frontiers | Frontiers in Political Science

TYPE Original Research
PUBLISHED 30 January 2025
DOI 10.3389/fpos.2025.1545816

OPEN ACCESS

EDITED BY
Fanni Tanács-Mandák,
National Public Service University, Hungary

REVIEWED BY
Tamara Alvarez Robles,
University of León, Spain
Peter Tilk,
University of Pécs, Hungary

*CORRESPONDENCE
Peter Smuk
✉ smuk.peter@sze.hu

RECEIVED 15 December 2024
ACCEPTED 15 January 2025
PUBLISHED 30 January 2025

CITATION
Smuk P (2025) Crisis and constitutional politics in Central Europe.
Front. Polit. Sci. 7:1545816.
doi: 10.3389/fpos.2025.1545816

Crisis and constitutional politics in Central Europe

Peter Smuk*

Department of Constitutional Law and Political Science, Faculty of Law, Széchenyi István University, Győr, Hungary

This paper aims to examine the impact of significant crisis situations on the constitutional framework over the past decade, including financial crisis, migration, pandemics and war. The paper focuses on the Visegrad countries, especially Hungary, and analyses the constitutional amendments adopted and the relevant constitutional court decisions. By examining the justifications for the amendments and decisions, it is possible to observe the efforts of legislators and governing parties to overcome difficult governance situations in crisis management. The study aims to interpret the relationship between constitutional responses to social crises and crises of democratic political systems, and argues that the inherent feature of constitutional changes triggered by crises is that they remain part of the political system in the longer term. In turn, their impact determines not only the resilience of states and societies, but also the direction in which democratic systems evolve.

KEYWORDS

constitutional politics, crisis, COVID, migration, state debt, constitutional court, Hungary

1 Introduction—an era of crises

Numerous crises we have experienced in the 21st century have caused changes in public law that have had a significant impact on the constitutional playing field of government. Changes in constitutional law (constitutional texts, cardinal laws), in the functioning of public institutions and in the enjoyment of fundamental rights (fundamental rights adjudication) are traceable. This paper reflects on the specific features of the emergence of crises in constitutional law, the development of the regulation of various special legal order cases, and the reflections of the constitutional courts on these. As crises are perceived as "extraordinary situations," state policy actions were proclaimed as "adequate" "extraordinary responses."

Crises can be defined as situations in which the normal functioning of a system or organization is disrupted, serious problems arise and an urgent solution has to be found. The aim of crisis management is usually to stabilize the situation, protect those affected and return to normality. State crises can be political, economic or social in nature, where the performance of the constitutional functions of state bodies is threatened or where members of the political community (their rights, health, lives) are massively affected. In recent decades, there have been many "global" crises in Europe or the world that have affected the constitutional systems of countries; but developments that rise to the level of "crisis" can also be found in domestic events. In general, crises that spill over political borders are among the more serious ones, such as the global financial crisis of 2008; the effects of climate change; a large influx of migrants and refugees mainly since 2015; the Brexit in 2016 and its impact in EU institutional system; the terrorist attacks, including the Paris attacks in 2015 and the Brussels bombings in 2016; the pandemic COVID-19 which lead to closures, economic decline and high levels of mortality; the war in Ukraine that started in 2014 and escalated to new levels in 2022 with Russian aggression, has claimed hundreds of thousands of lives and displaced millions of

people and continues to affect the political-economic stability of the region.

This compilation of a series of crises in the 21st century shows that these socio-economic changes were triggered by various causes—not infrequently by the states themselves—and that states responded to them quite proactively, driven by mainstream governance philosophies. State responses have generally been aimed not only at mitigating the negative effects of crises, but also at creating resilience to respond to or prevent future challenges. The impact of crises on the legal system can be examined in two dimensions. On the one hand, what immediate, extraordinary (governmental) measures are taken to resolve a given crisis situation, and how the legal system gives space to these measures. On the other hand, the impact of the crisis on the legal system, i.e., how the application of certain legal institutions (jurisprudence, legal culture) or legal norms have changed in a lasting way, with a lasting legal and political impact on the post-crisis period (Coyne, 2010). We examine here the constitutional frames and consequences of crisis politics.

2 Methods—political-constitutional landscape of crises in Central Europe

I examine here the constitutional frames and consequences of crisis politics. In the series of crises mentioned above, European political systems have not only been challenged in their ability to protect their citizens, their societies and institutions, but also in social expectations and political attitudes. The electorate is turning to more radical solutions in the wake of greater and longer-lasting difficulties, with the weakening of traditional parties and party systems. The countries of Central Europe—in our study the Visegrad Four—have not only experienced government crises, but also the crisis management of ruling parties has been redefined in political competition and, in line with European trends, has led to a rise in populism (Havlík and Kluknavská, 2022). The success of crisis management is proof of the competence of political leaders, and this has been amplified by political communication. As well as the fact that in certain crises, citizens prefer to vote for incumbents in the hope of stability rather than for a change of government. It follows that the policy of crisis, but also the existence of crisis, becomes a political narrative.

In some cases, the different constitutional and political systems of the countries in Central Europe have reacted to the crisis in a very similar way. In Hungary, since 2010, the governing parties have had a supermajority that has allowed for constitutional change, while in less stable party systems, instead of consensus on crisis management, a series of government crises have emerged (Casal Bértoa and Weber, 2019). The EU membership of these states is a particular context, which, with its institutional and human rights standards, has also framed crisis politics and constitutional processes.

In this research I examine the impact of three crises on constitutional politics: the financial crisis, the migration wave and the COVID19 pandemic. Here, I explore the changes in constitutional texts and selected judicial-constitutional court decisions, with the aim of providing an interpretative framework on the constitutional background of political change. Comparative constitutional politics has been a popular topic in constitutional law and political science literature over a decade or more. For the Central European countries, valuable volumes have been published on the period since the change of regime and the development of democracy (Fruhstorfer and Hein, 2016; Halász, 2017), and on the empirical analysis of judicial review and constitutional interpretation (Pócza, 2018). I believe that new developments in the interrelation between crisis politics and constitutional law justify further research, to which the present paper intends to contribute.

One can argue that crisis does not provide a good time for constitution making and "a good setting for careful deliberation about what forms of institutional design will serve the nation's long-term interest. Participants in the process might focus on scandalous events that produced the crisis without linking those events to deeper processes" (Tushnet, 2023). Yet, the Fundamental Law of Hungary was born in 2011, in the heat of the economic crisis, it reserved the simple amendment rule of the previous constitution: two-third majority of all the members of (unicameral) Parliament is required and sufficient to amend the Fundamental Law of Hungary (Article S). As the governing majority gained such a supermajority after each election since 2010, it is not surprising that the Parliament adopted cca. 1 amendment per annum statistically. 14 amendments were made to it in the period of the subsequent crises (2012–2024).

In Poland and Czechia, qualified majority of three-fifth is required in both Houses of the Parliament, and in Poland, amendment to certain chapters shall be confirmed via national referendum (Halász, 2017). In these countries there were only few changes in the Constitutional text, all resulted by the accidental compromise of major political parties. In Slovakia, the unicameral legislation accepted more amendments, via "constitutional acts" (Ľalík, 2017). This landscape shows us that more rigid constitutional texts are durable even in crisis-periods, while a stable government like the Hungarian used the fundamental law as means for crisis-management and political narrative-building. And without constitutional amendments, crisis management measures were subject to constitutional court scrutiny that legislatures could only handle with difficulty.

