“Only Fidesz” - Minority Electoral Law in Hungary

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Hungary is holding parliamentary elections on 8th April. While the systemic deficiencies of the Hungarian electoral system have received international attention, e.g. how redistricting and the party dominance in the media favours Fidesz, other elements have received less coverage. Here we assess two key components regarding minorities: the representation of national minorities in Hungary and of Hungarians living in neighbouring states. These aspects help us reveal the operative logic and manipulative strategy of the Hungarian illiberal regime. We argue that the present Hungarian regulation and the practice of minority and extraterritorial citizen voting create several possibilities for abuse. Hidden behind the façade of multiparty elections, nation building and minority rights, the current system serves as an instrument to keep the government in power.

Votes of the Hungarian Kin Minorities

In 2010, the Hungarian Parliament amended the Act on Hungarian Citizenship and introduced a new naturalization procedure for ethnic Hungarians living outside Hungary’s borders. About 2.2 million persons of Hungarian ethnicity live in neighbouring countries. In accordance with its internal political interest, the Fidesz-KDNP party alliance grants voting rights to ethnic Hungarian extraterritorial citizens: due to their number, they can significantly alter the outcome of parliamentary elections in Hungary. The governmental aim to confer one million citizenships through the simplified naturalisation procedure was reached by December 2017.

According to the electoral law in Hungary, everyone – except citizens without permanent residency (extraterritorial citizens) – can vote both for the party or national minority lists and for individual candidates. Of the 199 seats in parliament, 106 individual candidates come from single member districts, and the remaining 93 seats are filled by the party and minority lists. Extraterritorial citizens, however, have only one of these two votes, i.e. they cannot vote for individual candidates in single member districts, but only for the party lists. Therefore, Hungarian nationals’ votes count twice as much as the votes of Hungarians living outside the borders, which violates the “one person, one vote” principle[2] and that of all votes carrying equal weight.

As Scheppele states, in the Hungarian electoral system only extraterritorial citizens have the possibility to vote ”either by mail or by having a proxy drop their ballot at a designated polling station without the voter herself having to appear in person.”[3] Voters with permanent residency in Hungary (such as Hungarian emigrants), who are abroad at the time of the elections, can, however, only cast their votes at the embassies and consulates, which may be hundreds of kilometres away from their location, which requires enormous costs and time. Their exact number is not known. However, it is estimated that their number is at least around 500,000.[4] Expats whose departure was at least partly due to the worsening conditions in the past years, eight of which under Fidesz rule, are most unlikely to vote for Fidesz.

The votes of Hungarian kin minorities are not handled separately in the party lists from the votes of resident Hungarian citizens; as a result, it is not known which member of parliament is elected with the votes of non-resident citizens, or who represents ethnic Hungarians living abroad. What is more, it is difficult to check the fairness of elections on another state’s the territory. This is why, at the time of the 2014 elections international observers (e.g. the OSCE/ODIHR has deployed a Limited Election Observation Mission) concentrated their activity on the territory of Hungary.

In the 2014 elections, when Fidesz-KDNP gained two thirds of the seats, 95.5 percent of voters beyond the borders voted for the party alliance, while only 43.5 percent in Hungary. The votes of non-resident citizens were needed for the two thirds majority of Fidesz-KDNP (193,793 non-resident citizens registered on the voters' list, and 128,712 voted). This is in line with those extraterritorial citizens' well-documented feeling of honour who *received* their citizenship from Fidesz, or Orbán himself.[5] But there is more to it.

Just like in other areas of the governing party alliance's campaigning, there is considerable confusion about the role of the state and the party, resulting in the public financing of electoral mobilization. In Romania, the country with the largest Hungarian community, at the time of the 2014 elections the civic organisation the "Hungarian National Council of Transylvania" (financed by the Hungarian government) helped handle citizenship applications and later assisted in delivering the external votes together with the Hungarian People's Party of Transylvania (Romania), both of which are political alliances of Fidesz. They delivered almost two thirds of the Romanian votes.[6] The Hungarian HVG periodical published photos of the 2014 elections, showing extraterritorial citizens voting in Romania in open pavilions while others were assisting them in filling the ballot paper. The National Council helped with more than 190,000 people's citizenship application in Transylvania, registering some 85-90,000 people preceding the elections in 2014, and collecting approximately 66,000 ballots.

