

Legal but not Fair: Viktor Orbán's New Supermajority

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*with Miklós Bánkúti in Princeton and Zoltán Réti in Budapest**

Viktor Orbán and his Fidesz party coasted to a clear victory in last weekend's Hungarian election, as expected. The governing party got 45% of the vote, but the new "rules of the game" turned this plurality vote into two thirds of the seats in the parliament. A continuing two-thirds parliamentary majority allows Orbán to govern without constraint because he can change the constitution at will. But this constitution-making majority hangs by a thread.

Orbán's mandate to govern is clear because his party got more votes than any other single political bloc. What is not legitimate, however, is his two-thirds supermajority. Orbán was certainly not supported by two-thirds of Hungarians – nowhere close. In fact, a majority gave their votes to other parties. Orbán's two-thirds victory was achieved through legal smoke and mirrors. Legal. But smoke and mirrors.

The International Election Observer Mission of the [Organization for Security and Cooperation in Europe](#) was extremely critical of the election. The election monitors found that in many different ways "[t]he main governing party enjoyed an undue advantage." They reported numerous violations of international standards, including a failure to separate party and state, a biased media environment, a partisan Electoral Commission, lack of transparency in determining the electoral districts, and a generally un-level playing field. These, too, contributed to Orbán's success.

In this post, I will explain why a plurality result in the polls turned into a constitutional supermajority and why that supermajority is due more to Fidesz's self-dealing than to popular will. I will also show that Fidesz's supermajority was so close that it depends on every one of the new tricks that the party inserted into the electoral system to benefit itself. One seat less, and the supermajority would be gone.

In saying that Orbán's supermajority is illegitimate, I am not arguing that Orbán simply stole the election. No other party came close to Orbán's 45% of the vote, though when you exclude the new Hungarian citizens from the neighboring countries – people who don't actually live in Hungary and probably never have – Orbán's support drops to 43.5% among domestic voters.

The left alliance, a collection of five parties with the Socialists in the lead, received only 26% of the vote. It evidently failed to capture the public imagination and capitalize on the fact that about half of the voters wanted a change of government. Jobbik, a far-right party, won a shocking 21% of the vote, up more than 3% from its already large 2010 showing, making it the [most successful far-right party in the European Union](#). The tiny, vaguely Green (but mostly vague) party LMP just barely squeaked over the 5% threshold to enter the parliament.

Orbán's parliamentary two-thirds hides a complex set of calculations that depends on many factors. The Hungarian election system is fiendishly complicated. The bottom line is that the "two thirds mandate" includes far less popular support than one would guess given its size and far more legal trickery than a democratic government should be permitted to use. Orbán's parliamentary *majority* may have been earned, but the *supermajority* mandate was not.

That said, Fidesz would probably have won a majority in parliament no matter what sort of electoral system Hungary had. Most mixed electoral systems like Hungary's top up large pluralities into majorities. Also, many governments – if they can – attempt to shape the rules to aid their own reelection. Some tweaking of the electoral rules to favor the party in power is regrettable but normal.

But the Orbán government went well beyond normal tinkering when it extensively revised the electoral framework during its last four years in office. The new system was designed precisely to give Orbán a vastly disproportionate two-thirds parliamentary majority with less than a majority vote. And it worked.

The international election monitors were not impressed with the new system. They concentrated primarily on evaluating the campaign and the election itself, as we will see later, but they also expressed concern about the election framework and how it had been adopted. As the election monitors noted, the governing party's "undue advantage" resulted in part from a "legal overhaul" that was "unprecedented" and consisted of laws that were "passed and modified without public consultation or inclusive dialogue with opposition parties." They found that "[t]he manner in which these laws were adopted and frequently amended, including in the year prior to these elections, led to legal uncertainty and did not provide for effective and inclusive public consultation, contrary to national legislation and good practice." The election observers concluded that the legislative process used to adopt the new electoral framework "undermined support and confidence in the reform process."

While written in the diplomatic language characteristic of international reports, this is a serious condemnation.

How did this legal overhaul produce the 2014 election result? It manufactured the appearance of another landslide for Orbán, a landslide that did not occur.

In fact, Orbán's victory disguised a growing weakness in his appeal to Hungarian voters. Between the 2010 and 2014 elections, Orbán lost a substantial fraction of his supporters. In 2010, Fidesz received more than 2.7 million votes while in 2014 the party won less than 2.3 million. This 16% drop in the total number of Fidesz voters was produced by one of the lowest turnouts in the post-communist period, combined with an 8% decline in the party's overall support among those who voted. In fact, the three lowest turnout elections since communism ended were the three that Orbán won: 1998, 2010 and 2014.

These numbers mask the even more dramatic decline in Orbán's popularity at home because they include new citizens in the neighboring states to whom the 2012 Fidesz constitution granted citizenship. The new citizens who voted for the first time this year are a formidable force since they voted 95% for Fidesz.

But these new citizens were not eligible to vote in 2010 so we should compare Orbán's support in 2010 and 2014 without them. Among domestic voters, Orbán received only 2.1 million votes this time, losing 21% of the voters that had supported him in 2010. His party list vote slipped by 9% in this group as well.

Fidesz lost more than one fifth of its domestic voters overall in part because of the lower turnout, but the far-right Jobbik party and the left alliance both gained voters, as the chart below indicates.

The depressed turnout and yet the increased success of the two other major parties show Orbán's weakness despite his huge parliamentary majority. Overall, 37% of voters stayed away from the polls, 35% voted for other parties, and only 28% of Hungarians actually cast an affirmative vote for Fidesz (including the "over the borders" voters).

If you consider only those who went to the polls, leaving aside the possibility that the low turnout is itself a signal of Orbán's weakness, 51% voted for the three other parties that entered the parliament while 45% voted for Fidesz. And yet 51% of voters will get only 33% of the seats. And Orbán will get his two-thirds.

How is it possible for only 45% of the vote to turn into a two-thirds parliamentary mandate? Orbán's "two-thirds" was enabled by a series of tricks that were legal, but not fair.

(To follow the analysis, you need to know that Hungarians cast two votes at a parliamentary election, one for a representative from their home constituency and one for a party. Fidesz got 45% of both the constituency and the party votes.)

Orbán's electoral system had the overall effect of creating a huge disparity in how many votes each party needed to gain a parliamentary seat. If you add all votes (party list and constituencies together) and divide them by the number of seats each party actually got in this election, you can see that not all votes were equal in securing representation in parliament. A simple formula describes how many votes for any other party it would take to generate the representation in parliament that one vote for Fidesz did:

1 Fidesz vote = 2.1 left alliance votes = 2.6 Jobbik votes = 3.1 LMP votes

In short, the Fidesz seats were acquired with many fewer votes than the others.

In an earlier [set of blog posts](#), I explained the new election system in detail. Now that we have election results, we can see how the different parts of the remodeled election system worked to generate this two-thirds parliamentary mandate.


In my [earlier analysis](#), I alleged that the new electoral districts had been gerrymandered to produce winning results for Fidesz. It's true that the parliament was reduced in size from 386 seats to only 199, so the districts had to be redrawn. Moreover, the old districts were massively unequal, so the Constitutional Court had required that they be made more equal in size. But neither the smaller parliament nor the more equal districts required gerrymandering.

How can one tell if a district has been gerrymandered? There are many ways to gerrymander by drawing the precise boundaries of districts to achieve a particular result. The full effects are hard to tell without better data than we have.


But the new districts are highly unequal in size, which gives us a way to test for gerrymandering. A gerrymanderer not constrained by the need for strictly equal districts would make the districts of his opponents systematically larger than the districts where his own voters dominate. In larger districts, it takes more votes to elect an MP, so each vote counts less. If the "left" districts are systematically larger than the "right" districts, that is evidence of conservative gerrymandering.

The relationship between district size (here measured by the number of voters who actually voted in each district) and partisanship (measured by the percentage of the vote that went to the left alliance and LMP combined) is substantial. As one would expect in a system gerrymandered to benefit the right wing of the political spectrum, the more left-leaning a district is, the more voters it has. In fact, the explained variation (R-squared) is 37%. In social science, it's a huge effect when one variable accounts for more than one-third of the variation in another.

The system is in fact *much more* biased against left voters than the one it replaced. Calculated using the 2010 districts and voting data, the same model (votes for the left v. # of votes in a district) explained less than 2% of the variance (R-squared = .019), as the figure below indicates.



The old districts were much more unequal in size (which was a problem) but they were not nearly as politically biased, as the nearly flat regression line shows. The new districts are still highly unequal in size. But now they are strongly biased against the left. This is what a gerrymander looks like.



There's another aspect to the gerrymander that we can also see clearly. In the old parliament, more mandates were determined by the list votes than by individual constituencies. (The pre-2014 system was also disproportionate, but less so.) List votes which are distributed over a set of candidates are more proportional than individual constituencies which are generally more disproportionate because only one candidate can win. In the new parliament, the relative proportions of list and constituency mandates are reversed, so that now 106 of the seats are determined by the individual constituencies and 93 come from the party lists. This makes the effect of the gerrymandered districts bigger in the overall calculation of parliamentary mandates.

Fidesz won 45% of the votes in the individual constituencies in 2014 and yet got 88% of the seats. The effects of the gerrymander, even on the rough analysis above, assisted massively in producing such a disproportionate effect.

Recall that Fidesz unilaterally set the boundaries of all of the districts in a law requiring a two-thirds vote, and did so without allowing the opposition to have any input at all. As the international election monitors noted in their post-election report, "The process of delimitation of constituencies was criticized ... for lacking transparency and inclusive consultation." While the election law required that districts vary by no more than 15% above and below

the national average, the election observers noted that districts still fell outside this wide margin. As we can see, that gave more room for the gerrymanderers to play with the district composition.

While gerrymandering is probably the single biggest trick that converted Orbán's plurality to a supermajority, Orbán's supermajority is built from many different sleights of vote. In my [earlier analysis](#), I showed how the parties on the left were forced to work together for many different reasons ranging from the elimination of the second round of voting in individual constituencies to the novel system of compensatory mandates on the party-list side. Because the new "first past the post system" of individual constituencies was designed to reward the largest single party, it was important for the fragmented and fractious left to unite to win.

Five of the parties on the left eventually forged an alliance with each other to overcome the bias against small parties built into the system. The alliance groups squabbled and quite visibly hated working together, which no doubt suppressed the vote they got. Together, they won only 10 of the 106 individual constituencies with their 26% of the constituency vote. But they would surely have lost almost every single constituency if they hadn't joined together.

As predicted, party fragmentation had huge effects. Had the alliance had managed to attract to its ranks just one more party, the LMP, the number of individual constituencies that a six-party alliance would have gained would have more than doubled – from 10 to 21. Even this small division in the left opposition cut in half the number of individual mandates that the left won. That's a powerful effect of the system.

LMP had its own reasons to stay outside the alliance, and it guessed correctly that it could (barely) get its own parliamentary fraction by doing so. But if it had joined with the alliance, the left opposition together would have gained an additional 11 district mandates instead of the five that LMP got from its list votes, for a net gain of six.

(The individual constituencies where the Alliance + LMP > Fidesz are Budapest districts #1, #2, #4, #6, #12, #13, #15, #18; Baranya districts # 1 and #2; Szabolcs-Szatmár-Bereg district #1 as you can see [here](#).)

Many mixed electoral systems allow the "unused votes" won by losing candidates to be added to their party-list totals when the list mandates are calculated, so I will call that "normal compensation." Normal compensation is the tool through which mixed systems become more proportional. But only Hungary has a *winner* compensation system that throws proportionality to the winds. With winner compensation, the winners of individual constituencies may add difference between the number of votes they received and the number of vote received by the second-place candidate (minus one) to the totals for their party lists for use in calculating party-list mandates. It's complicated but a simple explanation is [here](#).

With the results in, we can see that winner compensation added six parliamentary mandates to the Fidesz totals, which were essential to the party's supermajority. We calculated this using the Election Office website data that handily provides the difference in the number of votes between the first- and second-highest vote-getter each district [here](#). The left alliance would gain three of those mandates, Jobbik would gain two and LMP would gain one.

The table below shows that, if winner compensation were removed from the system, Fidesz would lose six of its parliamentary seats, which by itself would put two-thirds far out of reach.

Parliamentary Mandates with Winner Compensation

Party	Mandates with winner + normal compensation	Mandates with normal compensation only	Effect of removing winner compensation (in mandates)
Fidesz	37	31	-6
Left alliance	28	31	+3
Jobbik	23	25	+2

There was another trick cooked into the legal reforms that we can measure directly from the election results. Orbán's new constitution gave expedited citizenship, upon application, to ethnic Hungarians who have never lived in Hungary. With citizenship came the right to vote. About 600,000 ethnic Hungarians "over the borders" took out citizenship and nearly 200,000 of them registered to vote. Voter turnout in this group was 81% (much higher than among domestic voters) but 19% of the ballots were disqualified due to errors in the way that the ballots were prepared. Six days after the election, these ballots were finally counted, and Fidesz won 95.49% of the "over the borders" vote.

The "over the borders" votes added 122,588 to the party list votes, enough for 1.4 parliamentary mandates. (Since all party list votes and compensation votes are added together before being divided by the total number of mandates available, all votes contribute to the overall pool and therefore particular sources like "over the borders" voters may produce fractions of mandates.) Given how close Orbán's two-thirds majority was, the "over the borders" voters were clearly essential to achieving it. Every single mandate was necessary to the two-thirds.

Since Orbán's supermajority hangs on the votes of the new "over the borders" citizens, the constitutional majority will depend on a set of voters whose ballots were most open to fraud. My [earlier analysis](#) showed that the votes from Hungarians "over the borders" were cast with virtually no integrity checks in place. The law required the Election Office to ignore irregularities in applications from this group alone, while ex-pats voting abroad were held to a higher standard. The list of the "over the borders" voters was secret so that only a few election observers could see it and, even then, these observers could record nothing from the lists. (This secrecy of the foreign voters' list was justified, in the government's view, because two of Hungary's neighbors, Slovakia and Ukraine, do not permit dual citizenship.)

Fully one-third of the new citizens who registered to vote without a residence in Hungary gave no address to which the ballots could be sent, providing only an email address. As a result, we cannot even tell what country these voters are voting from and there are even fewer controls on the integrity of the process through which these voters got their ballots. Though secrecy of the process is a logical consequence of giving citizenship to ethnic Hungarians living in countries that ban dual citizenship, this secrecy also makes it very hard to check the integrity of the vote. New citizens who registered to vote abroad could have asked for their ballot to be sent anywhere. And of course, these Hungarians "over the borders" were the only ones allowed 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.

The "over the borders" citizens faced no ID check in place anywhere in the process from the initial registration to vote to the actual casting of the ballot. As a result, there were no formal checks that would ensure whether people who registered to vote and voted were in fact the new citizens in whose name they voted. All other voters who cast ballots in the Hungarian election had to show some ID to vote. But not those over the borders.

The actual balloting did little to ensure confidence in the integrity of these votes. Photographs published in the online [HvG](#) news portal showed voters in Transylvania voting in tents helpfully provided by the *Erdély Magyar Nemzeti Tanács*. This is a [group that has close links with Fidesz](#). As you can see if you look at the pictures, there was no secrecy of the ballot.

In addition to the voter assistance helpfully provided by Fidesz allies, tens of thousands of ballots (111,268 ballots in fact) were dropped off at consulates by unofficial bundlers who gathered up the votes from Hungarian communities and took them to polling stations without having to demonstrate that the ballots collected in this way arrived intact and unchanged. There is no public accounting of who these bundlers were. Establishing the integrity of the "chain of custody" from voter to polling station was not required.

While these new voters are only responsible for a little under one and a half mandates, they are now key contributors to Orbán's razor-thin constitution-making majority. But these are votes under a shadow of suspicion.

Orbán's mandate to be prime minister in the next government came from the voters. His supermajority came

from a variety of legal tricks contained in the laws that were written by Fidesz, for Fidesz.

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The day after the election, election monitors filed a hard-hitting [assessment](#) based on their observations in the month before the election. They said good things about the generally efficient administration of the actual balloting (without having looked closely yet at the “over the borders” votes) and they praised the diverse choice of candidates on offer. But the evaluation of the monitoring team was sharply critical about many other aspects of the election. Their report concentrated on the unfairness of the campaign, going beyond the unfair effects of the election rules that I have shown above.

As their report indicates, the “main governing party enjoyed an undue advantage” because, among other things, the campaign “did not fully respect the separation of party and state.” The election monitoring team confirmed this damning judgment in multiple ways.

The government had developed a slogan “Hungary is performing better” which the government had used since March 2013 to advertise its own accomplishments. Just before the campaign began, government then “sold” the slogan to Fidesz for EUR 640. But, while Fidesz took up the slogan, the government continued to use it in government advertisements on commercial television, where election ads from parties were banned. Eventually, the Supreme Court found that government ads using the same slogans as the governing party violated the campaign rules and had to be removed. But that decision did not come until 18 March, very close to the election, after the ads had run for weeks.

Fidesz-run municipalities also campaigned on behalf of the governing party, running campaign ads on municipally funded television, contributing to the lack of separation between party and state. In addition, a huge advertising campaign sponsored by the government-allied NGO Civil Unity Forum (CÖF) “circumvent[ed] campaign finance regulations,” as the monitors said. What the election monitors did not say is that the law itself exempted the government and the NGOs from the campaign finance limits specifically and from the campaign rules altogether, so the overwhelming blitz of pro-Fidesz information coming from the government and its allied NGOs was not regulated by law while the activities of parties were strictly controlled.

The election monitors noted that most of the campaign was devoted to negative press coverage of corruption allegations against the Socialist party. Early in the campaign, charges were brought against a deputy leader of the Socialists, who resigned when the allegations were made public. What the election monitors did not say is that the corruption allegations were brought at the start of the campaign by a public prosecutor who has long been allied with the governing party. The monitors did note that after the charges were brought, the government-allied media talked about almost nothing else during the rest of the campaign.

But the deputy leader was not the only allegedly corrupt Socialist to dominate the campaign. Huge posters all over Budapest sponsored by CÖF showed unflattering pictures of the three top candidates on the left alliance ticket, along with the Socialist former deputy mayor of Budapest. He was not running for anything but he had been awaiting trial on corruption charges for years. Though charged ages ago, his case is in legal limbo, having been moved around the legal system by political officials who changed the location of the trial. At the moment, no court acknowledges jurisdiction of his case. But his face was all over the city.

In neither corruption case was concrete evidence against these opposition politicians proven in court before the allegations were used in the campaign. As the government-allied media whipped up a frenzy about these corruption charges, support for the left alliance dropped in the last few weeks before the election. In the end, the election monitors reported, “The tone of the campaign was dominated by alleged corruption cases at the expense of discussion on substantive issues.”

The monitors found that “the absence of other political advertisements on nationwide commercial TV, combined with a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media, contrary to [OSCE standards].” Overall, the campaign was judged to have taken place on “an uneven playing field.”

The election monitors found that government offices charged with supervising the election were too close to the government itself. Because of the way that its permanent members had been selected, the National Election Commission was, in their view, “a partisan commission.” While more than 900 complaints were raised before the Election Commission during the election campaign, many were rejected on purely formal grounds without considering their substantive merits. Decisions of the Election Commission were “adopted unanimously without debate, while issues of substance were rarely addressed.” And the decisions were “inconsistent.” The monitors’ report concluded: “The rejection of complaints on formal requirements often left complainants without effective consideration of their claims, which is at odds with [the standards that the OSCE applies].”

The courts, too, did not always carry out their election responsibilities properly. As the election monitors noted, any technical mistake in an applicant’s submission resulted in an immediate rejection of the complaint without the possibility of an appeal. (Though the election monitors didn’t mention it, this standard was actually built into the law.) Perhaps most damning, the election monitors found that “[s]ome cases decided by the courts contradicted legislation and led to legal uncertainty.”

In support of this judgment, the monitors obliquely referenced two decisions of the Constitutional Court, where a majority of the judges have now been appointed by the governing party. One decision found that a government decree banning the placement of election posters did not have anything to do with free speech, and the other found that no constitutional issues were raised when some voters were allowed to vote by mail while others were prevented from doing so.

The Supreme Court did somewhat better than the Constitutional Court in policing election standards, as the case involving the government advertisements on commercial television revealed. But, as the monitors noted, the Supreme Court sometimes said one thing while the Constitutional Court said another. The Supreme Court’s decision that campaign posters could be placed on lampposts contradicted the Constitutional Court judgment supporting the government’s ban. And, as the monitors’ report noted, the Supreme Court’s decision was “not fully enforced.”

The Media Council, with the remit to ensure balanced media coverage, failed to do so during the campaign, according to the monitors. Instead they found that the Council itself evinced “a lack of political balance” because all of its members were allied with the governing party. During the campaign, the Council enforced “unclear legal provisions” in way that created “uncertainty for media outlets.”

A content analysis of news coverage performed by the election monitors during the campaign found that the media themselves were systematically biased in favor of the governing party. Three of the five monitored television stations, for example, “displayed a significant bias toward Fidesz by covering nearly all of its campaign in a positive tone while more than half of the coverage of the opposition alliance was in a negative tone.” The public broadcaster showed a “lack of independence.” In the end, as the election monitors reported, “there are few independent media outlets” and “political pluralism is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with Fidesz and by the allocation of state advertising to these media outlets.”

Journalists critical of the government reported to the election monitors that the withdrawal of state and private advertising from the opposition media “threatens the economic viability of media outlets and results in self-censorship.” Journalists also complained that the Media Council’s “significant sanctioning power create[s] fear of arbitrary inference.” The election observers backed the journalists, finding that “there is a lack of legal certainty due to a lack of clarity in what constitutes ‘balanced coverage’ in broadcast news,” a standard that the Media Council allegedly enforces.

The media during the campaign were also subjected to decisions from the Election Council and the Supreme Court affecting the content of broadcasting during the campaign. One decision made by the Election Commission and upheld by the Supreme Court required the lone opposition-friendly television channel to invite a Jobbik representative to a televised debate among opposition candidates.

The election monitors were concerned with other aspects of the new electoral system that created inequalities among voters. The dual system for foreign voters, in which new citizens who never lived in the country could

easily register on line and vote by mail while expatriate Hungarians living abroad encountered a more onerous registration process and had to vote in person at consulates, “undermine[d] the principle of equal suffrage.” The election monitors also reported that this difference in treatment was “perceived as an attempt to differentiate voting rights on partisan grounds.” Among domestic voters, the new system for minority voting required advance registration and allowed voting for only one candidate which, in the view of the monitors, both undermined secrecy of the ballot and limited the electoral choices of minority voters.

Overall, the election monitoring mission documented violations of many international standards in the way the campaign was run, including a systemic failure to separate government from party, an overwhelmingly imbalanced media sphere, a partisan Election Commission along with a government-dominated Media Council and inconsistent courts, a campaign preoccupied with government-created scandals whipped up to a frenzy by government-controlled media, and serious inequalities in the right to vote for different categories of citizens.

Viktor Orbán needed every trick he used to get his two-thirds mandate. Every single parliamentary seat is crucial to it. Remove any one of the legal tricks above, or show that any of the campaign violations were consequential to the result, and the two-thirds is gone.

It is impossible to conclude, as the Hungarian government wishes the world to do, that Orbán was swept back into power with the eager support of two-thirds of Hungarian voters. Yes, Orbán’s Fidesz party won more votes than any other party. And yes, in most electoral systems in the world, that would allow this party to form a government. But Orbán’s two-thirds supermajority was obtained through a series of legal tricks. Moreover, the patent unfairness of the campaign itself cast serious doubts on the validity of the results in general.

Orbán’s constitutional majority – which will allow him to govern without constraint – was made possible only by a series of legal changes unbecoming a proper democracy. Not only were the legal changes rammed through the parliament by Orbán’s own party over the objections of the opposition, but all of these legal changes are now cooked into the new two-thirds mandate. Remove any one of them and the two-thirds crumbles. Add in any of the violations of international standards revealed during the campaign and the election results cannot even be trusted.

The European Union imagines itself as a club of democracies, but now must face the reality of a Potemkin democracy in its midst. The EU is now going into its own parliamentary elections, after which it will have to decide whether Hungary still qualifies to be a member of the club.