3 Research and results—constitutional politics in crisis politics

3.1 The public finance chapter and responses to the financial crisis

The 2008 financial and subsequent sovereign debt crisis in Europe sent a political wave that also had consequences in terms of constitutional changes. In response to the sovereign debt crisis, some European countries, either individually or at the instigation of the European Union (Várnay, 2011), have amended their constitutions to include provisions on debt ceilings (on the German debt rule: Thiele, 2015). The Constitution of the Republic of Poland (Art 216.5) has stipulated that public debt cannot exceed 60% of GDP, already since 2004; in the Czech Republic the parliament has retained the power to authorize all government borrowing; while in Slovakia the 2012 Fiscal Responsibility Law imposes reporting mechanisms when the 60 percent debt to GDP ceiling is closing (Awadzi, 2015).

These provisions aim to limit the amount of debt that governments can take on and ensure the sustainability of public finances. These constitutional provisions aim to promote fiscal responsibility and prevent governments from accumulating excessive debt, which could

lead to a sovereign debt crisis. Awadzi notes that the debt rule provision included into the constitution could make the debt ceiling rule more permanent and not subject to arbitrary changes, however, result in rigidities in the face of challenging economic outturns (Awadzi, 2015). However, specific political-governmental considerations have nevertheless led to exceptions to the debt rules (see Germany in times of pandemic and Hungary in general in times of special legal order).

In Hungary, the Budget Council was set up in 2008 and legislation to eliminate public debt has been in place since 2009, but in 2011 it was also incorporated into the Fundamental Law by the new supermajority on government (In Slovakia, constitutional statute No. 493/2011 Coll. of Laws on budgetary responsibility created the Board for Budgetary Responsibility, see Ľalík, 2017). The explicit reason for this was that in previous years of crisis, the (previous) Constitution had failed to dissuade left wing governments from indebting future generations. The crisis-management, i.e., the exceptional nature of the provisions of the Fundamental Law aimed at sustainable public finances is not only reflected in the explanatory. It is peculiar that it is not the Constitutional Court, but the Budget Council that supervises compliance with the constitutional rules on public debt and the central budget (Smuk, 2013). Moreover, the Constitutional Court is subject to a—"temporary"—reduction in its powers: as long as public debt exceeds half of the total gross domestic product, the powers of the Court to supervise public finance laws are limited. From the wording of Article 37(4) of the Fundamental Law, it can be read that this is an exceptional situation, as the public debt should normally be below half of GDP. But, in practice, this economic emergency, as envisaged by the Constituent, has been institutionalized in the field of constitutional review for a long time. There is also an important exception to the constitutional provision on the debt ceiling. The Fundamental Law itself states that it may be derogated from "only during a special legal order," and "to the extent necessary to mitigate the consequences of the circumstances triggering the special legal order, or, in the event of an enduring and significant national economic recession, to the extent necessary to restore the balance of the national economy" (Article 36(6)). The reason for the qualified majority in Parliament to extend the special emergency law continuously in every 6 months—now because of the war in Ukraine—is also to give the government comfortable budgetary margin.

Managing the economic crisis has meant partly managing public spending and budget deficits, but also social benefits. To address the deficit, governments have sought measures such as tightening the conditions for certain entitlements or making room for some economic involvement of the state. In the health sector, the Hungarian and Czech governments introduced different fees, the former swept away by a referendum (2008) and the latter ruled unconstitutional by the Czech Constitutional Court (in its judgement Pl. ÚS 36/11 of 2nd July 2011, see Kudrna, 2017). The Czech and Hungarian governments made the payment of unemployment benefits conditional on participation in public work and community work programs after a certain period of time; the Czech Constitutional Court ruled this unconstitutional in its decision Pl. ÚS 1/12. The Czech Court argued that conditioning the constitutionally guaranteed right to unemployment benefits by completing public service (after 2 months of unemployment) is contrary with the prohibition of forced labor (Kudrna, 2017).

The Hungarian Constitutional Court's assessment of interference with private relations was peculiar when it accepted the restriction of property rights on grounds of public interest in connection with the restructuring of banks and the repayment of foreign currency loans. As it argues, "In the Constitutional Court's view … the state was forced to intervene rapidly with certain measures, including the law on final repayment, in the interests of the debtors, in order to avoid significant financial and social damage threatening the country, due to the development of circumstances which could not reasonably have been foreseen and which went beyond the risk of normal change, the weakening of the forint exchange rate, which it could only influence to a limited extent, and the related difficulties of a significant number of foreign currency debt holders, as well as the general foreign currency indebtedness of the country" (Dec. 3048/2013. Const. Court, 35). The restructuring of private pension funds partly entailed the nationalization of substantial sums of money (in 2010), but in this context the legal promise of future payment of savings was also accepted by the European Court of Human Rights (E.B. vs. Hungary case, 2013). The reform of the pension system, which removed certain preferential pension arrangements, can also be seen as a budgetary issue. In the context of the management of the economic crisis, the Hungarian Constitutional Court has accepted as a justification for the restriction of property rights in the public interest the creation of general stability in the credit institutions sector and the strong role of the State as an economic regulator (Dec. 20/2014 CC; Stumpf, 2017).

In 2011, the Hungarian Fundamental Law in its original text also brought about a change of paradigm with regard to fundamental rights, the public interest and individual responsibility. The previously more value-neutral constitutional text was replaced by one reflecting the values of the parties on the government side who drafted the new Constitution, and later on, provisions referring to Christian-conservative values continued to proliferate (Halász, 2017). It holds that individual freedom can only be complete in cooperation with others (preamble), everyone shall be responsible for him- or herself (Article O), and the nature and extent of social measures may be determined in an Act in accordance with the usefulness to the community of the beneficiary's activity (Article XIX (3)).

3.2 The migration crisis and the identity struggle in Europe

The Hungarian constitutional text also reflects the crisis situation envisaged by the Parliament, which was caused by the wave of immigration towards Europe, mainly as a result of the collapse of certain political regimes in the Middle East, but also from various crisis zones around the world. The year 2015 was a high point in this respect, when several hundred thousand people entered Hungary from Serbia, compared to a few thousand refugees a year before (Tálas, 2017). Here I would like to draw attention to the interconnections between the migration crisis and the EU debate, which has grown from the Hungarian political discourse to the European level. Before that, it is worth noting that the European security crisis was caused by terrorist acts at the time. Constitutional systems, including those in Central Europe, responded to this with various tightening measures. In Hungary, a new type of special legal order was introduced into the constitution (case of "terrorist emergency" by the sixth amendment to the Fundamental Law in

2015), and in Slovakia, according to the constitutional statute No. 427/2015 Coll. of Laws, in respect of terrorist acts, has extended the time-limit for a person to be brought before a judge from 48 h to 96 h or be released (Ľalík, 2017).

In István Stumpf's view, "the refugee crisis of 2015 and the challenges posed by the current pandemic situation have further reinforced the tendencies that have put the defense of national identity at the center of political struggles, and have further exacerbated the tension between countries defending national sovereignty and those calling for greater federalization." He argues that the Hungarian government's controversial ambition was to "depoliticize political issues and assert the mandate of the majority electorate. This ran counter to the mainstream of EU politics, the judicialization of political issues … The Fundamental Law and its amendments were clearly intended to replace the 'invisible constitution' that had been the yardstick of earlier constitutional activism and then increasingly to extend the powers of the executive (headed by the prime minister). The government's philosophy of crisis management and the limitation of fundamental rights in emergency situations was based on these considerations" (Stumpf, 2022).

