



COUNTRY REPORT: HUNGARY

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I. How has parliamentary law-making practice changed during the pandemic in the state you are studying?

- **Briefly describe the new practices.**
- **Evaluate these practices. In your opinion, do these practices empower, disempower or not change anything regarding parliamentary law-making powers and practice?**

The most essential change in Hungarian law-making was the introduction of a state of emergency and emergency powers. This made it possible for the Fidesz-government to **rule by decree**. The law was passed in March 2020. This set of coronavirus measures included imprisonment for spreading misinformation and gave no clear time limit to the state of emergency.

Not surprisingly, the public sphere was polarised on this topic. On the one hand, Fidesz MP and minister, Katalin Novák tweeted the following: “The parliament authorized the government to continue fighting effectively against Covid19... Regrettably, the opposition parties do not support this fight”. On the other hand, rights groups, government critics and civil organizations emphasized the necessity of proper working of checks and balances. David Vig, the Amnesty International’s Hungarian director said: “This bill would create an indefinite and uncontrolled state of emergency and give Viktor Orbán and his government carte blanche to restrict human rights, (...). This is not the way to address the very real crisis

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that has been caused by the Covid19 pandemic”. Opposition MPs asked for a time limit, but were turned down on this issue (Walker & Rankin, 2020).

From introduction of the state of emergency and Fidesz starting to rule by decree, it is worth taking a look at the numbers. The number of decree laws in the three years being examined are: 371 in 2019, 732 in 2020 and 832 in 2021. We can see that the number of decrees in 2020 doubled in comparison to 2019, while in 2021 the number even exceeded this. In other words, there is a significant increase in the number of decrees through the years under focus. Both the results of 2020 and 2021 are meaningful – although 2021 was not the worst year of the pandemic, changes in the Hungarian law-making still happened. In this regard, we need to look again at the number of decrees. The significant increase in 2020 can be explained with the fast reaction required due to the Covid-situation at the beginning of the year. At the end of 2020, the vaccination programme started, and this fact generated hope of a safer everyday life not only in Hungary, but also worldwide. One might then think that in 2021 the number of decrees would decrease, but in Hungary the number continued to increase. This intriguing tendency suggests that ruling by decree was strongly related not only to the pandemic, but could, and can, be related to further empowering the government in the country.

Looking at the other side of the coin, we need to highlight the fact that in Hungary, these changes were legally possible. As the Hungarian Constitution stipulates, in exceptional times different types of special legal order can be introduced (Magyarország Alaptörvénye (2011. április 25.), 2012). In such cases, the main purpose is to maintain efficient operation of the state. To fulfil this, the state can temporarily change to operating differently from the usual. There can then be a shift in emphases, resulting in an empowered government. Exceptional law-making and legal practices can also be introduced (dr. Draskovich, 2020). The need for fast reaction means shorter times for decision making, less public debate and deliberation. This can be considered as the democratic cost of proper state operation during difficult times.

According to other scholars, the Hungarian case can be considered as unique in international comparison. It is “because the government was granted via legislation by Parliament (The Authorization Act) almost unlimited, though revocable, authorisation to rule by decree without temporal, jurisdictional or other legal restrictions, aside from those

limits enshrined in the constitution protecting the most fundamental rights” (Gyóry & Weinberg, 2020, p.329; Hojnyák & Ungvári, 2021).

In accordance with the Hungarian regulations, parliamentary support is needed to extend the validity of the government decrees. Accordingly, the Hungarian Parliament passed a law that made decrees void after the state of emergency state ends (Hojnyák & Ungvári, 2021).

Rule by decree can be considered as one of the most observable changes in Hungary. There is also another key point in the Hungarian case. In comparison with Poland, parliamentary law-making practice in Hungary continued in person – there was no hybrid or online form of meetings. As the virus spread in Hungary, legal restrictions on everyday life were gradually introduced. One could say, the whole country closed down –kindergartens, schools, universities, theatres, cinemas, stores (except food stores, pharmacies), restaurants, people starting to work from home, etc. Despite the law banning meetings, the Hungarian parliament continued meetings in person as they were not considered gatherings (Drinóczy, 2020; *Koronavírus*, n.d.)

Nevertheless, the number of parliamentary working days or plenary sessions did not decrease in 2020 and 2021, with their number actually increasing slightly in 2020 compared to 2019. It is important to note that in 2020 and 2021, the number of all legislative bills was higher than in 2019 – in 2020 we can see a significant increase compared to 2019, while in 2021 there is only a modest difference compared to the same year. Although this being the case, one cannot assume that in 2020, when the pandemic situation was at its peak, the Hungarian parliament, with meetings in person, worked on more bills pro rata temporis, than it did in 2019.

