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Foreword

There have been several changes of regime in Hungary's history over the last hundred years: in the catharsis and ending of the World Wars (1918–19, 1944–45), communists coming into power (1949) and following the collapse of the socialist block. Between them barely a time period of one generation had passed and society was already working on the establishment of another system "fated for success". From among the political systems of the past century the so-called Third Hungarian Republic, established in 1989/90, was the freest one that facilitated the self-assertation of individuals the most. Opinions are, however, divided over whether the governing elites, although they have recognised the importance of the rise and equality of several social groups, have done, or indeed could have done, everything to reach these goals.

The activity of the Government which was formed following the 2010 elections is definitely to be considered as a distinctive change in the development of the democratic political and legal system established—more precisely instituted—in 1989/90. The Government announced the renewal of Hungary and the transformation of the legal system in its programme. Lacking historical perspective, the designation of distinctive change is based on the opinion of contemporaries, Hungarian society and the legal-academic literature. It remains for future generations to decide whether it can be considered as a new system or "only" the ending of the transitional period.

This Book is intended to provide a comprehensive outlook for the professional public on the transformation of the Hungarian legal system which has been carried out since 2010. We do not intend to present the political background of the decisions transforming the legal system, our legal scholar authors simply analyse the reforms of the Codes and significant legal institutions of the main branches of law.

The scope of these studies is astoundingly large. Starting with the new constitution, through the transformation of the system of administration, Parliament also adopted new Civil, Criminal and Labour Codes. The wide range of fundamental rights, along with the legal status and competence rules of most of the State Organs has been modified. Direct democracy will be manifested according to new rules: a new substantial and procedural regime has been established for elections and referenda.

The rules within the individual branches of law are worth separate monographs; the jurisprudential work on the elaboration of these has already started in Hungary. This volume does not intend, because it is not able to, provide a full-scale analysis of all new acts. Instead, the basic institutions of the Hungarian legal system and their changes will

be presented. Our jurisprudential analysis extends to those professional debates that took place around the legislation. It should be noted here that the Government considered the transformation of the legal system as its main duty on its own responsibility. From this it followed that the rapid "reforms" discussed in this book have not met wide consensus either in the Hungarian political elite or among the representatives of the academic sphere, scholars. The transformations have been followed with special attention by the international, especially EU, public and institutions, in particular regarding whether the regulation ideas of the Hungarian legislators can be implemented in coherence with the traditions of the Hungarian legal system, EU Law and the standards of the European constitutional culture. Our studies take sides in this discussion on a professional jurisprudential basis, keeping an appropriate distance from sensitive political debates.

Our main goal is to provide a valid picture for the professional public of the transformation of our legal system. We have paid special attention to the European public's lack of information, therefore the backgrounds of individual legal institutions and the regulation concepts will be highlighted also. Instead of citing the relevant legal texts in detail, where available, we have marked the internet sites containing the acts' English translations, which can be considered authentic or reliable.

The authors of the Book are researchers at the Széchenyi István University Faculty of Law, Győr. Members of our study group have been working on the project since the summer of 2012, and the results are hereby published. The closing date of the manuscript was 1 May 2013, however, in exceptional cases fresh introductions from the unceasing, continuous activities of the legislators have been carried over up until the date when the redaction process started.

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Apart from the editor, several leading researchers of the Faculty of Law have participated in the professional supervision of the studies: Professor Vanda Lamm, Professor István Kukorelli, Professor Barnabás Lenkovics, Gábor Kovács, András Lapsánszky, Istvánné Hágelmayer and László Milassin. Hereby, I would like to express my deepest gratitude to all our supporters and supervisors on behalf of the researchers' working group.

We do hope that our book will contribute to the better understanding of the legislative reforms aimed at the transformation of the Hungarian legal system and its results. It may serve elevated levels of professional and public debates that interested persons have access to information based on jurisprudential analysis.

Győr, 29 June 2013

Péter Smuk
Editor

Book I

The Transformation of the System of Public Law

Péter Smuk

In the Beginning There Was the Constitution…

The Hungarian constitutional system has been transformed significantly in the last three years. Although that change cannot be regarded as a "system change" compared to the one in 1989–1990, the constitution-making and further legislation provoked heated debates and criticism in Hungary and also all over Europe. The "reforms of the State" enjoyed the special attention of the European Union, Council of Europe and, generally, international public opinion. This paper introduces the Hungarian constitutional changes, taking a glance at the recent historical background (1990–2010) and the critics of the above-mentioned European organs. In Hungary not only are the traditional and European standards of several constitutional principles being re-interpreted, but the problem of sovereignty of constituent power within the European Union has also become a serious issue of concern.

1. Introduction—Constitutional changes 1989–2010

The opposition parties at the Hungarian Round Table negotiations in 1989 had three goals: 1) peaceful transition through free elections and the enforcement of new fundamental acts to this end, 2) guarantees that in case the Communist Party won the elections of 1990 it could not decide fundamental issues alone, and 3) as the communist government was starting to build a Constitution according to its views, the opposition wanted to stop this and to reduce the transitional legislation to the absolute minimum necessary.

The aim of peaceful transition was accomplished; nobody wanted any violent resistance or revenge. The agreement of the Round Table was not complete, the liberal parties (SZDSZ, Fidesz) and the historical ones (Smallholders' Party, Social Democrats) rejected it; but the Parliament enacted the elements of the agreement. In the constitutional transition—uniquely in the post-communist region—a new Constitution was not formally adopted, but Act XX of 1949 on the Constitution gained some new content based on the principles of democracy and the rule of law.

The 1989 amendments to the Constitution of 1949 established a parliamentary type of government, with remarkable limitations on Parliament's competences. Although the amendment of the Constitution remained relatively easy (the votes of a two thirds

majority of MPs being all that was required, without referendum or any other actor), a large field of qualified majority legislation was set up. The Constitutional Court could examine and annul any legal norm, and what is more, the abstract *a posteriori* review could be initiated by anyone (*actio popularis*). The new preamble called the "text" of the basic law "temporary", because everybody was sure that after the elections, as the Parliament gained real democratic legitimacy, a new Constitution would soon be drafted.

