

The Special Legal Order and the Renewed Strategies and Normative Framework of Security and Defence Policies in Hungary

Sándor MÓRÉ¹ – György Péter SZILVÁSY²

Recent years have brought challenges of arguably unprecedented number and scale to the global security and defence policy environment of states and international organisations. It is probably enough to mention, among many other crises, the Russian–Ukrainian conflict, the Covid–19 pandemic, the internationalisation of terrorism, the increased migratory pressure on Europe, as well as climate change or the emerging threats in cyberspace. Both international and national legislators are looking for new types of responses to these novel forms of challenges. Accordingly, in recent years, Hungary has started to build a new legal environment for defence and security. In our study, we will first consider the strategic framework of this new legal framework, followed by a description of the amended special legal order rules of the Fundamental Law and the new laws that implement the renewed organisation of the comprehensive defence and security system. The future of the subject at hand is unfortunately bleak; yet it may be somewhat clearer if the responses to international conflicts and other threats are underpinned by active preparation.

Keywords: *defence and security regulation, defence law, special legal order, national security and military strategy, security and defence policy*

Introduction

It is undeniable that the past decade has presented the world with challenges that it has probably never faced before – at least not of this nature or on this scale. The global security environment is facing extraordinary challenges, including the Russian–Ukrainian conflict, the migratory pressures affecting Europe to a significant extent, the Covid-19 pandemic or, more recently, the renewed flare-up of the Armenian–Azeri and Hamas–Israeli conflicts.

There is no question that within this field of security policy, Hungary must also seek new answers to the challenges. As part of this, large-scale changes have taken place in recent years, both at the level of government strategies and at the level of the Constitution and the laws and regulations, which has essentially been a continuous legislative task for

¹ Károli Gáspár University of the Reformed Church, Faculty of Law, e-mail: more.sandor@kre.hu

² Ludovika University of Public Service, Faculty of Law Enforcement, e-mail: szilvasy.gyorgypeter@uni-nke.hu

both the Parliament and the Government. Among other things, the constitutional legislation on the special legal order and the system of rules on defence have been renewed, and a new law on the coordination of defence and security measures was passed. In connection with these factors, a number of implementing regulations have been adopted in the government's legislative sphere. It is also notable that the framework for the renewed legal norms is laid down in plans and strategies set out in government decisions.

Given the limitations of space, in this paper the legal framework will be presented as an overview that seeks to provide new responses to the novel security challenges. We will also discuss the constitutional and legislative changes and the normative strategic frameworks that underpin them in various respects. Further, we will summarise and concisely assess the normative provisions.

The National Security Strategy

In 2020, the Government of Hungary adopted the *National Security Strategy* entitled "Secure Hungary in a Volatile World" [Government Decision 1163/2020 (IV. 21.)]. As can be seen, the Strategy was prepared before the current situation of the Russian–Ukrainian conflict (although with the developments in Crimea in mind). Nevertheless, the experiences of the pandemic were already present and considered.

It is important to point out at the outset that the Strategy was published in the form of a normative government decision.³ This means that it was not adopted as legislation but as a so-called *public law regulatory instrument*. Public law regulatory instruments essentially contain provisions and expectations concerning the organisation, operation, activities and action programmes of public bodies.⁴ Their binding power does not apply to everything, only to the issuing body and any subordinate body (in this case, the Government, ministries and subordinate bodies of the public administration), and are therefore considered to be *internal acts*.⁵ A public law regulatory instrument may not be contrary to the law.⁶

1. The National Security Strategy starts out by identifying the current global *security policy factors* that pose significant challenges: the emerging multipolar world order, the drive to redesign the rules governing the relations of international actors, the changing layout of security challenges, and global challenges such as the accelerating climate and demographic change, the closely related illegal and mass migration, the depletion of

³ Since 2020, the Government has adopted a large number of sectoral strategies (e.g. health, public education, construction, tourism, space, agglomeration rail, anti-corruption, and so on) following the completion of the comprehensive public administration development strategies. On the importance of governmental strategic planning, see e.g. SÁNTHA 2023: 154–160. It is noted here that the obligation to draw up both the National Security Strategy and the National Military Strategy is created by point 17 of Parliamentary Decision 94/1998 (XII. 29.) *on the Principles of the Security and Defence Policy of the Republic of Hungary*. The source of law status of the Parliamentary Decision is otherwise identical to that of the Government Decisions in that it is also a *normative decision*, i.e. a *public law regulatory instrument*.

⁴ See Chapter VI of Act CXXX of 2010 on Legislation.

⁵ This is also reflected in the technicality that, unlike legislation, public law regulatory instruments are not promulgated but *published*. On *internal acts* see JAKAB 2007: 116–118; JAKAB 2016: 147–148.

⁶ Article 24 (1) of Act CXXX of 2010 on Legislation.

natural resources, and the society-shaping effects of the technological revolution. The Strategy *aims* to maintain and strengthen Hungary's current level of security and, in doing so, ensure the country's continued development in a volatile world. The aim is to make Hungary one of the safest states in Europe and the world by 2030 by maintaining a high level of public security (internal security) and building a modern military force (external security).

2. The Strategy uses several general formulations that point to *obligations* deriving from Hungary's Fundamental Law and our international and EU obligations (e.g. the protection of national sovereignty, security as a fundamental value, the protection of democracy and the rule of law, legal certainty, an independent judiciary, international peace and security, the requirement of international law for the peaceful settlement of disputes, responsibility for Hungarians beyond the borders, and so forth). Special mention should be made of our country's NATO membership, a fundamental condition for security. The Strategy attaches great importance to our EU membership, of course, and to the formation of the Visegrád Group (V4), but also to the effective functioning of the Organisation for Security and Cooperation in Europe and the Council of Europe.

3. Among the *fundamental characteristics of our country*, the Strategy underlines that the political system is stable and the public security situation is balanced. At the same time, the country's size and position in the world economy, as well as its limited defence capabilities make it clear that it can respond to fundamental security challenges primarily through international cooperation and as a member of alliance systems. This is all the more significant given that Hungary's geostrategic position means that it faces a particularly large number of security challenges from Europe's southern and eastern neighbours. An important element of our country's position is that we must protect a long strand so forth of the external borders of the Schengen area, to which the physical border closure and appropriate staffing will actively contribute. The Hungarian Defence Forces, with their increased numbers and continuously improved equipment, also have a key role to play in guaranteeing our defence and security. In addition, the Strategy naturally underlines the importance of law enforcement, counterterrorism and disaster management. In this context, it is particularly important to highlight the urgent requirements for civil protection, defence management, the protection of critical infrastructure and the safe use of technologies related to radioactive materials. The need to increase resilience against hybrid attacks (e.g. information and cyber warfare) cannot be neglected.

4. The Strategy also identifies *Hungary's economic position* as an important factor. The limited natural resources of Hungary, its high dependence on imports and the possibility of a significant shortage of energy resources (especially natural gas) may pose serious challenges and threats to a stable economy. The only non-renewable energy resource mentionable is coal, of which there is still a significant amount underground. It is also important to highlight Hungary's strong position in agriculture: the domestic food supply is stable, food safety is high, and imports of genetically modified crops are banned. Still, the significance of global climate change cannot be underestimated; it could also affect our current stable drinking water base.

5. *Population decline* and the ageing of Hungarian society pose a significant challenge. To counter this, the country is making strong efforts to promote childbearing, while

according to the latest reports, never before in Hungary have so few children been born in a month as in June 2024.⁷ It also aims to improve the quality of public and higher education and to stabilise its position in international scientific and technological competition.

6. The Strategy deals extensively with *Hungary's security environment* and the risks that continue to threaten the currently stable security situation. The following shall be highlighted:

- climate change, extreme weather events, overpopulation in Africa and Asia and mass migration
- the population decline and ageing society of the European continent
- the shrinking availability of global resources
- religious fundamentalism
- cross-border terrorism utilising novel techniques and tools, as well as the proliferation of weapons of mass destruction
- organised crime becoming transnational
- the technological revolution (digitalisation, 5G, space technology) and the related vulnerabilities of electronic information systems
- the complexity and rapid spread of crises
- asymmetric and hybrid warfare
- the precarious security situation in the Western Balkans
- the emergence of pandemics
- strategies to influence political, economic and social processes sponsored by state and non-state actors
- the proliferation of cryptocurrencies that are not yet properly regulated by law
- increasing urbanisation

These massive and complex processes foreshadow the emergence of a new world order. The economic, social, demographic and environmental transformations, which are huge, rapid and often very difficult to follow, require careful preparation and complex responses. Linked to this is Hungary's failure to develop robust strategic offensive capabilities, while attaching great importance to arms control and disarmament efforts.