We can place two amendments to the Fundamental Law within this interpretative framework. The first is the inclusion of the sovereignty (supreme authority) over population and migration (and resettlement) into the concept of constitutional identity; the second is the protection of the cultural motives of Hungarian society—as assumed by the constituent power—against "harmful" Western civilizational processes. The justification (Smuk, 2023) to the Seventh Amendment to the Fundamental Law dramatically describes the crisis situation as follows: "The mass immigration affecting Europe and the activities of pro-immigration forces threaten Hungary's national sovereignty. Brussels … threatens the security of our country and would forever change the population and culture of Hungary."

The amendment thus included a constitutional limit on the exercise of EU competence in Article E, and in response to the migratory pressure from both directions (the southern border and the EU's refugee quota proposal), it added in Article XIV that "No foreign population may be settled in Hungary" and "A non-Hungarian national shall not be entitled to asylum if he or she arrived in the territory of Hungary through any country where he or she was not persecuted or directly threatened with persecution." What is more, in the spirit of the protection of cultural identity, the new paragraph 4 of Article R made it the duty of all organs of the state to protect "the constitutional identity and Christian culture of Hungary." The Ninth Amendment takes this further, stating in its explanatory that "modern ideological trends in the Western world, which raise doubts about the gender identity of men and women, threaten the right of children to healthy development enshrined in the Fundamental Law," and thus Article XVI now provides that "Hungary shall protect the right of children to a self-identity corresponding to their sex at birth, and shall ensure an upbringing for them that is in accordance with the values based on the constitutional identity and Christian culture of our country."

The identity "crisis" we are witnessing here can be seen as an element of the governing parties' narrative rather than a direct threat to society or the state (Bast and Orgad, 2017). Adding to Stumpf's point of view, while European forums approached the migration crisis and the plight of refugees from a human rights perspective, the Hungarian government explicitly wanted to keep it in the context of sovereignty, security and cultural identity. This has allowed identity protection laws to be used against NGOs (Mészáros, 2024b).

However, two of the Visegrad 4 countries, Hungary and Slovakia appealed to the CJEU against the European Council's decision (Council Decision (EU) 2015/1601 of 22 September 2015[1]) on the allocation of migrant persons, as they did not accept either its legal basis or its appropriateness and necessity; Poland intervened in the proceedings as a supporting party (Desmond, 2023). The CJEU rejected their application, finding both that the legal basis was correct and that the Council's assessment of the appropriateness and effectiveness of the measure was not manifestly unfounded (CJEU C-643/15 and C-647/15, Slovakia and Hungary v Council).[2] This decision was handed down in autumn 2017, at a time when the political importance of the migration issue had already risen well beyond the question of adequacy under EU law. In Hungary, a national referendum was held on the government's initiative on the issue—but invalid due to insufficient participation—in October 2016. This year, the Constitutional Court also ruled that it upholds the competence to decide on the applicability of EU law in order to protect the constitutional identity, affected by the population resettlement (Decision 22/2016 CC). This was followed by the above described Seventh Amendment to the Fundamental Law. By this time, in accordance with the Hungarian example, the reference to the migration crisis has become a central issue of the internal political debates in Central European countries and beyond (Androvičová, 2016; Etl, 2020; Fabbrini and Zgaga, 2024).

3.3 On the special legal order—the pandemic experience

Although the special legal order was "for some time before the coronavirus epidemic mostly known as a theoretical issue in university lectures and remote from the realities of everyday life" (Trócsányi, 2021), its constitutional regulation in Hungary has changed several times and has been the subject of a number of scholars (Mészáros, 2016; Csink, 2017; Kelemen, 2017; Till, 2019) since the system-change. Beside the academic discourse on the pandemic and constitutionalism (Drinóczi and Bień-Kacała, 2020; Florczak-Wator, 2021; Mészáros, 2024a), we summarize here the Hungarian experience.

The Hungarian constitutional text of 1990 recognized state of war, a state of national crisis and state of emergency, but the list of qualified periods was extended step by step later on. The sixth amendment in 2016 to the new Fundamental Law introduced the case of a terrorist emergency as the sixth, and the reform introduced by the tenth amendment (2022) simplified it: the three special legal regimes under Article 48 are the state of war, the state of emergency and the state of danger. Curiously, in addition to the changes in typology, the content of each special legal order has also changed, most recently, for example, as an explicit extension, the tenth amendment in Article

1 Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ 2015 L 248, p. 80).

2 Judgment in Joined Cases C-643/15 and C-647/15 Slovakia and Hungary v Council.

51(1) allows for the declaration of a state of danger in the event of "armed conflict, war or humanitarian disaster in a neighboring country" (Ősze, 2021).

As the regime-changing political elites of the Central and Eastern European states had direct generational experience of the Polish martial law introduced in 1981 to contain the social crisis, democratic political thinking was fundamentally afraid of the possibility of emergency law. So, the question rightly arises: is a special legal order even necessary to deal with crises? Can effective "normal law" crisis management measures be taken within the framework of a sufficiently flexible legal system? There are threats to the state/society, however dramatic and unfortunate, which can never be eliminated in a modern society—and to which the special legal order is not the answer (CDL-PI(2020)005rev, 2020). The special legal order: ultima ratio—it can be applied when other, traditional measures are indeed no longer sufficient (Koja, 1993). The constitutional dilemmas of the special legal order can be summarised as follows (based on CDL-PI(2020)005rev, 2020), of which the concerns based on the constitutional text are addressed here.

The constitutional conception of the special legal order predates the sovereignty-based approach in virtually all modern constitutional systems. In the latter's view, one could argue that, on the one hand, the threat to the state/society and the means to avert it cannot be foreseen in advance, and, on the other hand, it is precisely the ordinary legal order that we are seeking to transcend: therefore, its regulation would not be viable. However, while the constitutional order is not suspended, so we expect a constitutional regulation of the special legal order; the approach of defining special legal order cases at the level of the law may be lacking constitutional guarantees. The Hungarian construction of "crisis situation caused by mass immigration" in Act LXXX of 2007 on the right of asylum (Chapter IX/A) can be considered as unconstitutional (Szente, 2020). Our natural aversion to unlimited sovereign power in the extraordinary legal order is still valid, and even growing.

With regard to the qualified periods in the Fundamental Law and the emergency declared due to the COVID pandemic, the reason for the declaration was subject to a scientific (i.e., not only political) criticism, namely whether the pandemic could be interpreted as a qualified case under the Fundamental Law. The state of danger was declared by the government because of a "human pandemic causing mass disease," but a "human pandemic" cannot be included in the definition of an elementary (natural) disaster (nor can it be interpreted as an industrial disaster). The option "given" by the Disaster Management Act was not appropriate for the reasons mentioned above (Szente, 2020; Horváth, 2020). The legal basis for the emergency response to the 2020 COVID epidemic was provided by the Government Decree 40/2020 (11 March 2020) on the introduction of the COVID epidemic, which, in addition to the Fundamental Law and the Disaster Protection Act, was extended by Act XII of 2020 on the protection against the coronavirus, and the legislative also ratified the government's emergency regulations.

