

New Electoral System in the Home Stretch

An analysis of the effects of the new Hungarian electoral procedure law and the campaign finance law

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In July 2013 it seems we have come to the end of a three-year process of electoral reform, but slight modifications may yet follow. Since the three new laws regulating Parliamentary elections (CCIII/2011 Voting Rights Act, XXXVI/2013 Electoral Procedure Act and LXXXVII/2013 Campaign Finance Act) have already been amended several times by the Fidesz–KDNP alliance, it is possible there will be additional changes made during the next Parliamentary session starting September 9.

The purpose of the electoral reform is to convert the anticipated ‘relative popular majority’ of the Fidesz–KDNP alliance into an absolute majority in Parliament. If the governing parties can maintain their present advantage over the opposition, they can easily reach this goal in 2014. Most of the electoral reform components are pieces of this puzzle.

In our 2012 analysis¹ of the Voting Rights Act entitled “Halfway into the Hungarian electoral reform” on, we looked in detail at the procedure of how a vote turns into a mandate, the weight of the votes cast by non-resident Hungarian citizens, and the doubts regarding the new map of electoral districts. What we wrote then is still valid today. Without repeating our previous assertions, we will reference them at certain places below. (Only our predictions about registration in that previous analysis have since proven invalid.)

The purpose of the electoral reform

The purpose of Fidesz–KDNP with its all-out electoral reform was that even if the alliance was leading by a small margin against its biggest rival (whoever that might be), the system would provide the party with a majority in Parliament without having to resort to seeking support from a coalition partner. In other words, the aim was to convert the party’s relative popular majority into an absolute majority in Parliament. Most of the passages in the legislation, therefore, favor the country’s largest party for several reasons: the increased number of parliamentary mandates distributed in individual districts rather than on party lists, the abolition of a second runoff round, the “compensation” to the party of the winning candidate, and the new nomination system which would make the opposition rather fragmented. However, this move is also risky: Once Fidesz–KDNP has to face a serious challenger, these changes might eventually benefit that rival as well.

There are some elements of this reform, on the other hand, which not only favor the largest party, but favor right-wing forces:

- The new map of electoral districts is able to counter-balance a slight left-wing lead.

- The regulation of campaign advertisements would give a lead to a unified right-wing against a fragmented left. It is a big advantage for the government that it can organize “informational” activities throughout the whole campaign period which will not be regulated.
- Giving suffrage to non-resident Hungarian citizens. Although it cannot be predicted how many of these Hungarian citizens from all around the world will actually register to vote, surveys of neighboring countries show a sweeping Fidesz majority among those willing to participate.
- The seven members of the National Electoral Committee (to be established in September 2013) are appointed for nine years instead of four. This means a the committee elected by the present Parliament where Fidesz-KDNP has a two-thirds majority will oversee the next three Parliamentary elections, the next two EP elections, the next two local elections, and any possible referendums.

During elections, delegates from the parties with a national list will be able to be added to this committee. Since the conditions for having a national list are easy to meet, it is possible that committee members elected by the Parliament may find themselves in minority.

The voting rights of non-resident Hungarian citizens

- As opposed to resident Hungarians, non-resident Hungarians can only vote for the party list, not for individual candidates.
- Non-resident Hungarians can vote at embassies and consulates in person, or they can send in their absentee ballot in a letter to the election office in Hungary or the consulate or embassy near their home.
- As the Hungarian state has no separate registry of non-resident Hungarian citizens, they can only vote after registering in Hungary. A small change has been introduced to the original plans here: Registration is valid for 10 years and does not have to be repeated before every election.
- Voter registration for non-resident Hungarians starts on November 1, 2013, but applications can be submitted starting on August 1. Voter registration closes 15 days before each election.

One of the biggest challenges of the 2014 elections is whether the absentee ballots sent by mail will be secure or not. The package mailed to the voter, if used properly, is supposed to guarantee the secrecy of the vote. However, voting by mail can be abused, and preventing such abuse is almost impossible. Party activists could try to collect non-residents’ letters by promising to send them to the election office in Hungary and could then not submit some or all of them. Non-residents have no trust in neighboring countries’ state-run postal services, so many of them could turn to Hungarian party activists for help.

Party representatives, international elections observers, and the media are allowed to be present when the incoming absentee ballots are processed and counted, so the monitoring of how these votes are accounted for has been addressed by the law.

