

## Fewer obstacles, more campaign

*analysis on the consequences of Constitutional Court's decision*

**On 4 January 2013 Hungary's Constitutional Court (CC) struck down the most important provision of the electoral procedural law, after president János Áder sent the bill to the CC for a constitutional review. The government has accepted the court's decision, so a significantly more media-focused campaign than originally envisioned by the governing party is expected. With the voter registration and the campaign ad limitations Fidesz wanted to focus on its core voters in the campaign via personal mobilization, but the current decision means that much bigger emphasis will be put on the media campaign and undecided voters, who threaten Fidesz's 2014 victory. Actions by the President and the CC demonstrate that certain checks and balances remain in place in Hungary.**

### Measures thrown out by the CC:

- obligatory preliminary registration for voters residing in Hungary
- the restriction of political ads in commercial radio, television and films
- the moratorium on public opinion polls in the last six campaign days

### Areas affected by the ruling:

#### 1. Preliminary registration

The concept of preliminary registration has been one of the most controversial of the election reform process started in 2010, sowing division even among Fidesz decision-makers. Casting aside all legal and professional objections, the Prime Minister stuck to his position to the last minute, although he backtracked following the CC's ruling with overwhelming majority. Apparently he came to the conclusion his party could lose significantly more by insisting on cementing the institution ruled patently unconstitutional by the CC into the basic act than it could win by preventing a couple hundred thousand undecided voters from casting their ballots for one of the opposition parties. Moreover, all opinion pollsters show strong public rejection of the registration even within the Fidesz camp.

#### Forecast:

- In the course of the expected February amendment of the electoral procedures act it will not be sufficient to reinstate the previously approved regulation as, under the voting rights act in effect since January 1, 2012, Hungarian citizens living outside Hungary have been granted the right to vote. Since the Hungarian state has no comprehensive records on these potential voters they will be able to exercise their right only following preliminary registration. In short, conditions for their registration must be established while making sure that election offices produce voter records for citizens residing in Hungary without requiring active citizen participation.

## 2. Campaign restrictions

While limiting campaigning parties' access to the media, Fidesz hoped to promote door-to-door campaigning that proved to be the party's most effective campaign tool in previous elections. The strategy also included preliminary registration, as well as a ban on political advertising in commercial radio, television and films. Moreover, it would also have allowed but limited coverage in public media. As residents of small towns paying little or no attention to national politics get their information almost exclusively from commercial media, the quality and content of the information reaching them is extremely important. Along with the registration, with these restrictions Fidesz hoped to discourage undecided voters posing a threat to the party from going to the polls and deny opposition parties the chance to mobilize this block of voters against the government through commercial television stations.

*Forecast:*

- As the CC annulled the majority of campaign regulations, in February a raft of new regulations are expected to be submitted to Parliament. Even if the gross discrimination between public and commercial media will not return, Fidesz is likely to do its best to limit radio and television advertising by, for instance, setting extremely low budgets for candidates and limiting media airtime.

## 3. Moratorium on public opinion polls

Since the CC had already ruled the moratorium on public-opinion polls unconstitutional in 2007, passages of the act reinstated by legislators had little chance of passing the latest constitutional control. In the autumn governing parties had reason to believe that the registration and campaign rules may survive the constitutional review easier, in case CC annuls only the moratorium on public opinion polls – so they made an attempt and tried to revive the moratorium. If that was in fact part of the strategy, it did not work this time.

*Forecast:*

- The proposed restriction is expected to be taken off the agenda once and for all; the government is unlikely to keep it alive in any form.

## The CC's present and future

Only 4 out of the 15 judges voted against the decision concerning the elimination of the mandatory registration (all of them delegated to the CC since 2010, supported only by the governing parties), and a fifth member voted against campaign rules. The balance of forces, however, can change in the following months as two CC members' mandate expires soon, and the two new members replacing them are expected to be more loyal to the government (one of them is current MP László Salamon from the governing KDNP's parliamentary caucus). However, this does not mean that the two new members make CC a body unconditionally loyal to the government, as the recent decision proved: two of the judges (István Stumpf and Péter Szalay) who were elected by this government were reluctant to vote against the decision. This may have been one of the factors convincing the government to let registration go.

Judge	Mandate expires	Remarks
Mihály Bihari	02.24.2013	Re-elected in the course of the current government; successor: László Salamon
András Holló	04.02.2013	
András Bragyova	09.26.2014	
Péter Kovács	09.26.2014	
Elemér Balogh	11.14.2014	
Egon Dienes-Oehm	01.02.2015	Elected in the course of the current government; voted against CC's anti-registration decision
Péter Paczolay (president of CC)	02.24.2015	
László Kiss	03.11.2016	
Barnabás Lenkovics	04.21.2016	Voted against CC's decision concerning only the campaign rules
Miklós Lévy	04.21.2016	
István Balsai	04.05.2017	Elected in the course of the current government; voted against CC's anti-registration decision
István Stumpf	07.22.2019	Elected in the course of the current government
Mária Szívós	12.08.2019	Elected in the course of the current government; voted against CC's anti-registration decision
Béla Pokol	05.07.2020	Elected in the course of the current government; voted against CC's anti-registration decision
Péter Szalay	09.01.2023	Elected in the course of the current government

Political Capital and Social Development Institute is working on a project that is partially funded by the OSI Think-Thank Fund. The program that is called "New electoral system in Hungary: watchdogging, advocacy and raising awareness" focuses on the electoral reform in Hungary. The website of the project, [www.valasztasirendszer.hu](http://www.valasztasirendszer.hu) collects all available information on the Hungarian electoral reform process for experts, journalists, NGOs, diplomats and politicians who show interest in the topic.

The site was launched in September 2011 and is regularly updated with analyses, publications, research and data.

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