To address this specific situation, the special legal order provides for instruments which have a particular impact on human rights and on the system of separation of powers due to the change of competences (CDL-PI(2020)005rev, 2020, p. 6). The Constitution only specifies the purpose for which special measures may be used in the case of an emergency (a state of danger may be declared by the Government, in accordance with Article 51 of the Fundamental Law of Hungary, in the event of "armed conflict, war or humanitarian disaster in a neighboring country, or a serious incident threatening the safety of life and property, in particular a natural disaster or industrial accident, and in order to avert the consequences thereof"). In general, the extraordinary powers granted to the executive by the rule of law are not unlimited, but are purpose-tied: a return to normality (CDL-PI(2020)005rev, 2020, p. 30). In addition to necessity, the proportionality test can also be applied to the assessment of individual measures. The Venice Commission has stated that "States may not resort to measures which would be manifestly disproportionate to the legitimate aim pursued (in terms of their seriousness or the geographical area covered by the emergency measures). If they have several measures to choose from, they should opt for the less radical ones" (CDL-PI(2020)005rev, 2020, p. 11). While it is a characteristic of resilient political systems that they are prepared for future challenges, we see this as being applicable primarily to decision-making mechanisms: in planning crisis management measures, it is perhaps precisely the novelty and unpredictability of the events that trigger crises that they should be counting on (Commissions Rec. 2023/C 56/01).[3] The position of the executive, which is empowered to take special measures, and its possibilities for action are defined by the Fundamental Law in terms of the legal source, with the Government being able to "suspend the application of certain laws, derogate from legal provisions and take other extraordinary measures." An explicit requirement of the scope of measures, in order to safeguard the political and constitutional control mechanisms, is that the Government is obliged to take all measures in a special legal order to ensure the continued functioning of Parliament and the Constitutional Court (Articles 52(4), 55(5)).

Emergency measures are justified in an emergency situation and it is in the vital interest of the community at risk that life returns to normal. Therefore, when the above-mentioned triggers cease to exist, or when the purpose of the measures applied has been achieved, or after a specified period of time, the special legal order must end. A guarantee solution is to renew the authorization for the exceptional measures periodically, even if the triggers persist (Szente, 2020). With regard to the constitutional arrangements for crisis management, the period of the special legal order and the (temporal) validity of the special legal order decrees issued during that period were also regulated. Under Article 51/A of the Fundamental Law, the Parliament could declare a state of emergency for a "specified period" at the initiative of the Government. More recent rules of the Fundamental Law provide that a state of emergency or state of danger may be declared for a period of 30 days (Articles 50 and 51) and that "the body authorized to declare a special legal order shall terminate it when the conditions for its declaration are no longer fulfilled" (Article 53(4)). In March 2020, there was a heated debate in the Hungarian Parliament over the Government's request for an indefinite emergency mandate on the grounds that the end of the pandemic cannot be predicted in advance (on the Act XII of 2020).

It is telling that Act IV of 2022 on the prevention and management of the consequences of armed conflict and humanitarian disasters in neighboring countries in Hungary—in its preamble and

3 2023/C 56/01—COMMISSION RECOMMENDATION of 8 February 2023 on Union disaster resilience goals.

explanatory—merely extends the validity of certain government decrees to ensure that "all necessary means are available to assist, support and accommodate people fleeing the conflict, to prevent the adverse economic effects of the consequences, to mitigate the consequences and to ensure that the country leaves the adverse consequences of the war behind as soon as possible…." This justification is mechanically repeated by the Parliament when extending the state of danger, in the Act XLII of 2022 and its following amendments (Mészáros, 2024a). The recent justification only adds that the armed conflict and humanitarian disaster in Ukraine and their consequences in Hungary, especially in the fields of refugees, economy and energy, have not changed in the recent period. That said, the possibility of political control of this justification in the parliamentary debate is given. The Constitutional Court's observation worth mentioning: "the economic and social impact of the (pandemic) emergency and the measures taken to protect against it go beyond the duration of the emergency, and the measures taken to counter its negative effects may therefore have a lasting or even definitive effect" (Dec. 8/2021 CC).

We note under this point that, at the time of the closure of this manuscript, a special legal order has been in force in Hungary continuously since March 2020, with the exception of a small period. The state of danger, which was lifted on 17 June 2020 on the grounds of the pandemic, was renewed in two phases from 4 November 2020 to 31 May 2022, and from 25 May 2022 it is maintained by the government on the grounds of the armed conflict in Ukraine—permanently in the crossfire of opposition criticism.

3.4 The impact of crises on institutional-power structures: the institutional conditions for political and constitutional control of the executive

In general, crises can have a significant impact on the division of powers between state bodies. In times of crisis, be it natural-industrial disasters, economic downturns or security threats, the executive may seek to gain greater power over decision-making and (public) policy-making. This could result in a shift of power away from the legislative and judicial powers, which would be responsible for controlling the executive. The government may take emergency measures such as imposing curfews, requiring masks and restricting gatherings in public places, which, although necessary to control the spread of the disease, may raise concerns about fundamental rights (especially civil liberties) and possible abuse of power (Ramraj, 2023). In such situations, the legislative and judicial branches of government may provide the guarantees to ensure that the government acts within the law and the constitution.

Political pressure from public opinion in times of crisis can be peculiar. Societies or vulnerable groups in society may demand quick and effective action and be less concerned about the separation of powers or constitutional limits on the executive. This can pose a challenge for democratically elected officials, who must balance public demands with upholding the rule of law. The expansion of the Government's powers and the change of control over its activities, through its political determination, is becoming the focus of political debates by default. This is particularly so if we consider that the success of the crisis management itself can be measured in terms of the popularity of the governing parties. Nearly a decade of critiques of the rule of law in relation to the Hungarian government's actions have provided a specific context for both the technique and the content of special legal powers (Stumpf, 2020, 2021; Mészáros, 2024a). Under this section, we will review the constitutional aspects of the system of separation of powers and the exercise of fundamental rights during crises.

3.4.1 The functioning of parliament

Parliamentary control of governance under the special legal order can be ensured by several factors. Firstly, as we have seen, the legislature has a role to play in the assessment of the crisis situation and the imposition of the special legal order, in so far as it can overrule the situation and the urgent measures ordered by the government. The review role of a parliament that sits and debates "more heavily" does not necessarily contradict the need for swift action: the regular presentation of emergency orders to the legislature can ensure that they can be approved or rejected by MPs. The Venice Commission also stresses that the criterion for meaningful scrutiny is that Parliament should not only be able to decide on these on an "all or nothing" basis, but also to do so in relation to parts of the regulations. This also implies that Parliament should be in session on a permanent basis (CDL-PI(2020)005rev, 2020, p. 71).

Accordingly, as mentioned above, the Fundamental Law of Hungary requires the Government to ensure the conditions for Parliament to sit continuously. It may be noted that in Hungary the Speaker may, under the authority of the Parliament Act (Art. 37), convene a sitting of Parliament in a special legal order at a place other than the Parliament Building. However, although not unprecedented (IPU.org, 2020; Petri, 2020), during the pandemic and quarantine period, the Hungarian Parliament did not meet on-line, even during the quarantine period of the first wave. The larger Upper House chamber in the Parliament Building allowed for distance sitting and the ParLex system allowed for virtually complete on-line management of documents (EKINT, 2020). In 2020, (the Empowerment) Act XII (§ 4) required the Government to provide regular information on the measures it had taken to avert the emergency, which it could do at the sitting of Parliament, in its absence to the President of Parliament and the leaders of the parliamentary groups. Thus, there were no institutional, infrastructural or external obstacles to the functioning of the Hungarian legislature and the provision of information during this period.

In Poland, the Presidium of the Sejm allowed holding online sessions and remote voting—with identification –, while the Senate hold hybrid sessions. The Slovak legislative body held its sessions with personal attendance, although without media presence and applying fast track procedures; while the Czech parliament's sessions were suspended in 2020 (The emergency practices were monitored by European bodies, see Venice Commission, 2020). Countering the executive's emergency measures, the Polish Supreme Court has ruled that fines for breaching restrictions on personal movement introduced by government decrees in March 2020 are unlawful, as the restrictions were not laid down by a parliamentary act but by secondary legislation (Jaraczewski, 2021).