Since then, the Hungarian government has extended its influence in Transylvania by an agreement with the largest Hungarian political party in Romania, RMDSZ. Based on the agreement, an RMDSZ-linked civic organisation, the Eurotrans Foundation provides considerable help with citizenship applications and takes a major part in the registration and ballot collection process. Preceding the elections, a new website was created to support the registration, which corresponds to the Hungarian *informational* campaign, organized by Fidesz. The structure and the colours of the website recall the same style as the website of the national consultation. (National consultations are rounds of highly manipulative questionnaires combined with political campaigns, e.g. the anti-Soros campaign of the Hungarian government.)

The goal of mobilization is served by several rounds of government informational campaigns. The national consultation letters are received by all the Hungarian citizens, including extraterritorial citizens. Before the elections, extraterritorial citizens receive further letters from the Prime Minister, in which he asks for their active support, as their choices determine the faith of the Carpathian Basin. (The Carpathian Basin bordered Hungary before the Trianon Peace Treaty of 1920.) The first letters were sent out to Hungarians to encourage them to apply for citizenship, promising that those who applied by August 2017 would receive their citizenship by the end of the same year. This was meant to ensure their participation in the Hungarian elections. A new round of letters were circulated in December, when the Prime Minister asked for active participation in the Hungarian elections in April 2018. This mailshot cost Hungarian taxpayers more than 200 million forints (640,000 euros).

The Hungarian government also started to colonize Hungarian-speaking media in the neighbouring countries, financing online communication platforms. The organization "Without Borders for the Hungarian Press Foundation" injected enormous amounts of support into a small media platform. The Foundation receives two thirds of its funding from the Cabinet Office of the Prime Minister. This amount "in itself could buy up the entire Hungarian language Transylvanian media".

The Hungarian government's influence is clearly visible in the case of the political parties and the connected civic organizations. Furthermore, the systematic financing of clerical life and the Hungarian language media in Transylvania is evident; all these actors are involved in some way in campaigning for Fidesz or collecting Hungarian citizens' ballots.

During the last elections, 65 of the 128,712 voting letters received were incorrectly filled, and 167 ballots were invalid. The then president of the People's Party Tibor T. Toró expressed his hope that the National

Electoral Office would systematically track the problems with the invalid voting letters. He also confirmed that the voting packages that were filled with the help of volunteers from the National Council and the People's Party were certainly correct. Furthermore, the President of the Cluj County People's Party announced that their volunteers had been involved in the finish of the Fidesz campaign in Hungary.

Extraterritorial citizens could register 15 days ahead of the 2018 elections. By the end of March, with these organizations' help 186,288 registrations were received from Romania alone. Extraterritorial citizens may cast their postal votes from March 26 to April 8. The consulates are open for unusually long hours (from 6 a.m. to 10 p.m. every weekday, including religious holidays) so that they can assist the electorate. The offices of the organizations listed above offer help with filling out the documents of casting postal voting. The consideration behind allowing two weeks for postal voting is to ensure that the ballots are received, but in the case of Transylvania, the organizations suggest not relying on the Romanian post, so effectively the ballots are delivered by co-workers of the organization and consulates.

Compared to this system, the situation of Hungarian citizens with residency in the country who are abroad at the time of voting is highly controversial: they are allowed to cast their vote only on the day of the elections, and only at embassies and consulates. These difficulties have a clear impact on participation, as it is clearly visible from the low number of registrations. By the end of March, only about 50,000 citizens registered with one of the foreign representations. During the last elections, in London members of the largest Hungarian community abroad had to stand for long hours in front of the dedicated polling place. This year only about 8,000 people have registered to cast their ballots in London.

