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HUNGARY POLICY ALERT #2

Concerns over Hungary's pending electoral code amendment

Ahead of Hungary's next parliamentary elections scheduled for 2022, the Orbán-government submitted a new amendment to the electoral code on 10 November 2020. Along with a series of technical adjustments, the amendment seeks to change the conditions under which parties can register national lists for the election. The proposal comes as the main opposition parties are in negotiations about their strategy for 2022 and, if passed, would limit – but would not rule out - their current options for cooperation. The amendment is discussed in the parliament on 18 November for the first time and is expected to be passed in the coming weeks of 2020. There are indications, however, that the amendment submitted on 10 November is not yet the full picture: the government will most likely introduce further amendments to the electoral code, especially regarding the electoral map.



Hungarian parliament after the vote to extend emergency powers to the government, 10 November 2020. Source: dailynewshungary.com (MTI)

Although the second wave of the coronavirus pandemic is in full swing in Hungary, the upcoming 2022 parliamentary elections already loom on the horizon. Just as new corona-restrictions were about to enter into force under the recently announced state of danger, a special legal order allowing governance by decree which is now in force for the second time in 2020, the Hungarian government submitted a set of controversial bills to the parliament, among them an extensive [amendment to the electoral code](#). The timing is not accidental: the ideological disputes surrounding some of the bills might distract from the unfolding crisis of the health care system, while at the same time the current restrictions – including the

temporary ban on assembly – limit the visibility of dissent and allow for the adoption of contested amendments in relative silence.

The proposed amendment to the electoral code was submitted to the parliament on 10 November and requires two-thirds to be passed in the parliament's plenary. The first plenary debate is scheduled on 18 November, and the amendment shall be passed in the coming weeks. Along with a vast set of politically neutral technical modifications, the bill intends to amend the rules regulating the registration of national party lists for the parliamentary election. According to the current rules, 106 of the Hungarian parliament's 199 seats are contested in single mandate electoral districts, while parties or party coalitions also compete for the remaining 93 seats on national party lists – thus giving citizens two votes in the elections. National party lists can be registered if parties or their coalitions manage to nominate candidates for the elections in at least 27 single mandate districts, altogether across nine (out of the 19) counties as well as in the capital. This minimum number necessary for the registration of national party lists would now be raised to 50, while the minimum conditions of their cross-country distribution would remain unchanged.

The government justifies the proposed amendment with the alleged need to step up against so-called dwarf or fake parties, which have no real social backing and are established with the primary aim to deceive voters (e.g. by running under names closely resembling those of legitimate opposition parties) and/or to gain access to public campaign funding provided by the state. [According to investigative journalists of Átlátszó](#), in 2018, about ten such parties run in the parliamentary elections with national lists. As of now, parties or coalitions that manage to meet the minimum criteria to register a national list and have between 27 and 54 individual candidates, are eligible for ca. 150 million HUF (approx. 418,000 EUR). If the amendment is passed, this would no longer be available as parties with less than 50 candidates in single mandate districts could not register their national lists.

It is doubtful, however, that simply increasing the minimum number of candidates would solve the problem of fake parties if the current lax regulation and control of the nomination process in single mandate districts is not addressed at the same time. Fake parties that so far nominated between 27 and 54 candidates in single mandate districts could just as well nominate a minimum of 50. What's more, parties that manage to register a national list and have 50 to 79 individual candidates are eligible for ca. 300 million HUF (approx. 836,000 EUR) campaign support from the state, which may be enough motivation to put in the extra work.

Instead of fake parties, if passed in its current form, the amendment would rather impact the cooperation and campaign of the current opposition parties at the next elections. The bill comes after six opposition parties (the Democratic Coalition (DK), Dialogue, the Hungarian Socialist Party (MSZP), Jobbik, Momentum and Politics Can Be Different (LMP) [agreed](#) in August 2020 that they would not compete against each other in single mandate districts and, after a pre-election process, they would nominate only one candidate in the individual districts in order to stand a better chance of defeating the governing Fidesz – Christian Democratic People's Party (KDNP) coalition in 2022. The six parties, however, have not yet decided if they want to set up a joint national party list or would rather register individually. While the



Democratic Coalition, Dialogue and the Hungarian Socialist Party lean more toward running on a joint list, Jobbik, Momentum and Politics Can Be Different are still contemplating running with their individual party lists.

The amendment, if passed, would limit the options of these six opposition parties, and if they stand by their intention to not compete with each other in single mandate districts, then it pushes them toward establishing one or at most two national party lists. Setting up two joint party lists is feasible without compromising on the agreed principle of cooperation on the ground, if the parties behind these joint lists (likely a coalition of 3 in both cases) run in 53-53 out of 106 electoral districts respectively which do not overlap. Dividing the districts and coordinating the pre-election in that light adds to the challenge though. Furthermore, considering that party lists will be de-registered if the number of candidates in single mandate districts fall under 50 – e.g. due to unexpected death or withdrawal – choosing this option has risks. Finally, a further challenge would be passing the electoral threshold, which in the case of coalition lists of more than two parties is 15 percent. Therefore, for this option to pay off, both joint lists would need to gather at least 15 percent of the vote.

If the six parties decide to not compete in single mandate districts and set up one national party list, that would lessen some of the logistical challenges around the nominations and the concerns about the electoral threshold. It may be easier to communicate toward the voters, but at the same time it might lose the support of those voters who certainly do not want to vote for a specific party. With two list, that conflict can be mitigated to some extent. Though the question of the lists is still open, on 16 November, the six parties [confirmed](#) their intention to nominate jointly agreed candidates in the 106 single mandate districts and announced that they would also run on a shared platform and with one common candidate for prime minister.

The prospective changes will prove challenging for smaller and newer parties though, which will not join the above six but have an intention to compete. Among them, the satirical Two-Tailed Dog Party [announced](#) that they would run on an individual list and would nominate candidates in about 30 districts where they do not influence the chances of the opposition. They and any other party that contemplates a national party list will now need to file more candidates, which will inevitably influence the race in the single mandate districts.

There is, however, reason to believe that the amendment tabled on 10 November is not yet the entire package. According to the current legislation, the electoral code cannot be modified in the year of the parliamentary elections and in the year preceding that. That is, unless the governing coalition changes this rule with its two-thirds majority, any amendment still intended before the 2022 elections need to be passed in 2020. Despite this, the submitted amendment does not address issues [highlighted by the National Election Office](#) in August 2020. Among these, most urgent would be to redraw the borders of certain electoral districts in Pest county due to changes in population size as their divergence from the national average size is now in conflict with the margin allowed by the law. Therefore, an amendment on this issue is most likely still in the pipeline. Given prior experience under the Orbán government, it is highly unlikely that the adjustment of the electoral map would only concern the districts



in Pest county, the population of which now fall outside the margin. Any further adjustments, however, would raise serious concerns about gerrymandering.

The amendment is in front of the parliament and is [scheduled](#) for general debate in the plenary for 18 November. It awaits discussion in the committees and a detailed debate in the plenary before it is presented for a vote, which still gives ample time for further modifications. As of 18 November, no amendments have been submitted yet, but given the governing parties practice, they may come any minute, especially at the last possible moment.

The article was closed on 18 November 2020.

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