



Hungarian Helsinki Committee

A Threat Assessment of the 2022 Hungarian Parliamentary Elections

Policy Brief

Budapest, 21 January 2022

Executive Summary

In April 2022, the Hungarian parliamentary elections will be among the most important stress tests for democracy and the rule of law within the European Union. There is a considerable likelihood that they will - like in 2018 - be marred again by serious violations of both domestic and international standards for democratic elections. In nine short chapters, this paper introduces the major spheres of concern, explaining both the recent background as well as the threat potential to the conduct of democratic elections. In particular, the paper highlights a number of threats associated with developments pertaining to changes to electoral and other laws since 2018, by then already gerrymandered voting districts, discrimination in how Hungarians living abroad can vote, voter-tourism as well as vastly disparate campaign resources benefitting the ruling party, increased intimidating rhetoric, ruling party dominance in the media market, political dominance of electoral bodies and election dispute resolution bodies, the further autocratisation under the guise of the pandemic, and arbitrary restrictions on the freedom of peaceful assembly and free expression. The potential of a close electoral race combined with a high degree of polarisation among the electorate and low public confidence in the fairness of the electoral process call for the EU and the OSCE to direct their urgent attention to a potentially rigged election in an EU member state.

1. Legal framework

(a) Background and key developments (since 2018 or earlier)

ODIHR's 2018 Limited Election Observation Mission (LEOM) report¹ made several recommendations that would have required changes to the legal framework. The overwhelming majority of its 26 recommendations, however, remain unimplemented. Tellingly, none of ODIHR's eight priority recommendations made in 2018 were implemented.

Fidesz, the ruling party led by Prime Minister Viktor Orbán, using its qualified majority, adopted a set of election-related amendments on two occasions since 2018. As is the case with almost all legislative proposals in Hungary, no consultation preceded these changes with either electoral experts or the wider public; they were rushed through Parliament within a few weeks.

¹ OSCE Office of Democratic Institutions and Human Rights (ODIHR), [Hungary, Parliamentary Elections, 8 April 2018: Final Report, 27 June 2018](#) (hereafter 2018 ODIHR LEOM Report).

The first such law, adopted by Parliament in December 2020, was an omnibus bill that amended seven acts related to elections (First Amending Act)². Most changes were technical, not altering the overall landscape (see also sections 2a and 3a). One of the changes concerned a 2018 recommendation of ODIHR: allowing the local election office to provide additional resources in the physical space where a polling station handling absentee ballots is located in case the number of people in the station's polling registry exceeds 1 500 eligible voters. While this amendment could ease the burden on a number of polling stations within Hungary, it cannot address the difficulties of those who cast their ballots at one of the representations of Hungary abroad. This amendment also did not account for the comment of the Venice Commission and ODIHR, provided in their joint opinion of the First Amending Act, "*to review the mechanism for organising polling stations for absentee voters*".³

In November 2021, Parliament adopted another law (Second Amending Act) that amended rules related to the election, legalising the previously unlawful 'voter tourism' (see section 4a below).

Apart from ODIHR's recommendations, a clear legal obligation requires changes to the make-up of the current 106 single constituencies. At the time of writing, seven of the 106 constituencies exceeded the lawfully allowed maximum deviation from the average number of voters among constituencies (the law only obliges redrawing those two districts that have already exceeded this limit during the previous elections).⁴

(b) *Integrity threats*

The way election related legislation was adopted (following a complete lack of consultation and amidst loud resistance from opposition parties) has undermined public trust in the election process as such, especially when the content of these changes potentially favours the governing majority and further weakens the chances of its challengers. The almost complete disregard of ODIHR's recommendations, coupled with the failure to observe the legal requirement to change the make-up of constituencies, thereby also ignoring a detailed plan drawn up by the previous head of the National Election Office (NEO) to that end, runs the risk of provoking challenges questioning the legitimacy of the results, regardless of their outcome.

2. Electoral system

(a) *Background and key developments (since 2018 or earlier)*

The 199 members of Parliament are elected via single constituencies (based on a first-past-the-post system in the 106 constituencies) and through national lists (a total of 93 seats).

