https://njt.hu/jogszabaly/en/2010-50-00-00>.

¹¹ *Political Capital*, A kormányoldal ismét a saját érdekei szerint hajlított a választási szabályokon ("The government has again bent the electoral rules to its own interests"), 23 May 2023, https://politicalcapital.hu/hirek.php?article_read=1&article_id=3202.

¹² Section 6 of the Local Elections Act.

¹³ According to the Venice Commission's guidelines, fundamental elements of the electoral system should not be changed within one year before the elections, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2002)023rev2-cor-e).

Moreover, there has been no adequate information campaign to explain the changes to voters despite the fact that approximately more than a sixth of the Hungarian population lives in Budapest.

The recommendation for meaningful public consultation¹⁴ has been implemented only to a limited extent. While there has been a notable increase in the number of draft legislations open for public consultation in 2023, as set out in one of the milestones of the Hungarian Recovery and Resilience Plan, the public consultation remains inadequate. The submitted opinions are often disregarded, the published impact assessment sheets and the summaries concluding the public consultations' results contain minimal or no information. Furthermore, an amendment banning by-elections of single-mandate constituency representatives, mayors, local government representatives, and minority self-government representatives in the period between the elections and 1 April of the preceding year, which entered into force on 27 May 2023,¹⁵ was introduced to a draft law on electronic administration in connection to the electoral procedure by the Committee on Legislation of the Parliament after the public consultation period had closed.

The Freedom of Information (FOI) request deadlines have been reinstated to their pre-state of danger status: 15 days to provide the information that could be extended by 15 days if a justified reason occurs. The costs of FOI requests, where the data provider may claim reimbursement of the cost of providing access to the data, have also been reduced. These amendments were introduced in compliance with one of the milestones of Hungary's Recovery and Resilience Plan. However, in December 2023, the provision on accessing public interest information was amended,¹⁶ allowing state organs and public fund users to deny access if the requested information is in the possession of a subordinate entity. A second amendment¹⁷ exempted state-owned companies from transparency requirements in cases of foreign investments and relations for ten years. The third amendment¹⁸ empowered the government to classify its resolutions for 20 years.¹⁹ In summary, Hungary has experienced a negative shift in its approach to access to public interest information and transparency.²⁰

Hungary introduced a judicial reform in order to meet the enabling condition of effective application and implementation of the Charter of Fundamental Rights (specifically Article 47) under the Common Provisions Regulation²¹ (the judicial reform, as so-called super-milestones, is also required in order to access funds granted under the Recovery and Resilience Facility Regulation).²² The Hungarian Helsinki Committee welcomed some legal amendments but took note of remaining severe deficiencies.²³ One of the issues that yet to be resolved is the Kúria's (Supreme Court of Hungary) case allocation order concerning electoral disputes. If the number of cases received daily exceeds 15 over three consecutive days, the head of the Administrative Chamber shall

¹⁴ 2022 ODIHR EOM Final report, priority recommendation no. 1.

¹⁵ Section 8(2) of Electoral Procedure Act.

¹⁶ Section 30(2a) of Act CXII of 2011 on the Right to Informational Self-Determination and on the Freedom of Information.

¹⁷ Section 3/A of Act CXXII of 2009 on the Austerity Measures Applicable to Publicly Owned Enterprises.

¹⁸ Section 7/A of Act CXXV of 2018 on Government Administration.

¹⁹ Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024, p. 46., https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf.

²⁰ 2022 ODIHR EOM Final report, priority recommendation no. 5.

²¹ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

²² Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

²³ See Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024, Chapter I, https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf.

convene a meeting of the Chamber, which shall decide on an alternative extraordinary case allocation.²⁴ This system may breach the right to an effective legal remedy, the right to a lawful judge.²⁵

II. Election administration

The decision-making process within the election commissions has not been adapted to the recommendation of the ODIHR EOM²⁶ (and several other stakeholders). The lack of legal guarantees and the absence of practice enabling all election commission members to substantially contribute to the formulation of decisions or to propose alternative decisions or reasoning remains.

