HUNGARY: ELECTIONS AND THE RULE OF LAW



ELECTIONS AT A GLANCE

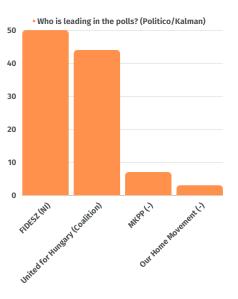
When? 3 April 2022

Who is being elected? All 199 members of the National Assembly Why? End of a regular 4-year term of the National Assembly What else is being voted on? The nationwide referendum on the so-called "anti-LGBT" law (presented by the government as a law on the protection of children)

System of government: Unicameral parliamentary republic Electoral system: Mixed single-member constituencies with first-past-the-post voting and proportional representation with a 5% electoral threshold

Elections and covid-19:

- Postal voting is only permitted for Hungarian citizens living abroad who do not have a domicile in Hungary.
- Voting abroad for citizens who have a domicile is possible via Hungarian embassies and consulates.



KEY RANKINGS & STATS

Freedom House Freedom in the World 2022: Score 69/100 (partly free)

RSF World Press Freedom Index 2022: Rank 92/180

TI Corruption Perception Index 2021: Rank 73/180

Rank within the EU

27th place

26th place

26th place

Eurobarometer on Independence of Judiciary 2021:

37% of polled Hungarians rate the independence of the judiciary in their country negatively (35% EU average)

Implementation of ECtHR judgments:

72 % of leading cases pending from the last 10 years (45% EU average)

MAIN RULE OF LAW ISSUES

General deterioration of the rule of law: Hungary is unquestionably experiencing the biggest rule of law backsliding of all EU Member States. The ruling party has used its parliamentary supermajority to enshrine a new constitution, reshape the institutional framework, remove checks and balances and disable judicial and parliamentary oversight. As a result, Hungary is frequently referred to as an "illiberal democracy" and highlighted as failing to meet some of the basic standards of the rule of law, such as having a fully independent judiciary and respecting the principles of legality and legal certainty.

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Electoral framework: Concerns persist as to changes to the electoral framework introduced in the runup to the 2022 elections. The Hungarian government has effectively gerrymandered the single-member constituencies to help the ruling party win the votes. The Hungarian diaspora abroad has been massively franchised and incentivised to vote for Fidesz thanks to major funding programmes for Hungarian minorities in nearby countries. The OSCE Election Observation Mission deployed to the country has been criticised by the government, which in turn has invited a Polish conservative NGO "Ordo Iuris" to carry out a parallel observation.

The rule of law and EU: Hungary is one of two EU Member States subject to the Article 7 Treaty on the European Union rule of law procedure over concerns regarding the state of the rule of law in Hungary. The country has been subject to several infringement procedures launched by the European Commission and multiple rulings by the Court of Justice of the European Union finding elements of the Hungarian legal framework to be contrary to EU law. Currently, the EU is withholding the approval of Hungary's covid-19 recovery plan for financing post-pandemic recovery over issues related to the rule of law and corruption in the country.

Corruption: Hungary faces a high level of corruption, with several major cases of misuse of EU funds being investigated by OLAF, the EU's auditing service. Hungary has consistently seen the highest rate of misuse of EU funds in OLAF's annual reports in recent years. Some of these cases have been linked to members of the ruling party Fidesz and their families. The application of public procurement rules has been narrowed, paving the way to a heightened risk of corruption.

Independence of the judiciary: Since taking power in 2010, the current ruling party has drastically altered the Hungarian judiciary. The Supreme Court and the Constitutional Court are widely seen as under the political control of the ruling party, and a new institution tasked with organising the Hungarian judiciary – the National Office for the Judiciary – has been established in parallel to the existing National Judicial Council. In 2016, the European Court of Human Rights found that Hungary violated the rights of András Baka, the former president of the Supreme Court, who was dismissed after speaking against the changes to the judiciary. Hungary has refused to implement that judgment.

Media freedom: Most of the private media in Hungary are controlled by entities closely linked to the ruling party and are overseen by the Central European Press and Media Foundation, an entity closely linked to Prime Minister Viktor Orbán. Major concerns persist as to the independence and impartiality of state media regulators. Several private media outlets have been forced out of business or taken off the air, leading to almost the entire media landscape being either state-owned or controlled by allies of the government. The ruling party is abusing its media monopoly by skewing the public opinion in its favour.

Ombudsman: Hungary has an institution called the Commissioner for Fundamental Rights, envisioned to be an independent body tasked with protecting human rights in Hungary. Concerns persist as to the independence of this institution and its willingness to contest the government, as well as to its efficiency. In 2020, the Hungarian Equal Treatment Authority was merged into the Office of the Commissioner, raising questions as to the effective functioning of the anti-discrimination framework in the country.

FURTHER READING

Previous DRI analysis:

Removing the Cement from Hungary's Constitutional Edifice 5 Facts on the State of Hungary's Democracy

Other relevant reports:

<u>EU COM rule of law report on Hungary</u> <u>Eurobarometer on corruption</u>