After the first democratic election, the Hungarian political elites failed to create the new basic law. The two leading parties in 1990, the governing MDF and the SZDSZ in opposition agreed (only) to comprehensive amendments to the Constitution again. They made the political system easier to govern, introducing the constructive vote of no confidence, the indirect election of the President of the Republic, and curtailing the scope of qualified majority legislation. After the transition, all of the governments included the adoption of a new constitution in their programme. The 1994 coalition of the Socialists and Liberals almost did it: they had the necessary majority, the professional background and also the support of (the major part of) the opposition. But the constitution-making failed again, because of disputes within the coalition. The Constitution was instead amended several times over the decades. Amendments required by international law, EU- and NATO-accession can be highlighted (the "Europe Clause" was enacted in 2002) during simple majority governments, while qualified majority governments enacted their own reforms in 1997 (mainly on the judiciary and referenda) and 2010–11 (elections, Constitutional Court, media, etc.).[1]

It is important to note that constitutionality in Hungary was built up not only by the legislature but also by the Constitutional Court. The Court used—and sometimes misused—its wide competences to show up and formulate the content of the rule of law principle.[2] The achievements of the Court were basically sufficient to veil the absence of a new Constitution. What is more, the Court's first president, László Sólyom declared that the Court's decisions were letters of the "invisible Constitution" which prevails over the often amended visible one.[3]

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[1] Péter Smuk (2011): *Magyar közjog és politika 1989–2011* [*Hungarian Constitutional Law and Politics 1989–2011*]. Budapest, Osiris.

[2] See more: Gábor Halmai (2007): The Transition of Hungarian Constitutional Law from 1985 to 2005. In: András Jakab—Péter Takács—Allan F. Tatham (eds.): *The Transformation of the Hungarian Legal Order 1985–2005*. Alphen aan den Rijn, Wolters Kluwer, pp. 1–18.

[3] See his parallel opinion to the Decision 23/1990 CC. His attitude determined generally the practice of the Court during his term of office (1990–1998).

2. Re-design of the Hungarian constitutional system 2010–2013

The parliamentary elections in 2010 brought a big defeat for the governing Socialist party and a supermajority to rightwing Fidesz.[4] As a result, the government—as mentioned above—can act freely in legislation- and constitution-making. The great responsibility and the victory were interpreted by the government as a "revolutionary" change, which provided the constituent power with legitimacy.[5] The question of amending the old and making a new Constitution by only one of the political sides will not be detailed here, I only draw attention to the fact that although on one hand according to the Hungarian constitutional system, it may be carried out legally, on the other hand the right wing majority did not bind itself to wait for the support of the opposition nor a referendum.

Governing political forces declared in 2010 that the "transition from the communist regime" was supposed to be complete; dysfunctions of state—experienced in the last 20 years[6]—were now eliminated. In order to fulfil this task, they started a vigorous programme of legislation. Parliament adopted several amendments to the Constitution in 2010–2011. These included, *inter alia*, the following issues: new nomination of judges to the Constitutional Court; new regulation for media and freedom of speech; electoral reforms; re-regulating the position of Prosecutor General; curtailing Constitutional Court (CC) competences concerning financial issues.[7]

These issues are important and may be considered as deep changes in the Hungarian constitutional/political system. The amendments were adopted quickly, serving political goals; neither public opinion nor Parliament was in a position to have substantive discussions about them. And meanwhile, what is more, the drafting of a new Constitution was started.

Fidesz declared a symbolic ambition early in 2010: a new basic law should replace the transitional Constitution of 1989. Institutionally a new parliamentary committee on

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[4] Gaining 52.7% of the party list votes and winning 173 out of 176 single-member-constituencies, Fidesz and its Christian Democratic ally collected 263 out of 386 seats (68%) in Parliament. The number of members of the socialist faction fell to 59 from 190. Current numbers are available at: http://www.parlament.hu/angol/append/distribution_by_factions.htm (accessed April 30, 2013).

[5] See http://www.miniszterelnok.hu/in_english_article/the_programme_of_national_cooperation (accessed April 30, 2013).

[6] The rising state debt was named as one of the political crisis-symptoms to be handled at whatever cost. *Nota bene*, at this time we are in the middle of the search for an appropriate economic crisis management method. Hungary was regarded as one of the riskiest economies in Europe. See http://www.euromoneycountryrisk.com/Wiki/Hungary (accessed April 30, 2013).

[7] Meanwhile, the governing majority had to face CC decisions that annulled several symbolic pieces of legislation. Among others, we might mention the case of the retroactive 98% tax on incomes against "good-morals" (Decisions 184/2010 and 37/2011 CC, this case led to the restriction of CC powers in financial issues) and the firing of government officials without justification (Decision 29/2011 CC). Some of the amendments to the Constitution were reactions to uncomfortable CC decisions.

drafting and preparation was established, with a strained schedule. In autumn of 2010 the opposition protested against the lack of real discussion on the basic law and the limiting of the Constitutional Court's powers, so left the preparing committee and did not return till the adoption of the Constitution.[8] Finally, the plenary of the Parliament did not use the concept of the committee, but a new, politically determined, non-parliamentary "committee" drafted the text of the new Fundamental Law of Hungary. Parliament adopted it on 18 April 2011; it was signed by the President of the Republic and published on 25 April, exactly one year after the "revolutionary" elections of 2010. The transitional provisions to the Fundamental Law were enacted in a separate legal document at the very end of December, and the new Fundamental Law entered into force on 1 January 2012.

In 2011, the governing parties had to face heavy criticism from the opposition and also at EU-level because of the new media law, the amendment of the Constitutional Court powers, the strained schedule of constitution making, the attack on the National Bank and several political elections to state offices.[9] The Venice Committee gave critical opinions on the new constitution.[10] The Hungarian Government, in the name of the fight for economic freedom, introduced heavy extraordinary taxes on multinational companies and even confronted the International Monetary Fund. As the economic crisis and the pressure from the European Union became sufficiently strong, the government showed a more friendly face, saying that they were ready to discuss everything about the new constitutional and legal norms.

In any case, the new Fundamental Law became effective in 2012, and state organs, civil society and international organs started to implement and interpret it.[11] The governing majority faced several Constitutional Court decisions that, using the new basic law and the traditional constitutional paradigms and principles, annulled new acts of Parliament, including the major part of the Transitional Provisions of the Fundamental Law. In reaction, Parliament has amended the Fundamental Law five times[12] since 1 January 2012, incorporating regulations that were found unconstitutional by the Court—but I will return to this problem later.

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[8] Only the radical right Jobbik took part in the plenary debates in spring 2011.