The National Election Commission (NEC) is composed of elected and delegated members. Delegated members are appointed by party groups within the Parliament between two general elections and by parties setting up lists for the European Parliamentary elections during the current election campaign (until the results of the EP elections will become final and binding). Before the amendments entered into force on 26 July 2022,²⁷ there was a gap between the date of announcing the elections and the date of registering the party lists standing for the elections. There was a period of approximately 6 weeks when the NEC was composed solely of elected members, with no delegated members. The welcomed amendment now allows party delegated members in the NEC at all times, including before the party lists standing for elections are registered. This amendment will result in a somewhat more balanced power structure within the NEC during the registration of nominations.²⁸ Those parties without a parliamentary group representation nominating candidates at the general or European Parliamentary elections and the minority self-governments having minority lists for general elections will also be able to delegate members to the NEC. However, these delegated members do not have voting rights in the NEC. This differentiation between the rights of delegated members is unjustified. It weakens the chances of a fair procedure for parties that do not have a group in the Parliament but are running for elections. Delegated members of the NEC have to have a law degree since the amendments entered into force.²⁹

III. Voter registration

No steps have been taken to regularly update the data of voters who reside abroad without domicile in Hungary³⁰ leading to some inaccuracies in the voter register. These include incorrect postal addresses and not deleting the data of deceased voters.³¹ The Electoral Procedure Act remains unchanged: voters' data is deleted from the register only after ten years counting from their registration. However, even this broad time limit is interrupted when the voter modifies their data in the register or requests the renewal of registration or votes.³²

²⁴ Case allocation order of the Kúria, in force from 1 January 2024, https://kuria-kozadatok.birosag.hu/sites/default/files/field_attachment/a_kuria_2024_január_1_napjatól_hatalyos_ugyelosztasi_rendje_modositas_okkal_egyseges_szerkezetben_20240401.pdf.

²⁵ 2022 ODIHR EOM Final report, other recommendation no. 12.

²⁶ 2022 ODIHR EOM Final report, other recommendation no. 15.

²⁷ Sections 17(3), 27, 45(5) of Electoral Procedure Act.

²⁸ 2022 ODIHR EOM Final report, other recommendation no. 16.

²⁹ See *Hungarian Helsinki Committee*, Omnibus amendments on electoral law, 2022, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/08/Omnibus-amending-the-electoral-laws_2022.pdf.

³⁰ 2022 ODIHR EOM Final report, priority recommendation no. 10.

³¹ This may be the case if the relatives of the deceased person do not register the death by the Hungarian authorities.

³² Section 97(1)b) of Electoral Procedure Act.

Voters abroad still lack a uniform scheme to exercise their right to vote.³³ Those who reside abroad without a domicile in Hungary may vote by post. In contrast, those who have a registered address in Hungary may only vote in person at the appointed polling stations (mainly embassies). During the upcoming elections, voters abroad may only vote for MEPs, and those residing in the EU may only vote for the Hungarian MEPs in person, i.e. at the embassies. Votes for local and minority self-government elections may be cast only in Hungary at the appointed polling stations of the voter's permanent or temporary address (or, in exceptional cases, mobile ballot boxes). Hungarian citizens residing in other EU Member States may vote for the Hungarian party lists at the appointed polling stations if they have a domicile in Hungary. If a voter resides in another EU Member State and has no Hungarian registered address, they may only vote for the MEPs of the Member State in which they have a registered domicile. Only those Hungarian citizen voters who reside outside the EU and do not have a registered address in Hungary may vote by mail in the Hungarian MEPs' elections. According to the data of the National Election Office, there are 125,595 voters with the right to vote by post in the upcoming EP elections.³⁴

Despite the clear recommendations of the ODIHR EOM³⁵ and the *Alajos Kiss v. Hungary* judgement of the European Court of Human Rights³⁶, persons with mental and intellectual disabilities placed under guardianship remain deprived of their right to vote.

