

LEGAL STANDPOINT ON THE PUBLIC LEGAL INVALIDITY OF THE "FUNDAMENTAL LAW OF HUNGARY" AND ITS CONSEQUENCES

In this legal standpoint, for the first time, we prove the invalidity of the "Fundamental Law of Hungary" (hereinafter referred to as the "Fundamental Law"), and then, from this legal fact, based on the legal principles, we present the consequences thereof. The Constitution of the Republic of Hungary will be hereinafter referred to as the Constitution. The term "in the Hungarian State" means "in the territory of the Hungarian State, and above its citizens".

When we quote from the Constitution or from the Fundamental Law, we use the official translation, but in footnotes we also attach our own translation, because in some cases the official translation does not cover the original meaning exactly.

I. PROVING THE INVALIDITY OF THE FUNDAMENTAL LAW

The Fundamental Law is invalid for a number of reasons, any of which is sufficient to establish ineffectiveness, but in the case of the Fundamental Law all the reasons exist simultaneously.

These are the reasons:

- lack of legitimacy (legitimacy = legal authorization to exercise power)
- lack of legality (legality = compliance to the relevant legislation)
 - conflict with international law
 - nullity in public law
 - unconstitutional content

Before we explain the reasons, the invalidity of the Fundamental Law is already obvious to everyone through the investigation of the following legal provisions.

Why is the Fundamental Law invalid as constitution?

Fundamental Law of Hungary - CLOSING AND MISCELLANEOUS PROVISIONS

*2. This Fundamental Law shall be adopted by the Parliament pursuant to Sections **19(3) a)** and 24(3) of Act XX of 1949.*

Constitution of the Republic of Hungary (Act XX of 1949)

*Article 19 (3) Within this sphere of authority the Parliament shall
a) adopt the Constitution of the Republic of Hungary;¹*

Article 24 (3) The majority of two-thirds of the votes of the Members of Parliament is required to amend the Constitution and for certain decisions specified therein.

Because of the "AND" connection between Article 19 (3) a) and Article 24 (3), the Article 24 (3) is inherently irrelevant, it is quoted only for the sake of completeness.

The parliament had a right only to create the „Constitution of the Republic of Hungary", only to this, only with that name, therefore **the Fundamental Law is INVALID as a constitution.**

Why is the Fundamental Law invalid as a fundamental law?

Constitution of the Republic of Hungary (Act XX of 1949)

Article 77 (1) The Constitution is the supreme law of the Republic of Hungary.²

Since the Fundamental Law is invalid as a constitution, it can not replace the existing Constitution (can not be repealed with it) so **the Constitution of the Republic of Hungary remained in force!**

According to Section 77 (1) above, the Constitution of the Republic of Hungary is also the Fundamental Law of the Republic of Hungary. Two Fundamental Laws can not be in force, **therefore the Fundamental Law is also invalid as a fundamental law .**

1. The lack of legitimacy:

Legitimacy: legal authorization to exercise power.

1.1 The adoption and content of the Fundamental Law violates international law because it violates the principle of popular sovereignty

The word “sovereign” means being unlimited legally, having unlimited capability to act, being independent and having unrestricted power. Popular sovereignty (people power, popular sovereignty) is created by all human rights of those people who are living and founding/forming a state in the area. People's right to self-determination is a community form of personal freedom. The first provision of the UN International Covenant on Civil and Political Rights contains the principle of popular sovereignty. **The members of the Parliament violated the rights of Hungarians in self-determination when without a mandate for adopting the new constitution or fundamental law** (which political power may govern was the only question on the voting list in the 2010 parliamentary elections), **without a wide range of preliminary social consultations and referendums they decided to liquidate the Republic of Hungary and create a new state** with a new political system and with the Fundamental Law and associated principal laws. However, under the terms of international law only the sovereign has the right for it; In this regard people are sovereign.

The International Covenant on Civil and Political Rights

PART I, Article 1:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The principle of popular sovereignty is governed by the following provision of the Constitution of the Republic of Hungary (Act XX of 1949):

The Constitution of the Republic of Hungary (Act XX of 1949, text in force since 23. October, 1989)

Chapter I, General Provisions

*Article 2 (2) In the Republic of Hungary, **supreme power is vested in the people** , who exercise their popular sovereign rights directly and through elected representatives³.*

Popular sovereignty is embodied primarily in the constitutional power of the people, including the founding of the state, since constitutional power is the supreme power, the power of the powers, the original and the unlimited power. It is not constitutionally constituted because it precedes the constitution, it is constitutive power because it creates the constitution itself. The powers created by the constitution, on the other hand, are limited because of the power-sharing principle, the deputies, the government, the right of judges to exercise power are all sovereign-constituted right of use. (See: Nóra Chronowski - Tímea Drinóczy - