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Towards an illiberal democracy

Hungary's new constitution

Hungary's new constitution contradicts European democratic standards on numerous counts. It allows the current government to set in stone its economic and social policy; it excludes other nationalities living within Hungary while entitling "ethnic" Hungarians beyond its borders; and, most starkly anti-democratically, it undermines the independence of regulatory institutions ranging from the national bank to the constitutional court and media.

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György Dalos, Miklós Haraszti, György Konrád, László Rajk et al., "The decline of democracy — the rise of dictatorship"

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Hungary's new constitution, officially called the Fundamental Law,¹ was passed by the Hungarian parliament on 18 April 2011² and entered into force on 1 January 2012, superseding the previous constitution (hereafter referred to as the 1989 constitution). The latter comprehensively amended the first written Constitution of Hungary (Act XX of 1949) in the course of the 1989–90 regime change, in keeping with the precepts of democratic constitutionalism. The drafting of the new constitution took place without any political, professional, scientific or social debate, as constitutional and parliamentary norms would require in the case of a document that will define the life of the country over the long term. The drafting process was effectively conducted with the sole and exclusive participation of representatives of Hungary's governing political parties. The Council of Europe's Venice Commission, in an opinion approved at its plenary session on 17 and 18 June 2011, also expressed its concerns about document drawn up in a process that excluded the political opposition and professional and other civil organisations.³ While the document of the new constitution (according to the declaration set forth in article B) seeks to maintain that Hungary is an independent, democratic state governed by the rule of law, and furthermore (according to article E) that Hungary contributes to the creation of European unity, in many respects it does not comply with standards of democratic constitutionalism and the basic principles set forth in article 2 of the Treaty for the European Union (TFEU).



The Hungarian Parliament, Budapest. Wikimedia Commons CC 3.0

This article addresses some of the flaws in the new constitution and argues that they may permit exceptions to European requirements of democracy, constitutionalism and the protection of fundamental rights — and, therefore,

that in the course of their application they could conflict with Hungary's international obligations.

The new constitution on the identity of the political community

An important criterion for a democratic constitution is that everybody living under it can regard it as his or her own. The new constitution fails to meet this requirement on multiple counts.

1. Its lengthy preamble, entitled "National Avowal", defines the subjects of the constitution not as the totality of people living under Hungarian laws, but as the Hungarian ethnic nation: "We, the members of the Hungarian Nation [...] hereby proclaim the following". A few paragraphs down, the Hungarian nation returns as "our nation torn apart in the storms of the last century". The new constitution defines the nation as a community, the binding fabric of which is "intellectual and spiritual": not political, in other words, but cultural. There is no place in this community for nationalities living within the territory of the Hungarian state. At the same time, there is a place in it for Hungarians living beyond Hungary's borders.

The elevation of the "single Hungarian nation" to the status of constitutional subject suggests that the scope of the new constitution somehow extends to the whole of historical, pre-Trianon Hungary, and certainly to those places where Hungarians still live today. This suggestion is not without its constitutional consequences: the new constitution makes the right to vote accessible to those members of the "united Hungarian nation" who live outside the territory of Hungary. It gives a say in who should make up the Hungarian legislature to people who are not subject to the laws of Hungary.

2. It characterises the nation referred to as the subject of the constitution as a Christian community, narrowing even further the range of people able to recognise themselves as belonging to it. "We recognise the role of Christianity in preserving nationhood", it declares, not only as a statement of historical fact, but also with respect to the present. And it expects everyone who wishes to identify with the constitution to also identify with its opening entreaty: "God bless the Hungarians".

Intervention into the right to privacy

The new constitution breaks with a distinguishing feature of the constitutions of states governed by the rule of law, namely that they include on the one hand methods of exercising public authority and, on the other, limitations on such authority and the guarantees of the enforcement of fundamental rights. Instead,

the text of the new constitution brings several elements of private life under its regulatory purview in a manner that is not doctrinally neutral, but based on a Christian-conservative ideology. In doing so, it prescribes for the members of the national community a life model based on normative preferences that correspond with this ideology, expressed as obligations towards the community. These values, which are not doctrinally neutral, feature as high up as the constitution's preamble:

"We recognise the role of Christianity in preserving nationhood."

"We hold that individual freedom can only be complete in cooperation with others."

"We hold that the family and the nation constitute the principal framework of our coexistence, and that our fundamental cohesive values are fidelity, faith and love".

"Our Fundamental Law [...] expresses the nation's will and the form in which we want to live."

Cause for concern is given by the fact that the new constitution stipulates (article R) that its provisions must be interpreted in keeping with the "National Avowal", and that fundamental rights may be restricted in the interest of protecting a constitutional value.

Certain provisions of the constitution pertaining to fundamental rights intervene in matters of marriage and the family and prescribe ideologically-based normative value preferences in private relationships: this goes for the prohibition of same-sex marriage and the protection of embryonic and foetal life.

1. According to article L of the new constitution:

"(1) Hungary shall protect the institution of marriage as the union of a man and a woman established by voluntary decision, and the family as the basis of the nation's survival.

(2) Hungary shall encourage the commitment to have children.

(3) The protection of families shall be regulated by a cardinal Act."

The new constitution's conception of marriage — which, incidentally, follows the definition serving as the basis for the Constitutional Court's Decision 154/2009 (XII. 17.) AB on the constitutionality of registered domestic partnerships — corresponds roughly to the Catholic natural-law interpretation of marriage, which regards faithfulness, procreation and the unbreakable sanctity of the relationship between spouses as the most important elements of marriage. This constitutional regulation, founded on natural-law principles, protects interests that not everyone attributes to themselves and with which

they do not necessarily wish to identify, therefore breaching their autonomy. When defining marriage and evaluating the role of the family, a modern, living constitution — and especially a new constitution — should accommodate changes to society that increase the range of choices available to individuals. It would therefore have been more appropriate had the constitution regulated the institution of marriage and family in relation to fundamental rights guaranteeing the self-determination of the individual and the principle of equality.

2. With the constitutional ban on same-sex marriage, the constitution-maker has ruled out the ability of the Hungarian legislature to make the institution of marriage available to same-sex couples (following the worldwide tendency). In keeping with this, article XV of the constitution does not mention discrimination based on sexual orientation and gender identity in its list of prohibited forms of discrimination. This means that the Hungarian constitution-maker does not prohibit the state from supporting or negatively discriminating against a way of life based on sexual orientation alone. This solution runs counter not only to the European Union's Charter of Fundamental Rights and the case law of the European Court of Justice,⁴ but also to the provisions of Hungary's still effective Act CXXV of 2003 on the Promotion of Equal Treatment and Equal Opportunities.

All of these provisions breach the autonomy of individuals who do not accept normative life models defined on the basis of the constitution's ideological values — "the form in which we want to live", as the preamble puts it — and are capable of ostracising these individuals from the political community.

Weakening of the protection of fundamental rights

The decline in the level of protection for fundamental rights is significantly influenced not only by the provisions of the new constitution pertaining to fundamental rights themselves, but also by the weakening of institutional and procedural guarantees that would be capable of upholding those rights that remain under the new constitution. The most important of these is a change to the review power of the Constitutional Court that undermines its capacity to perform its tasks in relation to the protection of fundamental rights. Added to this is the change in the composition of the Constitutional Court, which took place prior to the entry into force of the new constitution and which will further impede it in fulfilling its function as protector of fundamental rights.

1. The considerable restriction on *ex post* (retrospective) control has caused great controversy in Hungary and abroad. The withdrawal of the right to review financial laws has created a solution found nowhere else in the world, since there is no other institution functioning as a constitutional court whose right of review has been restricted based on the object of the legal norms to be reviewed. The constitutional court judges can only review financial laws from the perspective of rights that they typically cannot breach (the right to life and human dignity, protection of personal data, freedom of thought, conscience and religion, or the right to Hungarian citizenship). The restriction remains in effect for as long as state debt exceeds half of what is referred to in the Hungarian text as "entire domestic product", the content of which is uncertain. In the case of laws that are not reviewable by the court, the requirement that the constitution be a fundamental law, and that it be binding on everyone, is not fulfilled, since the principle of the primacy of the constitution cannot be applied to laws that cannot be reviewed. This also clearly represents a breach of the guarantees set out in Title 2 of the TFEU relating to respect for human

dignity, freedom, equality and the respecting of human rights — including the rights of persons belonging to a minority.

With regard to the Constitutional Court's powers of *ex post* control, the effectiveness of the protection of fundamental rights is reduced not only by the limitation of their objective scope, but also by a radical restriction of the range of persons that may initiate a Constitutional Court review. This is due to the abolition of one of the peculiarities of the Hungarian regime change in 1989: the institution of the *actio popularis*, according to which a petition appealing for *ex post* norm control may be submitted by anybody, regardless of their personal involvement or injury. Over the past two decades or more, this unique institution has provided not only private individuals, but also non-governmental organizations and advocacy groups with the opportunity to contest in the Constitutional Court, for the public good, legal provisions that they regard as unconstitutional. While other democratic states have of course been able to survive without this institution, it has nevertheless contributed substantially to ensuring a level of protection of fundamental rights which is now diminishing.

Abstract *ex post* norm control (under point e, paragraph 2, section 24 of the new constitution) may in future only be initiated by the government, a quarter of the votes of members of parliament, or the Commissioner for Fundamental Rights. Given the balance of power in the current parliament, this makes any such petitions highly unlikely. The government and the ombudsperson appointed by it are hardly about to make use of this opportunity, while a quarter of MPs' votes would require a coalition between the two opposition parties and the radical right-wing party, which supports the government.

In late 2011 the Parliament enacted a so-called "Cardinal Act" (an act requiring a two-thirds majority in the Constitutional Court) deciding on the fate of the several hundred petitions already lying in the court's in-tray, submitted in the form of an *actio popularis* by private individuals entitled to do so prior to the entry into force of the new constitution, but who were subsequently divested of this right. This means that the Constitutional Court is prohibited from passing judgement on previously submitted petitions.

2. As we have seen, private individuals or organisations may in future only turn to the Constitutional Court if they themselves are the victims of a concrete breach of law and if this has already been established in a civil-administration or a final court decision. In this case, the legal remedy offered by the Constitutional Court will naturally only affect them. In other words, the extension of opportunities to submit constitutional complaints is no substitute whatsoever for the previously widely available right of private individuals and organisations to file petitions concerning abstract norms, without any personal interest in the case.

3. There is no doubt that the widely available opportunity to submit complaints could be beneficial to judging cases involving fundamental rights, as has been the case in Germany, Spain and the Czech Republic. A prerequisite for this, however, is a Constitutional Court that is committed to fundamental rights and is independent from the government. Since taking office in May 2010, the present government has done all it can to prevent this. This process began with the alteration of the system for nominating constitutional court judges, giving the governing parties the exclusive opportunity to nominate and subsequently replace judges. The constitution, in a further weakening of the guarantees of independence, increased the number of Constitutional Court judges from

eleven to fifteen, which — since one position is currently unoccupied — makes it possible to select five more new judges, after the two judges selected in May 2010. The new judges' term will last twelve years rather than the previous nine; in other words, three parliamentary cycles. In future the president of the constitutional court, who has until now been elected for a term of three years by the judges, will be selected by Parliament for the duration of his or her time in office. These changes could not wait until the entry into force of the new constitution on 1 January 2012; rather, the president and the new members were selected at the end of July 2011, based on an amendment to the existing constitution, passed on 6 July 2011.⁵

The constitutional entrenchment of political preferences

In 1989, the constitution makers preserved the amendment rule of the original 1949 constitution in order to produce a substantively new constitution. This rule, requiring only two-thirds of the absolute majority of parliament to make any changes to the constitution, has been long considered insufficient for the protection of fundamental rights, of adequate constitutional review and of the stability of the basic structure of the constitution. Observers consider this deficiency the main reason for why a new constitution is required.⁶ The FIDESZ government, in its initial plans, proposed a new amendment rule that would require a two-thirds majority in two parliamentary sessions, with an election in between to approve constitutional amendments. Unlike its Spanish prototype, this rule does not distinguish between fundamental revision and minor changes and promised to entrench a constitution produced with insufficient consensus. It was because of such legitimation problems the government backed away from the idea of replacing the purely parliamentary amendment rule. But it chose to compensate for this failure by lifting a large number of ordinary policy issues into the realm of law, thereby removing the power of future parliaments to alter policy choices made by the present one.

The new constitution regulates that some issues are to be decided by the governing majority and assigns others to so-called cardinal laws, which require a two-thirds majority. This makes it possible for the current government, which enjoys a two-third majority, to set in stone its views on economic and social policy. A subsequent government possessing only a simple majority will not be able to alter these, even if it receives a clear mandate from the electorate to do so. In addition, the prescriptions of the new constitution render fiscal policy especially rigid, since significant shares of state revenues and expenditures will be impossible to modify in the absence of two-third statutes. This hinders good governance, since it will make it more difficult for subsequent governments to respond to changes in the economy. This could make efficient crisis management impossible. These risks are present irrespective of whether, when writing two-third statutes, the governing majority exercises self-restraint (contrary to past experience). The very possibility created by the constitution to regulate issues of economic and social policy by means of two-third statutes is incompatible with parliamentarism and the principle of the temporal division of powers.