As proof of the continuity of the Hungarian legislative functioning, its performance is outstanding: in the spring of 2020 (from 17 February to 15 June), it held 37 meeting days, compared to 19 in the same period in 2019 and 31 in 2021. In 2020, between the first wave

of legislation to combat the coronavirus and the first wave of legislation to end the crisis, Parliament passed 46 laws, compared with 33 in the same period in 2019. Looking at the remainder of the 2018–2022 term in terms of the scrutiny function of the National Assembly, we see those four initiatives to set up a committee of inquiry on pandemic crisis management have been tabled, but none of the items were supported by the Committee on Justice (Parliamentary Information Portal data).[4] The number of interpellations and questions raised has been higher, although the quality of the questions and answers (like "The government's emergency press conference provided regular information on the data in the written question.") does not necessarily support our expectations as to the viability of a substantive control function.

On the one hand, these indicators disproved that the government had technically shut down Parliament during the emergency, and on the other hand, they raised the question of whether the crisis management legislation—not always of daily urgency—could have been passed under normal law. What is more, the laws adopted in spring 2020 include some politically sensitive and unrelated to the management of the virus situation, such as those on foundations of new model universities and their endowment. In the same time, the Government had issued decrees actively, not only in numbers but also in merits (Mészáros, 2024a).

3.4.2 On the functioning of the constitutional court

The operation of the Hungarian Constitutional Court cannot be restricted during a special legal order, and the Government is obliged to take measures to ensure its continued operation (Fundamental Law, Art 52 par. 4). In contrast to the National Assembly, the Constitutional Court was allowed to meet online, first in Act XII of 2020, and then, after the first wave of the emergency was lifted, the new Article 48/A was inserted into the Constitutional Court Act. According to the latter rule, which is not limited to a special legal order, "the plenary session of the Constitutional Court and the session of the Council may be held by electronic means of communication, as decided by the President." With the amendment of the Constitutional Court Act, the emergency measure has thus become part of the normal legal order.

The strict sentence that the Constitutional Court's functioning cannot be restricted in a special legal order also raised a question of interpretation of its powers. It was argued that some of the limits on the jurisdiction of the Constitutional Court, as enshrined in the Fundamental Law (in other places, e.g., Article 37) and in the Constitutional Court Act, would also cease to apply under the special legal order. However, the view prevailed that "the Constitutional Court may not extend its jurisdiction beyond the limits of the normal legal order, even in the special legal order" (Erdős, 2022). All this said, the functioning of the Constitutional Court in the period of crisis can be considered to be substantial and continuous (Németh, 2021), although its interpretation was legislation-friendly (see below).

In Poland, the period of migration and pandemic crises was intersected by the constitutional-political debate on the reform of the judicial system and the membership of the Constitutional Tribunal. This has also attracted particular attention at EU level and has risked a general dismantling of judicial review and rule of law guarantees against the executive (hence not limited to crisis issues). Without further elaboration here, it should be noted that these efforts are seen by many scholars as a chapter in the "illiberal" or "populist" turn of the Central European states (Drinóczi and Bień-Kacała, 2019). It is worth noting that the weakening of these control mechanisms is a particular risk in other periods of crisis. The abovementioned limitation of the powers of the Hungarian Constitutional Court in relation to the financial crisis, which exists since 2011, has, by comparison, already been removed from the agenda of constitutional debates.

3.4.3 Other counterbalances to the executive

In terms of the system of separation of powers, the Fundamental Law of Hungary does not explicitly provide for institutional guarantees of the functioning of the other counterbalances of the executive, as is the case with the National Assembly and the Constitutional Court. Although the prohibition of the suspension of the Fundamental Law (Article 52(1)) implies that the rules of organization and competence described therein continue to apply, unless otherwise provided, for example in the case of the courts, the Public Prosecutor's Office or the Commissioner for Fundamental Rights, the laws governing the procedure and organization of these bodies do not enjoy the same protection as in the case of the Constitutional Court. On the merits of the reviews, the Hungarian Ombudsman's annual reports show that it was not in 2020, but rather only in 2021, that the fundamental rights protection issues of pandemic-related inquiries were deepened. With regard to the judiciary, an important reservation is that the criminal law guarantees contained in Article XXVIII (2)–(6) cannot be limited in relation to the normal legal order (Article 52(2)). In a case concerning criminal law guarantees, the Polish Constitutional Tribunal found the legislative measure on suspension of the limitation period for punishability of an act unconstitutional (case P 12/22).[5] It found that "In principle, the legislator has the ability to freely shape the institution of the limitation period, however, the lack of specifying the maximum period of suspension due to the state of epidemic threat or epidemic state meant that the suspension of the limitation period could last for an indefinite period."

Nevertheless, as regards the organs of the judiciary and their procedures, the special legal order rules have introduced a number of modifications. Adapting to the pandemic period has required considerable efforts not only from citizens seeking justice but also from those working in the organization of the judiciary (Chronowski et al., 2024). Thus, in addition to the possibility of suspending proceedings, we must remember the restrictions on the oral hearing of requests from clients without a lawyer, the personal availability of the offices of the administration, the restrictions on home office work and the mandatory vaccination of those working in an administrative environment.

4 www.parlament.hu

5 P 12/22 – Constitutional Tribunal decision on 12 December 2023 (Suspending the limitation period for imposing penalties for prohibited acts and the limitation period for enforcing penalties in cases concerning criminal offences and fiscal offences). Available at: https://trybunal.gov.pl/s/p-12-22.

3.5 Further constitutional concerns on crisis policy measures

A detailed analysis of the specific legal crisis management measures cannot be undertaken within the scope of this study. Instead, three cross-sectional aspects will be mentioned, firstly, the substantive reasons for the introduction of the special legal order, secondly, the legislative conditions of the rule of law for crisis management measures and, finally, the question of the enforcement of fundamental rights.

As we have seen above, the wording of the reasons for special legal order cases (crisis situations) can be less detailed and concrete. This is an acceptable position because of the unforeseeable novelty of crisis situations, but it certainly implies a decision as to whether the crisis situation experienced really fits into the situation offered by the Fundamental Law. As such, it is a decision on the application of the Fundamental Law, which must be subject to review by the Constitutional Court: to avoid abuse of the special legal order, but also to protect the Fundamental Law. According to the Venice Commission, it is acceptable that the Constitutional Court's control over the introduction of the special legal order is limited to the procedural aspects of the decision, but this should not restrict the substantive examination of the emergency measures (CDL-PI(2020)005rev, 2020, p. 86, while Vyhnánek et al., 2024, argue to apply a semi-procedural approach).

The invocation of the reasons for the declaration of a state of danger and the relationship (expediency) of certain government measures to crisis management are dealt with rather narrowly by the Hungarian Constitutional Court. It argues in its Decision 23/2021 that "it is for the legislature to decide whether the conditions for imposing a special legal order exist and, at the same time, whether and to what extent a restriction of fundamental rights is justified under such a legal order." While the "appropriateness of the exceptional measures cannot be challenged by the Constitutional Court, it is a question of constitutionality whether the restriction of rights remains within the limits of the Fundamental Law. … The primary question is that of the appropriateness of the measures necessary to combat the coronavirus epidemic. The Constitutional Court has neither the power nor the means to review such measures. It is the Government's power and responsibility to take the necessary emergency measures, which are directly authorised by the Constitution in times of emergency, taking into account the health, social and economic risks. However, the Government's power to take emergency measures is not unlimited. … In its examination of the constitutionality of a measure, the Constitutional Court may not examine the appropriateness of the restrictions, but it may examine whether the rule restricting a fundamental right is justified in the interests of protection against an exceptional situation." However, "[i]n general, it can be stated that the fight against the coronavirus epidemic, including the reduction of its health, social and economic effects and the mitigation of the damage, are objectives which constitutionally justify the restriction of fundamental rights, including the restriction of freedom of assembly. The restriction of a fundamental right therefore has a constitutionally justified, legitimate aim." In adopting this approach, one element of the fundamental rights limitation test was in fact initially waived by the Court when examining specific restrictions on fundamental rights [Erdős (2022) analyzes also the further development of the fundamental rights tests].