IV. Candidate registration

There is a continued underrepresentation of women in the political sphere.³⁷ Since the Minister of Justice resigned in February 2024, there are no female ministers in the government, and only 14.1% of the members of the parliament are women.³⁸ The proportion of female politicians (and candidates) is usually higher at the local and European Parliamentary levels. Still, the gender balance remains far from optimal, and there is no wide public discussion on quotas or on other ways to enhance female participation in political leadership.

The National Election Office (NEO) has made available its online tool to self-check the falsification of supporting signatures.³⁹ The data subject may submit a complaint (objection) against the abuse of her personal data within three days at the election commission, which would disqualify only the falsified supporting signature. Other legal remedies are usually insufficient to find and sanction perpetrators.⁴⁰

Less than six months before the elections, the Sovereignty Protection Act amended the Electoral Procedure Act⁴¹ and the Criminal Code⁴². The content and introduction of its rules just before the elections did not allow sufficient time for the relevant actors to prepare, and many may have decided not to run in the elections demonstrating the chilling effect of the regulations passed close to the elections. (*Further information on the*

³³ 2022 ODIHR EOM Final report, priority recommendation no. 11.

³⁴ NEO, <https://vtr.valasztas.hu/ep2024/valasztopolgaroknak/szavazasi-informaciok/levelszavazas?tab=basic-informations>.

³⁵ 2022 ODIHR EOM Final report, other recommendation no. 17.

³⁶ *Alajos Kiss v. Hungary*, app. no. 38832/06, <https://hudoc.echr.coe.int/eng?i=001-98800>.

³⁷ 2022 ODIHR EOM Final report, other recommendation no. 18.

³⁸ See *HVG*, "Magyarország ismét hátról az első: ezúttal a nők parlamenti részvételében" ("Hungary again comes from behind: this time in women's participation in parliament"), 23 April 2024, https://hvg.hu/eurologus/20240423_magyarorszag-ismet-hatulrol-az-also-ezuttal-a-nok-parlamenti-reszveteleben.

³⁹ Online tool to self-check supporting signatures, https://www.magyarorszag.hu/szuf_ugyleiras?id=ef7d053e-eea5-41a4-8d18-8535e252277b&n=tajekoztatas_ajanlasrol_kit_ajanlottam%3F.

⁴⁰ 2022 ODIHR EOM Final report, other recommendation no. 19.

⁴¹ Section 307/D of Electoral Procedure Act.

⁴² Section 350/A of Act C of 2012 on the Criminal Code (hereafter Criminal Code), <https://njt.hu/jogszabaly/en/2012-100-00-00>.

Sovereignty Protection Act can be found in the subtitle Other Developments, as well as in the subtitle Campaign Finance.)

V. Campaign environment

There have been no legal amendments in the past two years that would prevent the misuse of administrative resources or prohibit state officials from campaigning in their official capacity.⁴³ The provision⁴⁴ referenced in previous electoral complaints (objections) cases when not finding a violation of law in cases of municipal and state officials' campaign activities remains in force. The Electoral Procedure Act and the Criminal Code have not been amended to prevent intimidation, coercion and buying votes.⁴⁵ It may be less necessary to introduce legal amendments than to implement changes in the authorities' practice to take prompt and effective steps in such cases. The Hungarian Helsinki Committee is unaware of any such changes in the practice.

VI. Campaign finance

It should be noted that candidates and parties do not receive campaign finances from the state for the campaign in the local, minority self-government, and European Parliamentary elections, in contrast to the general parliamentary elections campaigns. The provisions of the Political Party Financing Act⁴⁶ are applicable to the upcoming elections. It should be highlighted that amendments have not been introduced in the past two years to this Act which would enhance the transparency and oversight of campaign finance.⁴⁷

Shortly after the 2022 national elections, the prime ministerial candidate of the united opposition stated in an interview that the association he presides over (Mindenki Magyarországa Mozgalom, Everyone's Hungary Movement, MMM) has received funding from a US-based foundation that was used to cover campaign expenditures of the opposition.⁴⁸ As per campaign finance regulations already in place at the time, political parties could not receive funding from non-Hungarian sources. MMM, however, was not registered as a political party. Some opposition politicians drew parallels between this funding scheme and that of CÖF (Civil Összefogás Fórum, Forum for Civil Union), a GONGO receiving significant state funding that, among other pro-government activities, conducts media campaigns that echo the messages of the governing parties and the government.⁴⁹ This issue has been a key focus of the government's communications over the past almost two years. The State Audit Office (SAO) initiated a control procedure resulting in a report which found that the opposition parties had incurred illicit spending of approximately 660,000 EUR. The parties will be required to pay a fine equal to twice the amount of the illicit spending. The parties question the legality of the decision. The National Tax and Customs

⁴³ 2022 ODIHR EOM Final report, priority recommendation no. 2.