[9] The European Commission launched infringement proceedings against Hungary on 17 January 2012, see http://ec.europa.eu/economy_finance/articles/governance/2012-01-18-hungary_en.htm (accessed April 30, 2013).

[10] CDL-AD(2011)001 and CDL-AD(2011)016.

[11] Also constitutional lawyers faced the challange of interpreting the new basic law. For this task, the academic sphere organized a lot of conferences and discussions, published articles, in which they expressed their criticism of being not involved in the constitution-making process. Before this volume, two books were published in 2012, in English, analysing the Constitution. For a new Constitution-friendly approach see: Lóránt Csink—Balázs Schanda—András Zs. Varga (eds.) (2012): *The Basic Law of Hungary. A first commentary*. Dublin, Clarus Press. For a more unfriendly/critical approach see: Gábor Attila Tóth (ed.) (2012): *Constitution for a Disunited Nation.* New York—Budapest, CEU Press.

[12] By dates: June, November and December 2012, March and September 2013. See (in Hungarian): http://www.parlament.hu/fotitkar/alkotmany/alaptv_modositasai.htm (accessed September 30, 2013).

3. The Fundamental Law of 2011

This paper can undertake only a short overview of the new constitution, focusing on new or controversial provisions. It is important to note that the Fundamental Law does not achieve a revolutionary system change, although it includes several new and special designs that substantially differ from the last 20 years' constitutional practice.

3.1. New values and fundaments

The preamble of the Fundamental Law—National Avowal—incorporates elements of the ideology of the governing parties, so includes references to Christianity, God and the Holy Crown. The Holy Crown has become a specially debated issue regarding historical symbols and their incompatibility with the Republic. The preamble found that Crown "embodies the constitutional continuity of Hungary's statehood and the unity of the nation". National Avowal denies the validity of the communist Constitution of 1949, "since it was the basis for tyrannical rule".[13] Article R(3) gives special significance to these statements: it provides that "the provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal and the achievements of our historical constitution."[14]

The Fundamental Law condemns tyrannical regimes, with special "attention" to the communist regime. The fourth amendment of 2013 incorporated the new Article U that uses rather symbolic words of malediction on the holders of power under the communist dictatorship.[15] For example, their state pensions and benefits may be reduced.

Following the preamble, the normative text of the Fundamental Law has three parts: Foundation (Articles A–U), Freedom and responsibility (Articles I–XXXI) and State (Articles 1–54) and at the end, the final provisions.[16]

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[13] According to the explanations of the Government, this statement should be regarded as a political one. Otherwise the legal invalidity of this Constitution may destroy even the legitimacy of the Parliaments before 2011 and the validity of all the legal norms, contracts, etc. The Venice Committee found it a serious reason for concern. See: CDL-AD(2011)016, Paragraph 35.

[14] For further implications see: Péter Smuk (2013): National Values in the New Hungarian Fundamental Law. In: Milan Zivkovic (ed.): *Multikulturalnost i Savremeno Društvo—Multiculturalism and Contemporary Society*. Novi Sad, Visoka Škola "Pravne I Poslovne" Akademske Studije Dr Lazar Vrkatić, pp. 359–376. Available at: http://www.fpps.edu.rs/nauka/NS%202013/pravo-bezbednost-1.pdf (accessed May 30, 2013).

[15] "The form of government based on the rule of law, established in accordance with the will of the nation through the first free elections held in 1990, and the previous communist dictatorship are incompatible. The Hungarian Socialist Workers' Party and its legal predecessors and the other political organisations established to serve them in the spirit of communist ideology were criminal organisations, and their leaders have responsibility without statute of limitations…"

[16] See the original text of the Fundamental Law at http://www.kormany.hu/download/4/c3/30000/THE%20FUNDAMENTAL%20LAW%20OF%20HUNGARY.pdf. See the text after the amendment of 2013 at http://www.parlament.hu/angol/the_fundamental_law_of_hungary_consolidated_interim.pdf or http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2013)016-e (accessed May 30, 2013).

The chapter entitled Foundation remarkably changes the name of the country from Republic of Hungary to simply Hungary. The form of the state remains a republic anyhow, as Article B(2) provides. The explicit mention of the principle of division of powers was missing from the previous constitution, while the new one includes it in Article C. The Fundamental Law provides more accurate provisions on the relationship between the national legal order and EU law (Article E) and international law (Article Q); they are analyzed in detail in this volume in separate articles.

The Constitution already protects the official language (Hungarian, Article H), the currency (forint, Article K), the institution of marriage (as the union of a man and a woman, Article L), natural resources ("arable land, forests and the reserves of water, biodiversity, in particular native plant and animal species", Article P); and "balanced, transparent and sustainable budget management" (Article N) became an explicit constitutional principle.

The concept of the individual, and the relationship of the individual and the community are re-interpreted as new constitutional provisions, remarkably declared in the following: "Everyone shall be responsible for him- or herself, and shall be obliged to contribute to the performance of state and community tasks according to his or her abilities and possibilities" (Article O), "The economy of Hungary shall be based on work which creates value" (Article M) and "We hold that individual freedom can only be complete in cooperation with others" (National Avowal). It is important to note that Article XIII provides that "Everyone shall have the right to property and succession. Property shall entail social responsibility."[17]

Chapter Foundation regulates also the legal sources of Hungary. It is necessary to mention that the Fundamental Law introduces the term of the "cardinal act", which is also passed by Parliament, but its adoption and amendment are possible only if two-thirds of the representatives present vote for it. A regular act cannot modify a cardinal act.

3.2. Division of powers in the new Fundamental Law

While the principle of the division of powers appears in the text of the Constitution and the constituent power did not aim to change the parliamentary form of government, we can draw attention to several introductions into the structure of state organs.

[17] Some of the concepts have roots in CC case law, e.g., the concept of marriage in Decision 14/1995 CC (revised by Decision 43/2012 CC), the social ties of property in Decision 64/1993 CC.