Continuing this line of thought, we need to examine the number of oral and written questions in Parliament. In 2020, the number of oral questions was approximately half the number of oral questions in 2019, whereas the number of written questions increased by more than 1000 compared to 2019. This tendency can be a sign of the opposition’s attempt to control the government despite the difficulties. The same logic could be applied to 2021, although in this case the number of written questions significantly declined compared to the previous year, while the number of oral questions was more than the double of those in 2020. Considering other phenomena in the Hungarian law-making process, omnibus laws also play an important role. The table below shows an incomplete list of omnibus laws from the examined years in Hungary.

The state of emergency and emergency powers greatly empowered the governing parties – the main message was that with help of these measures the government would be “protecting” Hungarian people. Protection has become a favoured word in the government’s discourse over the last few years. The government protected the Hungarian people during the migration crisis, then against György Soros and then against the Covid pandemic. All these changes affected the law-making process, disempowering the Parliament and empowering the government (Maatsch, 2021). This is an important conclusion in the light of the characteristics of the Hungarian political system and its operation. Fidesz has a 2/3 parliamentary majority. It has therefore been observed that the government could have extended its powers even further. In particular, the Authorization Act allowed the Hungarian government to use its powers even more extensively. Yet, the government’s use of its emergency powers remained limited (Győry & Weinberg, 2020).

II. Looking at formal changes and the practice of law-making in the state you are studying, has respect for the rule of law increased, decreased or not changed at all during the pandemic? Please elaborate on the question.

The respect for the rule of law is a very important topic in Hungary. It is not a problem that has recently emerged in the country. Rather, as the Overall Rule of Law Score demonstrates, rule of law has been systematically deteriorating in Hungary (see the data below):

- 2015: 0.58
- 2016: 0.57
- 2017-2018: 0.55
- 2019: 0.53
- 2020: 0.53
- 2021: 0.52

As we can see, the trend is slow, but constant. This background information has to be taken into consideration when debating the respect for the rule of law during the pandemic. In particular, previous research demonstrates (Hegedus, 2019; Kelemen & Pech, 2019) that the domestic political context plays an important role regarding the respect for the rule of law in Poland and Hungary. The governing party Fidesz has enjoyed a 2/3 parliamentary majority from 2010 until 2015, in Poland the PIS party never reached a constitutional

majority. The consequence has been the “hollowing out of the institutional checks and balances (which) took place without any blatant procedural violation of the national legal order” (Hegedus, 2019, p.4). During these years, we have witnessed in Hungary a “constitutional engineering process” which has shaped institutional powers and interinstitutional relations in favour of Fidesz.

Since 2010, Viktor Orbán has introduced fundamental changes in the country which has resulted in “dismantling the rule of law, subordinating the separation of powers to executive decisionism, and curbing the civil liberties of minorities in the interests of a national majority” (Pirro & Stanley, 2022, p.87). Looking at these developments from a broader political context, one can observe that the governing party used its 2/3 majority to change the existing constitutional order by dismantling the separation of powers, empowering the governing potential and, at the same time, by imposing restraints on its opposition (Batory, 2015; Pirro & Stanley, 2022). These changes clearly decreased the respect for the rule of law in Hungary as well as the overall quality of democracy in the country.

Table 1: Formal changes

Country Name	Reference: Name_legal act changing formal rules of law-making (in original language)	Name Chamber concerned (in original language)	Short description of the content of the reform (in English)	Year
Hungary	A koronavírus elleni védekezésről, 2020. XII. (T/9790 - 2020.03.30.)	Országgyűlés (Hungarian National Assembly)	The government has the right to suspend the application of certain laws, to deviate from certain legislative provisions, and to make emergency actions. (State of emergency --> rule by decree)	2020

Source: Own

Table 2: Law-making practice

Country Name	Chamber_Name (in original language)	Year	Number of ALL legislative bills	Number of resolutions/decisions/statements (various non-legislative measures)	Number of fast-tracked legislation (debate limited and/or shortened legislative process, including omnibus laws)	Most common forms of fast-track measures	Number of decree laws/gov decisions (no parliamentary consent)	Number of working days (parliamentary plenary sessions)	Number of meetings (parliamentary plenary sessions)	Number of oral questions to the government	Number of written questions
Hungary	Országgyűlés (Hungarian National Assembly)	2019	183	26 resolutions	1 omnibus (CXXVII. - regarding judiciary bodies)	Kormányrendelet (Decree-law)	371 decree-law (kormányrendelet)	67	26	266	3457
Hungary	Országgyűlés (Hungarian National Assembly)	2020	224	25 resolutions	2 omnibus (CLXV. CLXVII. - field of justice and election legislation; XXX. gender)	Kormányrendelet (Decree-law)	732 decree-law (kormányrendelet)	85	37	114	4550
Hungary	Országgyűlés (Hungarian National Assembly)	2021	193	32 resolutions	1 omnibus (CXXX. - regarding field of justice, health care, taxation and employment code)	Kormányrendelet (Decree-law)	832 decree-law (kormányrendelet)	58	22	293	2456

Source: Own

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