Altogether 462,550 registrations have been received, and to this day 378,416 citizens have registered to vote by post this year. Registrations are still coming in, and processing is continuous. In 2014, 88,088 votes resulted in one mandate on the party lists. We can expect that the extraterritorial citizens will cast their vote again predominantly for Fidesz, which in this case could result at least in three, or even as many as five more mandates, depending on the final extraterritorial registrations and the final voter turnout at the 2018 elections.

Votes of the National Minorities

The Hungarian illiberal regime leaves intact the former minority self-government system based on the principle of personal autonomy, but the illiberal system after 2010 created a strong dependence system for minorities. National minorities represent a relatively small percentage of the overall population of Hungary and are to a large degree linguistically and culturally assimilated. For example, most minority self-governments use Hungarian as their working language, and the campaign for the minority elections is mostly conducted in Hungarian.

According to Article 2 (2) of the Fundamental Law of Hungary, nationalities (i.e. national minorities) living in Hungary shall participate in the work of parliament as defined by a cardinal act. The new Act on Nationalities (i.e. Minority Act) and the Act on the Election of the Members of Parliament introduced the parliamentary representation of national minorities: all thirteen nationalities[7] recognized by the Minority Act can have representation in parliament at the expense of votes on the national electoral list. If someone votes for the minority list, they cannot vote for a party list. They can still cast their vote for single-member district candidates, however. Under a preferential quota, one minority mandate can be gained by one-quarter of the votes needed for ordinary mandates of the electoral list.

At first glance, one can see these measures as strengthening minority political rights in Hungary, but the regulation implies multiple possibilities for abuse with minority rights and violates the 'one person, one vote' principle, that of each vote carrying equal weight, and the competitive nature of the election.

Obtaining the preferential mandate seems impossible for most of the minorities considering the low number of people belonging to each of them. In the 2014, elections none of the recognized minorities

reached the preferential quota. Therefore, according to the electoral law, the first candidate of every list became a national minority spokesperson in parliament – with no voting rights, calling into question whether this is indeed 'representation' as guaranteed in Article 18 (1) of the Act. Although the largest minority in Hungary is the Roma, the German minority had more registered voters in 2014. Yet, neither community was able to reach the quota.

Because registration as national-minority voter is based on self-identification, people belonging to the majority can also decide to register and vote for minority lists. This dysfunction effectively hinders the self-representation of minorities and has a long history in nationality self-government elections in Hungary.[8] For instance, in 2002 the non Roma citizens of Jászladány voted out the members of the Roma minority government who were protesting against segregated education.[9]

Furthermore, minority lists are put together by the nationality self-governments, which are dependent on the Hungarian government. The voter cannot influence the order or choose between the candidates. As the preferential quota only applies to the first seat in parliament, the minority voter's only possibility is to vote or not to vote for the single fixed list drawn up by the national self-government: only the first candidate has a chance to be a MP. This makes the process less of a genuine election and more of a delegation cloaked in the legitimacy of an election. At the same time, this makes it susceptible to be used as instruments for retaining the power of the Fidesz-KDNP government, rather than truly strengthening minority representation.

Over the past few months, the number of registered minority voters has increased. In 2014 there were 15,209 people, now this number has doubled, with more than 33,000 registered as German minority voters. The list of the German minority, established by National German Self-government (LDU) is led by Imre Ritter, who is now the minority spokesperson. From 1994 he was a minority representative in the local self-government of Budaörs, and in 2006 he became a local representative with the support of Fidesz-KDNP. He lost the 2010 local elections as the Fidesz-KDNP candidate for mayor.