3.2.1. Position of Parliament

Parliament still has a prominent position among the state organs, as the supreme body of popular representation.[18] The legislative and the constituent (constitutive) powers are not separated, and the amendment-rule also remains the same, "only" a two-thirds majority of the representatives is necessary in Parliament. The number of representatives has been reduced to 199 (from 386), and the nationalities are already involved in Parliament's work (they elect representatives by preferential quota).[19]

Concerning the legislative procedure the changes of the veto right should be highlighted. Till now, the President of the Republic was in the exclusive position to ask for the preliminary opinion of the Constitutional Court on bills adopted but not promulgated. Now we have new actors: the proponent of the bill (even if this means every individual MP), the government (i.e., the Prime Minister) and the Speaker of the House, but the decision of the Plenary is still needed. It is an important feature of this preliminary review that the competence of the Constitutional Court is not restricted by budgetary and other taxation issues; and in cases where the Plenary initiated the preliminary review the President loses his or her right to this type of veto. The political type of veto—returning the adopted bill to Parliament for reconsideration—of the President remains, and has been developed with certain refinements. As a special new element, the Fundamental Law provides with—quite short—deadlines for the Court to pass its opinion.

The fourth amendment in 2013 made it clear in Article S(3) that the President may use his or her veto right (initiating the review of the Constitutional Court) in the case of amendments to the Constitution only if he or she "finds a departure from any procedural requirement laid down in the Fundamental Law with respect to adoption of the Fundamental Law or any amendment of the Fundamental Law."

The President still has the right to dissolve Parliament, but a new option has been enacted: in the case where Parliament fails to adopt the Budget Act by 31 March in the current year. This deadline can be hot regarding the veto right of the Fiscal Council. This veto should be applied when the bill on the State Budget does not comply with the requirements of the Fundamental Law.[20] This power of the Fiscal Council curtails the budgetary competence of the legislature uniquely in the European Union. This is a reaction to the squandering public financial policies of the preceding socialist governments.

The Fundamental Law provides that a cardinal act shall regulate Parliament's regular sessions and the supervisory activities of parliamentary committees and the obligation to

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[18] For more details see: Péter Smuk (2012): The Parliament. In: Csink—Schanda—Varga (eds.) (2012) pp. 111–130.

[19] The new electoral system is laid down by Act CCIII of 2011, it will be applied first to the elections in 2014. The right to vote of Hungarian citizens without residence in Hungary was also introduced. See further analysis in this volume by Csaba Erdős and Gergely G. Karácsony.

[20] The deficit of the budget and the state debt are concerned, see Article 36(4)–(5).

appear before any committee. Parliament created a new code for itself in 2012, in a law which incorporates several other issues that were regulated in various other laws, i.e., major part of the standing orders, organization of Parliament, legal status of MPs, cooperation between the government and the legislature in EU affairs, disciplinary power of the Speaker. The law also establishes a new organ, the Guard of Parliament.[21]

3.2.2. The President of the Republic

The new Fundamental Law basically maintains and refines the regulation of the Constitution, applying also some of the achievements of the Constitutional Court.[22] The President still can exercise some competences without countersignature, which is a special feature regarding the parliamentary system of government—namely the President can act without any political responsibility.[23]

The election of the President remains the exclusive prerogative of Parliament. It is important to note that the procedure still has a second round where a supermajority is not necessary—a simple majority of valid votes is enough to elect the Head of State for five years.[24]

3.2.3. The executive

The position of the Government is clearly declared by Article 15(1) of the Fundamental Law, as follows: "the general body of executive power, and its responsibilities and competences shall include all matters not expressly delegated by the Fundamental Law or other legislation to the responsibilities and competences of another body."

The parliamentary form of government is designed by the Government's accountability to Parliament and by excluding the President of the Republic from executive power. Article 18(1) provides that the Prime Minister determines the general policy of the Government. This is a new constitutional provision that incorporates the practice of the cabinets of recent decades. Namely, the ministers were (and still are) dependent on the will of the Prime Minister: he prepared and submitted the Programme of the Government before the appointment of ministers, then could (and still can) freely select his team by recommending the appointment and the removal of ministers to the President of the Republic.

Concerning EU affairs and the relationship between Parliament and the Executive in this respect, the Fundamental Law provides that Parliament may express its position

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[21] Act XXXVI of 2012 on the National Assembly; see its detailed introduction in this volume by Péter Smuk.

[22] Decisions 48/1991 CC, 36/1992 CC and 47/2007 CC.

[23] Such competences: proposing bills; proposing persons for the positions of Prime Minister, the President of the Curia, the Supreme Prosecutor and the Commissioner for Fundamental Rights; the above mentioned veto rights, etc.

[24] See Article 11, and also Act CX of 2011 on the Legal Status of the President of the Republic.

about the draft on the agenda in the procedure, and in the European Union's decision-making process, and the Government shall take Parliament's position into consideration (Article 19). Because of the lack of serious consequences we can regard this provision as quite a loose one.

Article 23 provides that Parliament may establish "autonomous regulatory bodies" to exercise particular competences of the executive by virtue of a cardinal act. This cardinal act needs a two thirds majority of the MPs present to be adopted or amended, and so limits the (future) governments' organizing power even within the scope of the executive branch.

3.2.4. The Constitutional Court—Transformed competences, new judges

The former regulation of the Constitutional Court has been altered significantly, its competences and also the election of the judges have been "reformed".[25] I have already mentioned the preliminary review, and regarding the posterior review, it is of great importance that the *actio popularis* has been eliminated. According to the previous regulation, anyone could initiate an abstract control of legal norms, and the result (annulling the norm in question) could have an effect on everyone (*erga omnes*). Instead, the broadened constitutional complaint will be available, and in that case, the Court can examine the decisions of the judiciary and legal norms as well. The posterior control of norms may be requested only by the Government, a quarter of the Members of Parliament, the Commissioner for Fundamental Rights, and, following the fourth amendment in March 2013, the head of the Curia (Supreme Court) and the Prosecutor General [Article 24(2)e)]. It is worth mentioning that transitional provisions ruled that any procedure launched upon a motion filed with the Constitutional Court by an originator who no longer has the right to file motions under the Fundamental Law before the coming into force of the Fundamental Law shall be terminated [Point 19(3) of the Closing and Miscellaneous Provisions[26]]. These changes definitely alter the former strong democratic role of the Constitutional Court by limiting its accessibility.

The Fundamental Law establishes further questionable limitations on the scope of judicial review. The conformity of the State Budget Act with the provisions of the Fundamental Law can be examined by the Fiscal Council. The Court may not examine the conformity of laws on the state budget, taxation, etc. due to the violation of several fundamental rights. The Court will "get back" its competences as state debt falls to below

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[25] See Article 24 of the Fundamental Law, and (cardinal) Act CLI of 2011. The Opinion of the Venice Commission on the act [CDL-AD(2012)009] is available at http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)009-e. Detailed introduction of the constitutional complaint procedures by Fruzsina Gárdos-Orosz can be found in this volume.