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A note on numbers: These numbers look slightly different from the ones that the world’s press announced the day after the election, when Fidesz had 44% of the vote. The numbers I am using here were updated on 13 April, after the Election Office added several categories of new voters to the tallies, most on 12 April. Nearly a week after the election, the office officially added most of the votes from voters abroad – both those who did not have permanent addresses in Hungary and those who did. The office also added in all of the voters who voted in Hungary, but in districts other than the ones in which they were officially registered. Plus the office added in the votes from one precinct per district, a precinct held back from the day-of-election vote counts in case the other last minute votes coming from ex-pats or voters voting outside the district constituted such a small number that secrecy of the ballot would be compromised by adding them late. This meant that about 170,000 domestic voters and 63,000 “over the borders” voters were added to the totals after election day. This analysis includes their votes.

Many thanks for assistance with the election analysis go to Miklós Bánkúti who received his MPA in 2012 from Princeton with a specialization in economics and Zoltán Réti who received his PhD in 1994 from the University of Florida in mathematics.

This blog post has previously appeared on [Paul Krugman’s blog](#) and is reposted here with kind permission by the author. Viktor Orbán and his Fidesz party coasted to a clear victory in last weekend’s Hungarian election, as expected. The governing party got 45% of the vote, but the new “rules of the game” turned this plurality vote into two thirds of the seats in the parliament. A continuing two-thirds parliamentary majority allows Orbán to govern

without constraint because he can change the constitution at will. But this constitution-making majority hangs by a thread.

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That said, Fidesz would probably have won a majority in parliament no matter what sort of electoral system Hungary had. Most mixed electoral systems like Hungary's top up large pluralities into majorities. Also, many governments – if they can – attempt to shape the rules to aid their own reelection. Some tweaking of the electoral rules to favor the party in power is regrettable but normal.

But the Orbán government went well beyond normal tinkering when it extensively revised the electoral framework during its last four years in office. The new system was designed precisely to give Orbán a vastly disproportionate two-thirds parliamentary majority with less than a majority vote. And it worked.

The international election monitors were not impressed with the new system. They concentrated primarily on evaluating the campaign and the election itself, as we will see later, but they also expressed concern about the election framework and how it had been adopted. As the election monitors noted, the governing party's “undue advantage” resulted in part from a “legal overhaul” that was “unprecedented” and consisted of laws that were “passed and modified without public consultation or inclusive dialogue with opposition parties.” They found that “[t]he manner in which these laws were adopted and frequently amended, including in the year prior to these elections, led to legal uncertainty and did not provide for effective and inclusive public consultation, contrary to national legislation and good practice.” The election observers concluded that the legislative process used to adopt the new electoral framework “undermined support and confidence in the reform process.”

While written in the diplomatic language characteristic of international reports, this is a serious condemnation.

How did this legal overhaul produce the 2014 election result? It manufactured the appearance of another landslide for Orbán, a landslide that did not occur.

In fact, Orbán's victory disguised a growing weakness in his appeal to Hungarian voters. Between the 2010 and 2014 elections, Orbán lost a substantial fraction of his supporters. In 2010, Fidesz received more than 2.7 million votes while in 2014 the party won less than 2.3 million. This 16% drop in the total number of Fidesz voters was produced by one of the lowest turnouts in the post-communist period, combined with an 8% decline in the party's overall support among those who voted. In fact, the three lowest turnout elections since communism ended were the three that Orbán won: 1998, 2010 and 2014.

These numbers mask the even more dramatic decline in Orbán's popularity at home because they include new citizens in the neighboring states to whom the 2012 Fidesz constitution granted citizenship. The new citizens who voted for the first time this year are a formidable force since they voted 95% for Fidesz.

But these new citizens were not eligible to vote in 2010 so we should compare Orbán's support in 2010 and 2014 without them. Among domestic voters, Orbán received only 2.1 million votes this time, losing 21% of the voters that had supported him in 2010. His party list vote slipped by 9% in this group as well.

Fidesz lost more than one fifth of its domestic voters overall in part because of the lower turnout, but the far-right Jobbik party and the left alliance both gained voters, as the chart below indicates.

The depressed turnout and yet the increased success of the two other major parties show Orbán's weakness despite his huge parliamentary majority. Overall, 37% of voters stayed away from the polls, 35% voted for other parties, and only 28% of Hungarians actually cast an affirmative vote for Fidesz (including the "over the borders" voters).

If you consider only those who went to the polls, leaving aside the possibility that the low turnout is itself a signal of Orbán's weakness, 51% voted for the three other parties that entered the parliament while 45% voted for Fidesz. And yet 51% of voters will get only 33% of the seats. And Orbán will get his two-thirds.

How is it possible for only 45% of the vote to turn into a two-thirds parliamentary mandate? Orbán's "two-thirds" was enabled by a series of tricks that were legal, but not fair.

(To follow the analysis, you need to know that Hungarians cast two votes at a parliamentary election, one for a representative from their home constituency and one for a party. Fidesz got 45% of both the constituency and the party votes.)

Orbán's electoral system had the overall effect of creating a huge disparity in how many votes each party needed to gain a parliamentary seat. If you add all votes (party list and constituencies together) and divide them by the number of seats each party actually got in this election, you can see that not all votes were equal in securing representation in parliament. A simple formula describes how many votes for any other party it would take to generate the representation in parliament that one vote for Fidesz did:

1 Fidesz vote = 2.1 left alliance votes = 2.6 Jobbik votes = 3.1 LMP votes

In short, the Fidesz seats were acquired with many fewer votes than the others.

In an earlier [set of blog posts](#), I explained the new election system in detail. Now that we have election results, we can see how the different parts of the remodeled election system worked to generate this two-thirds parliamentary mandate.

In my [earlier analysis](#), I alleged that the new electoral districts had been gerrymandered to produce winning results for Fidesz. It's true that the parliament was reduced in size from 386 seats to only 199, so the districts had to be redrawn. Moreover, the old districts were massively unequal, so the Constitutional Court had required

that they be made more equal in size. But neither the smaller parliament nor the more equal districts required gerrymandering.

How can one tell if a district has been gerrymandered? There are many ways to gerrymander by drawing the precise boundaries of districts to achieve a particular result. The full effects are hard to tell without better data than we have.

But the new districts are highly unequal in size, which gives us a way to test for gerrymandering. A gerrymanderer not constrained by the need for strictly equal districts would make the districts of his opponents systematically larger than the districts where his own voters dominate. In larger districts, it takes more votes to elect an MP, so each vote counts less. If the “left” districts are systematically larger than the “right” districts, that is evidence of conservative gerrymandering.

The relationship between district size (here measured by the number of voters who actually voted in each district) and partisanship (measured by the percentage of the vote that went to the left alliance and LMP combined) is substantial. As one would expect in a system gerrymandered to benefit the right wing of the political spectrum, the more left-leaning a district is, the more voters it has. In fact, the explained variation (R-squared) is 37%. In social science, it's a huge effect when one variable accounts for more than one-third of the variation in another.

The system is in fact *much more* biased against left voters than the one it replaced. Calculated using the 2010 districts and voting data, the same model (votes for the left v. # of votes in a district) explained less than 2% of the variance (R-squared = .019), as the figure below indicates.

The old districts were much more unequal in size (which was a problem) but they were not nearly as politically biased, as the nearly flat regression line shows. The new districts are still highly unequal in size. But now they are strongly biased against the left. This is what a gerrymander looks like.

There's another aspect to the gerrymander that we can also see clearly. In the old parliament, more mandates were determined by the list votes than by individual constituencies. (The pre-2014 system was also disproportionate, but less so.) List votes which are distributed over a set of candidates are more proportional than individual constituencies which are generally more disproportionate because only one candidate can win. In the new parliament, the relative proportions of list and constituency mandates are reversed, so that now 106 of the seats are determined by the individual constituencies and 93 come from the party lists. This makes the effect of the gerrymandered districts bigger in the overall calculation of parliamentary mandates.

Fidesz won 45% of the votes in the individual constituencies in 2014 and yet got 88% of the seats. The effects of the gerrymander, even on the rough analysis above, assisted massively in producing such a disproportionate effect.

Recall that Fidesz unilaterally set the boundaries of all of the districts in a law requiring a two-thirds vote, and did so without allowing the opposition to have any input at all. As the international election monitors noted in their post-election report, “The process of delimitation of constituencies was criticized ... for lacking transparency and inclusive consultation.” While the election law required that districts vary by no more than 15% above and below the national average, the election observers noted that districts still fell outside this wide margin. As we can see, that gave more room for the gerrymanderers to play with the district composition.

While gerrymandering is probably the single biggest trick that converted Orbán's plurality to a supermajority, Orbán's supermajority is built from many different sleights of vote. In my [earlier analysis](#), I showed how the parties on the left were forced to work together for many different reasons ranging from the elimination of the second round of voting in individual constituencies to the novel system of compensatory mandates on the party-list side. Because the new “first past the post system” of individual constituencies was designed to reward the largest single party, it was important for the fragmented and fractious left to unite to win.

Five of the parties on the left eventually forged an alliance with each other to overcome the bias against small parties built into the system. The alliance groups squabbled and quite visibly hated working together, which no doubt suppressed the vote they got. Together, they won only 10 of the 106 individual constituencies with their 26% of the constituency vote. But they would surely have lost almost every single constituency if they hadn't joined together.

As predicted, party fragmentation had huge effects. Had the alliance had managed to attract to its ranks just one more party, the LMP, the number of individual constituencies that a six-party alliance would have gained would have more than doubled – from 10 to 21. Even this small division in the left opposition cut in half the number of individual mandates that the left won. That's a powerful effect of the system.

LMP had its own reasons to stay outside the alliance, and it guessed correctly that it could (barely) get its own parliamentary fraction by doing so. But if it had joined with the alliance, the left opposition together would have gained an additional 11 district mandates instead of the five that LMP got from its list votes, for a net gain of six.

(The individual constituencies where the Alliance + LMP > Fidesz are Budapest districts #1, #2, #4, #6, #12, #13, #15, #18; Baranya districts # 1 and #2; Szabolcs-Szatmár-Bereg district #1 as you can see [here](#).)

Many mixed electoral systems allow the “unused votes” won by losing candidates to be added to their party-list totals when the list mandates are calculated, so I will call that “normal compensation.” Normal compensation is the tool through which mixed systems become more proportional. But only Hungary has a *winner* compensation system that throws proportionality to the winds. With winner compensation, the winners of individual constituencies may add difference between the number of votes they received and the number of vote received by the second-place candidate (minus one) to the totals for their party lists for use in calculating party-list mandates. It's complicated but a simple explanation is [here](#).

With the results in, we can see that winner compensation added six parliamentary mandates to the Fidesz totals, which were essential to the party's supermajority. We calculated this using the Election Office website data that handily provides the difference in the number of votes between the first- and second-highest vote-getter each district [here](#). The left alliance would gain three of those mandates, Jobbik would gain two and LMP would gain one.

The table below shows that, if winner compensation were removed from the system, Fidesz would lose six of its parliamentary seats, which by itself would put two-thirds far out of reach.

Parliamentary Mandates with Winner Compensation

Party	Mandates with winner + normal compensation	Mandates with normal compensation only	Effect of removing winner compensation (in mandates)
Fidesz	37	31	-6
Left alliance	28	31	+3
Jobbik	23	25	+2
LMP	5	6	+1

There was another trick cooked into the legal reforms that we can measure directly from the election results. Orbán's new constitution gave expedited citizenship, upon application, to ethnic Hungarians who have never lived in Hungary. With citizenship came the right to vote. About 600,000 ethnic Hungarians “over the borders” took out citizenship and nearly 200,000 of them registered to vote. Voter turnout in this group was 81% (much higher than among domestic voters) but 19% of the ballots were disqualified due to errors in the way that the ballots were prepared. Six days after the election, these ballots were finally counted, and Fidesz won 95.49% of the “over the borders” vote.

The “over the borders” votes added 122,588 to the party list votes, enough for 1.4 parliamentary mandates. (Since all party list votes and compensation votes are added together before being divided by the total number of mandates available, all votes contribute to the overall pool and therefore particular sources like “over the borders” voters may produce fractions of mandates.) Given how close Orbán’s two-thirds majority was, the “over the borders” voters were clearly essential to achieving it. Every single mandate was necessary to the two-thirds.