² [Act CLXVII of 2020 on the Amendment of Certain Acts relating to Elections.](#)

³ Venice Commission and OSCE/ODIHR, Joint Opinion *on the 2020 Amendments to Electoral Legislation*, [CDL-AD\(2021\)039](#) (hereafter Joint Opinion), p. 5.

⁴ Section 306/C (b) of Act XXXVI of 2013 on the election procedure. Single districts exceeding the average population of districts (73 439) with over 20%: Pest 2 (94 074), Pest 3 (92 107), Pest 5 (97 523), Pest 6 (90 750), Pest 7 (90 513), Pest 8 (92 054), Pest 11 (88 950).

Parties having a set number of registered candidates in single constituencies can register their national list, thereby becoming eligible to collect votes in this semi-proportional system. The threshold to receive seats after collected votes on national lists is 5% for lists of individual parties, 10% for joint lists of two parties, and 15% for joint lists of three or more parties. Votes cast for candidates in single constituencies that do not translate into a mandate are transferred to the national list of the candidate's party. The difference in the number of votes between the winner of the single constituency and the candidate that came second is also transferred to the national list, to that of the party of the winning candidate (winner compensation). Seats are allocated from the list according to the d'Hondt method.

Citizens with a registered in-country residence either vote for a candidate in their respective single constituency *and* a national list, or for a candidate in their respective single constituency *and* a minority list. To vote on the minority list, a person has to specifically register on that list. Theoretically, all 13 recognised minorities can file their own lists, however, due to the minimum number of registered voters on each minority list and the size of the population of each minority group, in practice this is only possible for the German and the Roma minority. Minorities gain their first seat from the minority list with heavy compensation, requiring significantly less votes than to gain a seat from the national (party) lists. Minority seat(s) reduce the 93 seats potentially allocated to parties through the national lists, keeping the total number of seats in Parliament at 199 in any case. Each voter can only vote on either a minority list, if they have registered on the minority voters list prior to the election, or on a national list.

Hungarian citizens without a registered address in Hungary cannot vote for candidates in single constituencies (as they cannot be allocated to any of the 106 constituencies), and they can only vote for national lists. Absentee voting is possible, but only in person: the voter needs to register their intention to vote at a different polling station prior to the elections but will receive the same ballots. In contrast, Hungarian citizens without an in-country registered address can vote by mail (also only for the national list).

Despite a significant decrease or increase of the population in some districts, no changes were introduced to the districts drawn up as a result of the new electoral system unilaterally introduced by the governing majority ahead of the 2014 general elections. Researchers after the 2014 elections have shown that single constituencies where the ruling majority was favoured were drawn smaller, whereas opposition-leaning constituencies were enlarged to include areas where voters preferred the ruling majority.⁵ This classic gerrymandering tactic is also visible in a collection of maps depicting redrawn boundaries from all over Hungary.⁶

The situation, in short, is the following. The relevant law establishes that the number of eligible voters in each single constituency cannot exceed 20% of the average number of

⁵ Republikon Institute, [2014 Parliamentary Elections](#), 2014. p. 16.

⁶ 444 [Infographics](#), 10 March 2014.

eligible voters in the 106 constituencies. At the time of writing, 7 of the 106 constituencies exceeded this limit.⁷

This uneven playing field was further distorted in December 2020, when Parliament adopted the First Amending Act. It amended seven separate acts, including the one that regulates the registration of national lists.⁸ The amendment significantly increased the number of registered single-member constituency candidates needed to register a national list.⁹ In its joint opinion, the Venice Commission and ODIHR recommended decreasing this, to no effect.¹⁰

(b) *Integrity threats*

The omission to rectify the disproportionality - in terms of population size - within the 106 constituencies is a grave challenge to the principle of the equality of votes and can potentially undermine the legitimacy of the procedure, especially in a close race scenario. The increased number of required registered candidates in single constituencies to register a national list coupled with the distorted electoral system (first-past-the-post and winner compensation) forces political parties that oppose the ruling majority to either file a joint list (as the “united opposition” does in 2022) or to only field candidates in constituencies where their participation does not risk handing the seat with relative majority to Fidesz-KDNP (as the Two-Tailed Dog Party plans to do). The electoral system in place continues to run counter to a pluralistic and democratic electoral race and does nothing to limit the establishment of sham parties, which had been the alleged aim of the change for the increased number of candidates required for the registration of a national list.