[26] These rules were included in the legal source/document called "Transitional Provisions of the Fundamental Law", which was found to contradict the Fundamental Law by the Constitutional Court (Decision 45/2012 CC) so Parliament incorporated them into the text of the Fundamental Law in the 4th amendment.

one half of the Gross Domestic Product. This condition will be satisfied only in the far future. As the Venice Committee noted, these provisions "may undermine further the authority of the Constitutional Court as a guarantor of constitutionality of the Hungarian legal system."[27] I would like to mention here the case when the CC found the way to review the financial laws by using one of the exceptions and interpreting "human dignity" in an activist manner (Decision 37/2011 CC).

The fourth amendment of the Fundamental Law in 2013 also ruled that "Constitutional Court rulings given prior to the entry into force of the Fundamental Law are hereby repealed. This provision is without prejudice to the legal effect produced by those rulings" (Point 5 of the Closing and Miscellaneous Provisions). This provision was intended to make a break from the case law of the Court which has been followed since 1990. It is rather vague how these rulings may be repealed, but members of the governing parties expressed their expectations that the Constitutional Court would be supposed to use the text of the new Fundamental Law instead of its former decisions and argumentation. The Court expressed its approach to its own decisions in the light of the constitutional change. The Court found that if the wording of the Fundamental Law follows the text of the previous Constitution, the case law and findings of the Court are still applicable. If the text is new or substantively different from the previous text, the Court shall give new arguments for its decisions (Decision 34/2012 CC, Section 33). Many argue that the case law is also a part of the so-called "achievements of the historical constitution" that is to be applied according to Article R(3).[28]

Here it is worth noting that the Fundamental Law and other cardinal acts include several rulings and postulates of the Constitutional Court's practice. Thus, the reform of the constitutional system in 2011 in some respect preserves the achievements of constitutional developments between 1990 and 2010.

Judges are elected by Parliament; their number has been raised from 11 to 15, because the reformed constitutional complaint procedure was expected to raise the number of cases of the Court. The term of office was prolonged from 9 to 12 years, and their re-election has been ruled out; these changes move judges farther from legislature. The President of the Court is also elected by Parliament, instead of by the judges of the Court—this change can be evaluated as a restriction of the autonomy of the Court. Five new judges were elected in June 2011, and by May 2013, the governing two-thirds majority of Parliament was in the position (because of the retiring judges) to elect two another judges. This clearly shows that the last 2 years have brought a major renewal of the Court's membership. Several new judges were criticized because they were members of the Fidesz faction, or were supporters of the right wing coalition. Despite this, some of them have proved to be autonomous against the will of the Fidesz government, and have voted for the annulment of some laws of high political importance.

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[27] CDL-AD(2011)016, Paragraph 97. Analysis of fiscal regulation by Gábor Bende-Szabó is also a part of this volume.

[28] CDL-AD(2013)012, Paragraph 99.

3.2.5. Reforms of the judiciary

The Fundamental Law has only short provisions on the judiciary, giving wide scope for further reforms.[29] The reform—enacted by Acts CLXI and CLXII of 2011—eliminates the National Council of the Judiciary; instead the National Office for the Judiciary and its President will have strong competences in the administration of the courts. The President of the Office shall be elected for a 9-year term, by the supermajority of two thirds of the representatives of the Parliament.

Three issues of the judiciary were of serious concern. First, the reform of the courts ended the mandate of the President of the Supreme Court before the end of his term of office. The Supreme Court was given a new name, Curia—but this is obviously not a sufficient reason to remove the head of the organ (the Ombudsman, in a similar situation, may fulfil his term of office). His successor's term of office has been prolonged from 6 to 9 years. Secondly, the Fundamental Law provides that the general retirement age (now 62 years) shall be applied to the judges as well. This is a strict shortening of their mandate, from 70 years, affecting cca. 200 experienced judges, and applicable already from 2012. It also applies to the judges who are currently in office. The Constitutional Court found these provisions contradictory to the principle of independence of the judges (Decision 33/2012 CC), and the EU Commission forced the removal of some amendments to the Act as well. Further problems arose from the fact that the Courts (central administration of the judiciary) did not restore the office of the judges who formerly had to retire.[30]

The third and most recently debated issue originates from the 2011 reform of the judiciary, but it is relevant to the fourth and fifth amendment as well. The new Article 27(4) of the Fundamental Law provides that "To give effect to the fundamental right to a court decision taken within a reasonable time and to balance the workload across courts, the President of the National Office for the Judiciary may appoint, in the way defined by cardinal Act, a court other than a court of general competence but with the same powers to hear particular cases defined by cardinal Act." This provision is balancing between elements of the right to fair trial: right to a court decision taken within a reasonable time on the one hand; and the right to a lawful judge on the other. This competence of the President of the National Office for the Judiciary may raise the impression that the purpose of such a transfer is to influence the outcome of the dispute. I agree with the international experts who stated that "we cannot state that the provision in itself, allowing the possibility … to transfer a case from a tribunal to another would contravene the objective impartiality requirements. However, the possibility of such risk cannot be avoided."[31] The controversial Article 27(4) has been repealed by the fifth amendment in September 2013.

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[29] CDL-AD(2011)016, Paragraph 104. The reform is introduced by András Osztovits in this volume.

[30] See also Case C-286/12 (Commission v Hungary) at the European Court of Justice.

[31] Ministry of Foreign Affairs has asked for an assessment on the Fourth Amendment. An opinion has been prepared by several professors of constitutional law (namely Francis Delpérée, Pierre Delvolvé and Eivind Smith), available at: http://www.kormany.hu/download/d/e0/e0000/Traduc%20-%20opinion%20on%20 4th%20amendment.pdf. See also the opinions of the Venice Commission to follow the history of the issue: CDL-AD(2012)001, CDL-AD(2012)020 and CDL-AD(2013)012.

3.2.6. Ombudsmen

The Fundamental Law reorganizes the structure of the commissioners for fundamental rights. In the previous system, Hungary had four commissioners, one "general" and three specialized for the rights of nationalities, for data protection and for the rights of future generations. Now Hungary has only one Ombudsman, and his or her two deputies shall defend the interests of future generations and the rights of nationalities living in Hungary [Article 30(3)].