Since Orbán’s supermajority hangs on the votes of the new “over the borders” citizens, the constitutional majority will depend on a set of voters whose ballots were most open to fraud. My [earlier analysis](#) showed that the votes from Hungarians “over the borders” were cast with virtually no integrity checks in place. The law required the Election Office to ignore irregularities in applications from this group alone, while ex-pats voting abroad were held to a higher standard. The list of the “over the borders” voters was secret so that only a few election observers could see it and, even then, these observers could record nothing from the lists. (This secrecy of the foreign voters’ list was justified, in the government’s view, because two of Hungary’s neighbors, Slovakia and Ukraine, do not permit dual citizenship.)

Fully one-third of the new citizens who registered to vote without a residence in Hungary gave no address to which the ballots could be sent, providing only an email address. As a result, we cannot even tell what country these voters are voting from and there are even fewer controls on the integrity of the process through which these voters got their ballots. Though secrecy of the process is a logical consequence of giving citizenship to ethnic Hungarians living in countries that ban dual citizenship, this secrecy also makes it very hard to check the integrity of the vote. New citizens who registered to vote abroad could have asked for their ballot to be sent anywhere. And of course, these Hungarians “over the borders” were the only ones allowed 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.

The “over the borders” citizens faced no ID check in place anywhere in the process from the initial registration to vote to the actual casting of the ballot. As a result, there were no formal checks that would ensure whether people who registered to vote and voted were in fact the new citizens in whose name they voted. All other voters who cast ballots in the Hungarian election had to show some ID to vote. But not those over the borders.

The actual balloting did little to ensure confidence in the integrity of these votes. Photographs published in the online [HvG](#) news portal showed voters in Transylvania voting in tents helpfully provided by the *Erdély Magyar Nemzeti Tanács*. This is a [group that has close links with Fidesz](#). As you can see if you look at the pictures, there was no secrecy of the ballot.

In addition to the voter assistance helpfully provided by Fidesz allies, tens of thousands of ballots (111,268 ballots in fact) were dropped off at consulates by unofficial bundlers who gathered up the votes from Hungarian communities and took them to polling stations without having to demonstrate that the ballots collected in this way arrived intact and unchanged. There is no public accounting of who these bundlers were. Establishing the integrity of the “chain of custody” from voter to polling station was not required.

While these new voters are only responsible for a little under one and a half mandates, they are now key contributors to Orbán’s razor-thin constitution-making majority. But these are votes under a shadow of suspicion.

Orbán’s mandate to be prime minister in the next government came from the voters. His supermajority came from a variety of legal tricks contained in the laws that were written by Fidesz, for Fidesz.

* * *

The day after the election, election monitors filed a hard-hitting [assessment](#) based on their observations in the month before the election. They said good things about the generally efficient administration of the actual balloting (without having looked closely yet at the “over the borders” votes) and they praised the diverse choice of candidates on offer. But the evaluation of the monitoring team was sharply critical about many other aspects of the election. Their report concentrated on the unfairness of the campaign, going beyond the unfair effects of the election rules that I have shown above.

As their report indicates, the “main governing party enjoyed an undue advantage” because, among other things, the campaign “did not fully respect the separation of party and state.” The election monitoring team confirmed this damning judgment in multiple ways.

The government had developed a slogan “Hungary is performing better” which the government had used since March 2013 to advertise its own accomplishments. Just before the campaign began, government then “sold” the slogan to Fidesz for EUR 640. But, while Fidesz took up the slogan, the government continued to use it in government advertisements on commercial television, where election ads from parties were banned. Eventually, the Supreme Court found that government ads using the same slogans as the governing party violated the campaign rules and had to be removed. But that decision did not come until 18 March, very close to the election, after the ads had run for weeks.

Fidesz-run municipalities also campaigned on behalf of the governing party, running campaign ads on municipally funded television, contributing to the lack of separation between party and state. In addition, a huge advertising campaign sponsored by the government-allied NGO Civil Unity Forum (CÖF) “circumvent[ed] campaign finance regulations,” as the monitors said. What the election monitors did not say is that the law itself exempted the government and the NGOs from the campaign finance limits specifically and from the campaign rules altogether, so the overwhelming blitz of pro-Fidesz information coming from the government and its allied NGOs was not regulated by law while the activities of parties were strictly controlled.

The election monitors noted that most of the campaign was devoted to negative press coverage of corruption allegations against the Socialist party. Early in the campaign, charges were brought against a deputy leader of the Socialists, who resigned when the allegations were made public. What the election monitors did not say is that the corruption allegations were brought at the start of the campaign by a public prosecutor who has long been allied with the governing party. The monitors did note that after the charges were brought, the government-allied media talked about almost nothing else during the rest of the campaign.

But the deputy leader was not the only allegedly corrupt Socialist to dominate the campaign. Huge posters all over Budapest sponsored by CÖF showed unflattering pictures of the three top candidates on the left alliance ticket, along with the Socialist former deputy mayor of Budapest. He was not running for anything but he had been awaiting trial on corruption charges for years. Though charged ages ago, his case is in legal limbo, having been moved around the legal system by political officials who changed the location of the trial. At the moment, no court acknowledges jurisdiction of his case. But his face was all over the city.

In neither corruption case was concrete evidence against these opposition politicians proven in court before the allegations were used in the campaign. As the government-allied media whipped up a frenzy about these corruption charges, support for the left alliance dropped in the last few weeks before the election. In the end, the election monitors reported, “The tone of the campaign was dominated by alleged corruption cases at the expense of discussion on substantive issues.”

The monitors found that “the absence of other political advertisements on nationwide commercial TV, combined with a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media, contrary to [OSCE standards].” Overall, the campaign was judged to have taken place on “an uneven playing field.”

The election monitors found that government offices charged with supervising the election were too close to the government itself. Because of the way that its permanent members had been selected, the National Election Commission was, in their view, “a partisan commission.” While more than 900 complaints were raised before the Election Commission during the election campaign, many were rejected on purely formal grounds without considering their substantive merits. Decisions of the Election Commission were “adopted unanimously without debate, while issues of substance were rarely addressed.” And the decisions were “inconsistent.” The monitors’ report concluded: “The rejection of complaints on formal requirements often left complainants without effective consideration of their claims, which is at odds with [the standards that the OSCE applies].”

The courts, too, did not always carry out their election responsibilities properly. As the election monitors noted, any technical mistake in an applicant’s submission resulted in an immediate rejection of the complaint without

the possibility of an appeal. (Though the election monitors didn't mention it, this standard was actually built into the law.) Perhaps most damning, the election monitors found that "[s]ome cases decided by the courts contradicted legislation and led to legal uncertainty."

In support of this judgment, the monitors obliquely referenced two decisions of the Constitutional Court, where a majority of the judges have now been appointed by the governing party. One decision found that a government decree banning the placement of election posters did not have anything to do with free speech, and the other found that no constitutional issues were raised when some voters were allowed to vote by mail while others were prevented from doing so.

The Supreme Court did somewhat better than the Constitutional Court in policing election standards, as the case involving the government advertisements on commercial television revealed. But, as the monitors noted, the Supreme Court sometimes said one thing while the Constitutional Court said another. The Supreme Court's decision that campaign posters could be placed on lampposts contradicted the Constitutional Court judgment supporting the government's ban. And, as the monitors' report noted, the Supreme Court's decision was "not fully enforced."

The Media Council, with the remit to ensure balanced media coverage, failed to do so during the campaign, according to the monitors. Instead they found that the Council itself evinced "a lack of political balance" because all of its members were allied with the governing party. During the campaign, the Council enforced "unclear legal provisions" in way that created "uncertainty for media outlets."

A content analysis of news coverage performed by the election monitors during the campaign found that the media themselves were systematically biased in favor of the governing party. Three of the five monitored television stations, for example, "displayed a significant bias toward Fidesz by covering nearly all of its campaign in a positive tone while more than half of the coverage of the opposition alliance was in a negative tone." The public broadcaster showed a "lack of independence." In the end, as the election monitors reported, "there are few independent media outlets" and "political pluralism is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with Fidesz and by the allocation of state advertising to these media outlets."

Journalists critical of the government reported to the election monitors that the withdrawal of state and private advertising from the opposition media "threatens the economic viability of media outlets and results in self-censorship." Journalists also complained that the Media Council's "significant sanctioning power create[s] fear of arbitrary inference." The election observers backed the journalists, finding that "there is a lack of legal certainty due to a lack of clarity in what constitutes 'balanced coverage' in broadcast news," a standard that the Media Council allegedly enforces.

The media during the campaign were also subjected to decisions from the Election Council and the Supreme Court affecting the content of broadcasting during the campaign. One decision made by the Election Commission and upheld by the Supreme Court required the lone opposition-friendly television channel to invite a Jobbik representative to a televised debate among opposition candidates.

The election monitors were concerned with other aspects of the new electoral system that created inequalities among voters. The dual system for foreign voters, in which new citizens who never lived in the country could easily register on line and vote by mail while expatriate Hungarians living abroad encountered a more onerous registration process and had to vote in person at consulates, "undermine[d] the principle of equal suffrage." The election monitors also reported that this difference in treatment was "perceived as an attempt to differentiate voting rights on partisan grounds." Among domestic voters, the new system for minority voting required advance registration and allowed voting for only one candidate which, in the view of the monitors, both undermined secrecy of the ballot and limited the electoral choices of minority voters.

Overall, the election monitoring mission documented violations of many international standards in the way the campaign was run, including a systemic failure to separate government from party, an overwhelmingly imbalanced media sphere, a partisan Election Commission along with a government-dominated Media Council

and inconsistent courts, a campaign preoccupied with government-created scandals whipped up to a frenzy by government-controlled media, and serious inequalities in the right to vote for different categories of citizens.

Viktor Orbán needed every trick he used to get his two-thirds mandate. Every single parliamentary seat is crucial to it. Remove any one of the legal tricks above, or show that any of the campaign violations were consequential to the result, and the two-thirds is gone.

It is impossible to conclude, as the Hungarian government wishes the world to do, that Orbán was swept back into power with the eager support of two-thirds of Hungarian voters. Yes, Orbán's Fidesz party won more votes than any other party. And yes, in most electoral systems in the world, that would allow this party to form a government. But Orbán's two-thirds supermajority was obtained through a series of legal tricks. Moreover, the patent unfairness of the campaign itself cast serious doubts on the validity of the results in general.

Orbán's constitutional majority – which will allow him to govern without constraint – was made possible only by a series of legal changes unbecoming a proper democracy. Not only were the legal changes rammed through the parliament by Orbán's own party over the objections of the opposition, but all of these legal changes are now cooked into the new two-thirds mandate. Remove any one of them and the two-thirds crumbles. Add in any of the violations of international standards revealed during the campaign and the election results cannot even be trusted.

The European Union imagines itself as a club of democracies, but now must face the reality of a Potemkin democracy in its midst. The EU is now going into its own parliamentary elections, after which it will have to decide whether Hungary still qualifies to be a member of the club.

* * *

A note on numbers: These numbers look slightly different from the ones that the world's press announced the day after the election, when Fidesz had 44% of the vote. The numbers I am using here were updated on 13 April, after the Election Office added several categories of new voters to the tallies, most on 12 April. Nearly a week after the election, the office officially added most of the votes from voters abroad – both those who did not have permanent addresses in Hungary and those who did. The office also added in all of the voters who voted in Hungary, but in districts other than the ones in which they were officially registered. Plus the office added in the votes from one precinct per district, a precinct held back from the day-of-election vote counts in case the other last minute votes coming from ex-pats or voters voting outside the district constituted such a small number that secrecy of the ballot would be compromised by adding them late. This meant that about 170,000 domestic voters and 63,000 “over the borders” voters were added to the totals after election day. This analysis includes their votes.

Many thanks for assistance with the election analysis go to Miklós Bánkuti who received his MPA in 2012 from Princeton with a specialization in economics and Zoltán Réti who received his PhD in 1994 from the University of Florida in mathematics.

This blog post has previously appeared on [Paul Krugman's blog](#) and is reposted here with kind permission by the author.

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*with Miklós Bánkuti in Princeton and Zoltán Réti in Budapest **

Viktor Orbán and his Fidesz party coasted to a clear victory in last weekend's Hungarian election, as expected. The governing party got 45% of the vote, but the new “rules of the game” turned this plurality vote into two thirds of the seats in the parliament. A continuing two-thirds parliamentary majority allows Orbán to govern without constraint because he can change the constitution at will. But this constitution-making majority hangs by a thread.

