[HU] Amendment of Hungarian Constitution regarding Political Advertising

IRIS 2014-1:1/31

Zsófia Lehóczki
Mertek Media Monitor

On 22 November 2012, the Hungarian National Assembly adopted the new Act XXXVI of 2013 on the Electoral Procedure (hereinafter “the new Electoral Procedure”), which lays down amended rules regarding political advertising during campaign periods for national parliamentary, municipal, and European Parliamentary elections.

According to Article 32 (3) of Act CLXXXV of 2010 on Media Services and Mass Media (hereinafter “the Media Law”) political advertisements may only be disseminated in compliance with the relevant rules of the new Electoral Procedure. Political advertisements are programmes released - be it in return for payment or for free - with the objective of promoting or engendering support for a political party, a political movement or the government, or seeking to promote the name, objectives, activities, slogans or emblems of either aforementioned organisation or public body (Article 203 (55) Media Law). The Media Law further stipulates that political advertisements may not be disseminated in the media outside of election campaign periods with the exception of communications related to an already scheduled referendum.

The new Electoral Procedure defines the campaign period as the time lasting from the 50th day before the day of the election to the conclusion of balloting.

The most significant provisions concerning political advertisements were laid down in Article 147 of the new Electoral Procedure. Firstly, the relevant provisions prescribe general principles. Thus, all media service providers are required to broadcast the political advertisements of organisations that nominate candidates or of independent candidates under equal terms. In the case of candidates nominated jointly by more than one organisation, the nominating organisations are entitled to jointly order political advertisements. The media service provider is further required to broadcast the political advertisement free of charge, it may not request or accept any remuneration for the broadcasting.

Furthermore, the legislator sets out some particular provisions. For instance, there is maximum duration time for political advertisements. Advertising videos by organisations with a national list may only be broadcast by public service media during the fifty day campaign period. The altogether 600 minutes of available

© European Audiovisual Observatory (Council of Europe) 2026

broadcasting time should hence be provided by the public service media, which distributes this time proportionally between nominating organisations. The 600 minutes of advertising time may of course be freely divided between public radio stations and public television channels, which are compelled to allocate this vast broadcasting time for free.

Pursuant to the original bill adopted by the legislator in November 2012, commercial media were barred from broadcasting political advertisements, both during and outside the campaign period. Hence, according to the original plans of the two-thirds majority, citizens would only have obtained information that is crucial for democratic decision-making from the public service media and not from commercial broadcasters.

The President of the Hungarian Republic exercised his right of constitutional veto against these particular provisions of the new Electoral Procedure, however, noting that they constitute an undue restriction of the freedoms of speech and press enshrined in Article IX of Hungary’s constitution as well as of the citizens' right to information. In its decision No. 1/2013. (I. 7.) dated 4 January 2013, the Constitutional Court affirmed the President’s view and annulled the provisions which required that political advertisements may only be disseminated for free and exclusively in public service media.

Following the Constitutional Court’s decision, the National Assembly adopted the fourth amendment of the Fundamental Law, which lifted all the provisions that the Constitutional Court had previously ruled unconstitutional straight into the constitution. These changes became effective on 1 April 2013. Hence new Electoral Procedure’s previously discussed provisions - which are also currently in force - became constitutional (see IRIS 2013-4/16).

This approach was subject to harsh attacks from the opposition and the wider society. In response, the National Assembly adopted another amendment of the Fundamental Law, which has been effective since 1 October 2013. The current text of the Constitution’s Article IX (3) seemingly changed the provisions that had previously - while they were just bills - been found unconstitutional. Pursuant to the effective text, however, media providers are still required to disseminate political advertisements for free during campaign periods, though the public service media's exclusive broadcasting rights for such commercials have been removed from the books.

Though the restriction of political advertisement to public service media, which was one of the provisions that the Constitutional Court had previously found unconstitutional, has been removed from the package of problematic new rules. The effect of the restrictions is not altered; since commercial media providers can only broadcast political advertisements for free. This is in conflict with the commercial media’s basic operating principle basing on selling advertising time.

© European Audiovisual Observatory (Council of Europe) 2026

Furthermore, the respective provisions of the Constitution and the new Electoral Procedure have not been aligned with one another, so there are likely to be further legal amendments before the elections scheduled for 2014.

Alkotmánybíróság, határozat száma: 1/2013. (I. 7.) AB határozat. 04/01/2013

http://public.mkab.hu/dev/dontesek.nsf/0/9C05BC19C310A316C1257ADA0052476B?OpenDocument

Constitutional Court's Resolution of No. 1/2013 I. 7. AB of 4 January 2013

Magyarország Alaptörvényének negyedik módosítása (2013. március 25.)

http://mkab.hu/download.php?d=500

Fourth Amendment to the Fundamental Law of Hungary of 25 March 2013

Magyarország Alaptörvényének ötödik módosítása (2013. szeptember 26.)

http://mkab.hu/download.php?d=571

Fifth Amendment to the Fundamental Law of Hungary of 26 September 2013

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026