Similarly, the Hungarian Court has been cautious in its approach to the preparation period for the introduction of crisis measures (Dec. 8/2021 CC). It argues that "[i]n an emergency situation, immediate measures are necessary, which cannot be prepared for in advance. It is therefore not possible to provide sufficient preparation time for voluntary compliance with the provisions contained therein." It adds from its pre-pandemic precedents that "the determination and provision of sufficient time to prepare for the application of the law is a matter for the legislature's discretion and judgment. The assessment of how much time is necessary to prepare for the application of a particular piece of legislation is a matter of discretion requiring consideration of economic policy, organizational, technical and other aspects, and is therefore not a constitutional issue." In the even earlier practice of the Constitutional Court, we can find decisions where the Court took a more specific position on the length of the preparation period (i.e., Decisions 43/1995 or 51/2010 CC).

This position in favor of emergency legislation was taken at a time of pandemic, quarantine, social and psychological stress. It was not just about the application of legislation full of technical rules that tested legal experts too, but about the hour-to-hour rules imposed on ordinary people, controlled by the authorities or risking infection. In this context, government communication is of paramount importance, using various channels to keep the public informed of specific measures. One of the characteristics of the COVID period was that, in addition to reliable news sources, additional sources competed for the attention of members of society, not infrequently not to amplify official information but to disturb it with fake news or other "noise" (Koltay, 2021). Sketchy announcements by government leaders on social media preceded the promulgation of the final and detailed regulations. Against this background, the Constitutional Court intended to remain balanced when referring to the predictability of certain measures.

During the Hungarian crisis legislation, the executive branch made use of legal restrictions in large numbers, and it is obviously not possible to give an exhaustive list of these, but we consider it necessary to take a small inventory to show the nature of exceptional measures. In the wake of the migration crisis, border police measures have been accompanied by legal restrictions in the asylum procedure, including the possibility of "escorting" or "returning," introduced in 2017, which also restricts access to asylum: in a crisis situation caused by mass immigration, a police officer may detain an illegal alien on the territory of Hungary and escort him/her to the nearest gate of the Schengen external border. We can add to Section 5 (1b) of Article 5 of Act LXXXIX of 2007 on State Borders the rule contained in Article XIV (4) of the Fundamental Law (with the seventh amendment), according to which a non-Hungarian citizen who has entered the territory of Hungary through a country where he or she has not been subjected to persecution or the imminent threat of persecution is not entitled to asylum.

The specific legal restrictions were actually experienced by Hungarian society on a massive scale during the COVID-19 pandemic. These restrictions affected a diverse range of fundamental rights. These included restrictions on freedom of movement, on the opening of shops and "events", on giving the minister access to personal health data for protection purposes, on the wearing of masks, on the switch to digital working hours in universities and schools, on the requirement to have a immunity certificate (see Decision 3133/2022 of the Const. Court), compulsory vaccination for certain groups of the population (Dec. 3088/2022 of CC), restrictions on the right of assembly (Dec. 23/2021 of CC) (including fines for car rallies, see Dec. 3048/2022 of CC), the

introduction of the offence of scaremongering (Dec. 15/2020 of CC), changes to the deadlines for requesting data of public interest or the non-disclosure of data of public interest, and cuts in local government revenue and property (Dec. 92/2020 and 3234/2020 of CC). In the leading cases, the Hungarian Constitutional Court found only few constitutional problems with government measures (Erdős and Tanács-Mandák, 2023).

4 Discussion—crisis politics and democratic accountability

During the years of crises, perhaps not directly as a result of the crises, we can also observe issues with the functioning of representative democracy—these have also appeared at the constitutional level. In 2012, the Czech Republic switched to direct election of the head of state, while in the Czech and Slovak parliaments, the immunity of representatives was reduced (Kudrna, 2017; Ľalík, 2017). In Hungary, there was a flurry of referendum initiatives in 2007, including one that was held on budgetary issues in 2008. In 2009, also as an effect of a referendum initiative, the parts of the previous constitution relating to the reimbursement of MPs' expenses were amended with surprising cross-party consensus.

Europe's democratic systems are also under threat from hybrid foreign influence. This latest challenge is defined in several legislative bodies as a crisis situation. In Hungary, foreign (in this case, Western) influence has led to an amendment of the constitution and the creation of a new body to protect sovereignty, which is trying to fight "foreign agents" by investigating NGO finances (12th amendment of the Fundamental Law, Art. R par.(4); Act LXXXVIII of 2023; Dec. 20/2024 CC). The CJEU (CJEU Case C-78/18 Commission v Hungary), the ECtHR (Ecodefence and Others v. Russia, 2022) and the Venice Commission (CDL-AD(2024)001) have already expressed the dangers of Russian, Hungarian and Georgian "foreign agent legislation" for fundamental rights (Smuk, 2024). The real dangers of foreign influence may only be experienced in the future, and one of the omens of this may be the decision of the Romanian Constitutional Court to annul the result of the presidential elections at the end of 2024, referring to the unacceptable level of foreign influence (Selejan-Gutan, 2024).

A complex application of the principle of democracy could help to conclude the review of the constitutional implications of crises, and to this end we propose two aspects. One of the problems is the emergence of a tension between expert knowledge and legitimacy in crisis legislation and adjudication. Another equally serious impact of the crises on democratic process relates to the holding of elections and referendums. Both issues are related to political accountability and democratic legitimacy.

We have to recognize that, in the context of technological progress and the complexity of crises, specialized expertise is often necessary to develop effective responses to crises, as experts can provide insights into the technical, scientific aspects of the crisis and help identify the most effective solutions. On the other hand, democratic legitimacy is essential to ensure that public policy decisions and actions taken in response to a crisis reflect the values and priorities of the wider population. While expert knowledge can be critical to developing effective crisis responses, it is important to ensure that policies and measures are subject to democratic scrutiny and accountability. Past crises have highlighted the fact that in many respects, elected government officials, functioning with democratic legitimacy and accountability, are no longer in the position to make decisions on the basis of their democratic responsibility (or popular representation) on a number of important issues. Such situations of conflict between democratic legitimacy and scientific expertise have been well spawned by the economic crisis, climate change and, of course, the pandemic. During the COVID-19 pandemic, almost all Hungarian disease control measures were based on the justification offered by medical science—even if alternative or rather pseudo-scientific opinions were also published, and later on, national economic and welfare considerations were becoming increasingly strong (for a comprehensive presentation and analysis of political communication see Szabó, 2022). A particular risk may be that the government has administrative power to choose between, or even to influence, expert positions (Post, 2012).

While the government administration had access to expert knowledge by default, the constitutional courts had to apply the fundamental rights tests of necessity and proportionality in its absence. When the Hungarian Constitutional Court was required to base its position on scientific knowledge, it could already refer back to its previous case law to determine the method: the Court, acting in the light of the "prevailing scientific world view" at the time (which was the WHO's position), accepted the adequacy of vaccines to combat the coronavirus epidemic (Dec. 3537/2021. CC.; Erdős, 2022).

Regarding the holding of elections and referendums in crises periods, we draw attention to the fact that these direct democratic occasions would be organized in a special legal order, in a more turbulent social-psychological state of public opinion and society, and even at a time of increased government power, restrictions on political freedoms and freedom of movement (Nagy, 2021). These circumstances would leave strong doubts as to whether they were a reflection of the real will of the people. Would there be more serious consequences if the elections and referendums were postponed until after the crisis? (Lee, 2024).