Orbán's mandate to govern is clear because his party got more votes than any other single political bloc. What is not legitimate, however, is his two-thirds supermajority. Orbán was certainly not supported by two-thirds of Hungarians – nowhere close. In fact, a majority gave their votes to other parties. Orbán's two-thirds victory was achieved through legal smoke and mirrors. Legal. But smoke and mirrors.

The International Election Observer Mission of the [Organization for Security and Cooperation in Europe](#) was extremely critical of the election. The election monitors found that in many different ways “[t]he main governing party enjoyed an undue advantage.” They reported numerous violations of international standards, including a failure to separate party and state, a biased media environment, a partisan Electoral Commission, lack of transparency in determining the electoral districts, and a generally un-level playing field. These, too, contributed to Orbán's success.

In this post, I will explain why a plurality result in the polls turned into a constitutional supermajority and why that supermajority is due more to Fidesz's self-dealing than to popular will. I will also show that Fidesz's supermajority was so close that it depends on every one of the new tricks that the party inserted into the electoral system to benefit itself. One seat less, and the supermajority would be gone.

In saying that Orbán's supermajority is illegitimate, I am not arguing that Orbán simply stole the election. No other party came close to Orbán's 45% of the vote, though when you exclude the new Hungarian citizens from the neighboring countries – people who don't actually live in Hungary and probably never have – Orbán's support drops to 43.5% among domestic voters.

The left alliance, a collection of five parties with the Socialists in the lead, received only 26% of the vote. It evidently failed to capture the public imagination and capitalize on the fact that about half of the voters wanted a change of government. Jobbik, a far-right party, won a shocking 21% of the vote, up more than 3% from its already large 2010 showing, making it the [most successful far-right party in the European Union](#). The tiny, vaguely Green (but mostly vague) party LMP just barely squeaked over the 5% threshold to enter the parliament.

Orbán's parliamentary two-thirds hides a complex set of calculations that depends on many factors. The Hungarian election system is fiendishly complicated. The bottom line is that the “two thirds mandate” includes far less popular support than one would guess given its size and far more legal trickery than a democratic government should be permitted to use. Orbán's parliamentary *majority* may have been earned, but the *supermajority* mandate was not.

That said, Fidesz would probably have won a majority in parliament no matter what sort of electoral system Hungary had. Most mixed electoral systems like Hungary's top up large pluralities into majorities. Also, many governments – if they can – attempt to shape the rules to aid their own reelection. Some tweaking of the electoral rules to favor the party in power is regrettable but normal.

But the Orbán government went well beyond normal tinkering when it extensively revised the electoral framework during its last four years in office. The new system was designed precisely to give Orbán a vastly disproportionate two-thirds parliamentary majority with less than a majority vote. And it worked.

The international election monitors were not impressed with the new system. They concentrated primarily on evaluating the campaign and the election itself, as we will see later, but they also expressed concern about the election framework and how it had been adopted. As the election monitors noted, the governing party's “undue advantage” resulted in part from a “legal overhaul” that was “unprecedented” and consisted of laws that were “passed and modified without public consultation or inclusive dialogue with opposition parties.” They found that “[t]he manner in which these laws were adopted and frequently amended, including in the year prior to these elections, led to legal uncertainty and did not provide for effective and inclusive public consultation, contrary to national legislation and good practice.” The election observers concluded that the legislative process used to adopt the new electoral framework “undermined support and confidence in the reform process.”

While written in the diplomatic language characteristic of international reports, this is a serious condemnation.

How did this legal overhaul produce the 2014 election result? It manufactured the appearance of another landslide for Orbán, a landslide that did not occur.

In fact, Orbán's victory disguised a growing weakness in his appeal to Hungarian voters. Between the 2010 and 2014 elections, Orbán lost a substantial fraction of his supporters. In 2010, Fidesz received more than 2.7 million votes while in 2014 the party won less than 2.3 million. This 16% drop in the total number of Fidesz voters was produced by one of the lowest turnouts in the post-communist period, combined with an 8% decline in the party's overall support among those who voted. In fact, the three lowest turnout elections since communism ended were the three that Orbán won: 1998, 2010 and 2014.

These numbers mask the even more dramatic decline in Orbán's popularity at home because they include new citizens in the neighboring states to whom the 2012 Fidesz constitution granted citizenship. The new citizens who voted for the first time this year are a formidable force since they voted 95% for Fidesz.

But these new citizens were not eligible to vote in 2010 so we should compare Orbán's support in 2010 and 2014 without them. Among domestic voters, Orbán received only 2.1 million votes this time, losing 21% of the voters that had supported him in 2010. His party list vote slipped by 9% in this group as well.

Fidesz lost more than one fifth of its domestic voters overall in part because of the lower turnout, but the far-right Jobbik party and the left alliance both gained voters, as the chart below indicates.

The depressed turnout and yet the increased success of the two other major parties show Orbán's weakness despite his huge parliamentary majority. Overall, 37% of voters stayed away from the polls, 35% voted for other parties, and only 28% of Hungarians actually cast an affirmative vote for Fidesz (including the "over the borders" voters).

If you consider only those who went to the polls, leaving aside the possibility that the low turnout is itself a signal of Orbán's weakness, 51% voted for the three other parties that entered the parliament while 45% voted for Fidesz. And yet 51% of voters will get only 33% of the seats. And Orbán will get his two-thirds.

How is it possible for only 45% of the vote to turn into a two-thirds parliamentary mandate? Orbán's "two-thirds" was enabled by a series of tricks that were legal, but not fair.

(To follow the analysis, you need to know that Hungarians cast two votes at a parliamentary election, one for a representative from their home constituency and one for a party. Fidesz got 45% of both the constituency and the party votes.)

Orbán's electoral system had the overall effect of creating a huge disparity in how many votes each party needed to gain a parliamentary seat. If you add all votes (party list and constituencies together) and divide them by the number of seats each party actually got in this election, you can see that not all votes were equal in securing representation in parliament. A simple formula describes how many votes for any other party it would take to generate the representation in parliament that one vote for Fidesz did:

1 Fidesz vote = 2.1 left alliance votes = 2.6 Jobbik votes = 3.1 LMP votes

In short, the Fidesz seats were acquired with many fewer votes than the others.

In an earlier [set of blog posts](#), I explained the new election system in detail. Now that we have election results, we can see how the different parts of the remodeled election system worked to generate this two-thirds parliamentary mandate.


In my [earlier analysis](#), I alleged that the new electoral districts had been gerrymandered to produce winning results for Fidesz. It's true that the parliament was reduced in size from 386 seats to only 199, so the districts had to be redrawn. Moreover, the old districts were massively unequal, so the Constitutional Court had required that they be made more equal in size. But neither the smaller parliament nor the more equal districts required gerrymandering.

How can one tell if a district has been gerrymandered? There are many ways to gerrymander by drawing the precise boundaries of districts to achieve a particular result. The full effects are hard to tell without better data than we have.


But the new districts are highly unequal in size, which gives us a way to test for gerrymandering. A gerrymanderer not constrained by the need for strictly equal districts would make the districts of his opponents systematically larger than the districts where his own voters dominate. In larger districts, it takes more votes to elect an MP, so each vote counts less. If the “left” districts are systematically larger than the “right” districts, that is evidence of conservative gerrymandering.

The relationship between district size (here measured by the number of voters who actually voted in each district) and partisanship (measured by the percentage of the vote that went to the left alliance and LMP combined) is substantial. As one would expect in a system gerrymandered to benefit the right wing of the political spectrum, the more left-leaning a district is, the more voters it has. In fact, the explained variation (R-squared) is 37%. In social science, it's a huge effect when one variable accounts for more than one-third of the variation in another.

The system is in fact *much more* biased against left voters than the one it replaced. Calculated using the 2010 districts and voting data, the same model (votes for the left v. # of votes in a district) explained less than 2% of the variance (R-squared = .019), as the figure below indicates.



The old districts were much more unequal in size (which was a problem) but they were not nearly as politically biased, as the nearly flat regression line shows. The new districts are still highly unequal in size. But now they are strongly biased against the left. This is what a gerrymander looks like.



There's another aspect to the gerrymander that we can also see clearly. In the old parliament, more mandates were determined by the list votes than by individual constituencies. (The pre-2014 system was also disproportionate, but less so.) List votes which are distributed over a set of candidates are more proportional than individual constituencies which are generally more disproportionate because only one candidate can win. In the new parliament, the relative proportions of list and constituency mandates are reversed, so that now 106 of the seats are determined by the individual constituencies and 93 come from the party lists. This makes the effect of the gerrymandered districts bigger in the overall calculation of parliamentary mandates.

Fidesz won 45% of the votes in the individual constituencies in 2014 and yet got 88% of the seats. The effects of the gerrymander, even on the rough analysis above, assisted massively in producing such a disproportionate effect.

Recall that Fidesz unilaterally set the boundaries of all of the districts in a law requiring a two-thirds vote, and did so without allowing the opposition to have any input at all. As the international election monitors noted in their post-election report, “The process of delimitation of constituencies was criticized ... for lacking transparency and inclusive consultation.” While the election law required that districts vary by no more than 15% above and below the national average, the election observers noted that districts still fell outside this wide margin. As we can see, that gave more room for the gerrymanderers to play with the district composition.

While gerrymandering is probably the single biggest trick that converted Orbán's plurality to a supermajority, Orbán's supermajority is built from many different sleights of vote. In my [earlier analysis](#), I showed how the parties on the left were forced to work together for many different reasons ranging from the elimination of the second round of voting in individual constituencies to the novel system of compensatory mandates on the party-list side. Because the new “first past the post system” of individual constituencies was designed to reward the largest single party, it was important for the fragmented and fractious left to unite to win.

Five of the parties on the left eventually forged an alliance with each other to overcome the bias against small parties built into the system. The alliance groups squabbled and quite visibly hated working together, which no doubt suppressed the vote they got. Together, they won only 10 of the 106 individual constituencies with their

26% of the constituency vote. But they would surely have lost almost every single constituency if they hadn't joined together.

As predicted, party fragmentation had huge effects. Had the alliance had managed to attract to its ranks just one more party, the LMP, the number of individual constituencies that a six-party alliance would have gained would have more than doubled – from 10 to 21. Even this small division in the left opposition cut in half the number of individual mandates that the left won. That's a powerful effect of the system.

LMP had its own reasons to stay outside the alliance, and it guessed correctly that it could (barely) get its own parliamentary fraction by doing so. But if it had joined with the alliance, the left opposition together would have gained an additional 11 district mandates instead of the five that LMP got from its list votes, for a net gain of six.

(The individual constituencies where the Alliance + LMP > Fidesz are Budapest districts #1, #2, #4, #6, #12, #13, #15, #18; Baranya districts # 1 and #2; Szabolcs-Szatmár-Bereg district #1 as you can see [here](#).)

Many mixed electoral systems allow the “unused votes” won by losing candidates to be added to their party-list totals when the list mandates are calculated, so I will call that “normal compensation.” Normal compensation is the tool through which mixed systems become more proportional. But only Hungary has a *winner* compensation system that throws proportionality to the winds. With winner compensation, the winners of individual constituencies may add difference between the number of votes they received and the number of vote received by the second-place candidate (minus one) to the totals for their party lists for use in calculating party-list mandates. It's complicated but a simple explanation is [here](#).

With the results in, we can see that winner compensation added six parliamentary mandates to the Fidesz totals, which were essential to the party's supermajority. We calculated this using the Election Office website data that handily provides the difference in the number of votes between the first- and second-highest vote-getter each district [here](#). The left alliance would gain three of those mandates, Jobbik would gain two and LMP would gain one.

The table below shows that, if winner compensation were removed from the system, Fidesz would lose six of its parliamentary seats, which by itself would put two-thirds far out of reach.

Parliamentary Mandates with Winner Compensation

Party	Mandates with winner + normal compensation	Mandates with normal compensation only	Effect of removing winner compensation (in mandates)
Fidesz	37	31	-6
Left alliance	28	31	+3
Jobbik	23	25	+2
LMP	5	6	+1

There was another trick cooked into the legal reforms that we can measure directly from the election results. Orbán's new constitution gave expedited citizenship, upon application, to ethnic Hungarians who have never lived in Hungary. With citizenship came the right to vote. About 600,000 ethnic Hungarians “over the borders” took out citizenship and nearly 200,000 of them registered to vote. Voter turnout in this group was 81% (much higher than among domestic voters) but 19% of the ballots were disqualified due to errors in the way that the ballots were prepared. Six days after the election, these ballots were finally counted, and Fidesz won 95.49% of the “over the borders” vote.