The application of the right to the protection of personal data and to access data of public interest shall be supervised by an independent authority established by a cardinal act [Article VI(3)]. This means that operations within that field may become more effective as this authority has the competence to oblige and to sanction persons and organizations. On the other hand, its president is appointed by the President of the Republic on a recommendation by the Prime Minister—while the previous Ombudsman for data protection was elected by Parliament. The Authority is an independent body that is subject to Hungarian law only, it may not be instructed in its official capacity, shall operate independently of any outside interference, without any bias; tasks may only be prescribed for the Authority by acts of Parliament. Despite this, the Venice Commission expressed its concern about the restriction of the independence of the Authority. Its Opinion notes that "following infringement proceedings launched by the European Commission in January 2012, Hungary amended the Act and the amendments have restored the independence of the Authority to a considerable extent."[32]

3.2.7. Local governments

State reform was aimed at a more efficient and cost saving operation both in state administration and regarding the functioning of local governments. The local authorities were given a wide scope of autonomy by the 1990 legislation, but produced many examples of irresponsible economic decisions, *contra-legem* functioning and political scandals. The local government sector had built up a huge amount of public debt by 2010, so the stricter fiscal policy was designed to find a solution to how to regulate the relatively autonomous public spending in the municipalities. The new Fundamental Law restricted their scope of decision making competence in this sense, and what is more transformed the tasks of the locally elected authorities.

First, the Fundamental Law basically upheld the main constitutional concept, providing that "In Hungary local governments shall be established to administer public affairs and exercise public power at a local level" (Article 31). Local governments still have the right to exercise their rights as owners of local government properties and determine their budgets, perform independent financial management accordingly and engage in

[32] See Act CXII of 2011 (http://www.naih.hu/files/ActCXIIof2011_mod_lekt_2012_12_05.pdf) and the opinion of the Venice Commission: CDL-AD(2012)023.

entrepreneurial activities with their assets and revenues available for the purpose, without jeopardizing the performance of their compulsory tasks [Article 32(1)e)–g)]. At the same time, according to Article 34(5) an act may define conditions for, or the Government's consent to, any borrowing to a statutory extent or to any other commitment of local governments with the aim of preserving their budget balance.

Every local government has the right to adopt decrees, in order to regulate local social relations not regulated by an act. These decrees may not contradict other legal norms. Their constitutionality is reviewed by the Constitutional Court, but their relation to other higher legal norms is reviewed by the Curia. (According to the previous constitution, the full scope of the *ex post* review of these decrees fell within the competence of the Constitutional Court.)

In the last two decades, national and the local elections were held in the same year. This will change from 2014, as the local elections will be held only every 5 years, while the 4-year period will still apply for the Parliamentary elections.[33]

3.2.8. Cardinal acts and the prolonged constitution-making

"The Constitution provides for an extensive use of cardinal laws to regulate in detail the most important society settings" noted the Venice Commission.[34] In theory, the method could be regarded as a tool for protecting the constitution from very detailed regulations, but in the case of the strained process of drafting the Fundamental Law, it was rather a means of gaining time to draft the—sensitive—reforms before the end of 2011. In some parts the Fundamental Law includes vague and general provisions, referring the further regulation to cardinal acts.[35]

As we saw above, according to Article T(4), cardinal acts "shall be Acts of Parliament, the adoption and amendment of which requires a two-thirds majority of the votes of Members of Parliament present." Just as in 1990, the scope of the qualified majority requirement has been drawn by political deliberation. The Fundamental Law contains a couple of references to cardinal acts, mainly pertaining to fundamental rights or state organs, but in some cases other policy issues also.[36] Lifting taxation or family policy

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[33] Fundamental Law, Article 35(2). The organisation of public administration and local governments is introduced in this volume in a separate article.

[34] CDL-AD(2011)016, Paragraph 22.

[35] See in the case of courts: CDL-AD(2011)016, Paragraphs 104–105.

[36] I can only refer to the cardinal issues of the legislation of 2011, *inter alia*: electoral system (Card. Act CCIII of 2011), Constitutional Court (Card. Act CLI of 2011), freedom of religion and churches (Card. Act CCVI of 2011), protection of families (Card. Act CCXI of 2011), courts and judges (Card. Acts CLXI–CLXII of 2011), local governments (Card. Act CLXXXIX of 2011), National Bank (Card. Act CCVIII of 2011), Ombudsman (Law CXI of 2011), protection of personal data (Law CXII of 2011), financial stability of Hungary (Card. Act CXCIV of 2011). The frantic agenda of the Parliament in 2011–13 can also be described with such—not cardinal, but—important legislation issues as the Labour Code (Act I of 2012), the public and higher education (Act CCIV of 2011), the new Criminal Code (Act C of 2012), the new Civil Code (Act V of 2013).

issues to that level may cause serious problems for future governments, as they will have to reach a consensus with the opposition on amending these acts, in order to implement their political programme. The Venice Commission found by a somewhat oversensitive evaluation that this way democracy is at risk, because future elections will lose their meaning for society.[37]

It is important to sum up the connection of the division of powers and supermajority requirements. The early decision of the Constitutional Court found that the constitution provides several methods for the purpose of separating the branches from unbalanced and unilateral political influence. Among these we can find the qualified majority decisions for the election of state officials or for adopting legal regulation of state organs. The prolonged term of office is also an adequate means of dividing officials from parliament (the bigger the difference from the 4-year term of Parliament, the bigger their independence). See for example (at the time of the CC decision) the 6-year term of office of the President of the Supreme Court, or the 9-year term of the judges of the Constitutional Court, and the 12-year term of the leaders of the State Audit Office.[38]

In the constitutional changes of 2011, the qualified majority is widely used, and the term of office of several officials has been prolonged (President of the Curia and the Prosecutor General: from 6 to 9 years, Const. Court judges: from 9 to 12 years). This, *prima facie*, could be regarded as strengthening the division of powers. But we must also take the political and historical situation into consideration. Using these methods, the actual governing parties can cement their preferences in legal norms and in state offices. Future governments will have to live with these, and even if the current governing parties fail to win the elections, by gaining one third of the seats in the Parliament they can block every effort in that respect. It is worth noting that some state officials will stay in office if Parliament "fails" to choose their successor—a great opportunity for the future opposition to obstruct personal issues.[39]

We have to say that in the situation of constituent power, these issues raise serious concern about the need for wide consensus and the involvement of the political forces in the procedure of constitutional changes. Otherwise the legitimacy of the new system is at risk, which is really hard to attain by good governance and economic development. The circumstances in 2011–2013 do not seem to be comfortable in this respect.