⁴⁴ Section 142 of the Electoral Procedure Act.

⁴⁵ 2022 ODIHR EOM Final report, other recommendation no. 20.

⁴⁶ Act XXXIII of 1989 on the Operation and Financial Management of Political Parties, <https://njt.hu/jogszabaly/en/1989-33-00-00>.

⁴⁷ 2022 ODIHR EOM Final report, other recommendations no. 21, 22.

⁴⁸ Original interview, in Hungarian: <https://www.youtube.com/watch?v=zo6eL37N2r4>. An investigative piece from September 2022 on the topic by independent media outlet 24.hu in English: G. M. Nagy, "American money and the opposition: a campaign of covering one's tracks never before seen in Hungary", 24.hu, 30 September 2022, <https://24.hu/belfold/2022/09/30/american-money-hungarian-opposition-campaign-datadat-higher-ground-labs/>.

⁴⁹ Detailed investigative piece on the sources of some GONGOs and other entities engaged in pro-government campaign activities: G. M. Nagy, "Titokzatos milliárdok fűtik a NET-propaganda nehéztüzérségét" ("Mysterious billions fuel the heavy fire of NER propaganda"), 24.hu, 30 September 2022, <https://24.hu/belfold/2023/09/20/fidesz-propaganda-megafon-kampany-cof-adomany-tamogatas/##>.

Administration is also investigating the use of the remaining approximately 2.8 million EUR funds MMM received from abroad. The newly established intelligence agency, the National Information Centre,⁵⁰ prepared a number of reports related to the financing of the united opposition that were declassified upon the request of the Parliament's National Security Committee.⁵¹ The Act on the Protection of National Sovereignty was allegedly passed in reference to this in December 2023.⁵² The Act, among others, amended the Criminal Code and campaign financing regulations:

- prohibiting candidates and (in local elections) nominating organisations to “use, regarding the elections concerned, foreign support or any asset element originating therefrom for the purpose of performing any activity aimed at influencing or attempting to influence the will of voters”;
- making it compulsory for candidates and (in local elections) nominating organisations to declare, upon giving notification of candidacy or as an association, that they comply with these requirements⁵³; and
- establishing a new criminal offence of “Illegal influence of the will of voters”, criminalising when a “member, responsible person or executive officer of a nominating organisation within the meaning of the Act on Election Procedure and a candidate within the meaning of the Act on Election Procedure who uses prohibited foreign support or material advantage originating from an agreement disguising, to circumvent this prohibition, the origin of prohibited foreign support”. The offence is punishable with up to three years imprisonment.⁵⁴

(Further information on the Sovereignty Protection Act can be found in the subtitle Other Developments, as well as in the subtitle Candidate Registration.)

From 15 January to 13 April, Hungarian actors were the sixth largest spenders in the EU on Meta ads in the category of social issues, elections or politics, with over two million euros spent. This spending represented the third highest in the EU in terms of spending per capita, with EUR 22,000 spent per 100.000 residents. In Hungary, the largest advertisers were political actors, while the top 10 spenders on advertising were allies to the governing parties. The governing parties and their close allies have already invested a significant amount in communication during the months leading up to the campaign period. Megafon, a non-profit pro-government influencer

⁵⁰ Official website of the National Information Centre: <https://nik.gov.hu/en>.

⁵¹ Overview of the united opposition's foreign support, 17 November 2022: <https://www.parlament.hu/documents/129803/64121212/Elemz%C5%91-%C3%A9rt%C3%A9kel%C5%91+vizsg%C3%A1lat+id%C5%91szakos+jelent%C3%A9s+%2820221117%294.0.NBB.pdf/0d326c7d-e9c9-f120-1f52-24cc530a70ed?t=1669203382539>. Overview of the financial sources received to influence elections in Hungary, 20 January 2023: https://www.parlament.hu/documents/129803/64121212/PPT_OGYNBB_20230120.pdf/28ec32f0-f281-49d9-44c3-5fdea88762e4?t=1674631807128. Summary report on the foreign influence of the Hungarian Parliamentary elections of 2022, 21 June 2023:

https://www.parlament.hu/documents/129803/64121212/%C3%96sszefoglal%C3%B3_jelent%C3%A9s_A_2022_%C3%A9vi_moi_ogyi_v%C3%A1laszt%C3%A1sok_k%C3%BClf_bef.pdf/3e4481b9-ceed-94d9-c95a-5cfa1bb15fc4?t=1687766968197.

⁵² For an analysis on the contents of the act, see *Hungarian Helsinki Committee and Amnesty International*, Hungary's Act on the Protection of National Sovereignty in breach of EU law, 8 February 2024, https://helsinki.hu/en/wp-content/uploads/sites/2/2024/02/Sovereignty_Protection_Act_breaches_EU_law_2024.pdf.

⁵³ Section 33(4) of Act LXXXVIII of 2023 on the Protection of National Sovereignty, official English translation: <https://njt.hu/jogszabaly/en/2023-88-00-00>.

⁵⁴ Section 32 of Act LXXXVIII of 2023 on the Protection of National Sovereignty, <https://njt.hu/jogszabaly/en/2023-88-00-00>.

company, spent EUR 764,000 in this period, which is more than what was spent in fourteen EU Member States.⁵⁵ CÖF also spent more than EUR 200,000 in the same period.⁵⁶

VII. Media

There have been no developments in the area of reducing government advertising or banning public-service advertisements by national or local governments during the campaign period between the national elections on 3 April 2022 and the start of the present campaign period on 20 April 2024.⁵⁷ The transparency of the use of public funds in media, providing fair and impartial information in public and private broadcast media during the campaign period, the distinction between campaign activities of candidates and activities of public officials in the media, the limitation of media concentration, the independence and power of the National Media and Infocommunications Authority have not been enhanced in this period.⁵⁸

VIII. Complaints and appeals

The Hungarian Helsinki Committee has endorsed⁵⁹ the recommendations of the ODIHR EOM Final Report 2022⁶⁰ to the National Election Office regarding the complaints and appeals. The Hungarian Helsinki Committee also concluded that the right to effective legal remedy requires a less formalistic handling of election complaints (objections) after analysing the National Election Commission (NEC), Kúria (Supreme Court) and Constitutional Court decisions. In 2022, the rate of full rejections of complaints by NEC on formal grounds was approximately 40%.⁶¹ It also only remains recommended that the right to appeal be reinstated for all complainants, in contrast to the current regulation, which allows appeals only for those directly affected.⁶²

IX. Election observation

Organisations registered in Hungary are not allowed to conduct citizen observation in Hungary.⁶³ The Hungarian Helsinki Committee is unaware of plans to introduce the democratic elections control tool of citizen observation. In 2022, the Tiszta Szavazás koalíció (Clean Election coalition)⁶⁴ organised quasi citizen observation outside

⁵⁵ Sz. Teczár, "Többet költ a Megafon a Facebookon, mint Szlovákia összes politikai hirdetője együttvéve" ("Megafon spends more on Facebook than all political advertisers in Slovakia combined"), *Lakmusz*, 19 April 2024, <https://www.lakmusz.hu/tobbet-kolt-a-megafon-a-facebookon-mint-szlovakia-osszes-politikai-hirdetoje-egyuttveve/>.

⁵⁶ The fact checker site Lakmusz and Political Capital have developed a tool to track political advertisements: <https://www.lakmusz.hu/valasztasok-2024/>.

⁵⁷ See Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024, Chapter III., https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf.

⁵⁸ 2022 ODIHR EOM Final report, priority recommendations no. 3, 9, other recommendations no. 24, 25.

⁵⁹ The Hungarian Helsinki Committee's proposals to the NEO on legislative amendments, 3 June 2022, https://helsinki.hu/wp-content/uploads/2022/08/Javaslatok_NVI-MHB_20220603.pdf.

⁶⁰ 2022 ODIHR EOM Final report, priority recommendation no. 4, 6, other recommendation no. 26

⁶¹ *Hungarian Helsinki Committee*, Lessons learned from legal remedies: general elections and referendum in Hungary, 2022, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/08/Legal_remedy_elections.pdf.

⁶² Section 221-222 of Electoral Procedure Act

⁶³ 2022 ODIHR EOM Final report, other recommendation no. 7

⁶⁴ Members of the Clean Election coalition: Civil College Foundation, freeVoice, Hungarian Civil Liberties Union, Political Capital Institution, <https://tisztaszavazas.hu/>.

polling stations to monitor the appearance of intimidation, coercion, and vote buying, but without a legal possibility, they could not enter the polling stations.⁶⁵

X. Other developments

Act LXXXVIII of 2023 on the Protection of National Sovereignty entered into force on 23 December 2023.⁶⁶ The Act consists of two distinct elements: the setting up of the new Sovereignty Protection Office (SPO) as of 1 February 2024, and an amendment to the Hungarian Criminal Code prescribing prison sentence for using funding from abroad (overtly or “in disguise to circumvent the prohibition”) for political campaign purposes (see above in detail).

The SPO's primary objective according to the Act is to safeguard constitutional identity through a range of activities, including conducting investigations. These investigations are followed by a public report on the findings of the SPO. There is no legal recourse against the actions of the SPO. The SPO, in order to facilitate its work and through the National Intelligence Centre, has access to classified information gathered or prepared by the intelligence agencies. It may request information and data from the entity under investigation, from any member of staff of the entity, and from any entity or individual that may be related to the case under investigation. The deliberately vague wording of the law provides grounds for the SPO to carry excessive investigations. The combined effect of the SPO's extensive investigative powers, the public reports, the lack of remedy throughout the process, and the steps of other stakeholders that can be triggered by the SPO have the potential to disrupt the enjoyment of various fundamental rights of anyone whose lawful activities may fall under the Sovereignty Protection Act. The chilling effect the SPO exerts on the exercise of a wide range of fundamental rights (such as freedom of expression, of peaceful assembly and of association, right to access to information) leads to a distortion of public discourse and democratic life.

Over a hundred civil society organisations,⁶⁷ thousands of citizens,⁶⁸ and ten independent media outlets⁶⁹ heavily criticised the new law. The Council of Europe Commissioner for Human Rights called for the abandonment of the proposal;⁷⁰ the UN Special Rapporteur on Freedom of Expression and the Special Rapporteur on Human Rights Defenders noted the imminent negative implications of the adoption of the proposal in their joint

⁶⁵ *Tiszta Szavazás*, 10000 forint és disznóhús a voksokért, jogsértő szavazószállítás, csalások ellen dolgozó önkéntesek zaklatása és szavazókori „kíséretés” a választás vasárnap esti mérlege (“10,000 forints and pork for the votes, illegal voter transportation, harassment of observer volunteers and ‘accompanying’ in polling station are the Sunday night’s balance of the elections”), 3 April 2022, <https://tisztaszavazas.hu/2022/04/03/10000-forint-es-disznohus-a-voksokert-jogserto-szavazoszallitas-csalasok-ellen-dolgozo-onkentesek-zaklatasa-es-szavazokori-kisergetes-a-valasztas-vasarnap-esti-merlege/>

⁶⁶ Act LXXXVIII of 2023 on the Protection of National Sovereignty, <https://njt.hu/jogszabaly/en/2023-88-00-00>, for a detailed assessment of the Act in English, see *Hungarian Helsinki Committee and Amnesty International*, Hungary’s Act on the Protection of National Sovereignty in Breach of EU Law, 8 February 2024, https://helsinki.hu/en/wp-content/uploads/sites/2/2024/02/Sovereignty_Protection_Act_breaches_EU_law_2024.pdf.