1. As regards pensions, the new constitution excludes the possibility that a subsequent governing majority create a funded pension scheme based on capital investment. Europe and the western world in general will face serious demographic challenges in the coming decades. One possible response of public policy to this challenge is the partial transformation of the pay-as-you-go pension system to a funded pension scheme based on capital investment. Such a decision needs to be preceded by comprehensive social

debate and assessment of the pros and cons of other public policy solutions. It is not compatible with the democratic norms when the current governing majority excludes, as it has in the new constitution, the application of one available public policy solution without having been empowered by the electorate to do so. In addition, Section 40 of the new constitution assigns the basic rules of the pension system to a cardinal act, which, as mentioned above, requires a two-third majority. It is impossible to know to what extent this statute will regulate the pension system. In any case, the new constitution makes it possible that the retirement age and other conditions of eligibility, as well as the basis for calculating pensions, will be modifiable only by a two-thirds majority. This prevents subsequent governments winning popular support at free elections to put in practice its own views of pension policy.

2. Section L of the new constitution specifies that the regulation of family welfare support is also to be subject to two-third statutory regulation. Without knowing the text of the planned statute it is impossible to decide to what extent the governing majority intends to regulate this issue. It is clear, however, that the new constitution creates the possibility that every detailed issue of family welfare benefit is only modifiable by a two-thirds majority. The social policy of any ruling majority must be able at any given time to settle questions concerning family welfare eligibility conditions and rates, for example the child's age limit or the eligibility of different family types for different kinds of support. In a parliamentary democracy, there can be no justification for writing in stone the views of one current government coalition in this or any other area.

3. Section 40 of the new constitution states that basic rules of taxation are to be determined by a fundamental statute, in other words one requiring a two-third majority. This prescription enables the current government coalition to set its own views in a two-third statute on tax policies, especially as regards flat-tax and the exceptionally high tax benefits for families. This could easily make it impossible that a subsequent government is elected on the basis of its promise to introduce progressive taxation, however is unable to implement these despite receiving a mandate from voters to do so.

4. In addition to being able to entrench economic and social policy preferences, the current government is also able to implement its own personal preferences via the appointment and replacement of heads of independent institutions. The presidency of the State Audit Office (12 years) and directorship of the National Media and Telecommunications Authority (9 years) have been awarded to former Fidesz MPs. The chief prosecutor, appointed for 9 years, is a former Fidesz parliamentary candidate. Without any additional reason, the entry into force of the new constitution makes it possible for the government to nominate only its own candidates as the five new Constitutional Court judges, as the new president of the Constitutional Court, as the head of the ordinary judiciary, and as new ombudspersons for six, nine and twelve years, respectively. The president of the Supreme Court was forced to step down before the end of his term because the new constitution renamed the Supreme Court a Curia and a new cardinal law on the judiciary came into effect requiring someone in his position to have five years of experience as a Hungarian judge. More than 200 judges — disproportionately court presidents — will be forced into involuntary retirement because the new constitutional lowered the retirement age of judges from 70 to 62. Their replacements will be chosen by the head of the newly created Judicial Authority, a hand-picked ally of the prime minister. According to the new act on the judiciary, any judge in the ordinary courts can be elevated or demoted by this single state official, who has the sole power to appoint judges. No other judicial bodies have a decisive role in the process.

According to a last-minute amendment to the new constitution on 30 December 2011, all cases, both civil and criminal, can be assigned to specific judges by politically appointed officials, including the public prosecutor, who can select which judge will hear each criminal case he brings. This will result in the long-term entrenchment of personal preferences. This can undermine the adequate operation of independent institutions.

5. In a related development, the new constitution gives the Budget Council the right to veto the state budget statute. Two of the three members of the Council were appointed by the ruling government coalition until at least 2019. At the same time, the new constitution fails to define unequivocally what is covered by the Council's right to veto. In addition, it does not contain guarantees to preclude the abuse of the powers of this body. Such guarantees would be all the more necessary given that drafting of the budget is the competence and responsibility of the governing majority at any given time. This prerogative cannot be limited by a body which claims to be independent but in fact consists of appointees of an earlier government. This raises the possibility that in addition to — or even instead of — considerations regarding the sustainability of budgetary policies, the Budgetary Council may be guided by political preferences when exercising its veto right.