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[37] CDL-AD(2011)016, Paragraph 24.

[38] Decision 38/1993 CC.

[39] This is the situation in the case of the judges of the Constitutional Court [Act CLI of 2011, Section 15(3)].

3.3. Taking human rights seriously?

The chapter "Freedom and Responsibility" covers the broad range of modern democratic fundamental rights.[40] *Prima facie*, the positioning of the chapter is important, the previous Constitution regulated human rights only after the state organs; this chapter now appears between Foundation and State.

This chapter has so many implications that this article, indeed our volume, cannot undertake the detailed analysis of the whole regulation of fundamental rights in Hungary. We deal with the system of human rights protection, and I also note that the Fundamental Law maintains the main tests of the limitation of fundamental rights elaborated by Constitutional Court [Article I(3)]. Nevertheless, in some respects the provisions and declarations pertaining to constitutional rights and values differ significantly in the text; and this is the substance of the issue of repealing the previous case law of the Court: the constitutive-legislative power requires new reasoning according to new regulations and new values. In some cases, the Fundamental Law incorporates some of the CC case law, and in some cases, the text changes the concept of fundamental rights.[41]

Here I mention only one of the most spectacular aspects, the role of the right to human dignity. The Hungarian Constitutional Court has perceived the right to life and human dignity according to Section 54(1) of the previous Constitution as the non-restrictable core of a human being. Human dignity could be applied as a general personality right, and as a source of other personality rights. As CC declared, the Court and regular courts can apply this when other means for protecting individuals' privacy are unavailable. Other personality rights originating from human dignity—e.g., right to self-determination, right to the integrity of the human body, etc.—can however be restricted according to the test of necessity proportionality (Decision 22/2003 CC). Based on this case law, human dignity usually prevailed over many other fundamental rights; its limitations were only accepted in a narrow way.

Human dignity has been declared to be the central fundamental right in the new constitution as well, as it originates also from conservative/Christian values. Article II states quite clearly that human dignity is inviolable, so it is interesting to have an overview of the possible conflicting values of the Fundamental Law.

Firstly, the human dignity (self-determination) of women was allegedly in conflict with the right to life of the foetus in the case of abortion. The CC declared that the foetus is not a person in terms of law, so cannot have the right to life; but on the other hand the

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[40] The Venice Commission criticized the use of the EU's Charter of Fundamental Rights in drafting the Fundamental Law, because of its different legal nature, see CDL-AD(2011)001, Paragraphs 20–33.

[41] E.g., the above-mentioned CC concept of marriage, property, etc. The different philosophy ensuring and protecting fundamental rights can be observed regarding the right to work. The former Constitution held that everybody has the right to work [Section 70/B(1)], while the Fundamental Law states in Article XII(2) that "Hungary shall strive to create the conditions ensuring that everyone who is able and willing to work has the opportunity to do so." This was regarded by many as a step back in the one-way-street of human rights protection, while others explained that the right to work was only a possibility before now as well.

foetus deserves the protection of the state (Decision 48/1998 CC). Based on this decision, the Fundamental Law provides that "everyone shall have the right to life and human dignity; the life of the foetus shall be protected from the moment of conception" (Article II). This does not mean the prohibition of abortion in itself, nor the establishment of the right to life of the foetus—rather a laconic reflection on the above-mentioned CC decision. Healthcare and social policy measures shall provide the protection prescribed by the constitution.

The other important issue concerns the limits of freedom of expression. In CC case law free speech has also gained a very high rank among fundamental rights. Its conflict with human dignity has always given rise to serious constitutional cases and debates. Article IX(4) of the Fundamental Law, incorporated by the 4th amendment, states that the right to freedom of speech may not be exercised with the aim of violating the human dignity of others. This prohibition seems to be much stronger than the necessity/proportionality test, because in some cases, e.g., heated speeches against politicians, freedom of expression prevailed over the dignity of public actors (to a certain extent, of course).[42]

From 2013, not only the dignity of individuals but the dignity of communities is under protection. Article IX(5) provides that the right to freedom of speech may not be exercised with the aim of violating the dignity of the Hungarian nation or of any national, ethnic, racial or religious community. Members of such communities shall be entitled to enforce their claims in court against the expression of an opinion which violates the community, invoking the violation of their human dignity, as provided for by an act. This provision is clearly aimed at the suppression of hate speech. The new Civil Code provides for a legal remedy for the members of the communities [Section 2:54(4)–(5) of the new Civil Code]. These members, every one of them,[43] can turn to the court, resulting in countless possible lawsuits against the person who violated the limits of the freedom of speech. But the problem is that the Constitutional Court has already declared that this construction results in the disproportionate restriction of freedom of speech (Decision 95/2008 CC). The legislature is fighting against hate speech[44] which is welcome, although this provision in the Fundamental Law aims to shield the provisions of the new Civil Code against the Constitutional Court.[45]

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[42] See Decision 36/1994 CC. This approach supported the formulation of democratic debates and public opinion.

[43] And what is more, the prosecutor is entitled to sue without any permission of the member of the community.

[44] The Venice Commission also found that "it is doubtful whether every exercise of the freedom of speech aimed at 'violating the dignity of any ethnic, racial or religious community' is hate speech of the type mentioned. The terms used in the amendment have potential for such a wide scope of application that they lack the clarity and precision needed to be in compliance with the condition that a limitation of the freedom of speech has to be 'foreseen by law'." See CDL-AD(2013)012, Paragraph 52. It is worth mentioning Act CLXXIX of 2011 on the rights of nationalities, which, along with the provisions of the Fundamental Law were supported by the Venice Commission (with only slight criticisms about the too detailed regulation), see CDL-AD(2012)011.

[45] On personality rights, see also the articles by Gábor Jobbágyi in this volume.

4. Unconstitutional amendments to the Fundamental Law?

Politicians of the governing majority had already declared several times before 2011 that the previous, "interim" constitution had no real values; it was only a "technical" document. Hungary needs a real constitution that deserves respect, so it can be a more stable fundamental law. In spectacular contradiction to that standpoint, Parliament, in only one and a half years, has already adopted five amendments to the new basic law. The first three served particular political aims, but the fourth one was a comprehensive amendment, changing the text of the Fundamental Law in more than sixty places.