Easier nomination process

- According to the new regulations, the endorsement slip system (which was a hotbed of political corruption) is now over. Instead, one can now nominate a candidate by signing a recommendation form.
- So far a candidate would need to get the recommendation of every 60th voter² in order to run. In 2014, it will be enough to have the signature of every 150th voter³.
- The nomination process has been made even easier, since one voter can recommend more than one candidate.
- Previously, if parties wanted to have a party list up for vote at every single polling station, they needed to have 36,750 recommendations distributed among the 19 counties and the capital.⁴ In 2014, 13,500 recommendations⁵ are needed, and it is enough for them to be distributed among only 9 counties and the capital.
- Earlier, for a party to nominate a candidate in every constituency, they needed to have 132,000 endorsement slips. In 2014, 53,000 signatures will be enough.⁶

The motive behind the government's intention to make nominations easier was to fragment votes cast for the opposition. The more candidates there are in a given constituency, the less support the ruling party will need to get a relative majority and the corresponding (individual) mandate.

A positive effect of this change is that since it will be easier for smaller parties to nominate candidates, the phenomenon called the "black market in endorsement slips" will disappear. (Previously, parties had exchanged these slips in order to be able to field candidates in electoral districts where they lacked popular support.)

At the same time, with the introduction of central campaign financing (see below under "Campaign financing") there is the possibility that "fortune hunters" will appear who will run for office because of the financial opportunities involved. Parties might also create false competitors with the intention of taking away votes from the other side. The "menu" listed on ballots will probably also be longer than before.

Changing campaign advertising regulations

- While parties running a national party list may not advertise on commercial TV and radio stations, parties with no national party list can do so. Stations cannot ask for money in return for broadcasting such a commercial and are not obliged to accept the commercials for broadcast either.⁷

- On national TV and radio stations, commercials by parties with national lists cannot exceed 600 minutes during the whole campaign period.
- The online and print media will have to publicize their price lists for advertisements, and they cannot differ from those prices when charging political parties. (The same transparency does not apply to the companies that provide billboards for advertisements.)
- The election campaign will last for 50 days. No regulations are in place for the period before that. There will be no requirements for campaigns to be silent during polling, so parties can openly mobilize on election day (this regulation is now in line with what happens in practice).
- Previously it was not possible for a voter to withhold his/her personal data from parties that wanted to use it for campaign purposes. The new regulation gives the voter this opportunity.

The political motivation behind the regulation of commercial TV and radio advertisements might be to fragment the opposition even more and de-mobilize undecided voters. Political groups with virtually no chance of winning will have the opportunity to advertise and become known across the country. This will reduce the advertising time available to parties that might be taken seriously. The other motivation might be so that the government can run advertisements for independent candidates or candidates nominated by NGOs to campaign on behalf of the government. However, this loophole could be used by the opposition as well, so it is possible that eventually the government might get rid of this regulation.

Since these campaign rules only regulate the activities of parties and candidates, they can be abused with the help of NGOs and pseudo-NGOs. There is also the possibility for the national government and local governments to run “information” campaigns about the government’s successes in Hungary, as is already happening without any restrictions.

Campaign financing

- One party may spend up to 995 million HUF on its campaign (€ 3.4 million), which is 2.5 times higher than the previous limit.
- Each individual candidate is entitled to up to 1 million HUF (€ 3,400) from the state. He/she will have access to the money through a card issued by the treasury, and this amount will have to be accounted for.
- Parties with national lists, depending on the number of their candidates, are entitled to about 150–600 million HUF from the state⁸ in cash. This money does not have to be accounted for in as much detail as it does when individual candidates are funded.
- Parties cannot accept money from legal persons, organizations with no legal persons, foreign organizations, or legal persons abroad who are not Hungarian citizens.
- It was proposed that due to the introduction of campaign financing, the parties should not receive their annual state support in 2014, but this idea was ultimately left out of the regulations as a result of an amendment proposed by MSZP.

Lacking efficient controlling mechanisms, the bigger parties have always spent more than the 386 million HUF limit. Since the transition, the State Audit Office has never been able to reveal what the actual amounts of campaign spending have been. Campaign money that does not come directly from the state treasury will still be checked only by the State Audit Office, based on the parties' reports.

The new bill will hardly make campaign financing more transparent than before. In fact, we will only get a clear picture about how the individual candidates in the constituencies spend their 1 million HUF from the treasury (should 106 candidates run, that would be a maximum of 106 million HUF per party). Any campaign money that exceeds this (which can amount up to 899 million HUF) will remain in the dark.