LDU decided in early 2017 to aim for a full mandate, as the spokesperson's possibilities were limited. Considering this intention and the (mostly Hungarian language) campaign for an independent representative, we could think that LDU's goal is not merely supporting Fidesz. However, the candidate, (who is still a member of Fidesz) clearly stated that "he does not want to play the role of the opposition in parliament" and except for minority related issues, "he will vote loyally to the government". According to the logic of the Hungarian illiberal regime, for asserting interests, the representative will have to come terms with the Fidesz-KDNP government anyway.

The numbers of registered Roma voters have also increased from 14,271 in 2014 to almost 20,000, with the number slightly falling before the deadline.

Félix Farkas, leader of the National Roma Self-government's list is a member of Lungo Drom, a Roma political party having worked in a regularly renewed electoral alliance with Fidesz-KDNP since 2001. The president of Lungo Drom, Flórián Farkas (Fidesz MP) has the 17th position on the Fidesz-KDNP party list, which means he will certainly be a member of parliament. After the nomination of the party list it seemed not as important to fulfil the preferential mandate.

Although the results are highly dependent on voters' behaviour and turnout, this means that the German minority list will certainly reach the preferential quota and there might be one more FIDESZ-leaning politician as a German representative in parliament. The Roma minority list also had this chance but perhaps the goal of fulfilling the mandate has been overwritten by other political motivations. (All of the other minorities have less than 2,200 registered voters, which will lead to wasting their votes, as it is impossible for them to reach the preferential quota.)

We can see that the setup of the system could serve the governing party alliance, as registration is manipulated by Fidesz interests, and both of the potential representatives are connected to Fidesz. The preferential quota was 22,022 in 2014. With a similar participation rate, in 2018 this means that at least one

preferential mandate, the German one, will be hijacked by Fidesz.

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We have argued that the motivation behind the elements of Hungary's current electoral law described is not the alleged interests of ethnic Hungarians living abroad or the protection of Hungarian national minorities but rather to gain votes for Fidesz without real representation or democratic control. What is more, this type of the regulation and governmental policy might increase the Hungarian population's anti-minority sentiments.

The governmental control of extraterritorial citizen and minority votes is even more apparent than in 2014, which will have a more significant impact on the results in the upcoming elections. From the 93 mandates to be filled via party and minority lists, one MP will probably be elected from a minority list and another three to five MPs might get seats by the votes of extraterritorial citizens in the 2018 election. These mandates are expected to join the ranks of the parliamentary group of the Fidesz-KDNP Party Alliance.

[1]"Only Fidesz" was one of the 2014 election campaign slogans of Fidesz.

[2] In spite of this, ECHR ruled that the states have a wide margin of appreciation in differentiating among voters with and without residency. It is legitimate to limit the influence of citizens living abroad. Oran v. Turkey (applications nos. 28881/07 and 37920/07)

[3] Kim Lane Scheppele, *Legal But Not Fair (Hungary)*, http://krugman.blogs.nytimes.com/2014/04/13/legal-but-not-fair-hungary/?_r=0

[4] Boldizsár Nagy, "Az állampolgárság mint stigma: az állampolgárság hátrányai," *REGIO. Kisebbség Kultúra Politika Társadalom* 22, no. 1 (2014): 36–73, 41.

[5] Szabolcs Pogonyi, *Extra-Territorial Ethnic Politics, Discourses and Identities in Hungary* (Springer, 2017). 166-169.

[6] Kriszta Kovács, Zsolt Körtvélyesi, Alíz Nagy, Margins of Nationality: External Ethnic Citizenship and Non- discrimination. *Perspectives on federalism* (2015) 7:(1) 25.

[7] The following ethnic groups qualify as nationalities of Hungary: Bulgarian, Roma, Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovakian, Slovenian and Ukrainian.

[8] Balázs Majtényi, What has happened to our model child? The creation and evolution of the Hungarian Minority Act. *European Yearbook of Minority Issues*, (2005) 5(1), 397-469. doi: 10.1163/22116117-90000055

[9] Balázs Majtényi, György Majtényi, *A Contemporary History of Exclusion: The Roma Issue in Hungary from 1945 to 2015* (CEU Press, 2016) 131.

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