⁶⁷ *Civilisation Coalition*, Over 100 CSOs protest against the Defense of Sovereignty Law, 1 December 2023, <https://civilizacio.net/en/news-blog/over-100-ngos-protest-against-the-defense-of-sovereignty-law>.

⁶⁸ aHang petition, A demokrácia nem veszélyezteti Magyarország szuverenitását! (“Democracy is not a threat to Hungary’s sovereignty!”), <https://szabad.ahang.hu/petitions/a-demokracia-nem-veszelyezteti-magyarorszag-szuverenitasat>.

⁶⁹ *InsightHungary*, “The ‘Sovereignty Protection Authority’ is harmful and against the rule of law, yet it cannot intimidate independent media”, 13 December 2023, <https://insighthungary.444.hu/2023/12/13/the-sovereignty-protection-authority-is-harmful-and-against-the-rule-of-law-yet-it-cannot-intimidate-independent-media>.

⁷⁰ See the statement of Council of Europe Commissioner for Human Rights, Hungary: The proposal for a “defence of national sovereignty” package should be abandoned, 27 November 2023, <https://www.coe.int/ca/web/commissioner/-/hungary-the-proposal-for-a-defence-of-national-sovereignty-package-should-be-abandoned>.

communication to the Hungarian Government.⁷¹ Following the request of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, the Venice Commission adopted its opinion on the Act, concluding that the sections pertaining to the SPO shall be repelled and that rules pertaining to election financing, including the amendment to the Criminal Code are significantly amended.⁷² The European Commission has decided to send a formal notice to Hungary on 7 February.⁷³

At the time of writing, the SPO lacks an official website and conducts its “official” communication through a Facebook page.⁷⁴ The SPO announced an investigation on 18 April 2024, claiming that “the same network that supported the prime ministerial candidate of the united opposition during the 2022 parliamentary elections is again targeting the Hungarian elections.”⁷⁵

Further readings, useful links:

- National Election Office’s multi-language website: <https://vtr.valasztas.hu/>
- Hungarian Helsinki Committee, A Threat Assessment of the 2022 Hungarian Parliamentary Elections: https://helsinki.hu/en/wp-content/uploads/sites/2/2022/02/HHC_ElectionThreatAssessment_February2022.pdf
- Hungarian Helsinki Committee’s elections-related reports and analyses: <https://helsinki.hu/en/akta/elections-and-referenda/>
- Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report, 2024: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf
- Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report, 2023: <https://helsinki.hu/en/hungarian-csos-contribute-to-the-european-commissions-2023-rule-of-law-report/>
- OSCE ODIHR, Hungary, Parliamentary Elections and Referendum, 3 April 2022, ODIHR Election Observation Mission. Final Report: <https://www.osce.org/files/f/documents/2/6/523568.pdf>

⁷¹ See the joint communication of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, 8 December 2023:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28661>.

⁷² Hungary - Opinion on Act LXXXVIII of 2023 on the Protection of National Sovereignty, adopted by the Venice Commission at its 138th Plenary Session (Venice, 15-16 March 2024), CDL-AD(2024)001-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2024\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)001-e).

⁷³ European Commission press release of 7 February 2024, https://ec.europa.eu/commission/presscorner/detail/en/inf_24_301.

⁷⁴ The Facebook page of the Sovereignty Protection Office: <https://www.facebook.com/people/Szuverenit%C3%A1sv%C3%A9delmi-Hivatal/61555527778295/>.

⁷⁵ MTI (Hungarian News Agency), “Külföldi finanszírozási kísérlet miatt vizsgálatot indít a Szuverenitásvédelmi Hivatal” (“Sovereignty Protection Office opens investigation into foreign financing attempt”), 18 April 2024, <https://hirado.hu/belfold/cikk/2024/04/18/kulfoldi-finanszirozasi-kiserlet-gyanuja-miatt-vizsgalatot-indit-a-szuverenitasvedelmi-hivatal>.

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