3. Election Administration

(a) *Background and key developments (since 2018 or earlier)*

The 2020 First Amending Act introduced a plethora of technical changes, with some potentially concerning ones. It

- established significantly earlier deadlines for requests for absentee voting;¹¹
- amended rules related to polling stations that are designated for absentee voters;¹²
- widened the discretion of the heads of local election offices to change or allocate additional members to polling station committees.

⁷ See *supra* note 4.

⁸ See additional changes in sections 1(a) and 3(a) of this paper.

⁹ From the previously required 27 (out of 106) to 71, within 14 counties and Budapest (out of 19 and Budapest) instead of nine counties and Budapest.

¹⁰ [Joint Opinion](#), p. 4.

¹¹ From the previous 4 to 9 days prior to election day.

¹² The change on the one hand allows for allocating additional resources to manage the comparably high number of voters; on the other, it does not address the disenfranchising consequences of rules pertaining to polling stations at embassies.

The 2018 LEOM report recommended public consultation for the selection of members of the National Election Commission (NEC) "to enhance public trust."¹³ However, no such public consultations have taken place. There have been no improvements regarding the NEC's lack of cross-party oversight by appointed delegates of the competing parties from the date of announcement of the election day until after the national list registration. There have not been any attempts to meet the 2018 LEOM recommendations regarding the selection of lower-level election commission members or targeted information for "groups that may be vulnerable to pressure or coercion."¹⁴ The election website of the National Election Office had blackouts during the elections in 2018. The same companies were contracted to develop the IT system as before, although an additional new player was entrusted with quality control.¹⁵

Another recommendation called for the timely publication of NEC guidelines ahead of the elections. The new guidelines were adopted in December 2021, but without publishing them in an accessible manner.¹⁶

(b) Integrity threats

Taken together, the technical challenges which will be encountered - to some extent already visible in 2018 - appear to favour the ruling majority. For example, no explanation was provided for the need to establish significantly earlier deadlines to register absentee voting, although this is a widely used option among students, who tend to vote in cities where they study as opposed to the municipality where they are registered. All polls show that the majority of this electorate supports the "united opposition".

More dramatically, the possibility to allocate further resources to polling stations designated for absentee voting in each constituency does not apply to polling stations outside Hungary. In practice, this means that the hundreds of thousands of Hungarian citizens temporarily staying outside of Hungary (but who have an in-country residence) can still only cast their vote at consulates. This not only puts an unequal burden on their exercise of voting rights (higher costs and longer travel times) but, based on the turnout of past elections, risks disenfranchising many. In 2018, a number of cases were reported when Hungarian citizens had to travel thousands of kilometres to be able to cast their vote.¹⁷

¹³ 2018 ODIHR [LEOM Report](#), *supra*, p. 7.

¹⁴ *Id.*, p. 8.

¹⁵ See Gy. Kerényi, [„A Nemzeti Választási Iroda nincs ott minden asztalnál” – Nagy Attila, az NVI elnöke a választások megszervezéséről](#) ('The National Election Office is not there at every meeting' – Attila Nagy, president of the National Election Office'), *Szabad Európa*, 17 January 2022, as well as M. Vég [„Jól bevált szereplőkkel ellenőrzi az Orbán-kormány a választási informatikai rendszert”](#) ('The Orbán government verifies the election IT system with well-established actors'), *444.hu*, 12 January 2022.

¹⁶ See NEC Guideline 2/2021 on the amendment of NEC guidelines 2/2014, 7/2014, 12/2014, 1/2015, 2/2015, 3/2015, 4/2015 and 4/2018.

¹⁷ See, for instance, M. Domschitz, [„Japánban élő olvasónk 2200 kilométert vonatozott, hogy szavazhasson”](#) ('Our reader living in Japan travelled 2200 kilometres by train to be able to vote'), *Index*, 8 April 2018.

While Hungarian citizens with in-country residence who are temporarily staying outside of Hungary face such difficulties, Hungarian citizens without an in-country residence are allowed to vote by mail. Allegations of fraud coupled with the different regulatory framework (e.g., not reporting the deceased thereby sending in ballots in their name; casting mail ballots instead of family members without their consent; collection of mail ballots by organisations close to the ruling party; the impossibility to monitor the voter registry and the casting of mail ballots) in a close race can further erode general trust in the fairness of the electoral process.

4. Voter rights and registration

(a) Background and key developments (since 2018 or earlier)

Organised 'voter tourism' was widespread on 2018 Election Day, especially in precincts close to the Ukrainian-Hungarian border, as evidence collected by Unhack Democracy showed in 2019.¹⁸ As the Curia (Hungary's Supreme Court) ruled in April 2018, the organised transportation of voters across the border had violated Act XXXVI of 2013 on Electoral Procedure.¹⁹ Despite the irregularities found by the Curia – according to research undertaken by Unhack Democracy – none of the approximately 370 investigations led to charges being brought a year after the elections.

Besides unlawful, organised transportation of voters, violations also included forgery. Residents of Hungary used to be obliged to register their valid addresses where they factually lived. In practice, a high number of Hungarian citizens living in Ukraine registered their address in properties where they had never lived and then voted at the 2018 parliamentary elections as local residents. The landlords were either condoning these acts, were paid off or were intimidated to agree to assist in the address registrations. Through these kinds of fraudulent acts, voters without a registered address in Hungary were able to vote also for single constituency candidates, not only for the national list. Regardless of their choice, ballots cast for single constituency candidates contribute to the national party lists and thereby, potentially, to further seats in the parliament. In a response to an opposition MP, the Chief Prosecutor revealed in April 2021 that four investigations into forgery related to fictitious address registrations around the 2018 national elections were still ongoing, four accusations had proven to be unfounded, 21 procedures had been suspended, 11 procedures had been terminated, and only five procedures had ended with charges pressed and later with convictions.²⁰

The Hungarian Civil Liberties Union and Political Capital Institute requested the new address registries in advance of the 2018 election through freedom of information request.²¹ The Ministry of Interior refused to provide this information, then the first and second instance courts obliged the Ministry to fulfil the request, but the Curia agreed with the Ministry; thus, the data was never revealed.

¹⁸ Unhack Democracy, "[Fresh evidence of Hungary vote-rigging raises concerns of fraud in European elections](#)", 17 May 2019.

¹⁹ <https://kuria-birosag.hu/hu/valhat/kvkiii3750220182-szamu-hatarozat>

²⁰ <https://www.parlament.hu/irom41/15667/15667-0001.pdf>

²¹ See <https://tasz.hu/cikkek/valasztasi-csalasok-a-kuria-dontese-sem-segit-tisztan-latni>

In November 2021, Parliament adopted another election-related amendment, legalising voter tourism (Second Amending Act).²² According to the changes, a voter is no longer required to factually live at their registered address.

(b) Integrity threats

The 2021 Second Amending Act created the risk that multiple voters will re-register in single constituencies where a very close race is expected, with the intention to tilt the election outcome.²³ This legal change also creates the possibility that those Hungarian citizens who previously did not have a residence and factually never resided in Hungary can obtain a registered residence, thereby lawfully casting two ballots in a single constituency of their choosing. As the voter registry for Hungarian citizens without an in-country residence is not publicly accessible, tracking such changes is impossible.

The 2018 LEOM report noted that "*numerous concerns were voiced about irregularities on election day by political parties and calls for recounts in some constituencies were broadly featured in the media.*"²⁴ Indeed, the most vocal allegations concerned transportation of dual citizens in constituencies close to the Ukrainian border, distribution of goods on election day in some closely contested constituencies as well as irregularities concerning the vote count. Additional evidence of anomalies was presented in 2019,²⁵ pointing to wide-scale fraud, including vote-buying, voter intimidation, tampering with postal votes, missing ballots, and election software malfunctions. The fact that electoral clientelism - the provision of public benefits in exchange for votes and coercion through threatening withholding of benefits - has become pervasive in Hungary had at that point been documented by a Yale University study of the 2014 elections.²⁶

5. Election dispute resolution

(a) Background and key developments (since 2018 or earlier)

The independence and impartiality of bodies reviewing electoral decisions has been called into question already prior to the 2018 elections by ODIHR NAM interlocutors²⁷ and in the 2018 LEOM final report. The National Election Office drafts decisions for the NEC commissioners and only the NEC chairperson can participate in this process. NEC commissioners can merely state their opinion, reducing election dispute resolution to what ODIHR described as a *pro forma* debate.²⁸ The independence of the lower-level election

²² Section 4 and 17 of Act CXIX of 2021.

²³ See D. Döbrentey, "[Legalized voting tourism and other rules threatening the chances of transparent elections](#)", Heinrich Böll Stiftung Prague, 13 December 2021.

²⁴ 2018 ODIHR [LEOM Report](#), *supra*, p. 26.

²⁵ E. Goat and Zs. Banuta, "[Fresh evidence of Hungary vote-rigging raises concerns of fraud in European elections](#)", *openDemocracy*, 17 May 2019.

²⁶ I. Mares and L. Young, "Varieties of Clientelism in Hungarian Elections", 51:3 *Comparative Politics* 449-480, 2019 (summary available [here](#)).

²⁷ 2018 ODIHR [LEOM Report](#), *supra*, p. 6.

²⁸ *Ibid*, p. 22.

committees is also questionable. They consist of three members elected by the local government as proposed by the head of the respective committees who are themselves politically appointed municipal clerks. As the 2018 ODIHR LEOM report noted, this raises “concerns among some stakeholders about their impartiality.”²⁹ No attempt has been made to comply with the 2018 ODIHR commendation to select members through open and transparent recruitment, based on clear criteria.

The ODIHR LEOM report on the 2018 election also noted the NEC’s tendency to favour the ruling party when considering complaints over advertising materials. However, the NEC has, on a few occasions, ruled against Fidesz; they fined the Prime Minister in 2018 for posting online an election campaign video in a kindergarten classroom without consent from the parents. Merely a few days after the election, this instance became an opportunity to joke between the president of the NEC (András Patyi, current deputy chief justice of the Curia) and the Prime Minister according to a video posted on the Prime Minister’s social media profile on 13 April 2018.³⁰

The amendment of Act XXXVI of 2013 on the Electoral Procedure, which entered into force on 1 September 2018, significantly restricted the right to appeal against unfavourable first instance decisions on election matters. The amendment makes it practically impossible for citizens or their organisations other than candidates to challenge decisions on, e.g., unfair campaign practices in most of the cases and allows only candidates or parties to proceed. The formal criteria are also unduly strict, and plaintiffs have only three days to submit their objections. This fails to meet the Venice Commission’s standards outlined in its Code of Good Practice in Electoral Matters whereby “*failure to comply with the electoral law must be open to challenge before an appeal body*”.³¹

The independence of the judiciary, specifically the Curia which reviews decisions of the NEC, has further eroded since 2018. The appointment of the new Chief Justice as of 1 January 2021, against the objection of the National Judicial Council, Hungary’s body of judicial self-governance, was an important step in the politicisation of this body. As the UN Special Rapporteur on the independence of judges and lawyers pointed out, the manner in which the new Chief Justice was elected “*may be regarded as an attack to the independence of the judiciary and as an attempt to submit the judiciary to the will of the legislative branch, in violation of the principle of separation of powers*.”³² With strong administrative powers over the judges of the Curia, the Chief Justice can handpick new judges and has the right to amend the case allocation system as many times as he wishes. His handpicked deputy is the previous head of the NEC.³³ The case allocation among chambers is supposedly automatic but the rules of allocation to an adjudicating panel within the chamber are unclear and they

²⁹ *Ibid.*, p. 8.

³⁰ Video [here](#).

³¹ Venice Commission, *Code of Good Practice in Electoral Matters*, 2002., p. 27.

³² [Communication](#) by D. García-Sayán, UN Special Rapporteur on the independence of judges and lawyers to the Government of Hungary (15 April 2021), p. 4.

³³ See Hungarian Helsinki Committee, “[Yet another government-friendly judicial leader at the Supreme Court of Hungary](#)”, 1 June 2021, as well as “[Qualitative changes in Hungary’s illiberal regime since the last Article 7 hearing](#)”, 22 June 2022.

leave the opportunity to allocate in a discretionary manner.³⁴ In 2021, in several politically sensitive cases the composition of the adjudicating panel was not in line with the case allocation scheme. For example, in one of the actions brought against the National Election Office in August 2021 with respect to one of the questions of the referendum initiated by the government, to be held on the same day as the parliamentary elections,³⁵ one member of the adjudicating panel was replaced by Mr. Barnabás Hajas, who had served as the State Secretary of the Ministry of Justice until March 2021. Mr. Hajas was a member of another chamber right before his appointment in the panel of the adjudicating chamber. Rules did not allow his transfer as a substitute, and he became a member of the adjudicating chamber only after the case has already been allocated to that chamber.

As the European Commission's most recent annual rule of law report on Hungary states, "*as regards judicial independence, the justice system has been subject to new developments adding to existing concerns, expressed also in the context of the Article 7(1) TEU procedure initiated by the European Parliament. [...] The recommendation to strengthen judicial independence, made in the context of the European Semester, remains unaddressed.*"³⁶

(b) Integrity threats

While electoral bodies have not been strengthened in their capacity to deliver impartial decisions, courts mandated to uphold the rule of law and democratic standards in elections have been weakened. This, coupled with the severe restrictions on the right to appeal against first instance decisions, not only erodes trust in the election process, but overall questions the effectiveness of available remedies and the equitable resolution of election disputes.

6. Election campaign

For the first time in Hungary, a national referendum initiated by the government and national parliamentary elections will be held on the same day. Widely thought to be a tool to mobilise the ultra-conservative electorate, this has important consequences not only for the content, but also for the financing of the campaigns. Holding the two votes on the same day will exacerbate what ODIHR has called "*the pervasive overlap between state and ruling party resources, undermining contestants' ability to compete on an equal basis.*"³⁷

(a) Background and key developments (since 2018 or earlier)

Orbán's government has successfully blurred the boundaries that had existed between political party and state spheres, especially when it comes to the requirement of impartiality among state organs. For example, in 2019, the Curia ruled that statements made by a

³⁴ Upon the freedom of information request filed by the Hungarian Helsinki Committee, the Curia declared that it does not keep record of derogations from the case allocation scheme. Regarding the question whether parties of the legal proceeding are informed of any derogation from the case allocation scheme, the Curia claimed that it has no obligation by law to provide such information.

³⁵ [Decision Knk.IV.40.648/2021/23. of Curia](#)

³⁶ European Commission, [Annual rule of law report 2021 - Hungary](#), 2021, p. 1.

³⁷ ODIHR 2018 [LEOM Report](#), *supra*, p.1.

minister in their official capacity during a government press conference clearly preferring the governing party's candidate over the opposition's did not breach the requirement of neutrality. Specifically, the Curia ruled that neither the government nor its individual representatives fall under the scope of the section on election campaign activity of the relevant law. This judgment effectively hollowed out a long-standing neutrality requirement for state institutions during election campaigns.

A special legal order (state of danger) is currently in effect in Hungary which also allows the government to issue decrees that suspend the application of certain Acts of Parliament, derogate from their provisions, including the suspension or restriction of fundamental rights beyond the extent permissible in ordinary circumstances.³⁸ Since the first time it declared the "state of danger" in March 2020, the government has issued over two hundred special decrees. Some of these were extremely restrictive, including the total ban on peaceful assemblies. Assemblies, including for example protests from cars, were strictly forbidden from 11 November 2020 till 22 May 2021, although in May 2021, restaurants, bars, cultural or sport events were already open for people holding vaccine passes.³⁹ Assemblies could be held until 9 June 2021 with restrictions (a vaccine pass was necessary if the crowd exceeded five hundred persons) while spontaneous assemblies were still banned at the time. Restrictions on peaceful assembly were finally lifted on 9 June 2021.

(b) Integrity threats

The uncertainty caused by the government's track record of abusing the special legal order to further its own particular political interests casts a shadow over the election campaign period. The mixing of national elections with a divisive set of questions put on a referendum by the government further erodes the delimitation of state and ruling parties. The discourse of the referendum set by the governing party is already extremely hostile even though the campaign season is yet to begin.⁴⁰

7. Campaign finance

(a) Background and key developments (since 2018 or earlier)

Rules on campaign financing have not changed since 2018. However, opposition parties will have significantly less resources due to fielding joint candidates in the single constituencies and consequently, running on one joint list. Excluding the establishment of sham parties still has not taken place. No limitations curb spending related to the national referendum, which was initiated by the government and will be held on the same day as the parliamentary elections.