7. The Strategy devotes great attention to the representation of *Hungary's fundamental interests*. In this context, it emphasises the promotion of *national security interests* as a starting point. Naturally, the country considers the preservation of its sovereignty, territorial integrity and constitutional order, the guarantee of its citizens' security, the stability of the country, its sustainable economic, social and cultural development, and the enforcement of human rights and fundamental freedoms as its primary security interests. Furthermore, the maintenance of international peace, security, stability and cooperation, the promotion of democratic principles and sustainable development and the strengthening of Euro-Atlantic and European security structures are noted to be in the national security interest.

⁷ KSH 2024.

For our country, one of the most important interests and values is the responsibility we bear for Hungarians living beyond our borders. In this context, the possibility for people to stay in their homeland and the assistance provided locally are given special attention. Hungary has an interest in a strong and stable Ukraine, but also in protecting the rights of the Hungarian community in Transcarpathia. In the period since the adoption of the Strategy, due to known unfortunate events, Hungary has provided assistance to a large number of refugees from Ukraine.

For Hungary, the stability of the Euro-Atlantic and European areas, especially the Central European region and the neighbouring countries, is of paramount importance. The position of the Balkan and Eastern European countries is also of vital importance. From a geographical, ecological, historical and cultural point of view, the Carpathian Basin as a natural area is also of great significance to us.

At the same time, our security interests are also affected by developments further afield concerning the security situation in the Middle East, North Africa, the Sahel and Central Asia. In the time since the adoption of the Strategy, the renewed and intensified conflicts in the Middle East region are a particular cause for concern and a growing security risk.

Our membership of international organisations (UN, NATO, EU, OSCE, the Council of Europe) serves the stability of our country's security and defence policy; maintaining and developing the V4 cooperation is a priority national interest. The Strategy envisages the future of the European Union as an association of sovereign nation states, not a federation. Particular attention should be paid to the battle against terrorism in all its forms. Considering our energy supply, the strengthening of energy security, decarbonisation (with a focus on the role of nuclear energy), the diversification of energy supply and the reduction of the need for imports are fundamental Hungarian objectives. As indicated earlier, Hungary's coal reserves could, temporarily, strengthen its position, especially in electricity generation.

The Strategy sets out in detail the framework for our cooperation with some countries that bear particular significance. Specifically, it describes our relations with Germany, Poland, the United States, Italy, France and Turkey as well as the security policy and, where appropriate, the geostrategic importance of these countries. It also highlights the importance of the post-Soviet space, the Middle East, certain Asian, African and Latin American states and regional organisations in terms of foreign trade and investment. The Strategy also specifically addresses the growing global roles of Russia and China. In view of the military aggression launched against Ukraine in the period following the adoption of the Strategy, a review of these aspects of the Strategy may be timely. However, the document already recognises the significant risk of Russia's tensions with NATO and the EU in 2020.

The Strategy highlights the importance of improving Hungary's position in science and technology, as we aim to be at the forefront of the world in this respect.⁸ High-quality research and innovation, modernised public education, vocational training and higher

⁸ In this context, it is worth pointing out that in 2023, two scientists of Hungarian origin were awarded the Nobel Prize.

education all play a key role in this.⁹ In terms of security, higher education for military, law enforcement and public administration,¹⁰ as well as the IT sector, merit special attention.

The protection of natural resources, in particular water sources, drinking water and arable land is of strategic importance to Hungary's security interests in the face of the adverse effects of climate change. Cooperation on water security with countries in shared river basins is also a priority,¹¹ as the effects of pollution in other countries, for example along the Danube or the Tisza, have a major impact on Hungary.

8. Based on the above, the Strategy identifies the following *priority security risks*:

- mass illegal migration
- the possibility of an unexpected armed attack
- coordinated diplomatic, intelligence and information operations conducted against the stability of Hungary
- cyberattacks
- acts of terror
- efforts violating national sovereignty or the significant deterioration or collapse of Hungarian communities beyond the borders, which may lead to mass displacement from the homeland (here again, we can refer to the escalating Russian–Ukrainian conflict)
- a demographic situation that is becoming critical
- international economic crisis
- energy exposure
- serious and lasting instability in our region, possibly in some neighbouring countries
- the rise of organised crime
- use of weapons of mass destruction, attack with nuclear, radiological, biological or chemical agents
- industrial disasters with a regional impact
- epidemics
- major floods and inland floodings or other natural disasters (drought, heat and cold waves, storms, fires)
- persistent water scarcity, drying soil and erosion, and the destruction of vegetation

9. The Strategy sets out Hungary's *strategic objectives in the field of security*, which include the following. The *primary objective* is to strengthen the effectiveness and resilience of national measures as well as the strength of national cooperation in order to ensure security. The prevention, management and response to identified challenges

⁹ The “Public Education Indicator System 2023” presents the current state and trends of public education through various indicators. The study highlights that after 2018, the share of expenditure in GDP has increased significantly on average in several Central and Eastern European countries (the Czech Republic, Slovakia, Estonia and, in 2020, Lithuania) and in Western Europe. In contrast, the share of GDP allocated to public education in Hungary remained stable after 2014 (VARGA 2024).

¹⁰ Currently, in Hungary, these three areas are managed by a joint higher education institution, the Ludovika University of Public Service. The University has a Faculty of Public Governance and International Studies, a Faculty of Military Science and Officer Training and a Faculty of Law Enforcement.

¹¹ The higher education provider for water engineering in Hungary is also the abovementioned University, which has its own Faculty of Water Sciences.

is primarily a national responsibility, which is *the responsibility of the Government*, in cooperation with society. The primary basis for security is a solid social, economic and financial structure and a sustainable and flexible system of preventive and protective measures at the national level, including the targeted development of the armed forces and law enforcement agencies (the police, the penitentiary, the national security services, the disaster management and, for its law enforcement functions, the State Tax and Customs Administration). The ability to respond independently at the national level to threats from beyond our borders is vital. It is in the interest of society as a whole to shape and develop the citizens' patriotism, sense of national responsibility and security-conscious mindset. In addition to raising the general levels of the citizens' knowledge on these topics, the training of young people in disaster management, national defence education and the preparation of volunteer reservists play a key role in this process. Hungary's strategic objective is to develop, by 2030, the national resilience, deterrence, defence, crisis management and coordination capabilities that are a prerequisite for the stability and security necessary for the development of the nation in a volatile international environment. According to the Strategy, Hungary's high level of public security, even by international standards, must be maintained and further improved.

The Strategy states that Hungary must ensure the protection of the fundamental rights of Hungarians living beyond its borders. The document has already referred to this earlier, as we have indicated, this can be linked to the reception and care of refugees from Ukraine by providing them with accommodation, as well as work and study opportunities.

Among the strategic objectives, the development of the defence industry and the armed forces is naturally emphasised. This includes, among other things, supporting enterprises in the defence industry, procuring as many products as possible from domestic sources which would be needed for defence, supporting defence research, development and innovation, as well as integrating the domestic knowledge base into the development of the defence industry.

The additional reinforcement of our cooperation within international organisations is also a key objective of the Strategy. In this context, the "collective self-defence" arrangements [Article 5 of the North Atlantic Treaty¹² based on Article 42 (7) of the Treaty on European Union¹³], arms control, disarmament, compliance with and monitoring of non-proliferation regimes, and the Euro-Atlantic and EU integration of neighbouring regions are particularly important. The development of Hungary's bilateral and regional security and defence cooperation frameworks and Hungary's substantive contribution to global development are also high up on the agenda. Among the environmental aspects also set out above, the Strategy makes clear that one of the critical conditions for sustainable social and economic development and the prevention of natural disasters is the mitigation of the effects of climate change, as well as the promotion of environmentally conscious and low-carbon lifestyles in order to reduce the economy's fossil fuel demand.

¹² For a detailed analysis of the article, including a historical retrospective, see SULYOK 2002: 99–136.

¹³ For the elements of the Union's common security and defence policy related to this rule see PÜNKÖSTY 2023: 443–448.

10. The Strategy summarises, in a repeated and “awareness-raising” way, the *comprehensive tasks and tools* that will make it possible to achieve the objectives. It states that Hungary intends to promote the achievement of its strategic security objectives through predictable, proactive, and value and interest-based foreign, security and defence policy. Furthermore, through the maintenance of adequate self-sufficiency of national armed forces and law enforcement, economic and foreign trade instruments, and finally through effective strategy government communication. According to the Strategy, the Hungarian Government is committed to providing adequate resources for the fulfilment of its tasks.

The document lays emphasis on making the Hungarian Defence Forces able to avert possible armed aggression against the country, both independently and through cooperation in the context of alliances. This requires well-equipped and well-trained defence forces and interoperable capabilities. The defence forces are also responsible for assisting with the consequences of disasters. It is important that defence capabilities are serviced by a defence industry with sufficient capacity.

According to the Strategy, Hungary intends to continue to participate in addressing the management and root causes of crises in the Western Balkans, the Middle East, Africa, Central Asia and other regions with security implications, as well as in any stabilisation and reconstruction processes.

The protection of women and children is a priority in international crisis management. A related objective of the Strategy is to ensure the protection of educational institutions, including IT record-keeping and data systems. The design and delivery of humanitarian aid is equally important.