In Visegrad countries, several elections have been postponed during and because of pandemic. Slovakia postponed the local elections of April 2020, Poland the presidential election of 10 May 2020 to June/July, and the Czech Republic a by-election to the Senate also in 2020 (Gál, 2022). Around the most important event (presidential election in Poland) the political and constitutional debate took into account probably almost all alternatives and justifications. Voter turnout on the planned day would have been limited due to the extraordinary measures; the pandemic broke out in March 2020, by which time it was too late to change the electoral procedure; the Court would not have accepted a purely postal vote as regular; the opposition rejected the postponement of the election and also party motions to extend the mandate of the incumbent president for another 2 years (ODIHR, 2020). Voter turnout in postponed elections has increased in Poland, Slovakia and Czechia, and not decreased compared to the average trend in other countries (Gál, 2022).

The Hungarian Fundamental Law, in its position of protecting the functioning of the National Assembly, rather provides for the exclusion of elections in times of war and state of emergency (Article 55), but does not mention this in the event of a state of danger. Act I of 2021 prohibited or postponed by-elections and referendums until the end of the state of danger, although it was reauthorized by Government Decree 103/2022 (10.3.2022). The 2022 parliamentary elections were held under a special legal regime, which imposed fewer restrictions on the electoral process but defined the broader legal context of the

campaign period. Among the relevant restrictions the limited access to information of public interest is mentioned by OSCE (2022).

The Venice Commission underlines that the solutions available under the legal order should be used as far as possible in the event of an election held during a crisis situation. If a state decides to hold elections, it should consider that the democratic legitimacy of the elected legislature may be undermined by lower turnout (for example, due to restrictions on freedom of movement or epidemic fears), public confusion, and the negative influence of restrictions on fundamental rights (CDL-PI(2020)005rev, 2020, pp. 101–120; Landman and Splendore, 2020, construct a risk matrix on the issue). This, in turn, could have the most significant, long-term impact on constitutional law because of the spill-over effect of crises on popular representation, democratic control and the legitimacy of constitutional institutions.

Data availability statement

The original contributions presented in the study are included in the article/supplementary material, further inquiries can be directed to the corresponding author.

Author contributions

PS: Conceptualization, Formal analysis, Investigation, Methodology, Resources, Validation, Writing – original draft, Writing – review & editing.

Funding

The author(s) declare that no financial support was received for the research, authorship, and/or publication of this article.

Conflict of interest

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Generative AI statement

The authors declare that no Gen AI was used in the creation of this manuscript.

Publisher's note

References

Androvičová, J. (2016). The migration and refugee crisis in political discourse in Slovakia: institutionalized securitization and moral panic. *Acta Universitatis Carolinae – Studia Territorialia* 16, 39–64. doi: 10.14712/23363231.2017.11

Awadzi, E. A. (2015): Designing legal frameworks for public debt management. IMF Working Paper, WP/15/147. doi: 10.5089/9781513529561.001

Bast, J., and Orgad, L. (2017). Constitutional identity in the age of global migration. *German Law J.* 18, 1587–1594. doi: 10.1017/S2071832200022446

Casal Bértoa, F., and Weber, T. (2019). Restrained change: party systems in times of economic crises. *J. Polit.* 81, 233–245. doi: 10.1086/700202

CDL-PI(2020)005rev (2020). Report of the Venice Commission – Respect for democracy human rights and rule of law during states of emergency – Reflections. Available at: https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)005rev-e (Accessed December 1, 2024).

Chronowski, N., Szentgáli-Tóth, B., and Bor, B. (2024). Resilience of the judicial system in the post-Covid period: the constitutionality of virtual court hearings in the light of the COVID-19 pandemic. *Hung. J. Leg. Stud.* 64, 413–434. doi: 10.1556/2052.2023.00468

Coyne, C. J. (2010). Constitutions and crisis (July 23). doi: 10.2139/ssrn.1647846

Csink, L. (2017). Mikor legyen a jogrend különleges? *Iustum-Aequum-Salutare* 4, 7–16.

Desmond, A. (2023). From migration crisis to migrants' rights crisis: the centrality of sovereignty in the EU approach to the protection of migrants' rights. *Leiden J. Int. Law* 36, 313–334. doi: 10.1017/S0922156522000759

Drinóczi, T., and Bień-Kacała, A. (2019). Illiberal constitutionalism: the case of Hungary and Poland. *Ger. Law J.* 20, 1140–1166. doi: 10.1017/glj.2019.83

Drinóczi, T., and Bień-Kacała, A. (2020). COVID-19 in Hungary and Poland: extraordinary situation and illiberal constitutionalism. *Theory Pract. Legis.* 8, 171–192. Online. doi: 10.1080/20508840.2020.1782109

EKINT (2020): Eötvös Károly Intézet: *Átmentett hatalomkoncentráció: koronavírus-leltár. A magyar kormány válságkezelésének alkotmányjogi értelmezése*. Available at: http://ekint.org/lib/documents/1592554960-EKINT_Koronavirus-leltar_elemzes.pdf (Accessed December 1, 2024).

Erdős, C. (2022). Gondolatok a különleges jogrendi alapjog-korlátozás alkotmánybírósági gyakorlatáról. *Jog-Állam-Politika*, 2. Special issue.

Erdős, C., and Tanács-Mandák, F. (2023). The Hungarian constitutional *Court's* practice on restrictions of fundamental rights during the special legal order (2020–2023). *Eur. Politics Soc.* 25, 556–573. doi: 10.1080/23745118.2023.2244391

Etl, A. (2020). Liminal populism—the transformation of the Hungarian migration discourse. *J. Borderl. Stud.* 37, 115–132. doi: 10.1080/08865655.2020.1735479

Fabbrini, S., and Zgaga, T. (2024). Right-wing Sovereignism in the European Union: definition, features and implications. *J. Common Mark. Stud.* 62, 341–359. doi: 10.1111/jcms.13497

Florczak-Wator, M. (2021). States of emergency in Poland and their impact on the protection of human rights in times of covid-19 pandemic. *Rom. J. Comp. Law* 12, 287–308.

Fruhstorfer, A., and Hein, M. (Eds.) (2016). Constitutional politics in central and Eastern Europe. From Post-socialist transition to the reform of political systems. Wiesbaden: Springer.

Gál, K. (2022). The Visegrád group and Covid-induced election postponement: a slight sacrifice for safety? *JTIblog*. Available at: https://jog.tk.hu/en/blog/2022/10/the-visegrad-group-and-covid-induced-election-postponement (Accessed December 1, 2024).

Halász, I. (2017). Trends of constitutional amendments in Central Europe after 2008. *Hung. J. Legal Stud.* 58, 177–193. doi: 10.1556/2052.2017.58.2.4

Havlík, V., and Kluknavská, A. (2022). The populist vs anti-populist divide in the time of pandemic: the 2021 Czech National Election and its consequences for European politics. *J. Common Mark. Stud.* 60, 76–87. doi: 10.1111/jcms.13413

Horváth, A. (2020). A veszélyhelyzet közjogi és jogalkotási dilemmái – Mérlegen az Alaptörvény 53. cikke. *Közjogi Szemle*, 4.

IPU.org (2020): *Country compilation of parliamentary responses to the pandemic*. Available at: https://www.ipu.org/country-compilation-parliamentary-responses-pandemic (Accessed December 1, 2024).