³⁸ See Hungarian Helsinki Committee, "[Overview of Hungary's emergency regimes introduced due to the COVID-19 pandemic](#)", 1 January 2022.

³⁹ See Hungarian Helsinki Committee, "[Don't let them shut your mouth with a little beer!](#)", 10 May 2021, as well as the HHC-HCLU [letter to the UN Special Rapporteur](#) on the rights to freedom of peaceful assembly and of association, 31 July 2021.

⁴⁰ See, for instance, [PM Orbán's comments on whether homosexuality leads to pedophilia](#) (14 January 2022).

(b) Integrity threats

First, nothing has been done to address the 'pervasive overlap between state and ruling party resources [that] undermin[es] contestants' ability to compete on an equal basis.'⁴¹ Second, this pervasive overlap is dramatically exacerbated by holding the parliamentary elections on the same day as the government-initiated referendum. There are no limits on campaign spending related to referenda, providing a lawful framework for the government to spend virtually unlimited resources in the coming months on influencing voters. This is particularly relevant in the sphere of social media campaigning that influences voting behaviour from participation to actual political choices. Regrettably, Hungarian campaign finance legislation does not regulate spending on social media platforms. One of the largest spenders on these platforms currently is a pro-government company which has already spent 600 000 000 HUF (1 690 000 EUR) on promoting content favouring the governing coalition.⁴²

8. Media environment

(a) Background and key developments (since 2018 or earlier)

In November 2018, a new media empire was created by owners donating 476 media outlets (including online sites, newspapers, television channels and radio stations) to a newly established entity, the Central European Press and Media Foundation (KESMA), founded by loyalists of the Prime Minister.⁴³ According to the European Commission, this led to a further deterioration of media pluralism.⁴⁴ Previous concerns regarding the independence and effectiveness of the Media Council and the Media Authority persist and the allocation of state advertising continues to permit the government to exert indirect political influence over the media.⁴⁵ In 2020, the state increased its spending on advertising by 14% compared to 2019, with 85% of costs spent at pro-government media outlets.⁴⁶

This is especially worrying in light of the 2018 ODIHR LEOM report that found "*such a media environment limits space for critical reporting and pluralism, including during the election campaign.*"⁴⁷ Seconding ODIHR's findings, the Council of Europe Commissioner for Human Rights, following her visit to Hungary in 2021, noted that "*[t]he combined effects of a politically controlled media regulatory authority and distortionary state intervention in the media market have eroded media pluralism and freedom of expression in Hungary*"⁴⁸ Along the same lines, the European Commission found in its 2021 Rule of Law report that "*[t]he*

⁴¹ 2018 ODIHR [LEOM Report](#), supra, p. 1.

⁴² See M. Herczeg, "[A Megafon már közel 600 millió forintot elhirdetett a Facebookon a Fidesz győzelméért](#)", *444.hu*, 19 January 2022.

⁴³ See Hungarian Helsinki Committee, "[Hungary moving beyond red lines](#)", 29 January 2019.

⁴⁴ European Commission, [2021 Rule of Law Report - Country Chapter on the rule of law in Hungary](#), 20 July 2021, p. 16.

⁴⁵ *Ibid.*, p. 17.

⁴⁶ EUI / RSC Centre for Media Pluralism and Media Freedom, [Monitoring Media Pluralism in the Digital Era - Country Report: Hungary](#), p. 18.

⁴⁷ ODIHR [LEOM 2018](#), supra, p. 17.

⁴⁸ Council of Commissioner for Human Rights, [Memorandum - Freedom of Expression and Media Freedom in Hungary](#), 30 March 2021.

*plurality of the media market is at high risk in Hungary*⁴⁹, continuing that *"The allocation of state advertising continues to permit the Government to exert indirect political influence over the media."*⁵⁰ The highest risk to media freedom and pluralism in Hungary is in the area of editorial independence (92%).⁵¹ Public access to information is hindered and independent media outlets face systemic obstruction and intimidation.

The UN Special Rapporteur on freedom of opinion and expression, concluding her visit to Hungary in November 2021, added that *"Hungary's interventions in the media sector over the past decade could create risks for human rights in the upcoming elections."* Of special importance is her documented concern that *"[b]y exerting influence over media regulatory bodies, providing substantial state funds to support pro-government media, facilitating the expansion and development of media that follow a pro-government editorial line, and ostracizing media outlets and journalists reporting critically on the government, the authorities have proactively reshaped the media sector and in their efforts to create "balance" have undermined media diversity, pluralism and independence."* Her recommendation - provided in light of the upcoming parliamentary elections - to establish *"monitoring and oversight mechanisms to ensure equal, equitable access of election contestants to media, impartial coverage of information, news and opinion about candidates and their programmes, and freedom of the media to report freely and of electorate to seek and receive information from diverse sources"*⁵² went unheeded.

(b) Integrity threats

The situation has dramatically deteriorated since 2018 when ODIHR already found obstacles to voters' ability to make fully informed choices. In the past three years, the pro-government media conglomerate KESMA has absorbed a significant proportion of the Hungarian media market undermining plurality and media freedom. Members of KESMA depend financially on state/government advertisements. The lack of a strong and independent media authority and the strongly embedded imbalance between the governing coalition's and opposition parties' media coverage poses a great threat to the integrity of the elections. Wide use of unregulated social media by the parties and their allies before and during the campaign period also hinders voters' access to information.

9. Election observation

(a) Background and key developments (since 2018 or earlier)

Domestic legislation does not allow independent domestic election observation. International election observers are allowed, however. ODIHR's 2018 report was also concerned that citizens were not permitted to participate in election observation at polling

⁴⁹ European Commission, [2021 Rule of Law Report - Country Chapter on the rule of law in Hungary](#), 20 July 2021, p. 17.

⁵⁰ *Ibid.*, p. 17.

⁵¹ *Ibid.*, p. 18.

⁵² UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, ["Hungary: Government's stranglehold on media poses serious risks to human rights"](#), 22 November 2021.

places, and that *"intimidating rhetoric by government officials against civil society"*⁵³ discouraged public involvement in election-related activities. Numerous local election commissions operated without opposition presence during the 2018 polls.

(b) Integrity threats

Several initiatives were launched in 2021 to strengthen the integrity of the election process and to bolster trust among the electorate. For example, 20K22 is conducting a grassroots campaign to recruit 20,000 party delegates to the polling station commissions. However, precisely due to the lack of legal provisions on domestic election observation, their impact will be limited to election day and to the polling station. Many of the threats described in this paper take place prior to election day and outside of the polling stations - phenomena that fall outside the mandate of polling station commissions.

Conclusions

ODIHR's report on the 2018 elections represented a damning verdict on what effectively constituted an entirely uneven playing field, describing a *"pervasive overlap between state and ruling party resources, undermining contestants' ability to compete on an equal basis. Voters had a wide range of political options but intimidating and xenophobic rhetoric, media bias and opaque campaign financing constricted the space for genuine political debate, hindering voters' ability to make a fully-informed choice."*⁵⁴ The use of the term "pervasive" presaged developments to come. Since 2018, Hungary's political and legal framework that should ensure a pluralistic democracy and high standards for rule of law and election integrity has further deteriorated. Using its supermajority in the legislature, the government has weakened independent institutions and the rule of law and has further shaped the electoral context in its favour.

Ringling a number of alarm bells, the forthcoming election requires close scrutiny, not only by Hungarian civil society (which is excluded from monitoring electoral processes) but, more importantly, by EU member states that have an opportunity to send election observers to an OSCE observation effort. Hungarian parliamentary elections, after all, are European elections. As opposed to 2018 and 2014, a united opposition candidate has a better chance of successfully challenging the incumbent Prime Minister, raising the probability of electoral results contestation.

None of this is a surprise to those who have closely followed Hungarian domestic politics and their autocratisation over the past decade. Given the rapid decrease, over the years, of public trust in the even-handed coverage of the election campaign by public media broadcasters, and in the impartial and equitable conduct of election administrators and dispute resolution institutions, the fear of a clear and present danger of a rigged election in an EU member state is justified.⁵⁵

⁵³ 2018 ODIHR [LEOM Report](#), supra, p. 21.

⁵⁴ *Ibid.*, p. 1.

⁵⁵ Dániel Hegedűs, ["EU must be prepared for a possible rigged election in Hungary | View"](#), Euronews, 18 January 2022