The Strategy points out that one of the most topical tasks is to coordinate the activities of the bodies responsible for the external and internal security of the state (armed forces, law enforcement agencies and civil authorities). In line with this, coordination and cooperation between foreign affairs, defence, law enforcement, national security, judicial, economic and financial affairs, public health and epidemiology, food safety, disaster management and civil crisis management bodies shall be continued and strengthened.¹⁴ Increased action to combat mass, uncontrolled and illegal migration and trafficking of human beings is of the utmost importance, as is the fight against terrorism and organised crime.

With regard to economic aspects, the Strategy emphasises that the pursuit of a growth and export-oriented economic policy that ensures fiscal balance is closely linked to the economic and social stability of Hungary, and thus to its ability to assert its security policy interests. Industrial development, employment expansion, and the reduction of underground economy and corruption are important tools in this respect. Likewise, efforts to broaden the possibilities for importing natural gas, to ensure the sustainability of the energy mix, to expand the Paks nuclear power plant and to preserve coal assets also bear great significance.

To address the demographic challenge, the Strategy proposes a family policy that promotes responsible parenthood, aims to improve the health of citizens, and mechanises certain production processes as well as reinforcing them with the use of artificial

¹⁴ One of the most important legal instruments is Act XCIII of 2021, which will be discussed in more detail later.

intelligence. The aim is to reduce economic disparities between the country's regions while maintaining social security and providing adequate child protection in order to achieve social inclusion.

The document also pays close attention to addressing challenges, risks and threats within cyberspace. Ensuring the smooth functioning of critical information infrastructures and the development of the cyber defence and cyber operations forces are of particular importance in this context. Further development of the skills of the national security services and close cooperation with allied forces performing similar tasks are essential as well. It is also paramount, according to the document, that Hungary pays special attention to the development of the space sector in terms of innovation, which can give the country considerable leverage in international relations.

Moreover, the Strategy points out that health security is prioritised, especially in light of the recent pandemic. If necessary, the use of military force could be considered (for crisis response, evacuation, quarantine, running military hospitals, and so forth). Great importance should also be attached to the areas of vaccine and pharmaceutical production and the sustainability of healthcare systems.

In order to ensure environmental security, the document identifies as indispensable the increased protection of water and land resources and their intrinsically linked ecosystems, alongside the preservation of biodiversity, the conditions for providing the population with healthy drinking water and non-GMO food, the improvement of air quality, the reduction of carbon dioxide emissions and the enhanced preparedness of public health, veterinary and phytosanitary services.

11. Finally, the Strategy provides guidance to public and governmental bodies on the expectations for the delivery of tasks in line with the document.

Public authorities should continuously assess the issues of national and international security and the threats in their respective fields and take the necessary steps to prevent and address them. Their security-related activities should be consistent with the Strategy, and ministries should also strive for this consistency when developing their own sectoral strategies.

In the event of a significant change in Hungary's security environment or other relevant circumstances, the Strategy will be reviewed.

The National Military Strategy

The National Military Strategy is another key governmental planning document of Hungarian security and defence policy which was adopted by the Government in 2021, also in the form of a normative government decision [Government Resolution 1393/2021 (VI. 24.)]. Given that its legal source is identical to that of the National Security Strategy, the same characteristics apply to this Strategy (its form is that of a *public law regulatory instrument*, i.e. an *internal act*).

While the National Security Strategy can be seen as a comprehensive, general document, the Military Strategy can be understood as a *sectoral (sub)strategy*, which is closely related to the development of the armed forces, the military aspects of the security

environment and, of course, the vision for the future Hungarian Defence Forces. Since by its very nature it is in a sense an “implementation” of the first strategy, it is closely in line with it and in many cases repeats its formulations.¹⁵ The Military Strategy is therefore presented here only briefly and in summary.

At the core of the Strategy is the *Zrínyi Defence and Military Development Programme* launched by the Hungarian Government in 2016, which aims to develop a military force that increases security for Hungarian citizens and the military-industrial capacities needed to sustain it. The renewed Hungarian Defence Forces will develop and organise their capabilities in line with the government’s defence policy considerations, ensuring the protection of the country’s sovereignty and territorial integrity, as well as its citizens and interests. The aim of the military development is to significantly strengthen Hungary’s military self-reliance, which is essential not only for its self-defence and deterrence capabilities but also to remain an effective contributor to regional, European and transatlantic security efforts.

The Strategy naturally gives special attention to our membership in NATO but stresses that *national self-reliance* is a fundamental condition for collective defence and effective alliance cooperation. Hungary’s *strategic objective* is to build its national Defence Forces by 2030, which as a member of NATO and one of the region’s leading military forces, will be capable of guaranteeing the country’s security, the deterrence of potential aggression, the support of collective defence against military and non-military threats and challenges, and the fulfilment of responsibilities arising from its membership of the Alliance and the European Union. The Zrínyi Programme provides the framework for this.

According to the document, the country’s security is ensured by mutually complementary pillars:

- a modern national defence force complemented by the defence systems of regional cooperation
- the collective defence provided by NATO
- the EU’s common security and defence policy
- the UN and OSCE cooperation forums

The Strategy points out that fostering security is a long-term task, and the defence of the country is built on complex and interdependent security elements which are military, economic, political, social, environmental, and cyber and information dimensional in nature. Today’s state and non-state threats and challenges can occur across the full spectrum of these security dimensions in various combinations, and defence cannot be treated in isolation from other areas of security. Addressing security challenges goes beyond the remit of individual specialist ministries and requires *holistic governmental cooperation*. At the same time, military capabilities will continue to play a key role in the implementation of national defence tasks. In view of the above, the scope of the Strategy covers all activities and organisations in the defence sector that are involved in the defence of the country and in providing capabilities related to our alliance commitments. However, it provides guidance primarily to the Hungarian Defence Forces.

¹⁵ On the relationship between the Strategies see FARKAS–TILL 2022: 21–22.

1. The Strategy examines in detail the security challenges our country faces in the *operational environment* of the 21st century. Overall, the document is pessimistic: the global and European security environment is characterised by instability and unpredictability. Crises in distant regions could have a short-term impact on Hungary's security, increasing the number and range of threats and challenges which Hungary faces. Overall, the global security situation is deteriorating. The shifting balance of power is accompanied by a renewed intensification of great power rivalries and an increased risk of confrontation. In the 21st century, while the purpose of war remains unchanged, the theatres, forms and methods of war are expanding and changing, and its characteristics are increasingly extending to non-military dimensions of security (e.g. *hybrid* warfare or the use of *proxy forces*).

Radical changes are also taking place in the technological sphere. The spread of artificially intelligent robots, revolutionary drone technology, human–robot collaborative military tasking, automated decision-making technologies, military applications of 3D printing, cyberspace operations and directed energy weapons, and military hardware with high-precision and autonomous strike measurement capabilities are fundamentally changing the rules and procedures of warfare.

In modern wars, the concept of “victory” has changed, since the attacking party does not need to occupy the enemy's territory or destroy their army, forces or economic potential in order to achieve a political goal. To achieve victory, it may be sufficient to attack the enemy's centres of state and administrative leadership or vital infrastructures in order to block the functioning of communication systems, to make the political leadership incapable of action, and to strike at the enemy's command and control objects in terms of military forces and military infrastructure, and thus gain total control over the target country. *Outer space* is also the new venue for the deployment of the latest technologies, which gives the major powers in particular a significant competitive advantage, even during times of peace.

2. The Strategy also takes into account the *threats and challenges* that the Hungarian Defence Forces may face. It states that, although the likelihood of an unexpected armed attack by another state against our country is low, the Hungarian Defence Forces must at all times be able to deter an armed attack, even independently. This may be necessary until the arrival of allied forces, or, in the event of an armed attack, to defend the country's independence, territorial integrity, borders, citizens and material assets. Interested state actors may also use *information technology* to cripple or obstruct the command-and-control system of the Hungarian Defence Forces. Moreover, there would be some small probability, but also unforeseeable consequences, of an attack with weapons of mass destruction (including nuclear missile systems), in which the use of the capabilities of the Hungarian Defence Forces would be unavoidable.

In the 21st century, risks from *non-state actors* are becoming increasingly common. In this context, the rise of radical ideologies and terrorism, even within Europe, poses an increased threat. Illegal migration on a massive scale is also a major challenge, which the Defence Forces are actively supporting law enforcement agencies to counter.

The rapid spread and serious consequences of the coronavirus pandemic have shown that the armed forces can play a significant role in managing a crisis of this nature, especially with their high level of organisation, capabilities and extensive logistical

infrastructure. The important role of the armed forces in disaster management (both industrial and natural) should be emphasised.

