



Submission of the Hungarian Helsinki Committee to the UN Special Rapporteur on Freedom of Peaceful Assembly and of Association

31 January 2025

This submission has been prepared by the Hungarian Helsinki Committee (HHC) in response to the call for input of the Special Rapporteur “Reflections on the ‘super election’ year and its global impact on the protection of the rights to freedom of peaceful assembly and association and for ensuring effective and inclusive public participation”, to inform their thematic report to be presented to the Human Rights Council in June 2025.

Founded in 1989, the HHC is a human rights watchdog based in Budapest, Hungary. As a leading Hungarian human rights organisation with a globally recognised reputation, the HHC works for a democratic society based on human dignity, where everyone is free to enjoy their human rights. The HHC focuses on defending the rule of law and a strong civil society in a shrinking democratic space; the right to seek asylum and access to protection; the right to be free from torture and inhuman treatment and the right to fairness in criminal justice system in Hungary. The HHC contributes to monitoring Hungary’s compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights fora and mechanism.

I. Introduction

On 9 June 2024, Hungary held the election of Members of the European Parliament (EP), elections of mayors and local government representatives, and national minority self-government elections for the first time on the same day. The elections were organised in a so-called joint procedure which practically meant that the three different types of elections could not be separated from many aspects since there was one campaign period, voting took place in the same place, and the elections’ organisation was carried out by the same election bodies (with the strong involvement of the local and regional election offices).

Although the European Union is not a state, the EP elections are considered general elections as EU citizens vote for members of one of the EU’s legislative bodies. Therefore, they fall under the Special Rapporteur’s call, which asked for input in the context of general elections. In addition, given the inseparability of the three types of elections as outlined above, the local and national minority self-government election held on 9 June 2024 also fall under the call for inputs.

This submission covers the topics of the call for input of the Special Rapporteur that fall under the HHC’s mandate with respect to these elections. We focus on the freedom of association and public participation because HHC sees severe irregularities in enforcing these rights. For your reference, the HHC made a submission also to the call for inputs to the report of the UN Special Rapporteur on

Freedom of Opinion and Expression on “Freedom of Expression and Elections in the Digital Age” on 15 January 2025.

II. Public participation

1. Public consultation in the law-making

a. In general

Public consultation on drafts laws in the legislative process remains a source of concern despite the amendment of Act CXXXI of 2010 on Public Participation in Preparing Laws adopted in 2022 in the interest of compliance with one of the milestones of Hungary’s Recovery and Resilience Plan and reaching an agreement with the European Commission.

While there has been a notable increase in the number of draft laws published for public consultation since 2023, the practice of public consultations remains inadequate. There have been only a few instances when there were more than eight days (the statutory minimum) provided for the submission of opinions in the framework of the consultation. The published impact assessment sheets contain minimal or no information; the submitted opinions are mostly disregarded; and the summaries of the results of the public consultation do not provide substantive, individualised justification for rejection, and sometimes they are not even published.¹

b. Consultation on laws affecting elections

The National Election Office may make proposals as regards the adoption and amendment of laws affecting elections and shall give its opinion with respect to draft laws effecting its functions under Act XXXVI of 2013 on Electoral Procedure (Electoral Procedure Act).² The National Election Office remains the sole authority consulting with civil society organisations (CSOs) with election-related expertise among those with any role in the law-making process. In practice, the National Election Office makes proposals mainly on technical issues, which are then usually adopted by the Parliament. HHC is not aware of any proposals of the National Election Office which would affect the main, severe deficiencies of the election-related legislation concerning the fairness of elections. Such deficiencies include, among others, the “blurring of state and party functions,”³ overlapping governing party campaign and government communication, the misuse of public funds, the lack of independent election authorities, violations of campaign rules without real consequences, violations of campaign financing without effective control and consequences, the inadequate legal remedy system, the unequal voting rights of members of national minorities at general elections, and the unequal voting rights of voters residing outside of Hungary.⁴

¹ For more details, see: *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2025, , https://helsinki.hu/en/wp-content/uploads/sites/2/2025/01/HUN_CS0_contribution_EC_RoL_Report_2025.pdf, pp. 70-72. (Question IV.2.).

² See the English translation of the Electoral Procedure Act here: <https://nit.hu/jogszabaly/en/2013-36-00-00>.

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, <https://www.osce.org/files/f/documents/2/6/523568.pdf>.

⁴ 20K, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Mérték Media Montor, Political Capital, Unhack Democracy: *Hungarian Citizen Election Report*, June 2024, <https://helsinki.hu/en/wp-content/uploads/sites/2/2024/06/2024-Hungarian-Citizen-Election-Report.pdf> (hereafter referred to as: *Hungarian Citizen Election Report*).

Election-related law-making has been carried out without meaningful consultation with the public, relevant non-government actors, and even opposition parties. In the reporting period (between 2023 and 2025), and even before for several years already, there were not any known direct public consultations carried out with competent experts, institutions, and organisations not affiliated with the government in the election-related law-drafting, nor with those having expertise in elections, nor with those representing groups of society exposed to discrimination and social disadvantages. Non-governing political parties and nonpartisan nominating organisations⁵ have also not been included in drafting laws and amendments affecting elections; on the contrary, amendments often have put these actors in a worse position in the competition for the votes.

c. Examples of the inadequate public consultation on laws affecting elections

The below examples on election-related law-making are from the reporting period, except for the 11th Amendment to the Fundamental Law from 2022. The examples show that the governing parties have passed bills on elections in the Parliament without meaningful consultation with the public or directly with experts and non-governing political parties. The adoption of the laws below were not preceded by a public discussion, most of them appeared in the legislative process out of nowhere from the perspective of the public.

(i) The Parliament adopted the 11th Amendment to the Fundamental Law (the constitution of Hungary) in July 2022, changing the previous practice of holding local elections every five years in the autumn, and prescribing that European Parliament, local and minority self-government elections shall be held the same day.⁶ No public consultation, nor any public discussion preceded the Fundamental Law's amendment.

(ii) The Local Elections Act 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.⁷ To be able to nominate a compensation list at the local elections, nominating organisations are required to have candidates in two-thirds of the settlement's single-member constituencies, while before the amendment, this threshold was 50%. The same amendment banned byelections of Members of Parliament, mayors, local government representatives, and minority self-government representatives in the period between the elections and 1 April of the preceding year.⁸ Both of these changes were introduced to an unrelated draft bill on digitalisation of the election administration proposed by the National Election Office.⁹ The initial draft bill proposed by the National Election Office was open for public consultation.¹⁰ However, the above mentioned changes were introduced to the draft bill in the last stage of the legislative process by the Legislative Committee of the Parliament (in which governing party MPs constitute the majority) after the public consultation period had closed, thereby rendering consultation meaningless.¹¹

⁵ According to the Electoral Procedure Act, nonpartisan associations may nominate mayoral candidates or local government representative candidates.

⁶ Article 35(2) of the Fundamental Law, Chapter XVI of the Electoral Procedure Act.

⁷ Section 10 of Act L of 2010 on the Election of Local Government Representatives and Mayors (Local Elections Act), <https://njt.hu/jogszabaly/en/2010-50-00-00>.

⁸ Section 8(2) of Electoral Procedure Act.

⁹ The proposed draft bill of the National Election Office without the amendments of the Legislative Committee of the Parliament is available here: <https://www.valasztas.hu/sajtokozlemeny-2023/2>.

¹⁰ See the page of the public consultation on the draft bill here: <https://kormany.hu/dokumentumtar/a-valasztasi-eljarasi-szabalyoknak-az-modositasarol-szolo-torveny>.

¹¹ See the page of the legislative process of this bill on the Parliament's website [here](#).

(iii) In December 2023, the Local Elections Act was again amended, this time changing the rules of the elections of the local government of Budapest.¹² The amendment was adopted only six months before Election Day which is contrary to the Venice Commission's Election Code.¹³ The draft bill was initiated by a representative of the opposition *Mi Hazánk* party, but the Legislative Committee of the Parliament again amended other, relevant parts of the bill, so at the plenary session, *Mi Hazánk's* parliamentary group did not vote in favour of its own bill, which was thus passed by the vote of the governing parties only. The amendment was again not consulted on with the public, CSOs, experts, or other opposition parties.

2. Participation of civil society in election matters

a. In general

Besides the lack of meaningful public consultation in the law-making, civil society is not encouraged by the government and other authorities to participate in other election-related matters either, such as the organisation of elections, information provision and go-to-vote campaigns to the electorate, or election monitoring. As mentioned under Section 1.b. above, the National Election Office is an exception in the sense that it consults on electoral matters with CSOs.

The polling station election commissions consist of citizens elected by the clerks at the local governments. (Nominating organisations and independent candidates may delegate members to the election commissions at all levels but we consider this less connected to public participation.) The local governments usually do not promote widely the call to be elected to the polling station commissions, even though this would be a strong participation tool. The reason might be capacity issues in a recruitment process but could also be lack of trust in citizens.

b. Citizen election observation

The Hungarian laws do not allow for citizen election observation, which can only be carried out by international observers. For Hungarian citizens, the only way to be actively present at polling stations is to participate in the polling station commissions as elected or delegated members. The exclusion of citizens from election observation with equal rights to internationals is unjustified and might undermine public confidence in the election process. Permission of citizen observation has been continuously recommended by OSCE ODIHR election observation missions in 2014, 2018, and 2022,¹⁴ and it is also an OSCE commitment.¹⁵

Currently, there is no CSO operating in Hungary dedicated specifically to election observation due to lack of capacity (e.g. proper funding, lack of capacity), and any such election observation would be of very limited scope anyway, given the lack of a legal framework to ensure access to election sites, etc. as described above.

¹² Section 6 of the Local Elections Act.

¹³ According to Section 2(b) of Chapter II of the Venice Commission's Code of Good Practice in Electoral Matters, fundamental elements of the electoral system should not be changed within one year before the elections. Available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2002\)023rev2-cor-geo](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2002)023rev2-cor-geo).

¹⁴ Other recommendation no. 28 of the 2014 ODIHR LEOM Final Report (<https://www.osce.org/files/f/documents/c/0/121098.pdf>), priority recommendation no. 7 of 2018 ODIHR LEOM Final Report (<https://www.osce.org/files/f/documents/0/9/385959.pdf>), priority recommendation no. 7 of the 2022 ODIHR EOM Final Report (<https://www.osce.org/files/f/documents/2/6/523568.pdf>).

¹⁵ Paragraph 8 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990.

III. Freedom of association, the Sovereignty Protection Act¹⁶

1. In general

In December 2023, the Hungarian Parliament adopted Act LXXXVIII of 2023 on the Protection of National Sovereignty (Sovereignty Protection Act),¹⁷ which set up the Sovereignty Protection Office (SPO) as of 1 February 2024. The Sovereignty Protection Act was the culmination of earlier attempts by the government to “securitize” independent civil society, and is aimed at intimidating and silencing critical voices, including civil society and the media. The SPO has wide-ranging tools at its disposal to investigate private individuals, informal groups and legal entities both inside and outside of Hungary, and the law’s vaguely drafted provisions allow it to use its invasive powers against virtually anyone exercising their democratic right to engage in public matters. The scope of the activities which might trigger the investigation of the SPO are extremely broad and open to arbitrary interpretation. Intelligence agencies shall provide information to the SPO to facilitate its work. Investigations are followed by a public report, and there is no legal remedy (including judicial review) available against the actions of the SPO. The combined effects of the above are capable of exerting a considerable chilling effect on civil society, social movements and independent media as a whole in Hungary, exacerbating existing pressures¹⁸ and leading to a serious distortion of public discourse and democratic life. The Sovereignty Protection Act clearly violates international standards and provisions of primary and secondary EU law, as also shown by the range of international stakeholders that have criticized the law and the action brought by the European Commission before the Court of Justice of the European Union.¹⁹

Despite these criticisms, the Sovereignty Protection Act remains in force, and it has already been utilized. The SPO has launched investigations against at least four CSOs so far, including Transparency International Hungary and Átlátszó, an independent investigative news portal.²⁰ The “reports” and “analyses” published by the SPO so far contain ill-founded and unsubstantiated allegations, disinformation, factual errors and distortions concerning their subjects. These investigations and reports are very likely to exacerbate the already existing chilling effect of the Sovereignty Protection Act, which creates fear and self-regulation, hinders cooperation between organisations, and diverts resources away from their actual activities.²¹

¹⁶ For more details, see: Title D Chapter IV of [Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report](#), January 2025, pp87-91.

¹⁷ Act LXXXVIII of 2023 on the Protection of National Sovereignty

¹⁸ For more details, see the written statement submitted by the Hungarian Helsinki Committee in the framework of the OSCE Warsaw Human Dimension Conference 2024 on shrinking space for independent civil society at https://helsinki.hu/en/wp-content/uploads/sites/2/2024/10/OSCE-Warsaw-Human-Dimension-Conference_Fundamental-freedoms_HU-CSO-input_02102024.pdf

¹⁹ Case C-829/24, *European Commission v Hungary*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=294018&pageIndex=0&doclang=EN&mode=lst&dir=&oc=first&part=1&cid=22940374>.

²⁰ See: <https://transparency.hu/en/news/spo-targets-ti-hungary/>, <https://english.atlatszo.hu/2024/06/25/the-sovereignty-protection-office-launched-an-investigation-against-atlatszo/>, <https://english.atlatszo.hu/2024/09/14/ngo-that-revealed-samsungs-pollution-targeted-by-sovereignty-protection-office/>.

²¹ See in this regard the result of a survey conducted among Hungarian civil society organisations: <https://helsinki.hu/wp-content/uploads/2024/06/Consequences-of-the-Sovereignty-Protection-Act.pdf>.

2. Sovereignty Protection Office in the election campaign

The SPO issued its first ad hoc “report” and evidence allegedly supporting the report during the campaign period (on 22 May 2024²² and on 4 June 2024²³). The “report” focused on opposition parties and allegations about their joint campaign in the general elections of 2022. A significant part of the “report” focused on the Budapest mayor’s previous local election campaign of 2019. The respective opposition parties were nominating organisations for the EP and local elections in 2024 as well, and the Budapest mayor was again a mayoral candidate in 2024. The “report” was issued 18 days before Election Day. Alleged evidence against the Budapest mayor/mayoral candidate supposedly substantiating the “report” was published five days before Election Day. The “reports” resonated the government’s communication.²⁴

Furthermore, one of investigations launched by the SPO targeted a local association, Göd-ÉRT,²⁵ which is focusing on environmental issues at a suburban settlement and has spoken out against contamination by a controversial battery factory housed by the town, and was partner in a project led by Átlátszónet Foundation (another investigation target by the SPO), aimed at creating a network of similar groups around the country, supported by a grant from the EU’s Citizens, Equality, Rights and Values (CERV) programme. At the municipal elections in June 2024, Göd-ÉRT nominated candidates to the local government (successfully), and the SPO raised the suspicion of them using foreign funding for the election campaign, though the association withdrew from the programme and ceased its partnership with Átlátszónet Foundation prior to the start of the campaign. This case sends a strong signal to local organisations aiming to engage and participate in public matters locally.

These steps reinforce that even though the Sovereignty Protection Office is claimed to be partially established to tackle disinformation, in reality, it operates as another tool in the disinformation and manipulation toolbox of the governing parties.

3. Amendments to the election laws

a. Electoral Procedure Act

The Sovereignty Protection Act (besides causing severe chilling effect among civil society organisations and threatening independent media outlets due to the establishment of a state body with unchecked investigative powers as described above) introduced the obligation for nonpartisan (civil society) nominating organisations to register and follow strict rules on funding their local election campaigns. According to the amendment to the Electoral Procedure Act, these organisations have to comply with the same financing rules in their campaign activities as parties which might be difficult for them since they usually have other, not election-related activity(s), too, as local associations.

The Sovereignty Protection Act, among others, amended campaign financing regulations in the Electoral Procedure Act in the following way:

²² See: <https://szuverenitasvedelmihivatal.hu/dokumentumok/jelentes-az-x-kozossegi-platformon-megjelent-felvetelekrol.pdf>.

²³ See: https://szuverenitasvedelmihivatal.hu/dokumentumok/Dokumentum_2.pdf.

²⁴ See: Hungarian Helsinki Committee, *Threat Assessment of the 2024 European Parliamentary and Local Elections in Hungary*, 2 May 2024, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/HHC_threat_assessment_2024elections.pdf, pp. 9-10.; *Hungarian Citizen Election Report*, <https://helsinki.hu/en/wp-content/uploads/sites/2/2024/06/2024-Hungarian-Citizen-Election-Report.pdf>, June 2024, pp. 4-5.

²⁵ See the press release of the association here: <https://www.godert.hu/szuverenitas/>.

- prohibiting associations registering as nominating organisations (in local elections) to “use, regarding the election concerned, any foreign support, support from a Hungarian legal person or organisation without legal personality, anonymous donation, or 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 requirements.²⁶

The content and introduction of the new rules just before the elections did not allow sufficient time to prepare for compliance as the Sovereignty Protection Act was passed less than six months before the elections, again violating the Venice Commission’s Election Code.²⁷ Passing the new rules close to the elections may have had a chilling effect, dissuading CSOs to nominate candidates and nonpartisan candidates to run in the local elections.

In addition, many CSOs have expressed their doubts about the extent to which they could conduct their usual activities in light of the new rules, including expressing their views on public issues. Many organisations have interpreted the provisions as meaning that exercising their right to the freedom of speech independently from candidates or nominating organisations may also be considered as support and thus falls within the scope of the restrictive legal provisions. This interpretation was based on the fact that, according to the amendments, legal entities (such as CSOs) cannot provide support to nominating organisations and candidates, while naturally, opinions, positions, and policy proposals expressed by these organisations are more favourable to some political actors and less to others.

b. Criminal Code

The Sovereignty Protection Act also amended the Criminal Code establishing a new criminal offence called “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 Election Procedure Act and a candidate within the meaning of the Election Procedure Act 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 of imprisonment.²⁸ The wording of the provision misses clarity; the requirement of legal certainty has been breached.

According to information gathered through conversations with CSOs, the amendment has indeed had a chilling effect on civil society. Some organisations changed their planned, nonpartisan activities because they were not sure whether it would have been understood by the authorities as falling under the scope of this criminal offence. For example, there was uncertainty about whether CSOs using EU funds could provide legal aid to candidates or organise town hall forums for voters to be able to ask questions from candidates without risking criminal liability. Although no legal action has been taken against any CSO for such activities, this ambiguity significantly chilled CSO activity during the election cycle while criminal procedures based on the Act remained a real threat.

Thus, the amendment could lead to a distortion of democratic public life and discourse, where citizens do not dare to associate or express their opinions.

²⁶ Section 33(4) of Act LXXXVIII of 2023 on the Protection of National Sovereignty. See the English translation here: <https://njt.hu/jogszabaly/en/2023-88-00-00>.

²⁷ Section 2(b) Chapter II of the Venice Commission’s Code of Good Practice in Electoral Matters.

²⁸ Section 32 of Act LXXXVIII of 2023 on the Protection of National Sovereignty.

IV. Recommendations

- Governments should refrain from limiting fundamental rights of voters and civil society organisations via intimidating legislation or other means.
- Governments should conduct genuine public consultations with the public and non-governmental experts and CSOs in drafting laws.
- Governments should promote public participation in public life, including elections.
- Governments should provide funding also to CSOs critical to them.
- Citizen election observation should be legally and practically allowed in every state electing its legislative body through general elections.
- Governments should refrain from stigmatising, and they should rather protect and encourage civil society, especially those working on promoting democracy and human rights.
- Variations of “foreign agent laws” should be revoked. Governments should refrain from introducing such measures but rather protect the integrity of CSOs and other actors usually at risk of such adverse actions.
- Governments should refrain from exerting influence on independent authorities, including the membership of such authorities.