The “over the borders” votes added 122,588 to the party list votes, enough for 1.4 parliamentary mandates. (Since all party list votes and compensation votes are added together before being divided by the total number of mandates available, all votes contribute to the overall pool and therefore particular sources like “over the

borders” voters may produce fractions of mandates.) Given how close Orbán’s two-thirds majority was, the “over the borders” voters were clearly essential to achieving it. Every single mandate was necessary to the two-thirds.

Since Orbán’s supermajority hangs on the votes of the new “over the borders” citizens, the constitutional majority will depend on a set of voters whose ballots were most open to fraud. My [earlier analysis](#) showed that the votes from Hungarians “over the borders” were cast with virtually no integrity checks in place. The law required the Election Office to ignore irregularities in applications from this group alone, while ex-pats voting abroad were held to a higher standard. The list of the “over the borders” voters was secret so that only a few election observers could see it and, even then, these observers could record nothing from the lists. (This secrecy of the foreign voters’ list was justified, in the government’s view, because two of Hungary’s neighbors, Slovakia and Ukraine, do not permit dual citizenship.)

Fully one-third of the new citizens who registered to vote without a residence in Hungary gave no address to which the ballots could be sent, providing only an email address. As a result, we cannot even tell what country these voters are voting from and there are even fewer controls on the integrity of the process through which these voters got their ballots. Though secrecy of the process is a logical consequence of giving citizenship to ethnic Hungarians living in countries that ban dual citizenship, this secrecy also makes it very hard to check the integrity of the vote. New citizens who registered to vote abroad could have asked for their ballot to be sent anywhere. And of course, these Hungarians “over the borders” were the only ones allowed 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.

The “over the borders” citizens faced no ID check in place anywhere in the process from the initial registration to vote to the actual casting of the ballot. As a result, there were no formal checks that would ensure whether people who registered to vote and voted were in fact the new citizens in whose name they voted. All other voters who cast ballots in the Hungarian election had to show some ID to vote. But not those over the borders.

The actual balloting did little to ensure confidence in the integrity of these votes. Photographs published in the online [HvG](#) news portal showed voters in Transylvania voting in tents helpfully provided by the *Erdély Magyar Nemzeti Tanács*. This is a [group that has close links with Fidesz](#). As you can see if you look at the pictures, there was no secrecy of the ballot.

In addition to the voter assistance helpfully provided by Fidesz allies, tens of thousands of ballots (111,268 ballots in fact) were dropped off at consulates by unofficial bundlers who gathered up the votes from Hungarian communities and took them to polling stations without having to demonstrate that the ballots collected in this way arrived intact and unchanged. There is no public accounting of who these bundlers were. Establishing the integrity of the “chain of custody” from voter to polling station was not required.

While these new voters are only responsible for a little under one and a half mandates, they are now key contributors to Orbán’s razor-thin constitution-making majority. But these are votes under a shadow of suspicion.

Orbán’s mandate to be prime minister in the next government came from the voters. His supermajority came from a variety of legal tricks contained in the laws that were written by Fidesz, for Fidesz.

* * *

The day after the election, election monitors filed a hard-hitting [assessment](#) based on their observations in the month before the election. They said good things about the generally efficient administration of the actual balloting (without having looked closely yet at the “over the borders” votes) and they praised the diverse choice of candidates on offer. But the evaluation of the monitoring team was sharply critical about many other aspects of the election. Their report concentrated on the unfairness of the campaign, going beyond the unfair effects of the election rules that I have shown above.

As their report indicates, the “main governing party enjoyed an undue advantage” because, among other things, the campaign “did not fully respect the separation of party and state.” The election monitoring team confirmed this damning judgment in multiple ways.

The government had developed a slogan “Hungary is performing better” which the government had used since March 2013 to advertise its own accomplishments. Just before the campaign began, government then “sold” the slogan to Fidesz for EUR 640. But, while Fidesz took up the slogan, the government continued to use it in government advertisements on commercial television, where election ads from parties were banned. Eventually, the Supreme Court found that government ads using the same slogans as the governing party violated the campaign rules and had to be removed. But that decision did not come until 18 March, very close to the election, after the ads had run for weeks.

Fidesz-run municipalities also campaigned on behalf of the governing party, running campaign ads on municipally funded television, contributing to the lack of separation between party and state. In addition, a huge advertising campaign sponsored by the government-allied NGO Civil Unity Forum (CÖF) “circumvent[ed] campaign finance regulations,” as the monitors said. What the election monitors did not say is that the law itself exempted the government and the NGOs from the campaign finance limits specifically and from the campaign rules altogether, so the overwhelming blitz of pro-Fidesz information coming from the government and its allied NGOs was not regulated by law while the activities of parties were strictly controlled.

The election monitors noted that most of the campaign was devoted to negative press coverage of corruption allegations against the Socialist party. Early in the campaign, charges were brought against a deputy leader of the Socialists, who resigned when the allegations were made public. What the election monitors did not say is that the corruption allegations were brought at the start of the campaign by a public prosecutor who has long been allied with the governing party. The monitors did note that after the charges were brought, the government-allied media talked about almost nothing else during the rest of the campaign.

But the deputy leader was not the only allegedly corrupt Socialist to dominate the campaign. Huge posters all over Budapest sponsored by CÖF showed unflattering pictures of the three top candidates on the left alliance ticket, along with the Socialist former deputy mayor of Budapest. He was not running for anything but he had been awaiting trial on corruption charges for years. Though charged ages ago, his case is in legal limbo, having been moved around the legal system by political officials who changed the location of the trial. At the moment, no court acknowledges jurisdiction of his case. But his face was all over the city.

In neither corruption case was concrete evidence against these opposition politicians proven in court before the allegations were used in the campaign. As the government-allied media whipped up a frenzy about these corruption charges, support for the left alliance dropped in the last few weeks before the election. In the end, the election monitors reported, “The tone of the campaign was dominated by alleged corruption cases at the expense of discussion on substantive issues.”

The monitors found that “the absence of other political advertisements on nationwide commercial TV, combined with a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media, contrary to [OSCE standards].” Overall, the campaign was judged to have taken place on “an uneven playing field.”

The election monitors found that government offices charged with supervising the election were too close to the government itself. Because of the way that its permanent members had been selected, the National Election Commission was, in their view, “a partisan commission.” While more than 900 complaints were raised before the Election Commission during the election campaign, many were rejected on purely formal grounds without considering their substantive merits. Decisions of the Election Commission were “adopted unanimously without debate, while issues of substance were rarely addressed.” And the decisions were “inconsistent.” The monitors’ report concluded: “The rejection of complaints on formal requirements often left complainants without effective consideration of their claims, which is at odds with [the standards that the OSCE applies].”

The courts, too, did not always carry out their election responsibilities properly. As the election monitors noted, any technical mistake in an applicant’s submission resulted in an immediate rejection of the complaint without the possibility of an appeal. (Though the election monitors didn’t mention it, this standard was actually built into the law.) Perhaps most damning, the election monitors found that “[s]ome cases decided by the courts contradicted legislation and led to legal uncertainty.”

In support of this judgment, the monitors obliquely referenced two decisions of the Constitutional Court, where a majority of the judges have now been appointed by the governing party. One decision found that a government decree banning the placement of election posters did not have anything to do with free speech, and the other found that no constitutional issues were raised when some voters were allowed to vote by mail while others were prevented from doing so.

The Supreme Court did somewhat better than the Constitutional Court in policing election standards, as the case involving the government advertisements on commercial television revealed. But, as the monitors noted, the Supreme Court sometimes said one thing while the Constitutional Court said another. The Supreme Court's decision that campaign posters could be placed on lampposts contradicted the Constitutional Court judgment supporting the government's ban. And, as the monitors' report noted, the Supreme Court's decision was "not fully enforced."

The Media Council, with the remit to ensure balanced media coverage, failed to do so during the campaign, according to the monitors. Instead they found that the Council itself evinced "a lack of political balance" because all of its members were allied with the governing party. During the campaign, the Council enforced "unclear legal provisions" in way that created "uncertainty for media outlets."

A content analysis of news coverage performed by the election monitors during the campaign found that the media themselves were systematically biased in favor of the governing party. Three of the five monitored television stations, for example, "displayed a significant bias toward Fidesz by covering nearly all of its campaign in a positive tone while more than half of the coverage of the opposition alliance was in a negative tone." The public broadcaster showed a "lack of independence." In the end, as the election monitors reported, "there are few independent media outlets" and "political pluralism is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with Fidesz and by the allocation of state advertising to these media outlets."

Journalists critical of the government reported to the election monitors that the withdrawal of state and private advertising from the opposition media "threatens the economic viability of media outlets and results in self-censorship." Journalists also complained that the Media Council's "significant sanctioning power create[s] fear of arbitrary inference." The election observers backed the journalists, finding that "there is a lack of legal certainty due to a lack of clarity in what constitutes 'balanced coverage' in broadcast news," a standard that the Media Council allegedly enforces.

The media during the campaign were also subjected to decisions from the Election Council and the Supreme Court affecting the content of broadcasting during the campaign. One decision made by the Election Commission and upheld by the Supreme Court required the lone opposition-friendly television channel to invite a Jobbik representative to a televised debate among opposition candidates.

The election monitors were concerned with other aspects of the new electoral system that created inequalities among voters. The dual system for foreign voters, in which new citizens who never lived in the country could easily register on line and vote by mail while expatriate Hungarians living abroad encountered a more onerous registration process and had to vote in person at consulates, "undermine[d] the principle of equal suffrage." The election monitors also reported that this difference in treatment was "perceived as an attempt to differentiate voting rights on partisan grounds." Among domestic voters, the new system for minority voting required advance registration and allowed voting for only one candidate which, in the view of the monitors, both undermined secrecy of the ballot and limited the electoral choices of minority voters.

Overall, the election monitoring mission documented violations of many international standards in the way the campaign was run, including a systemic failure to separate government from party, an overwhelmingly imbalanced media sphere, a partisan Election Commission along with a government-dominated Media Council and inconsistent courts, a campaign preoccupied with government-created scandals whipped up to a frenzy by government-controlled media, and serious inequalities in the right to vote for different categories of citizens.

Viktor Orbán needed every trick he used to get his two-thirds mandate. Every single parliamentary seat is crucial to it. Remove any one of the legal tricks above, or show that any of the campaign violations were consequential

to the result, and the two-thirds is gone.

It is impossible to conclude, as the Hungarian government wishes the world to do, that Orbán was swept back into power with the eager support of two-thirds of Hungarian voters. Yes, Orbán's Fidesz party won more votes than any other party. And yes, in most electoral systems in the world, that would allow this party to form a government. But Orbán's two-thirds supermajority was obtained through a series of legal tricks. Moreover, the patent unfairness of the campaign itself cast serious doubts on the validity of the results in general.

Orbán's constitutional majority – which will allow him to govern without constraint – was made possible only by a series of legal changes unbecoming a proper democracy. Not only were the legal changed rammed through the parliament by Orbán's own party over the objections of the opposition, but all of these legal changes are now cooked into the new two-thirds mandate. Remove any one of them and the two-thirds crumbles. Add in any of the violations of international standards revealed during the campaign and the election results cannot even be trusted.

The European Union imagines itself as a club of democracies, but now must face the reality of a Potemkin democracy in its midst. The EU is now going into its own parliamentary elections, after which it will have to decide whether Hungary still qualifies to be a member of the club.

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A note on numbers: These numbers look slightly different from the ones that the world's press announced the day after the election, when Fidesz had 44% of the vote. The numbers I am using here were updated on 13 April, after the Election Office added several categories of new voters to the tallies, most on 12 April. Nearly a week after the election, the office officially added most of the votes from voters abroad – both those who did not permanent addresses in Hungary and those who did. The office also added in all of the voters who voted in Hungary, but in districts other than the ones in which they were officially registered. Plus the office added in the votes from one precinct per district, a precinct held back from the day-of-election vote counts in case the other last minute votes coming from ex-pats or voters voting outside the district constituted such a small number that secrecy of the ballot would be compromised by adding them late. This meant that about 170,000 domestic voters and 63,000 “over the borders” voters were added to the totals after election day. This analysis includes their votes.