3. In terms of Hungary's *defence capabilities*, the Strategy points out that in the period following the regime change (1989–1990), the level of resources spent on military forces decreased significantly, the life of military technology systems, which were typically Soviet-made, expired, and capacities of the defence industry were degraded. The objectives of the Zrínyi Programme have led to significant changes in the processes set out above, including the development of military systems and infrastructure, the acceleration of holistic governmental decision-making, as well as the development of national resilience and security awareness among citizens. The emergence of a committed and competent workforce with high-quality education, training and continuous professional development, based on targeted knowledge elements, and with adequate physical fitness and mental resilience, is a notable challenge as well, and essential for the successful operation of modern forces.

Hungary's specific geographic location places it at the threshold between the eastern and southern threats identified by NATO, as well as the continental theatres of war in Northern, Eastern and Southern Europe, and its central position allows it to function as a military backbone, procession route, and area for reception, concentration, redeployment and training. In addition to the large-scale cooperation already mentioned (NATO, EU, and so forth), the regional cooperation forums (e.g. V4, Central European Defence Cooperation, Central European Multi-National Command, and so forth) also bear great significance.

4. The Strategy asks the following question: What will *the future of defence* look like? The answers are numerous. Generally speaking, the Hungarian Defence Forces must become a sustainable force that meets the requirements of the times and is modernised in its approach, organisational culture and military technology. It must be well organised, it must respect and cherish national traditions, and it has to be deployed effectively both on its own and within a federal and EU framework. It must also be able to strengthen its capabilities with a reserve system. It must have modern, well-trained and equipped soldiers, as well as flexible, adaptable, effectively deployable and sustainable military capabilities to carry out its domestic and international tasks. The development and maintenance of an adequate and continuously renewable national defence industry is essential for modern forces.

In the case of threats, mainly from state actors, the Strategy recognises the concept of *deterrence* as well as *protection*. A strong national force capable of responding autonomously will in itself provide the *deterrent force* to address the objectives and risks of a potential attack by an adversary of comparable size and potential, and, if an attack is launched, to *defend* the territory and sovereignty of the country with *armed forces*.

The Strategy emphasises that defence is a national issue and that resources and the *coordination* of efforts must be developed at all levels of all organisations of government and public administration. Although the armed defence of the country can only be achieved through the activities of the Hungarian Defence Forces, the nature of the challenges requires the preparation of the whole nation and the strengthening of national *resilience* in the complex system of defence. This also includes the further development of public administration, the economy, social organisations, as well as individuals in times of peace, as the security of the country can only be ensured by the combined existence

and cooperation of all these elements. In order to organise the defence of the country in accordance with these principles, an effective *defence management system* must be put in place, in the spirit of a holistic governmental approach. Strengthening the resilience of the Hungarian national economy and the capacities of the national defence industry will serve to enhance resilience. The Hungarian Defence Forces must be able to counter conventional and hybrid threats, enhance national resilience through their military capabilities, guard critical system elements and certain installations of the defence sector requiring increased protection, and support and cooperate with civil and law enforcement agencies. The military intelligence and counterintelligence body, the Military National Security Service, has a special role to play in this area.¹⁶ However, there is also a civilian component to resilience. *Civilian preparedness* is a task comprising part of the national defence system, aimed at ensuring the continuity of governance (administration) and the services provided by vital system elements, as well as securing civilian resources to support the Hungarian Defence Forces and NATO military forces. The coordination between the civil and military aspects of civil preparedness tasks in order to strengthen and develop national resilience is carried out within the system of *defence administration*, which therefore needs to be developed in a manner capable of effectively carrying out the tasks arising from these requirements.

It is an obvious and clear requirement that our country and the Defence Forces should continue to be active and stable participants in *international cooperation*. As mentioned earlier, maintaining and enhancing the capability and readiness to cooperate with allied and EU forces, security and defence organisations is a priority. Of particular relevance in this context is the implementation of commitments under the Permanent Structured Cooperation¹⁷ of the EU Common Security and Defence Policy.

The Strategy also addresses the *civilian component* in detail. It addresses not only the *soldiers* serving in the Defence Forces but also the *civilians* performing service in aid of defence duties. In addition to ensuring a stable and predictable military career, the recruitment, retention, career development and development of the benefits system are also major challenges. In order to guarantee resource replenishment for the Defence Forces, the Strategy sets as a task an effective patriotic and defence education, and the dissemination of relevant basic knowledge to a broader range of society through the institutions of public education, vocational training and higher education.

5. Based on the above, the Strategy also discusses the characteristics of the *modernised Hungarian Defence Forces*. The Hungarian Defence Forces are the primary pillar of guaranteeing the sovereignty and territorial integrity of our country. Accordingly, the Armed Forces carry out their tasks to the standards of the times, as stipulated in the Fundamental Law and the general legal framework. It guarantees Hungary's security and sovereignty through credible deterrence based on its national capabilities, on the one hand, and within the framework of the alliance system, on the other. The *future's Hungarian*

¹⁶ For a detailed regulation of the tasks and competences of the Service see Articles 6–7 of Act CXXXV of 1995 on National Security Services.

¹⁷ In short, PESCO.

Army is a modern, highly mobile and responsive organisation, capable of continuous development, adaptation and renewal.

In terms of personnel, the Defence Forces are made up not only of professional and contracted soldiers but also of civilians and so-called *reservists* who support their activities. The Strategy foresees the creation of a Hungarian Defence Force prepared to carry out its tasks independently but also while integrated in the system of alliances, through the planned implementation of comprehensive *improvements* to the capabilities required for defence. It is also notable that making progress in national resilience, which is also integrated into the NATO Crisis Response System, can maintain a high level of the citizens' sense of security and preparedness for elements involved in crisis response.

The Strategy points out that the warfare of the present and the future goes beyond the boundaries of *armed conflict in the traditional sense*. With the expansion of operational space, in addition to classical land and air forces, the electromagnetic, cyberspace and space forces play an increasing role in gaining and maintaining operational superiority, both in deterrence and during times of crisis or armed confrontation. This will require the coordinated development of *new operational spaces*, such as electromagnetic, cyberspace and space assets, in addition to the capabilities of classical forces. The new Hungarian forces are capable of conducting both traditional symmetric and asymmetric warfare, even when faced with irregular forces or an adversary with superior capabilities. To this end, the Strategy includes development concepts for land, air and cyber forces, as well as for support capabilities (e.g. logistics and health). Military tasks will be complemented by a so-called *volunteer area protection force*.

The document under scrutiny envisages force development through the active advancement of command and control, combat support and service, as well as capabilities of adaptation and transformation, and complementary national and hinterland defence. One of the most important components of the latter is the staffing of an ever-expanding so-called *Voluntary Reserve System*.

6. The Strategy also includes objectives for the *defence industry*. The maintenance and development of national defence industrial capabilities and the development of autonomous industrial research and innovation for defence are strategic in nature. They aim to enhance the country's defence credibility, resilience and robustness and to reduce significantly its external economic and technological dependence for defence in the short term. The implementation of the Zrínyi Programme will therefore be supported by related *industrial development programmes*. The Hungarian Government shall support the defence sector through economic instruments and incentives, enabling the production and maintenance of modern military equipment on a domestic basis, developing the necessary production capacities, implementing the technological change necessary for the operation and servicing of new equipment, and providing skilled labour. In a broader sense, the Strategy points out that industrial research and innovation for defence has a positive impact on *the technical quality of the whole economy*.

7. The last point of the Strategy examines the *financial basis* for achieving the objectives set. It states that one of the decisive conditions for the development of the armed forces is that the availability and efficient use of resources for the defence sector shall be commensurate with the performance of the national economy. In line with the requirements of NATO

membership, defence spending should reach 2% of GDP by 2024. Adequate proportions of the so-called defence budget are an essential condition for the implementation of the Zrínyi Programme.

Finally, the Strategy indicates that its timeline is essentially longer term, but that it should be reviewed as necessary, at least *every four years* in any case, in light of significant changes in the security environment or in the system of defence management.

Constitutional regulation of the special legal order

The main source of Hungarian law, i.e. our cartel constitution, has only included regulations on the special legal order (also known as the extraordinary legal order, emergency situation, qualified period) since the change of regime in 1989, as the previous system, which could not be considered to have operated under the rule of law, considered it unnecessary to regulate this issue.¹⁸ The constitutional arrangements following the transition to the rule of law regulated the relevant provisions in a scattered manner, largely in relation to state bodies.

The new constitution, Hungary's Fundamental Law, which entered into force in 2012, now has a single, separate chapter dedicated to the rules for the special legal order. While it previously listed a total of six types of cases (state of national crisis, state of emergency, state of danger, terrorist emergency, pre-emptive state of defence and unexpected attack), the ninth and tenth amendments to the Fundamental Law in effect since 1 November 2022 have restructured the rules and reduced the number of cases to three (state of war, state of emergency and state of danger). The main new elements of the current legislation are presented below.¹⁹

1. A *state of war* may be declared in the following cases:

- in the event of a declaration of war or threat of war
- an external armed attack, an act having equivalent effect to an external armed attack and the imminent threat thereof
- in the case of a covenant to provide collective defence

In effect, therefore, under the term “state of war”, Parliament has essentially merged the previous scope of a state of national crisis, a pre-emptive state of defence and unexpected attack (and, in some cases, terrorist emergency). What has not changed is that the declaration of a state of war requires the agreement of two-thirds of all Members of Parliament.²⁰ A significant modification, however, is that unlike the previous legislation, which provided for the establishment and operation of a so-called *Defence Council* during a state

¹⁸ See e.g. HOFFMAN–KÁDÁR 2021: 16–17.