The international compatibility of the new constitution

The new constitution expresses its commitment to the international community and international law (section Q) and also contains a "Europe clause", forming the basis for cooperation with the EU (section E), but with content that is not entirely identical to that of the 1989 Constitution.

According to the 1989 Constitution, "[the] Republic of Hungary may exercise certain competences deriving from the Constitution in conjunction with the other member states; [...] the exercise of these competences may be realized independently, through the institutions of the European Union" (paragraph 1 of Section 2/A). The new constitution rewrites this as follows: "Hungary may exercise some of its competences arising from the new constitution jointly with other member states through the institutions of the European Union" ("Foundation", paragraph 2, section E). The original rule permitted the Hungarian state to delegate certain powers to EU bodies in which it has no joint decision-making rights — the new constitution does not allow this. It makes it possible to declare as unconstitutional the delegation of any competence to an EU institution if this results in termination of the nation state's consensual decision-making right. The previous constitutional rule was made so as not to stand in the way of the EU's continued development along federal lines — the underlying intent of the new rule is to obstruct federalisation.

With respect to the constitutional norms, the international agreements continue to oblige Hungary to respect, protect and uphold the rule of law, democracy and fundamental rights.

1. The new constitution — in contrast to Section 5 of the 1989 Constitution — does not express its constitutional recognition of the borders set out in the relevant international agreement.

2. It is problematic, from the perspective of the requirement of democracy, that the new constitution does not clearly identify the political community as the community of citizens living subject to the laws of Hungary; accordingly it

permits the naturalisation of Hungarians living abroad without their relocation, and raises the prospect that, together with "extraterritorial" citizenship, they will also be given the right to vote.

Such enfranchisement does not comply with articles 39–40 of the Charter of Fundamental Rights or with paragraph (2) of Article 20 of the TFEU. This is because it does not assure the citizens of other EU member states of the same conditions as Hungarian citizens in European Parliament and local authority elections, since for the former group must have a Hungarian place of residence, while in the case of Hungarian citizens this requirement does not apply.

3. The principle of the rule of law is compromised by the fact that violating the new constitution has no effective constitutional consequence or sanction, since in the case of legislation pertaining to public finances, the restrictions on the Constitutional Court's right of review and annulment, with the exception of four areas of fundamental law, will remain in place for an indeterminate period. As a consequence of the restrictions on Constitutional Court review power, numerous fundamental rights (e.g. the right to property, social rights, freedom of enterprise, the right to employment, the principle of non-discrimination) are weakened. In the governmental system of a parliamentary democracy, the institution of constitutional review, which serves as a counterbalance against parliamentary and the executive actions, is what guarantees the division of power and safeguards the sovereignty of the law (ultimately, the constitution). The closer this so-called "acting unit" is to the legislative and the executive branches, the broader the review power should be constitutionally ensured in order to maintain a healthy balance. Paradoxically, with the chosen solution, the new constitution also rules out the protection of its own public finance provisions by the Constitutional Court. Breaches of the constitutional rules pertaining to public finances are most likely to occur through precisely those laws on the budget, taxes etc., which the Constitutional Court is not even permitted to review in terms of their compliance with sections 36–40. Thus, the section on public finances is less effective, and does not represent a full guarantee with regard to international financial obligations.

4. According to Section K of the new constitution, Hungary's official currency is the forint. This new provision runs counter to the onus on member states to fulfil their obligations arising from the founding treaties of the European Union. In the Accession Treaty, Hungary agreed to adopt the European Union's common currency, the euro, as and when it meets the conditions for doing so.

New cardinal laws

For January 1, when the new constitution became law, the Hungarian parliament has been preparing a blizzard of so-called cardinal — or super-majority — laws, changing the shape of virtually every political institution in Hungary and making the guarantee of constitutional rights less secure. In the last two weeks of 2011 alone, the parliament enacted several new laws and, to top it off, made the aforementioned last-minute constitutional amendment (called "the transitional provisions to the Fundamental Law") — an amendment to the new constitution even before it went into effect. These new laws have been uniformly bad for the political independence of state institutions, for the transparency of lawmaking and for the future of human rights in Hungary.

Ignoring serious warnings from European Commission President José Barroso,⁷ the Fidesz government has pushed through two cardinal laws on financial matters. The new law⁸ on the central bank (the Magyar Nemzeti Bank or MNB) gives the prime minister the right to appoint all vice-presidents of the bank, when previously the president of the central bank initiated the nominations process. The law creates a third vice-president for the bank and prime minister Orbán is able to name one of these vice-presidents immediately. The new law also expands the number of members on the monetary council. The monetary council, which — as the name suggests — sets monetary policy and interest rates, will grow to nine members, of which six were already or soon will be appointed by the Fidesz government.