Despite the new regulation on the Constitutional Court and the new judges, the Court has annulled several important pieces of legislation since 1 January 2012, when the new Fundamental Law entered into force. The general public, as an audience, saw a strange performance: Parliament set a new scene and constitutional framework for politics and policies with the Fundamental Law, but soon, the Constitutional Court had to defend the constitution *against* the will of the *same* Parliament.

Parliament used the so-called Transitional Provisions of the Fundamental Law to incorporate regulations at the constitutional level which have been found unconstitutional by the CC. This method was clearly aimed at protecting the regulations concerned from constitutional review.[46] The legal nature of the Transitional Provision became controversial, because it was a different legal document from the Constitution. Its position between the Fundamental Law and the other acts was declared only by itself: it named itself as a part of the Fundamental Law. After the constitutional lawyers criticized this, Parliament enacted a provision into the Fundamental Law, declaring the Transitional Provisions as part of the Fundamental Law (it was the first amendment).

Despite this, the CC annulled several parts of the Transitional Provisions (Decision 45/2012 CC), finding that Parliament had violated the limits of its competence when it included not only technical ("transitional") provisions into this document. The transitional regulation is necessary to clarify the legal transition from the era of the previous constitution to the era of the new one. The CC did not review the content of the controversial provisions, the adjudication was based on a formal aspect only: the limits of the legislation to adopt "transitional" provisions.

Parliament quickly decided to incorporate the text of the Transitional Provisions into the Fundamental Law with the fourth amendment (among other provisions), as I mentioned above. In this way, regulation on certain issues that was found unconstitutional by the CC was put into the constitution. This raised heated debates about the competence of the constituent power, and showed the conflict between Parliament and the Court. Even the constituent power has its limits, regarding not only international or EU law, but also the interpretation of certain legal institutions by the Constitutional Court (rule of

[46] See the evaluation by the Venice Commission of this method followed also by the 4th amendment in CDL-AD(2013)012, Paragraphs 78–87.

law, human dignity, etc.). Experts called for a substantial review of the amendments to the Constitution.

It is important to note that the Constitutional Court in the 90s refused the review of the amendments to the Constitution, and restricted its competence to the examination of formal questions (did the adoption of the amendment meet the requirements of the Constitution, i.e., two-thirds majority vote, etc.). There is no explicit provision for such a competence in the Constitution, nor does it have eternal clauses or any hierarchy of provisions.

Answering the debates, the fourth amendment incorporated a provision [Article 24(5)] regarding the review of the amendments by the CC, absolutely in line with CC case law: the Court may only review the Fundamental Law and the amendment thereof for conformity to the procedural requirements laid down in the Fundamental Law with respect to its adoption and promulgation. Such a review may be initiated by the President of the Republic if the amendment has been adopted but not yet published, or the Government, a quarter of the Members of Parliament, the President of the Curia, the Supreme Prosecutor or the Commissioner for Fundamental Rights within thirty days of publication.

It was the Ombudsman who initiated the review of several parts of the fourth amendment. The Court's decision (12/2013) announced on 21 May 2013 may be of great importance regarding constitutional debates in the future.[47] The decision argued that the declaration of the invalidity under public law concerning the 4th amendment was ill-founded. The Court did not examine the content of the amendment because of its lack of competence.

The Constitutional Court was declared to have no competence regarding the review of the content of amendments of the Fundamental Law. However, despite these suggestions, the Court did not extend its competence to review of the content of these amendments. The CC emphasized that the Court cannot compose or modify the constitution, and according to the Fourth Amendment the CC may review any amendments, but only regarding the procedural requirements.

The Constitutional Court has observed that the petition requested the comparison of the concerned provisions of the Fourth Amendment—regarding its content—both with the provisions of the Fundamental Law and with the arguments and requirements from former decisions of the Court. Here, we can only give a short overview of some of these conflicting provisions.

[47] The Venice Commission published its opinion on the fourth amendment on 17 June 2013 [CDL-AD(2013)012], and gave an overview on the issue of the review of constitutional amendments in Paragraphs 100–108.

New provisions, incorporated by the 4th amendment	Alleged conflict with the principle of…	Applicable Constitutional Court decision
Article U reopens the possibility of punishing certain crimes that were committed during the communist regime, but which were not prosecuted due to political considerations.	Rule of law (ban of retroactivity) (Article B) *Nullum crimen sine lege* (Article XXVIII)	Decision 11/1992 CC
Article VII(2): Parliament may recognize certain organizations performing religious activities as churches.	Separation of state and church [Article VII(3)]	Decision 6/2013 CC
Article IX(3): Restriction on political advertisements in commercial media in campaign periods.	Freedom of expression, right to information [Article IX(1)–(2)]	Decision 1/2013 CC
Article XXII(3): In order to protect public policy, public security, public health and cultural values, an act or a local government decree may, with respect to a specific part of public space, provide that staying in public space as a habitual dwelling shall be illegal.	Human dignity (Article II)	Decision 38/2012 CC

The Court found that in order to comply with this request, content—and not procedural—examination would be needed, but the CC has no competence for that.

The decision also emphasized that the detailed rules of the amendment will be worked out in special acts and decrees. During this legislative process, in order to protect the interrelated system of fundamental rights, the limitations of legislative and constituent power, obligations of EU membership, conformity between international and national law, must be taken into account. The decision forecasts that during the constitutional review of these further regulations, the Court will interpret the provisions of the Fundamental Law to form a unified and coherent system with fundamental principles and values.

In my opinion this is going to be a great intellectual challenge for the Court. It should be emphasized that the self-interpretation of competences will depend on the mentality of the judges of the Court. As we can see from many of the dissenting opinions attached to recent CC decisions, undertaking the conflict with the governing majority is not a unanimous standpoint within the Court. Time will show how these new constitutional regulations may be consolidated, harmonized with international standards and obligations, or even interpreted in a coherent system.

As we have seen during this overview of the constitutional changes in Hungary, the present situation is a new beginning in many respects for legislation, the courts and

society. The main actors of constitutionalism remain Parliament, the Constitutional Court and the sovereign people, as far as the legitimacy of the new Fundamental Law is concerned. Hopefully, the historically embedded constitutional culture and international standards of democratic principles will prevail in Hungary in the future. The Constitutional Court has a great responsibility to enforce these standards, and according to its recent resolutions it has not refused this task.