¹⁹ The rules of the special legal order to be presented here are contained in Articles 48–56 of the Fundamental Law. It should be noted here that international perspectives on the subject have recently been published in large volumes of studies. See, among others, NAGY–HORVÁTH 2021; NAGY–HORVÁTH 2022; KELEMEN et al. 2023: 44–94.

²⁰ The question of what legal form the “declaration” should take and, in light of this, whether it should be subject to review by the Constitutional Court, is a very interesting one. See CSINK 2023: 6–10.

of national crisis (although, fortunately, this was never needed), the current legislation now only gives the Government the power to act, if necessary. According to Hungary's Fundamental Law, during a state of war, the Government exercises the rights delegated to it by Parliament and decides on the deployment of the Hungarian Defence Forces abroad or domestically, on their participation in peacekeeping, on their humanitarian activities in foreign theatres of operations, on their stationing abroad, and on the deployment of foreign armed forces within Hungary or from the territory of Hungary as well as their stationing in Hungary.

2. A *state of emergency* may be declared in the following cases:

- in the case of an act intended to overthrow or subvert the constitutional order or to acquire exclusive power
- in the event of a serious unlawful act that massively endangers the safety of life and property

The rules on the constituent elements of the state of emergency have changed little. A new element is the possibility of so-called “subversive” activities,²¹ and the fact that serious acts for the purposes of both categories cannot only be committed by armed persons anymore (the adjective “violent” has been removed from the second category and replaced by “unlawful”). In this way, the constitutional authority has responded to the fact that such offensive conduct can also be carried out in cyberspace, by means of information technology.

The rule that the declaration of a state of emergency requires the agreement of two-thirds of all MPs has not changed. The timeline is also unchanged, except that a state of emergency may be declared for a period of thirty days, which may, however, be extended by a further period of thirty days by a vote of two-thirds of all MPs if the circumstances necessitating the declaration of a state of emergency still exist.

A major amendment, however, is that the President of the Republic no longer has the power to issue decrees in the event of a state of emergency, and the Constitution does not address whether the Hungarian Defence Forces may be used during a state of emergency.

3. There has been a significant change in the reasons for declaring a *state of danger*. Under the current constitutional rules, the Government may declare a state of danger in the event of armed conflict, war or humanitarian disaster in a neighbouring country, or in the event of a serious incident threatening the safety of life and property, in particular a natural disaster or industrial accident, or in order to avert the consequences thereof. Firstly, the reference to the situation in a neighbouring state was not previously included in the Fundamental Law (this changed on 25 May 2022, in view of the escalation of the Russian–Ukrainian conflict), and secondly, the reference to a natural disaster or industrial

²¹ The definition of this is not yet known, nor is it defined in the explanatory memorandum of the amendment to the Fundamental Law. See JAKAB–TILL 2021: 474–475. The new state of emergency legislation may also include some of the elements of the former terrorist emergency. See in this context a detailed analysis of the previous and the new legislation: HORVÁTH 2021b: 133–135.

disaster is not merely exemplary but is regulated as a concrete possible reason for proclamation.²²

By comparing the expanded cases of the state of danger with the state of war and the national defence crisis (quasi-special legal order),²³ it can be concluded that “danger” appears in all three legal orders. The question arises whether an armed conflict or war in a neighbouring country can justify the introduction of a special or quasi-special legal order in Hungary. It may do so because, on the one hand, a war in a neighbouring country may entail the risk of further spread, and on the other hand, the large number of refugees may place a heavy burden on immigration enforcement agencies, social welfare systems, etc. The demarcation between the two special legal orders can also be seen in the fact that the Fundamental Law uses “imminent danger” in the case of a state of war, which means a qualified “danger”. The question also arises as to why it was necessary to broaden the cases of state of danger, as this concept overlaps significantly with that of national defence crisis, although the latter is a peacetime condition for crisis management, not a matter for consideration of a special legal order. Consequently, if there is an “imminent danger” that an armed conflict or war in a neighbouring country will extend to Hungary, then a state of war should be declared, but in our opinion, if the “danger” is not imminent, then it is sufficient to declare a national defence crisis.

An important new guarantee rule is that a state of danger can be declared *for thirty days* but this can be extended by Parliament if the circumstances that led to the declaration persist. The authorisation requires the affirmative vote of two-thirds of the MPs present, not all of them. In contrast to the “original” thirty-day time limit, the extension could in theory last indefinitely subject, of course, to the constitutional rule that the body authorised to declare a special legal order *shall terminate it when the conditions for its proclamation no longer exist*. In reality, however, the extension is prevented by Article 82/A of Act XCIII of 2021 on the Coordination of Defence and Security Activities, which sets the *maximum duration to be 180 days*.²⁴

4. Among the *common rules* concerning certain cases of the special legal order, the previous provisions of the Fundamental Law have not changed significantly (e.g. the scope of fundamental rights²⁵ that may be restricted in relation to the so-called “constitutional minimum”, the prohibition of the dissolution of Parliament during a state of war or state of emergency, the powers of the President of the Republic to substitute Parliament, the

²² In the context of the previous constitutional legislation, the question of whether a pandemic can be equated with a “major disaster” has been the subject of debate in both public and academic circles. See e.g. SZENTE 2020: 131–133; for a very detailed analysis see HORVÁTH 2021a: 156–159. In relation to the constitutional rules and the regulation of the Disaster Management Act, see also KLEIN 2020: 220–222; JAKAB–TILL 2021: 464–465. On the previous legislation of the Fundamental Law see TILL 2019.

²³ According to Paragraph (1) of Article 107 of Act CXL of 2021 on Defence and the Hungarian Defence Forces, a national defence crisis may be declared in view of the effects of a crisis in a state neighbouring Hungary, which requires military management and directly threatens Hungary’s security in the event of an external armed attack or a threat of an external armed attack equivalent in its effect to an external armed attack, or in order to prepare for the fulfilment of military obligations in connection with NATO and EU membership.

²⁴ Since May 2022, a state of danger has been maintained with reference to the Russian–Ukrainian conflict. At the time of writing, the Parliament had already adopted a new authorisation allowing the extension of the state of danger until 23 May 2024.

²⁵ See in this context SABJANICS 2022: 8–9.

automatic expiry of decrees issued during the special legal order when the special legal order ceases to exist, and so forth). Something that may be considered a radical change is that during all three cases of a special legal order, *the Government* has substantive rights and obligations to act, in particular the possibility to issue decrees with the force of law. Thus, as indicated above, the opportunities for issuing decrees that did not exist under the previous constitutional rules during the “normal” legal order (as regards the Defence Council and the President of the Republic), which were (in theory) possible during the state of emergency and extraordinary circumstances, have been removed.

This designation of the Government as a centre of power with broad powers is also accompanied by *increased responsibility* as a guarantee in the Fundamental Law. Among other things, the Government is obliged to take all measures to ensure the continued functioning of Parliament and the Constitutional Court in times of special legal order. During the period of special legal order, the Government is obliged to inform the President of the Republic, the Speaker of Parliament and the Parliamentary Standing Committee, endowed with the relevant powers and responsibilities of Parliament, of the decree issued under the rules governing the special legal order. Furthermore, a special new rule is that *the Parliament may repeal a decree* issued by the Government under the rules governing the special legal order during the special legal order. A repealed decree may not be reissued by the Government with the same content unless justified by a significant change in circumstances, in which case the Government must keep the abovementioned bodies informed.

Act on the Coordination of Defence and Security Activities

One of the most important legislative acts of the 2018–2022 parliamentary term is *Act XCIII of 2021 on the Coordination of Defence and Security Activities* (hereinafter: AoCDSA).²⁶ The Act is based on the National Security Strategy and includes a number of provisions that previously appeared in the laws on defence (sometimes partially in other laws, e.g. on disaster management).

1. The *explanatory memorandum* to the proposed law highlights that since 2013, the security environment in Europe has changed dynamically. The Arab Spring, the massive wave of illegal migration, the conflicts in Ukraine and the hybrid events that preceded them, the terrorist attacks in Europe and the development of cybercrime opportunities resulting from the evolution of information technology, among others, have marked an epochal change, but the successive threats in our region have led the legislator to react on a case-by-case basis, in parallel with the management of specific crises. The altered security environment has made it necessary to *step up cooperation between armed bodies and organisations*, on the one hand, and to strengthen the capacity for preparedness and response for defence and security purposes in non-armed activities, on the other.