Absentee ballots in Hungary

The institution of verified voting will remain (voters who are not in their place of permanent residence on election day can still cast ballots with a certificate). Unlike previously, no matter which city they vote in, they will now be given the ballot paper for their constituency (in addition to the national list).

Data of verified voters from the 2010 elections

	1st round	2nd round
Asked for and received verification (per capita)*	66,082	19,302
Verified absentee ballots (per capita)	56,655	10,474
Rate of participation (%)	85.73%	54.26%

**In the second round, we only took into consideration the 59 electoral districts where a second round was held. Before the first round, a total of 54,740 people asked to be verified for the second round. – Source: National Election Office, PC collection*

The new regulation on verified voting will make voter tourism impossible. The only voters to receive verification will be those who are actually away from their place of residence on the day of the election.

Resident Hungarian citizens will not be able to vote by mail even if they are away from their place of residence on the day of the election. Voting by mail would have provided room for abuse, as it would have made it easier to buy votes illegally.

Absentee ballots abroad

Just as before, it will be possible to cast ballots at Hungarian consulates and embassies, though now this will not take place one week before the election in Hungary, but on the same day. Voting by mail will be possible only for non-resident Hungarian citizens, not for resident Hungarian citizens.

Data of voters at embassies and consulates at the Parliamentary elections of 2010

	1 st round	2 nd round
On the consular list (per capita)	8,807	2,885
Voted at the consulates/embassies (per capita)	6,761	1,452
Rate of participation (%)	76.77%	50.33%

Source: National Election Office, PC collection

Over the past few years emigration from Hungary has accelerated, so more Hungarian voters may be turning up at the consulates and embassies in the big cities of Western Europe, which could result in some hitches in this process. Non-resident Hungarian citizens may vote at the consulates and embassies.

Further changes

- It will be possible to ask for Braille templates at the polling stations, which will end the earlier practice whereby visually impaired voters needed to ask for the assistance of two members of the vote-counting committee in order to cast their ballots. That previous procedure violated voter privacy.
- According to the Electoral Procedure Act, at least one polling station has to be made accessible in each electoral district and municipality. Although it is possible that the issue of polling station availability will not be solved everywhere, this new regulation will be a big step forward for disabled voters. There is also still the option of requesting absentee ballots (mobile ballot-boxes).
- At the polling stations, it will no longer be compulsory to place the ballot papers in envelopes, but those who feel like it can still do it.

Voting will now be significantly more accessible to the disabled.

Voting without an envelope can speed up the vote count, but could lead to the misconception that envelopes would no longer be available and that voters would have to cast their ballots “openly” in front of the committee.

The background of this protracted legislation

What was decided before 2012?

In 2011, only the main pillars of the new electoral system were regulated (strengthening the majority character of 106 individual mandates and 93 national list mandates; the abolition of the second runoff round of voting; “compensation” of the party of the winning candidate; giving suffrage to non-resident Hungarian citizens; gerrymandering; easier nominations; and the theoretical framework of preferential mandates for ethnic minorities), but the details that would influence the very roots of the voting system had not yet been developed.

What was debated within the governing party?

The reason the Electoral Procedure Act was delayed was that even within Fidesz itself many political questions about it had to be discussed in detail. The law was promised for the spring of 2012, but the first draft was not introduced until September, and the quality of the law was so low that it was declared that further amendments were needed already on the day of its introduction. During next two months several modifications were proposed and it was hard to make head or tail of the many contradictory documents.

For a long time there was no decision about whether the government really wanted to introduce preliminary voter registration. It became clear by September 2012, that the answer was yes, and the coming months were almost solely characterized by the electoral debate criticizing this institution.

There was also no decision for a long time about how the campaigns should be regulated. The Electoral Procedure Act initially did not include any passages on campaign regulation. In November, amendments along those lines were proposed.

The political decision to grant suffrage to non-resident Hungarian citizens had been made in 2011, but the debate on how to integrate such a big diaspora into the electoral procedure without any difficulties started much later. In the government, they deliberated on this issue for a long time behind the scenes until they decided on voting by mail (to which the opportunity to vote at the consulates and embassies was then added.)

What was nullified by the President and the Constitutional Court?