Many thanks for assistance with the election analysis go to Miklós Bánkúti who received his MPA in 2012 from Princeton with a specialization in economics and Zoltán Réti who received his PhD in 1994 from the University of Florida in mathematics.

This blog post has previously appeared on [Paul Krugman's blog](#) and is reposted here with kind permission by the author. Viktor Orbán and his Fidesz party coasted to a clear victory in last weekend's Hungarian election, as expected. The governing party got 45% of the vote, but the new “rules of the game” turned this plurality vote into two thirds of the seats in the parliament. A continuing two-thirds parliamentary majority allows Orbán to govern without constraint because he can change the constitution at will. But this constitution-making majority hangs by a thread.

Orbán's mandate to govern is clear because his party got more votes than any other single political bloc. What is not legitimate, however, is his two-thirds supermajority. Orbán was certainly not supported by two-thirds of Hungarians – nowhere close. In fact, a majority gave their votes to other parties. Orbán's two-thirds victory was achieved through legal smoke and mirrors. Legal. But smoke and mirrors.

The International Election Observer Mission of the [Organization for Security and Cooperation in Europe](#) was extremely critical of the election. The election monitors found that in many different ways “[t]he main governing party enjoyed an undue advantage.” They reported numerous violations of international standards, including a failure to separate party and state, a biased media environment, a partisan Electoral Commission, lack of transparency in determining the electoral districts, and a generally un-level playing field. These, too, contributed to Orbán's success.

In this post, I will explain why a plurality result in the polls turned into a constitutional supermajority and why that supermajority is due more to Fidesz's self-dealing than to popular will. I will also show that Fidesz's supermajority was so close that it depends on every one of the new tricks that the party inserted into the electoral system to benefit itself. One seat less, and the supermajority would be gone.

In saying that Orbán's supermajority is illegitimate, I am not arguing that Orbán simply stole the election. No other party came close to Orbán's 45% of the vote, though when you exclude the new Hungarian citizens from the neighboring countries – people who don't actually live in Hungary and probably never have – Orbán's support drops to 43.5% among domestic voters.

The left alliance, a collection of five parties with the Socialists in the lead, received only 26% of the vote. It evidently failed to capture the public imagination and capitalize on the fact that about half of the voters wanted a change of government. Jobbik, a far-right party, won a shocking 21% of the vote, up more than 3% from its already large 2010 showing, making it the [most successful far-right party in the European Union](#). The tiny, vaguely Green (but mostly vague) party LMP just barely squeaked over the 5% threshold to enter the parliament.

Orbán's parliamentary two-thirds hides a complex set of calculations that depends on many factors. The Hungarian election system is fiendishly complicated. The bottom line is that the "two thirds mandate" includes far less popular support than one would guess given its size and far more legal trickery than a democratic government should be permitted to use. Orbán's parliamentary *majority* may have been earned, but the *supermajority* mandate was not.

That said, Fidesz would probably have won a majority in parliament no matter what sort of electoral system Hungary had. Most mixed electoral systems like Hungary's top up large pluralities into majorities. Also, many governments – if they can – attempt to shape the rules to aid their own reelection. Some tweaking of the electoral rules to favor the party in power is regrettable but normal.

But the Orbán government went well beyond normal tinkering when it extensively revised the electoral framework during its last four years in office. The new system was designed precisely to give Orbán a vastly disproportionate two-thirds parliamentary majority with less than a majority vote. And it worked.

The international election monitors were not impressed with the new system. They concentrated primarily on evaluating the campaign and the election itself, as we will see later, but they also expressed concern about the election framework and how it had been adopted. As the election monitors noted, the governing party's "undue advantage" resulted in part from a "legal overhaul" that was "unprecedented" and consisted of laws that were "passed and modified without public consultation or inclusive dialogue with opposition parties." They found that "[t]he manner in which these laws were adopted and frequently amended, including in the year prior to these elections, led to legal uncertainty and did not provide for effective and inclusive public consultation, contrary to national legislation and good practice." The election observers concluded that the legislative process used to adopt the new electoral framework "undermined support and confidence in the reform process."

While written in the diplomatic language characteristic of international reports, this is a serious condemnation.

How did this legal overhaul produce the 2014 election result? It manufactured the appearance of another landslide for Orbán, a landslide that did not occur.

In fact, Orbán's victory disguised a growing weakness in his appeal to Hungarian voters. Between the 2010 and 2014 elections, Orbán lost a substantial fraction of his supporters. In 2010, Fidesz received more than 2.7 million votes while in 2014 the party won less than 2.3 million. This 16% drop in the total number of Fidesz voters was produced by one of the lowest turnouts in the post-communist period, combined with an 8% decline in the party's overall support among those who voted. In fact, the three lowest turnout elections since communism ended were the three that Orbán won: 1998, 2010 and 2014.

These numbers mask the even more dramatic decline in Orbán's popularity at home because they include new

citizens in the neighboring states to whom the 2012 Fidesz constitution granted citizenship. The new citizens who voted for the first time this year are a formidable force since they voted 95% for Fidesz.

But these new citizens were not eligible to vote in 2010 so we should compare Orbán's support in 2010 and 2014 without them. Among domestic voters, Orbán received only 2.1 million votes this time, losing 21% of the voters that had supported him in 2010. His party list vote slipped by 9% in this group as well.

Fidesz lost more than one fifth of its domestic voters overall in part because of the lower turnout, but the far-right Jobbik party and the left alliance both gained voters, as the chart below indicates.

The depressed turnout and yet the increased success of the two other major parties show Orbán's weakness despite his huge parliamentary majority. Overall, 37% of voters stayed away from the polls, 35% voted for other parties, and only 28% of Hungarians actually cast an affirmative vote for Fidesz (including the "over the borders" voters).

If you consider only those who went to the polls, leaving aside the possibility that the low turnout is itself a signal of Orbán's weakness, 51% voted for the three other parties that entered the parliament while 45% voted for Fidesz. And yet 51% of voters will get only 33% of the seats. And Orbán will get his two-thirds.

How is it possible for only 45% of the vote to turn into a two-thirds parliamentary mandate? Orbán's "two-thirds" was enabled by a series of tricks that were legal, but not fair.

(To follow the analysis, you need to know that Hungarians cast two votes at a parliamentary election, one for a representative from their home constituency and one for a party. Fidesz got 45% of both the constituency and the party votes.)

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In my [earlier analysis](#), I alleged that the new electoral districts had been gerrymandered to produce winning results for Fidesz. It's true that the parliament was reduced in size from 386 seats to only 199, so the districts had to be redrawn. Moreover, the old districts were massively unequal, so the Constitutional Court had required that they be made more equal in size. But neither the smaller parliament nor the more equal districts required gerrymandering.

How can one tell if a district has been gerrymandered? There are many ways to gerrymander by drawing the precise boundaries of districts to achieve a particular result. The full effects are hard to tell without better data than we have.

But the new districts are highly unequal in size, which gives us a way to test for gerrymandering. A gerrymanderer not constrained by the need for strictly equal districts would make the districts of his opponents systematically larger than the districts where his own voters dominate. In larger districts, it takes more votes to elect an MP, so each vote counts less. If the "left" districts are systematically larger than the "right" districts, that is evidence of conservative gerrymandering.

The relationship between district size (here measured by the number of voters who actually voted in each

district) and partisanship (measured by the percentage of the vote that went to the left alliance and LMP combined) is substantial. As one would expect in a system gerrymandered to benefit the right wing of the political spectrum, the more left-leaning a district is, the more voters it has. In fact, the explained variation (R-squared) is 37%. In social science, it's a huge effect when one variable accounts for more than one-third of the variation in another.

The system is in fact *much more* biased against left voters than the one it replaced. Calculated using the 2010 districts and voting data, the same model (votes for the left v. # of votes in a district) explained less than 2% of the variance (R-squared = .019), as the figure below indicates.

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There's another aspect to the gerrymander that we can also see clearly. In the old parliament, more mandates were determined by the list votes than by individual constituencies. (The pre-2014 system was also disproportionate, but less so.) List votes which are distributed over a set of candidates are more proportional than individual constituencies which are generally more disproportionate because only one candidate can win. In the new parliament, the relative proportions of list and constituency mandates are reversed, so that now 106 of the seats are determined by the individual constituencies and 93 come from the party lists. This makes the effect of the gerrymandered districts bigger in the overall calculation of parliamentary mandates.

Fidesz won 45% of the votes in the individual constituencies in 2014 and yet got 88% of the seats. The effects of the gerrymander, even on the rough analysis above, assisted massively in producing such a disproportionate effect.

Recall that Fidesz unilaterally set the boundaries of all of the districts in a law requiring a two-thirds vote, and did so without allowing the opposition to have any input at all. As the international election monitors noted in their post-election report, "The process of delimitation of constituencies was criticized ... for lacking transparency and inclusive consultation." While the election law required that districts vary by no more than 15% above and below the national average, the election observers noted that districts still fell outside this wide margin. As we can see, that gave more room for the gerrymanderers to play with the district composition.

While gerrymandering is probably the single biggest trick that converted Orbán's plurality to a supermajority, Orbán's supermajority is built from many different sleights of vote. In my [earlier analysis](#), I showed how the parties on the left were forced to work together for many different reasons ranging from the elimination of the second round of voting in individual constituencies to the novel system of compensatory mandates on the party-list side. Because the new "first past the post system" of individual constituencies was designed to reward the largest single party, it was important for the fragmented and fractious left to unite to win.

Five of the parties on the left eventually forged an alliance with each other to overcome the bias against small parties built into the system. The alliance groups squabbled and quite visibly hated working together, which no doubt suppressed the vote they got. Together, they won only 10 of the 106 individual constituencies with their 26% of the constituency vote. But they would surely have lost almost every single constituency if they hadn't joined together.

As predicted, party fragmentation had huge effects. Had the alliance had managed to attract to its ranks just one more party, the LMP, the number of individual constituencies that a six-party alliance would have gained would have more than doubled – from 10 to 21. Even this small division in the left opposition cut in half the number of individual mandates that the left won. That's a powerful effect of the system.

LMP had its own reasons to stay outside the alliance, and it guessed correctly that it could (barely) get its own parliamentary fraction by doing so. But if it had joined with the alliance, the left opposition together would have gained an additional 11 district mandates instead of the five that LMP got from its list votes, for a net gain of six.

(The individual constituencies where the Alliance + LMP > Fidesz are Budapest districts #1, #2, #4, #6, #12, #13, #15, #18; Baranya districts # 1 and #2; Szabolcs-Szatmár-Bereg district #1 as you can see [here](#).)

Many mixed electoral systems allow the “unused votes” won by losing candidates to be added to their party-list totals when the list mandates are calculated, so I will call that “normal compensation.” Normal compensation is the tool through which mixed systems become more proportional. But only Hungary has a *winner* compensation system that throws proportionality to the winds. With winner compensation, the winners of individual constituencies may add difference between the number of votes they received and the number of vote received by the second-place candidate (minus one) to the totals for their party lists for use in calculating party-list mandates. It’s complicated but a simple explanation is [here](#).

With the results in, we can see that winner compensation added six parliamentary mandates to the Fidesz totals, which were essential to the party’s supermajority. We calculated this using the Election Office website data that handily provides the difference in the number of votes between the first- and second-highest vote-getter each district [here](#). The left alliance would gain three of those mandates, Jobbik would gain two and LMP would gain one.

The table below shows that, if winner compensation were removed from the system, Fidesz would lose six of its parliamentary seats, which by itself would put two-thirds far out of reach.

Parliamentary Mandates with Winner Compensation

Party	Mandates with winner + normal compensation	Mandates with normal compensation only	Effect of removing winner compensation (in mandates)
Fidesz	37	31	-6
Left alliance	28	31	+3
Jobbik	23	25	+2
LMP	5	6	+1

There was another trick cooked into the legal reforms that we can measure directly from the election results. Orbán’s new constitution gave expedited citizenship, upon application, to ethnic Hungarians who have never lived in Hungary. With citizenship came the right to vote. About 600,000 ethnic Hungarians “over the borders” took out citizenship and nearly 200,000 of them registered to vote. Voter turnout in this group was 81% (much higher than among domestic voters) but 19% of the ballots were disqualified due to errors in the way that the ballots were prepared. Six days after the election, these ballots were finally counted, and Fidesz won 95.49% of the “over the borders” vote.