²⁶ For a brief and overarching presentation of the law see e.g. KÁDÁR 2022: 8–10. An extensive analysis of the historical antecedents of the Act and of the Ninth Amendment to the Fundamental Law is provided in FARKAS–KELEMEN 2022: 4–40. The law is presented in detail, chapter by chapter in KÁDÁR 2023: Chapters III–XV.

Through the new law, the legislator has complemented the sectoral operation of the previous law with a framework for effective cooperation replacing the sectoral delimitation and the *holistic coordination of the government*, making it a priority area to strengthen the preparedness and security awareness of society, as well as to make the standard legal crisis management and the special legal order regulation more effective. The Ninth and Tenth Amendments to the Fundamental Law and the AoCDSA have laid the foundations for the reform of defence and security upon which the coordinated development of the various sectors, in light of the foreseeable changes in technology and the security environment, can be built in the coming years.

To this end, the Act draws on the country's historical background, the regulatory and crisis management experience of recent years, the increasingly comprehensive approach to national security in the transatlantic region, NATO's efforts to develop national resilience, and the academic analyses of these issues both in Hungary and abroad. The aim of the Act is therefore to establish and consolidate a *comprehensive approach* to the protection of Hungary and the security of the nation through leaving sectoral specificities intact and maintaining the system of sectoral governance, but enhancing the coordination of crisis management operations, modernising crisis management regulations and improving the preparedness and security awareness of non-state actors. The explanatory memorandum also states that the ability to adapt rapidly to circumstances that often change over a short period of time is a prerequisite for effective crisis management. With this in mind, the drafting of the AoCDSA has also placed due emphasis on securing the conditions necessary for adaptiveness at both individual and societal levels.

2. The Act declares, as a matter of principle, that the defence and security of Hungary is a *national matter* upon which the survival and development of the nation and the enforcement of community and individual rights are based. Therefore, the legal provisions relating to the maintenance and development of the defence and security of the Hungarian nation shall be determined in light of this Act. As such, it makes it clear that the AoCDSA should be regarded as a type of “framework” law whenever the legislator adopts new legislation on defence and security issues (this is reflected, *inter alia*, in the Defence Act currently in force).

According to the law, the unified management of the above and the promotion of a modern security concept in this context, as well as the coordination of the operation and utilisation of the organisations, capabilities and resources involved in this, *are tasks for the State*. The three pillars of the enforcement of the stated requirements and, where necessary, of the armed defence of Hungary are as follows:

- the defence system and the Hungarian Defence Forces
- law enforcement and law enforcement agencies (the police, the National Tax and Customs Administration, the penitentiary system and the professional disaster management agency)
- the national security services²⁷

²⁷ There are currently one military (the Military National Security Service) and four civilian national security services operating in Hungary. The civilian services are: the Office for the Protection of the Constitution, the Information Office, the National Security Service and the National Information Centre.

All (civil) public authorities²⁸ are obliged to cooperate with these bodies in order to meet the above requirements which are of a principled nature.

The law devotes a separate sub-chapter to the “Principles”. In this context, the emphasis should be placed on the priority of *Community-wide security*, the requirement for *coordinated action* and the *proportionality of any restriction of rights*.

3. In recent decades, a common regulatory subject of defence laws has been the discussion of the so-called system of *basic defence obligations*. The general regulation of these has been taken over by the AoCDSA. It is important to point out that the relevant regulatory system has multiple levels: the Constitution provides the basis,²⁹ while certain detailed provisions remain regulated by the Defence Act. The obligations of defence and security are as follows:

- military service, armed or unarmed (during a state of war)
- civil defence obligations
- compulsory national defence work (during a state of war)
- economic and material service obligations
- the obligation to notify for defence and security purposes

It is worth emphasising that under the Fundamental Law:

- military service is compulsory only for *men of Hungarian nationality who are of age and reside in Hungary*
- the obligation to work in the field of national defence and the civil defence obligation *applies only to Hungarian citizens of full age resident in Hungary* (including women), while
- economic and material service obligations apply to *everyone* (not just individuals but also organisations)

However, the AoCDSA also stipulates that *only one of the obligations* of military service, civil defence and national defence may be imposed on one natural person within one period. Another rule of guarantee which bears significance is that administrative decisions and measures relating to the fulfilment of the obligations of defence and security under the Act may be challenged by means of an *administrative* appeal or *administrative lawsuit*.

Three of the defence and security obligations are regulated in detail in the Act, as the other two (obligations that may be imposed during a state of war) are regulated in detail in the Defence Act. The obligations are briefly described here.

- a) *The objectives of the civil defence obligation* in times of armed conflict and disaster:
- the protection of human life
 - the protection of material goods necessary for human subsistence

²⁸ According to the interpretative provision of the AoCDSA, the term “administrative body” is to be understood only to mean state administrative bodies under the control of the Government (i.e. excluding certain bodies with autonomous legal status and local self-governments, which are excluded from the control of the Government).

²⁹ Paragraph (3) of Article XXXI of the Fundamental Law deals with military service, (4) deals with the obligation to perform national defence services, (5) deals with civil defence service and (6) deals with economic and material service.

- promoting the preservation of material security
- performance of humanitarian tasks

The *sub-obligations* of the civil defence obligation are the obligation to provide information, the obligation to report, the obligation to participate and the obligation to provide service. The *mayor* usually acts in matters relating to these obligations.

b) The *purpose of the economic and material service obligation* is to provide the material and service conditions for the performance of tasks directly related to the defence and security of the country, as defined by law, from non-state sources if they cannot be provided in any other way. As indicated above, this service obligation may be imposed not only on natural persons but also on organisations (primarily companies).

This obligation can be very broad. It may involve, for example, the temporary transfer of immovable or movable property, the creation of reserves and stocks, the suspension of exports of foreign currency or precious metals, the restructuring of a production plant, the provision of data, and so forth.

The decision to use this service is made by the “claiming authority”. This authority may be the Government or a Minister, the chairman of the regional defence committee, the mayor, the head of the sectoral administration responsible for defence and security administration, or, in the event of war, the commander of the military organisation. If the person or body concerned suffers a financial loss as a result of the performance of the service, he or she may, as a general rule, be *compensated for* that loss.

c) The essence of the *duty to report for defence and security purposes* is that, in the event of certain acts or circumstances occurring which are specified by law, the person who becomes aware of them is obliged to report them to the specified bodies. These include, for example, acts likely to cause serious and violent disturbance to public order or public security, as well as imminent threats thereto, and disasters. Notification can be made to a number of bodies, including the police, defence organisations, disaster prevention services, metropolitan and county government offices and local self-government offices.

4. The AoCDSA also covers a number of other topics, including planning for defence and security, preparation and mobilisation of the national economy for defence, the system of national resilience, the alert system for defence and security, the verification and control of obligations, the so-called coordinated defence action, and the rules for national participation in NATO and EU crisis management systems. These will not be described in detail here, but the specificities of the *defence and security management system* will be discussed. In recent decades, the rules relating to this were also laid down in the Defence Acts.

The AoCDSA emphasises the role of the Parliament, the President of the Republic, the Government and the ministers responsible for the management of certain public administration sectors, as well as the role of defence and security organisations in the top-level management of defence and security activities. Simultaneously, a large number of other state organisations are involved in the performance of defence and security tasks (e.g. state administration bodies under the control of the Government, local self-governments, courts and prosecutors’ offices, healthcare-related, educational, cultural and scientific institutions, the national news agency, transport, communications and information technology bodies, the state post office, the Hungarian National Bank, utility service providers, and so forth).

In a narrower sense, the law deals with *the organisation of the defence and security management system*. The purpose of the system of defence and security management can be summarised as follows:

- coordinating the activities and development of all bodies and organisations involved in maintaining and developing the defence and security of the country and the nation
- providing governmental direction to the bodies involved in the preparation for coordinated defence action
- the transmission of government guidance to the bodies involved in preparing for the operation of the special legal order
- preparing for and coordinating the exercise of cross-sectoral responsibilities
- the professional management of cross-sectoral activities, as defined by law
- carrying out checks related to defence and security activities and the preparations for them

It is observable that the law attaches particular importance to *coordination tasks*.

The organisational system is organised into three levels: *the central, the regional and the local bodies* of defence and security administration. The central body is designated by decree by the Government and is currently the *Defence Administrative Office*.³⁰ The Office is a central administration, under the authority of a Minister and headed by a Director-General. The regional and local bodies are known as Regional and *Local Defence Committees*. In contrast to the central body, which was created in 2022, the system of defence committees already existed in previous decades. In these special administrative bodies, which have a specific legal status, there is both civilian representation (within the regional state administration and local self-government administration) and military and law enforcement administration. In addition to their coordinative role, the Regional Defence Committees have the power to order the use of certain services, to order the evacuation of the population in certain urgent cases and to deploy civil protection organisations. The Local Defence Committees are also primarily coordinative bodies, but may also take measures in certain cases, for example, to redeploy and mobilise the personnel and equipment needed for protection. It is also worth mentioning that the law specifically assigns a number of tasks to *mayors* in this regard.