The bill was first adopted by Parliament on November 26, 2012. On December 6, 2012, President János Áder turned to the Constitutional Court, and on January 4, 2013, a decision was made. The Constitutional Court declared that the passages referring to voter registration were

unconstitutional, and since it had become clear that this was rather an unpopular idea, the government gave up the issue.

Not only was voter registration declared unconstitutional by the Constitutional Court, but the passages on campaign regulation which would have banned parties from advertising on commercial TV and radio stations, were declared unconstitutional as well. Unlike the case of voter registration, the government did not give up on this idea. In the course of amending the Constitution in March 2013, the Government enshrined the basis of this ban in the Basic Law, and with some minor changes rewrote the same passages into the Electoral Procedure Act which had been declared unconstitutional in January.

The ban on the publication of poll results during the last phase of the election was also declared unconstitutional, so those passages were deleted from the law.

The amended Electoral Procedure Act was then passed on April 8, 2013 but even this did not prove to be a final result.

What was still problematic after the bill passed the second time?

In co-operation with four NGOs⁹, Political Capital initiated an amendment to the Act in order to close loopholes that remained open for election fraud. The government integrated most of the proposed amendment so party delegates can have substantive control over the electoral register and can be present during the administrative processing of absentee ballots sent in by mail. It is still not the case that any Hungarian might be able to access the voter registry of non-resident Hungarian citizens, even though anyone can access the voter registry of Hungarian citizens residing in the country. This could reduce public trust in the transparency of the elections.

The amended bill was passed on June 10, 2013.

The bill on campaign financing regulations was introduced on May 18, 2013, and after several amendments, it was passed on June 10, 2013.

Two thirds majority contra its own law

In the meantime, the conditions of nomination in the Voting Rights Act were also amended. Candidates must now collect 500 signatures in their electoral district instead of 1,000 (as was planned in 2011), and every citizen can recommend more than one candidate.

The new map of electoral districts, which is part of the Voting Rights Act, was also amended several times. While these were only technical changes, they are worth mentioning, as this shows that as long as a party has a two-thirds majority, it is not even required to observe its own laws. In 2011, the party would have included a provision in the Voting Rights Act that

would forbid the changing of electoral district boundaries in the year preceding an election , but this past spring that deadline was extended to June 30, 2013. However, the government did not succeed in meeting this deadline. The vote on the changes to electoral districting took place on July 5, and the deadline was extended to July 15, 2013.

This analysis was first published [here](#) as part of the “New electoral system in Hungary: Watchdogging, advocacy and raising awareness” project run by Political Capital Institute and Social Development Institute. For other analyses focusing on the reform of the Hungarian electoral see: <http://www.valasztasirendszer.hu/?cat=2>

Notes

¹ See http://www.valasztasirendszer.hu/wp-content/uploads/PC-FES_ConferencePaper_HalfwayIntoTheHungarianElectoralReform_120417.pdf

² Candidates used to need 750 endorsement slips in the constituencies that averaged around 45,000 voters. After some time, there were quite big differences, as in 2010 the number of voters in a constituency was between 27,000 and 74,000.

³ Candidates will need 500 signatures in the constituencies now averaging about 75,000 voters. The number of inhabitants in each constituency will be around the same (the law allows a +/- 15% deviation, which only one or two constituencies will exceed.)

⁴ For the regional list, parties needed to have eight candidates in Budapest, four in Pest County, three in Borsod-Abaúj-Zemplén County, and two in all the other counties in order to cover the whole country: $750 \times (8 + 4 + 3 + 17 \times 2) = 36,750$.

⁵ 27 candidates will be enough for the national list, for which, as the regional lists are gone, one can vote in the whole country and all over the world: $27 \times 500 = 13,500$

⁶ $750 \times 176 = 132,000$, $500 \times 106 = 53,000$

⁷ A June 28 declaration by the Prime Minister might allow for the pressure of the European Commission to make it possible to advertise on commercial TV and radio stations for parties with the national list.

⁸ The maximum amount of money to be used by one party (995 million HUF):

15 % can be sponsored by the state if the party has at least 27 individual candidates,

30 % can be sponsored by the state if the party has at least 54 individual candidates,

45 % can be sponsored by the state if the party has at least 80 individual candidates,

60 % can be sponsored by the state if the party has 106 individual candidates.

⁹ Eötvös Károly Institute, Hungarian Civil Liberties Union, Hungarian Helsinki Committee and Transparency International Hungary