The “over the borders” votes added 122,588 to the party list votes, enough for 1.4 parliamentary mandates. (Since all party list votes and compensation votes are added together before being divided by the total number of mandates available, all votes contribute to the overall pool and therefore particular sources like “over the borders” voters may produce fractions of mandates.) Given how close Orbán’s two-thirds majority was, the “over the borders” voters were clearly essential to achieving it. Every single mandate was necessary to the two-thirds.

Since Orbán’s supermajority hangs on the votes of the new “over the borders” citizens, the constitutional majority will depend on a set of voters whose ballots were most open to fraud. My [earlier analysis](#) showed that the votes from Hungarians “over the borders” were cast with virtually no integrity checks in place. The law required the Election Office to ignore irregularities in applications from this group alone, while ex-pats voting abroad were held to a higher standard. The list of the “over the borders” voters was secret so that only a few election observers could see it and, even then, these observers could record nothing from the lists. (This secrecy of the foreign voters’ list was justified, in the government’s view, because two of Hungary’s neighbors, Slovakia and Ukraine, do not permit dual citizenship.)

Fully one-third of the new citizens who registered to vote without a residence in Hungary gave no address to which the ballots could be sent, providing only an email address. As a result, we cannot even tell what country these voters are voting from and there are even fewer controls on the integrity of the process through which these voters got their ballots. Though secrecy of the process is a logical consequence of giving citizenship to ethnic Hungarians living in countries that ban dual citizenship, this secrecy also makes it very hard to check the integrity of the vote. New citizens who registered to vote abroad could have asked for their ballot to be sent anywhere. And of course, these Hungarians “over the borders” were the only ones allowed 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.

The “over the borders” citizens faced no ID check in place anywhere in the process from the initial registration to vote to the actual casting of the ballot. As a result, there were no formal checks that would ensure whether people who registered to vote and voted were in fact the new citizens in whose name they voted. All other voters who cast ballots in the Hungarian election had to show some ID to vote. But not those over the borders.

The actual balloting did little to ensure confidence in the integrity of these votes. Photographs published in the online [HvG](#) news portal showed voters in Transylvania voting in tents helpfully provided by the *Erdély Magyar Nemzeti Tanács*. This is a [group that has close links with Fidesz](#). As you can see if you look at the pictures, there was no secrecy of the ballot.

In addition to the voter assistance helpfully provided by Fidesz allies, tens of thousands of ballots (111,268 ballots in fact) were dropped off at consulates by unofficial bundlers who gathered up the votes from Hungarian communities and took them to polling stations without having to demonstrate that the ballots collected in this way arrived intact and unchanged. There is no public accounting of who these bundlers were. Establishing the integrity of the “chain of custody” from voter to polling station was not required.

While these new voters are only responsible for a little under one and a half mandates, they are now key contributors to Orbán’s razor-thin constitution-making majority. But these are votes under a shadow of suspicion.

Orbán’s mandate to be prime minister in the next government came from the voters. His supermajority came from a variety of legal tricks contained in the laws that were written by Fidesz, for Fidesz.

* * *

The day after the election, election monitors filed a hard-hitting [assessment](#) based on their observations in the month before the election. They said good things about the generally efficient administration of the actual balloting (without having looked closely yet at the “over the borders” votes) and they praised the diverse choice of candidates on offer. But the evaluation of the monitoring team was sharply critical about many other aspects of the election. Their report concentrated on the unfairness of the campaign, going beyond the unfair effects of the election rules that I have shown above.

As their report indicates, the “main governing party enjoyed an undue advantage” because, among other things, the campaign “did not fully respect the separation of party and state.” The election monitoring team confirmed this damning judgment in multiple ways.

The government had developed a slogan “Hungary is performing better” which the government had used since March 2013 to advertise its own accomplishments. Just before the campaign began, government then “sold” the slogan to Fidesz for EUR 640. But, while Fidesz took up the slogan, the government continued to use it in government advertisements on commercial television, where election ads from parties were banned. Eventually, the Supreme Court found that government ads using the same slogans as the governing party violated the campaign rules and had to be removed. But that decision did not come until 18 March, very close to the election, after the ads had run for weeks.

Fidesz-run municipalities also campaigned on behalf of the governing party, running campaign ads on municipally funded television, contributing to the lack of separation between party and state. In addition, a huge advertising campaign sponsored by the government-allied NGO Civil Unity Forum (CÖF) “circumvent[ed]

campaign finance regulations,” as the monitors said. What the election monitors did not say is that the law itself exempted the government and the NGOs from the campaign finance limits specifically and from the campaign rules altogether, so the overwhelming blitz of pro-Fidesz information coming from the government and its allied NGOs was not regulated by law while the activities of parties were strictly controlled.

The election monitors noted that most of the campaign was devoted to negative press coverage of corruption allegations against the Socialist party. Early in the campaign, charges were brought against a deputy leader of the Socialists, who resigned when the allegations were made public. What the election monitors did not say is that the corruption allegations were brought at the start of the campaign by a public prosecutor who has long been allied with the governing party. The monitors did note that after the charges were brought, the government-allied media talked about almost nothing else during the rest of the campaign.

But the deputy leader was not the only allegedly corrupt Socialist to dominate the campaign. Huge posters all over Budapest sponsored by CÖF showed unflattering pictures of the three top candidates on the left alliance ticket, along with the Socialist former deputy mayor of Budapest. He was not running for anything but he had been awaiting trial on corruption charges for years. Though charged ages ago, his case is in legal limbo, having been moved around the legal system by political officials who changed the location of the trial. At the moment, no court acknowledges jurisdiction of his case. But his face was all over the city.

In neither corruption case was concrete evidence against these opposition politicians proven in court before the allegations were used in the campaign. As the government-allied media whipped up a frenzy about these corruption charges, support for the left alliance dropped in the last few weeks before the election. In the end, the election monitors reported, “The tone of the campaign was dominated by alleged corruption cases at the expense of discussion on substantive issues.”

The monitors found that “the absence of other political advertisements on nationwide commercial TV, combined with a significant amount of government advertisements, undermined the unimpeded and equal access of contestants to the media, contrary to [OSCE standards].” Overall, the campaign was judged to have taken place on “an uneven playing field.”

The election monitors found that government offices charged with supervising the election were too close to the government itself. Because of the way that its permanent members had been selected, the National Election Commission was, in their view, “a partisan commission.” While more than 900 complaints were raised before the Election Commission during the election campaign, many were rejected on purely formal grounds without considering their substantive merits. Decisions of the Election Commission were “adopted unanimously without debate, while issues of substance were rarely addressed.” And the decisions were “inconsistent.” The monitors’ report concluded: “The rejection of complaints on formal requirements often left complainants without effective consideration of their claims, which is at odds with [the standards that the OSCE applies].”

The courts, too, did not always carry out their election responsibilities properly. As the election monitors noted, any technical mistake in an applicant’s submission resulted in an immediate rejection of the complaint without the possibility of an appeal. (Though the election monitors didn’t mention it, this standard was actually built into the law.) Perhaps most damning, the election monitors found that “[s]ome cases decided by the courts contradicted legislation and led to legal uncertainty.”

In support of this judgment, the monitors obliquely referenced two decisions of the Constitutional Court, where a majority of the judges have now been appointed by the governing party. One decision found that a government decree banning the placement of election posters did not have anything to do with free speech, and the other found that no constitutional issues were raised when some voters were allowed to vote by mail while others were prevented from doing so.

The Supreme Court did somewhat better than the Constitutional Court in policing election standards, as the case involving the government advertisements on commercial television revealed. But, as the monitors noted, the Supreme Court sometimes said one thing while the Constitutional Court said another. The Supreme Court’s decision that campaign posters could be placed on lampposts contradicted the Constitutional Court judgment supporting the government’s ban. And, as the monitors’ report noted, the Supreme Court’s decision was “not

fully enforced.”

The Media Council, with the remit to ensure balanced media coverage, failed to do so during the campaign, according to the monitors. Instead they found that the Council itself evinced “a lack of political balance” because all of its members were allied with the governing party. During the campaign, the Council enforced “unclear legal provisions” in way that created “uncertainty for media outlets.”

A content analysis of news coverage performed by the election monitors during the campaign found that the media themselves were systematically biased in favor of the governing party. Three of the five monitored television stations, for example, “displayed a significant bias toward Fidesz by covering nearly all of its campaign in a positive tone while more than half of the coverage of the opposition alliance was in a negative tone.” The public broadcaster showed a “lack of independence.” In the end, as the election monitors reported, “there are few independent media outlets” and “political pluralism is undermined by an increasing number of outlets directly or indirectly owned by businesspeople associated with Fidesz and by the allocation of state advertising to these media outlets.”

Journalists critical of the government reported to the election monitors that the withdrawal of state and private advertising from the opposition media “threatens the economic viability of media outlets and results in self-censorship.” Journalists also complained that the Media Council’s “significant sanctioning power create[s] fear of arbitrary inference.” The election observers backed the journalists, finding that “there is a lack of legal certainty due to a lack of clarity in what constitutes ‘balanced coverage’ in broadcast news,” a standard that the Media Council allegedly enforces.

The media during the campaign were also subjected to decisions from the Election Council and the Supreme Court affecting the content of broadcasting during the campaign. One decision made by the Election Commission and upheld by the Supreme Court required the lone opposition-friendly television channel to invite a Jobbik representative to a televised debate among opposition candidates.

The election monitors were concerned with other aspects of the new electoral system that created inequalities among voters. The dual system for foreign voters, in which new citizens who never lived in the country could easily register on line and vote by mail while expatriate Hungarians living abroad encountered a more onerous registration process and had to vote in person at consulates, “undermine[d] the principle of equal suffrage.” The election monitors also reported that this difference in treatment was “perceived as an attempt to differentiate voting rights on partisan grounds.” Among domestic voters, the new system for minority voting required advance registration and allowed voting for only one candidate which, in the view of the monitors, both undermined secrecy of the ballot and limited the electoral choices of minority voters.

Overall, the election monitoring mission documented violations of many international standards in the way the campaign was run, including a systemic failure to separate government from party, an overwhelmingly imbalanced media sphere, a partisan Election Commission along with a government-dominated Media Council and inconsistent courts, a campaign preoccupied with government-created scandals whipped up to a frenzy by government-controlled media, and serious inequalities in the right to vote for different categories of citizens.

Viktor Orbán needed every trick he used to get his two-thirds mandate. Every single parliamentary seat is crucial to it. Remove any one of the legal tricks above, or show that any of the campaign violations were consequential to the result, and the two-thirds is gone.

It is impossible to conclude, as the Hungarian government wishes the world to do, that Orbán was swept back into power with the eager support of two-thirds of Hungarian voters. Yes, Orbán’s Fidesz party won more votes than any other party. And yes, in most electoral systems in the world, that would allow this party to form a government. But Orbán’s two-thirds supermajority was obtained through a series of legal tricks. Moreover, the patent unfairness of the campaign itself cast serious doubts on the validity of the results in general.

Orbán’s constitutional majority – which will allow him to govern without constraint – was made possible only by a series of legal changes unbecoming a proper democracy. Not only were the legal changes rammed through the parliament by Orbán’s own party over the objections of the opposition, but all of these legal changes are now

cooked into the new two-thirds mandate. Remove any one of them and the two-thirds crumbles. Add in any of the violations of international standards revealed during the campaign and the election results cannot even be trusted.

The European Union imagines itself as a club of democracies, but now must face the reality of a Potemkin democracy in its midst. The EU is now going into its own parliamentary elections, after which it will have to decide whether Hungary still qualifies to be a member of the club.

* * *

A note on numbers: These numbers look slightly different from the ones that the world's press announced the day after the election, when Fidesz had 44% of the vote. The numbers I am using here were updated on 13 April, after the Election Office added several categories of new voters to the tallies, most on 12 April. Nearly a week after the election, the office officially added most of the votes from voters abroad – both those who did not have permanent addresses in Hungary and those who did. The office also added in all of the voters who voted in Hungary, but in districts other than the ones in which they were officially registered. Plus the office added in the votes from one precinct per district, a precinct held back from the day-of-election vote counts in case the other last minute votes coming from ex-pats or voters voting outside the district constituted such a small number that secrecy of the ballot would be compromised by adding them late. This meant that about 170,000 domestic voters and 63,000 “over the borders” voters were added to the totals after election day. This analysis includes their votes.

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This blog post has previously appeared on [Paul Krugman's blog](#) and is reposted here with kind permission by the author.

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