5. Regarding the Hungarian administrative system for sanctions, it is worth mentioning that the AoCDSA considers the breach of certain obligations defined in the Act *a breach of the rules*, which entails administrative authority proceedings to be conducted by the governmental authority. The government agency may impose *protection and security fines* in the event of a finding of noncompliance.

6. Finally, in connection with the Act, we would like to convey the fact that the *preparation* for special legal orders, which were also regulated in the Defence Acts, and the *operation* and the range of *extraordinary measures* that may be introduced during these periods, are also regulated in the AoCDSA. In this area, the law basically regulates in general terms the measures which the Government may introduce by decree, including

³⁰ See Government Decree 337/2022 (IX. 7.) on the Defence Administrative Office.

the framework for the restriction of fundamental rights. In the latter context, it is worth mentioning that the restriction of rights is only possible for a specific purpose, subject to the requirements of necessity and proportionality.

In case of government decrees issued in the context of a special legal order, *publication in the Official Gazette* is not obligatory for operational reasons. On the day of signature, these decrees may be published free of charge on the news programmes of so-called linear broadcasters, in daily newspapers, on Internet news portals and even by means of a notice. If for any reason this should be impeded, the law provides that the publication must be carried out as extensively as possible using the technical means of law enforcement agencies and the armed forces.

The Defence Act

When considering the 2018–2022 parliamentary term, we also need to touch upon *Act CXL of 2021 on Defence and the Hungarian Defence Forces* (The Defence Act), which concerns the system of rules related to the development of the defence and security system established in relation to the new approach. This Act, in addition to the two strategies described above, also draws from and adapts to the rules of the AoCDSA. For the purposes of this study, we will restrict ourselves to a brief presentation of the rules of the Act, primarily those of a management, administration and organisational nature.

1. The explanatory memorandum to the proposal of the Defence Act highlights that the new Act revises the sustainable elements of the previous Defence Act adopted in 2011 by adapting them to the expectations and requirements of the times, and, bearing in mind the Ninth Amendment to the Fundamental Law, clarifies the special legal order rules, defining certain former special legal order tasks as peacetime tasks. As a result of the changed security policy environment, new rules are introduced particularly in the section concerning the tasks of the Defence Forces, which share the requirement that decisions must be made in a timely manner. The compulsion to comply with the requirement to react in a timely manner is a recurrent feature of the new rules of the Act, with repercussions that affect the regulation of the powers of management. In view of the above, the new law aims to *reform the institutional system for National Defence as a whole* in line with the defence and security institutional system's reform.

2. As in the case of previous laws on defence, the Defence Act states that defence is *a national matter*. According to the Act, Hungary relies on its own strength, including the resources of its national economy, the preparedness and determination of the Hungarian Defence Forces, the cooperation of law enforcement agencies, national security services and other bodies, the patriotic commitment and sacrifice of its citizens in defence of the homeland, and the cooperation and assistance of the allied states and their armed forces in maintaining and developing its defence and allied military capabilities.

3. In the field of *defence management*, the Act, similarly to previous defence Acts, names the Parliament, the President of the Republic, the Government and its members (in particular the Minister responsible for defence), and other bodies involved. It is important

to underline that the activities of the Chief of the General Staff, who is in charge of the Defence Forces, are directed by the Minister responsible for defence.³¹

4. As we have already pointed out, the provisions referred to in previous legislation as *national defence obligations* have been split into two. Some of them have been included in the AoCDSA as obligations of defence and security. However, the Defence Act retains the name “national defence obligations” and regulates the *military obligation* as the first of these.

The military service obligation during a state of war consists of the constitutional (armed or unarmed) military service obligation alongside additional obligations (reporting, providing information and participation). The purpose of *armed military service* is to carry out national defence and allied military tasks and, to this end, to train and prepare conscripts for military tasks and to strengthen the defence capabilities of the Defence Forces. The purpose of *unarmed military service* is to participate in and provide the necessary training for the unarmed tasks of the Defence Forces without the use of weapons and to ensure and support the armed tasks of the Defence Forces. An application for unarmed military service may be submitted to the head of the military administration and central data-processing body of the armed forces. As in previous decades, the exemption from military service is governed by the institution of the so-called “waiver”. The persons designated by the body involved in managing the waivers are entered on the waiver register and may not be summoned by the military administration for a place of service outside of their employment duties.

The *national defence work obligation* is also a form of national defence obligation. Under the Act, the person liable is required to perform physical or mental work in the workplace assigned to him or her, in accordance with his or her abilities and state of health, in the context of a permanent or temporary national defence work obligation, in order to maintain and restore the functioning of the country.

5. It is worth mentioning that, as does the AoCDSA, the Defence Act allows the Government Office, within the framework of an official procedure, to impose a so-called *national defence fine* in the case of a violation of certain obligations listed above.

6. The law also defines the legal status of the Hungarian Defence Forces, also on the basis of a “model” in place for several decades now. The Hungarian Defence Forces are an *armed force* under *civilian control*, operating under a system of dependency, based on volunteerism in times of peace and on volunteerism and general military duty in times of war, and are organised by the Defence General Staff and the Defence organisations under its subordination. Some defence organisations also perform military administrative functions as defined by law. The Defence Forces perform their functions with or without the right to use arms, within the scope defined by law.³²

The *Defence General Staff* is the leading body responsible for the planning, organisation and military activities of the Defence Forces at the highest level. This body is headed by

³¹ Pursuant to Paragraph (1) of Article 112 of Government Decree 182/2022 (V. 24.) on the Duties and Powers of the Members of the Government, this is the *Minister of Defence*, at the time of writing.

³² For a detailed analysis of the “cooperative” type of tasks of the Defence Forces see TILL 2023: 4–14.

the *Chief of the General Staff*³³ and, with certain exceptions, directs the Defence Forces organisations. Otherwise, the defence organisations are headed by *commanders*.

The military administration is a two-tier organisation: it comprises a central military administration as well as regional military administrations. The central body is the military administrative and central data processing body of the Defence Forces;³⁴ the regional bodies are the military supplementary and recruiting centres and offices.³⁵

In addition to the military (and other personnel), the Defence Forces also have *reserve personnel*. Maintaining the *voluntary reserve system* is an obligation under the Fundamental Law. The reserve personnel include voluntary reservists, defence personnel who volunteer for military service during the period of compulsory military service, trained conscripts and untrained conscripts.

The law specifically mentions the *military police* when detailing “certain security measures”. The purpose of the military police is to maintain military order and discipline and to provide police security for the activities of defence organisations, as well as to perform the law enforcement tasks specified in the law. The law provides the military police with special powers, which are very similar to those of professional police officers. Also in a similar way, appeals (*complaints*) can be made against an action taken by a military policeman, which is decided by the Chief of the General Staff in an administrative procedure.³⁶

The most serious use of force available to the military is the use of firearms. The law regulates in detail the possible cases, conditions and methods of using firearms (similarly to the use of firearms by members of law enforcement agencies). However, other less severe uses of force (e.g. physical force, truncheons, tear gas canisters, tasers, or handcuffs) may also be used. Complaints may also be lodged with the Chief of the General Staff regarding the use of force by the military. Civilian persons may also request that their complaint be examined by the Commissioner for Fundamental Rights in the first instance if the use of force infringes their fundamental rights.

7. Finally, it should be noted that, in certain cases where there is a situation affecting national defence and threatening the security of the country, but no special legal order is promulgated, the Government is empowered to introduce special measures. In such cases, the Government may declare a *state of national defence emergency*. In the absence of such a decision, immediate government measures must also be taken to avert an *unexpected attack* on the country. These regulatory elements also have a longstanding history.³⁷

³³ Former name: Commander of the Hungarian Defence Forces.

³⁴ At the time of writing, according to Article 17 of Government Decree 614/2022 (XII. 29.) on the implementation of certain provisions of the Defence Act, this body is the Military Administration and Central Registry of the Hungarian Defence Forces.

³⁵ According to Articles 18–19 of the above Decree, there are seven military training and recruitment centres and twenty military training and recruitment offices covering the country’s territory. In addition, *recruiting points* may also operate to support the tasks of these bodies.

³⁶ On the role and importance of the military police see e.g. BUZÁS 2019: 36–48.

³⁷ In the 2011 Defence Act, it was still possible to declare a “state of national defence emergency”. For an analysis see KÁDÁR–HOFFMAN 2021: 6–7. In the context of the regulations on crisis management within national defence see PUSKÁS 2023: 8–9.