On the day it passed this law, the parliament passed a constitutional amendment that also affects the status of the central bank. According to the amendment, the parliament may merge the central bank with the existing Financial Supervisory Authority to create a new agency, within which the central bank would be just one division. The government would be able to name the head of this new agency, who would effectively become the boss of the president of the central bank, reducing the bank president to a mere vice-president. The constitutional amendment does not actually complete the merger — it just lays the constitutional groundwork for the later disappearance of the free-standing bank. The new Economic Stability Law — also a target of EU criticism — creates a permanent flat tax, requiring all personal wage income to be taxed at the same rate as from January 2013.

The independence of the judiciary was dealt a blow by the constitutional amendment that also passed on 30 December 30, the last day of the parliamentary session. In it, both the head of the National Judicial Office and the public prosecutor, both persons very close to the governing party and elected by the Fidesz parliamentary supermajority, can choose which judge hears which case. A prior decision of the constitutional court had found unconstitutional a law that permitted political officials to assign cases like this. To avoid constitutional questions, the government simply added the power to assign cases directly into the constitution.

The same constitutional amendment also listed crimes committed by communist party officials during the Soviet period, extended the statute of limitations for these crimes, branded the former communist party a "criminal organization", and designated the current Socialist party (Fidesz's primary opposition) as the legal successor to the communist party, hence responsible for all of its crimes.

Many other cardinal laws were also passed in late December 2011. One of them is the law on the status of churches, which creates 14 state-recognized religions and decertifies the rest. On 1 January, over 300 denominations lost their official status in Hungary — including their tax exemptions and their abilities to run state-funded schools.

On 23 December 2011, the parliament also voted on the controversial election law, with its gerrymandered electoral districts, making the electoral system even more disproportional and favouring the current governing party in the elections to come.

On 17 January 2011, the European Commission launched an urgent "infringement procedure" against Hungary for violating EU treaties on the independence of its central bank and data protection authorities, as well as over

measures affecting the judiciary.⁹ On 18 January, prime minister Viktor Orbán appeared before the European Parliament to defend his country's new constitutional order but also promising some of the changes requested by the European Commission.¹⁰

The question for Hungary is whether its fragile democracy will fall back into authoritarianism, or at best into an illiberal democracy similar to Latin-American models or Putin's Russia. Alternatively, it can be consolidated. The European Union can help in this consolidation: after all, according to article 2 of the TFEU, the Union is based on common values such as democracy, the rule of law and fundamental rights. But as John Stuart Mill argued, democracy must come from within. This means that to protect the values of democracy, Hungary needs a constitution-making majority supported by the Hungarian people.

¹ The framers of Hungary's new constitution have entitled it the Fundamental Law because they treat the thousand year-old, unwritten constitution of Hungary as the "real constitution". Here, for the sake of clarity, I refer to it as the "new constitution".

² For the "official" English translation of the Fundamental Law, see:

<http://www.kormany.hu/download/7/99/30000/THE%20FUNDAMENTAL%20LAW%20OF%20HUNGARY.pdf>

³ Opinion of the New Constitution of Hungary, adopted by the Venice Commission at its 87th Plenary Session, 17–18 June 2011, CDL-AD(2011)016. See:

[http://www.venice.coe.int/docs/2011/CDL-AD\(2011\)016-E.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)016-E.pdf)

⁴ For the latest example, see judgement C-147/08 in the case of Jürgen Römer v Freie und Hansestadt Hamburg.

⁵ See Gábor Halmai, "Grundstrukturen staatlichen Verfassungsrechts: Ungarn," in: *Ius Publicum Europaeum*, C.F. Müller Verlag: Heidelberg 2007, 687–727.

⁶ Concerning Barroso's letter to Orban, see:

<http://www.bloomberg.com/news/2011-12-20/barroso-calls-on-hungary-s-orban-to-withdraw-laws-origo-says.html>

⁷ Concerning the contents of the new national bank law, see:

http://www.nytimes.com/2011/12/31/business/global/hungary-passes-central-bank-rules-despite-risk-to-bailout.html?_r=2

⁸ See: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/24>

⁹ See: <http://news.bbc.co.uk/democracylive/hi/europe/default.stm>

¹⁰ See: <http://news.bbc.co.uk/democracylive/hi/europe/default.stm>

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