Jaraczewski, J. (2021). The new normal? Emergency measures in response to the second COVID-19 wave in Poland. *VerfBlog* 3:24. doi: 10.17176/20210324-151409-0

Kelemen, R. (2017). Az Alaptörvény különleges jogrendi rendszerének egyes dogmatikai problémái – kitekintéssel a visegrádi államok alkotmányának kivételes hatalmi szabályaira. *Katonai Jogi és Hadijogi Szemle* 1-2, 37–68.

Koja, F. (1993). Allgemeine Staatslehre. Wien: Manz Verl.

Koltay, A. (2021). On the constitutionality of the punishment of scaremongering in the Hungarian legal system. *Hung. Yearb. Int. Law Eur. Law.* 9, 23–42. doi: 10.5553/HYIEL/266627012021009001002

Kudrna, J. (2017). Constitutional changes and proposals for constitutional changes in the Czech Republic after the crisis in 2008. *Hung. J. Leg. Stud.* 58, 155–176. doi: 10.1556/2052.2017.58.2.3

Ľalík, T. (2017). Tracing constitutional changes in Slovakia between 2008–2016. *Hung. J. Leg. Stud.* 58, 117–138. doi: 10.1556/2052.2017.58.2.1

Landman, T., and Splendore, L. D. G. (2020). Pandemic democracy: elections and COVID-19. *J. Risk Res.* 23, 1060–1066. doi: 10.1080/13669877.2020.1765003

Lee, S. (2024). When elections wait: a cross-National Analysis of election postponement during the COVID-19 pandemic. *Polit. Res. Q.* 1–17. doi: 10.1177/10659129241290430

Mészáros, G. (2016). Különleges helyzetek és a joguralom határai: a kivételes állapot az alkotmányos demokráciákban. *Jog-Állam-Politika* 4, 185–200.

Mészáros, G. (2024a). How misuse of emergency powers dismantled the rule of law in Hungary. *Isr. Law Rev.* 57, 288–307. doi: 10.1017/S0021223724000025

Mészáros, G. (2024b). Misuse of emergency powers and its effect on civil society—the case of Hungary. *Front. Polit. Sci.* 6:1360637. doi: 10.3389/fpos.2024.1360637

Nagy, A. M. (2021). "Választások járványhelyzet idején" in A járvány hosszútávú hatása a magyar közigazgatásra. ed. Á. Rixer (KRE: Budapest), 149–163.

Németh, Á. (2021). Az Alkotmánybíróság működése és döntései a veszélyhelyzet idején. *Alkotmánybírósági Szemle* 1, 20–30.

ODIHR (2020). Republic of Poland presidential election 28 June and 12 July 2020. Special Election Assessment Mission – Final Report. Available at: https://www.osce.org/files/f/documents/6/2/464601.pdf (Accessed December 1, 2024).

OSCE (2022). Parliamentary elections and referendum, Hungary, 3 April 2022. Election observation Mission final report. Available at: https://www.osce.org/odihr/elections/hungary/511441 (Accessed December 1, 2024).

Ősze, Á. (2021). A különleges jogrend alaptörvényi reformja. *Parlamenti Szemle* 1, 5–23.

Petri, B. (2020). Az Európai Parlament működése a koronavírus-járvány idején: valódi megoldás-e a távmegoldás? *Európai Tükör* 23, 75–93. doi: 10.32559/et.2020.3.4

Pócza, K. (Ed.) (2018). Constitutional politics and the judiciary: Decision-making in central and Eastern Europe. *1st* Edn. London: Routledge.

Post, R. C. (2012). Democracy, expertise, and academic freedom: A first amendment jurisprudence for the modern state. New Haven, CT: Yale University Press.

Ramraj, V. V. (2023) The constitutional politics of emergency powers. In M. Tushnet and D. Kochenov (eds.) *Elgar handbook on the politics of constitutional law*. doi: 10.4337/9781839101649.00017

Selejan-Gutan, B. (2024). The second round that Wasn't: why the Romanian constitutional court annulled the presidential elections. *VerfBlog*. doi: 10.59704/60b2d4d62859cfe1

Smuk, P. (2013). A Költségvetési Tanács a magyar alkotmányos rendszerben. *Jog-Állam-Politika* 1, 195–204.

Smuk, P. (2023). Eleven amendments to the fundamental law of Hungary and their justifications. *Studia Juridica et Politica Jaurinensia* 1, 3–15.

Smuk, P. (2024). A "foreign agent" törvények alkotmányjogi kérdései. [Constitutional issues of "foreign agent" legislation.] *In Medias res* [accepted manuscript].

Stumpf, I. (2017). "A tulajdonhoz való jog állam általi korlátozásának határai. Az Alkotmánybíróság döntéseinek elemzése" in Köz/érdek. Elméleti és szakjogi megoldások egy klasszikus problémára. eds. A. Lapsánszky, P. Smuk and P. Szigeti (Budapest: Gondolat).

Stumpf, I. (2020). "A járvány hatása az alkotmányos hatalomgyakorlásra" in Vírusba oltott politika. Világjárvány és politikatudomány. eds. K. András-Szabó and A.-B. Balázs (Budapest: TKPTI-Napvilág).

Stumpf, I. (2021). A válságok hatása a politikai rendszerekre. *Scientia et Securitas* 2, 247–256. doi: 10.1556/112.2021.00051

Stumpf, I. (2022). Identitás-forradalom, nemzeti, alkotmányos és európai identitás. *Jog-Állam-Politika* 1, 5–20. Special issue

Szabó, G. (Ed.) (2022). Érzelmek és járványpolitizálás – Politikai érzelemmenedzserek és érzelemszabályozási ajánlataik Magyarországon a COVID-19-pandémia idején. Budapest: ELKH TK – Eötvös.

Szente, Z. (2020) A 2020. március 11-én kihirdetett veszélyhelyzet alkotmányossági problémái. *MTA Law Working Papers,* 9.Available at: https://jog.tk.mta.hu/uploads/files/2020-03_SZENTE-tan.pdf (Accessed December 1, 2024).

Tálas, P. (ed.) (2017). *Magyarország és a 2015-ös európai migrációs válság. Tanulmányok*. [*Hungary and the 2015 European migration crisis. Studies*.] Budapest, Dialog Campus.

Thiele, A. (2015). The 'German Way' of curbing public debt: the constitutional debt brake and the fiscal compact – why Germany has to work on its language skills. *Eur. Const. Law Rev.* 11:30. doi: 10.1017/S1574019615000048

Till, S. (2019). "Különleges jogrend" in Internetes Jogtudományi Enciklopédia. eds. A. Jakab and B. Fekete. Available at: http://ijoten.hu/szocikk/kulonleges-jogrend

Trócsányi, L. (2021). "A különleges jogrend elméleti kérdései" in A különleges jogrend és nemzeti szabályozási modelljei. eds. Z. Nagy and A. Horváth (MFI: Budapest).

Tushnet, M. (2023). "The politics of constitution-making" in Elgar Handbook on the Politics of Constitutional Law. eds. M. Tushnet and D. Kochenov. doi: 10.4337/9781839101649.00016

Várnay, E. (2011). Közpénzügyek az alkotmányban – az adósságfék. *Jogtudományi Közlöny* 10, 483–495.

Venice Commission (2020). *Observatory on emergency situations*. Available at: https://www.venice.coe.int/files/EmergencyPowersObservatory/By_topic-E.htm (Accessed December 1, 2024).

Vyhnánek, L., Blechová, A., Bátrla, M., Míšek, J., Novotná, T., Reichman, A., et al. (2024). The dynamics of proportionality: constitutional courts and the review of COVID-19 regulations. *Ger. Law J.* 25, 386–406. doi: 10.1017/glj.2023.96