Summary and conclusions

The objectives of the renewed legal environment presented in the study are clear: the legislator seeks to provide a well-founded and clear response to the new types of security challenges.³⁸ The plans for the convergence of military and law enforcement activities and the potential exploitation of synergies are primarily reflected in the new system of defence and security regulation, but it is too early to assess them as of yet.³⁹ However, it is to be hoped that the new type of security and defence system will not have to be applied in a real situation, especially in the event of an armed attack. However, the global processes, conflicts and crises outlined in the introduction, and the situations described in the outlined strategies, which are increasingly impacting our world today, do not bode well, even for the near future.⁴⁰ As the saying goes: “It is better to be safe than sorry.” However, we could also quote the Roman proverb: “Si vis pacem, para bellum.”⁴¹ Whereas until the war in Yugoslavia, wars in Europe were only to be found in the pages of textbooks or news reports from distant countries, today they are a nearby reality. Although our NATO and EU membership represent major security potential, a well-prepared and capable military and internal security organisation is also essential for the defence of sovereignty and statehood. The NATO framework and the defence of every single European country work on the basis of a multinational framework. This framework creates the necessary elements to defend any parts of NATO, and a capable Hungarian military is important primarily because it is also one (but of course significant) element of the puzzle of our common defence structure. In other words: strong national contribution helps defend sovereignty, not by actual military force, but as a tool of national interest assertion.

References

- BUZÁS, Gábor (2019): Rendészet – katonai rendészet. *Katonai Jogi és Hadijogi Szemle*, 7(2), 25–50. Online: https://epa.oszk.hu/02500/02511/00009/pdf/EPA02511_katonai_jogi_szemle_2018_2_025-050.pdf
- CSINK, Lóránt (2023): A különleges jogrend bevezetésének alkotmányjogi megközelítése. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (3), 4–13.

³⁸ Of course, the new laws are now accompanied by a significant number of implementing regulations. It is not within the scope of this study to describe them.

³⁹ However, we refer to the thoughts of Géza Finszter, who in our opinion convincingly demonstrates that confusing the use of *physical violence* with the use of military and police force (e.g. in terms of the firepower of the weapons used, the prioritisation or marginalisation of the safety of life and property, the treatment of hostile aggressors) can have serious consequences. See FINSZTER 2018: 29–33; see also HAUZINGER 2023: 16–17.

⁴⁰ This pessimistic tone is supported, among other things, by the study which describes and analyses the current mass of challenges, risks and threats that significantly influence the future in almost 50 pages: JUHÁSZ–PETRUSKA 2022: 4–46.

⁴¹ As underlined by Pál Kádár: crisis management and special legal order operations should be prepared in the greatest possible depth and thoroughness *during a crisis-free period*. See KÁDÁR 2022: 16.

- FARKAS, Ádám – KELEMEN, Roland (2022): Az Alaptörvény kilencedik módosítása, valamint a védelmi és biztonsági tevékenységek összehangolásáról szóló 2021. évi XCIII. törvény megalkotásának történelmi előzményei. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (37), 4–40. Online: <http://hdl.handle.net/20.500.12944/21563>
- FARKAS, Ádám – TILL, Szabolcs Péter (2022): A honvédelem közjogi szabályozásának megújítását indokló körülmények áttekintése. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (26), 4–37.
- FINSZTER, Géza (2018): *Rendészettan*. Budapest: Dialóg Campus.
- HAUTZINGER, Zoltán (2023): A rendészet védelmi és biztonsági funkciói. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (10), 4–17.
- HOFFMAN, István – KÁDÁR, Pál (2021): A különleges jogrend és a válságkezelés közigazgatási jogi kihívásai I. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (2), 4–39.
- HORVÁTH, Attila (2021a): A 2020-as Covid-veszélyhelyzet alkotmányjogi szemmel. In NAGY, Zoltán – HORVÁTH, Attila (eds.): *A különleges jogrend és nemzeti szabályozási modelljei*. Budapest: Mádl Ferenc Institute, 149–173. Online: https://doi.org/10.47079/2021.nzha.kulon.4_6
- HORVÁTH, Attila (2021b): A különleges jogrend fejlődése Magyarországon a kilencedik Alaptörvény-módosítás tükrében. In NAGY, Zoltán – HORVÁTH, Attila (eds.): *A különleges jogrend és nemzeti szabályozási modelljei*. Budapest: Mádl Ferenc Institute, 122–148. Online: https://doi.org/10.47079/2021.nzha.kulon.4_5
- JAKAB, András – TILL, Szabolcs (2021): A különleges jogrend. In TRÓCSÁNYI, László – SCHANDA, Balázs – CSINK, Lóránt (eds): *Bevezetés az alkotmányjogba* (8. kiadás). Budapest: HVG-ORAC, 437–484.
- JAKAB, András (2007): *A magyar jogrendszer szerkezete*. Budapest–Pécs: Dialóg Campus.
- JAKAB, András (2016): A jogforrási rendszer. In TRÓCSÁNYI, László – SCHANDA, Balázs (eds.): *Bevezetés az alkotmányjogba* (5. kiadás). Budapest: HVG-ORAC, 121–179.
- JUHÁSZ, István – PETRUSKA, Ferenc (2022): A védelmi-biztonsági szabályozási reformot indukáló biztonsági környezet-változás elemeinek beazonosítása, szakmai értékelése. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (32), 4–46.
- KÁDÁR, Pál (2022): Gondolatok a védelmi-biztonsági szabályozás reformjának egyes kérdéseiről. *Honvédségi Szemle*, 150(1), 3–19. Online: <https://doi.org/10.35926/HSZ.2022.1.1>
- KÁDÁR, Pál ed. (2023): *A védelmi és biztonsági szabályozás magyarországi reformja*. Budapest: NKE Védelmi-Biztonsági Szabályozási és Kormányzástani Kutatóműhely.
- KÁDÁR, Pál – HOFFMAN, István (2021): A különleges jogrend és a válságkezelés közigazgatási jogi kihívásai: a „kvázi különleges jogrendek” helye és szerepe a magyar közigazgatásban. *Közjogi Szemle*, 14(3), 1–11.
- KELEMEN, Roland – PETRUSKA, Ferenc – SPITZER, Jenő – VIKMAN, László (2023): Nemzetközi minták vizsgálata az összehangolt válságkezelésre, az arra való felkészülésre és a különleges jogrendi szabályozásra. In KÁDÁR, Pál (ed.): *A védelmi és biztonsági szabályozás magyarországi reformja*. Budapest: NKE Védelmi-Biztonsági Szabályozási és Kormányzástani Kutatóműhely, 44–94. Online: <http://hdl.handle.net/20.500.12944/21560>

- KLEIN, Tamás (2020): A veszélyhelyzeti jogalkotás alkotmányos alapjai, különös tekintettel a véleménynyilvánítás különleges jogrendi korlátozhatóságára. *Glossa Iuridica*, 7(különszám), 211–234.
- KSH (2024): *Gyorstájékoztató*. Hungarian Central Statistical Office. Online: www.ksh.hu/gyorstajekoztatok/nep/nep2406.html
- NAGY, Zoltán – HORVÁTH, Attila eds. (2021): *A különleges jogrend és nemzeti szabályozási modelljei*. Budapest: Mádl Ferenc Institute. Online: <https://doi.org/10.47079/2021.nzha.kulon.4>
- NAGY, Zoltán – HORVÁTH, Attila eds. (2022): *Emergency Powers in Central and Eastern Europe*. Budapest–Miskolc: Mádl Ferenc Institute. Online: <https://doi.org/10.47079/2022.znah.epicaee.1>
- PÜNKÖSTY, András (2023): A közös kül- és biztonságpolitika. In SZABÓ, Marcel – GYENÉY, Laura – LÁNCOS, Petra Lea – PÜNKÖSTY, András (eds.): *Az Európai Unió jogának alapjai*. Budapest: Pázmány Press, 431–448.
- PUSKÁS, Anna (2023): Az új honvédelmi törvény és a védelmi és biztonsági szabályozás reformjának összefüggései. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (7), 4–14.
- VARGA, Júlia (2024): *A közoktatás indikátorrendszere 2023*. HUN–REN Közgazdaság- és Regionális Tudományi Kutatóközpont. Online: https://kti.krtk.hu/wp-content/uploads/2024/05/Indikatoroktet_2023.pdf
- SABJANICS, István (2022): Az Alaptörvény kilencedik módosításának államigazgatási vonatkozásai a különleges jogrendet illetően. *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (9), 4–14.
- SÁNTHA, György (2023): *A menedzselt állam*. Budapest: Pázmány Press.
- SULYOK, Gábor (2002): Az egyéni vagy kollektív önvédelem joga az Észak-atlanti Szerződés 5. cikkének tükrében. *Állam- és Jogtudomány*, 43(1–2), 99–136. Online: <https://szakcikkadatbazis.hu/doc/4067451>
- SZENTE, Zoltán (2020): A 2020. március 11-én kihirdetett veszélyhelyzet alkotmányossági problémái. *Állam- és Jogtudomány*, 61(3), 115–139.
- TILL, Szabolcs (2019): A különleges jogrend. In JAKAB, András – FEKETE, Balázs (eds.): *Internetes Jogtudományi Enciklopédia*. Online: <https://ijoten.hu/szocikk/kulonleges-jogrend>
- TILL, Szabolcs Péter (2023): A Magyar Honvédség feladatrendszerének újraszabályozása az új honvédelmi törvény tükrében, *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok*, (6), 4–14.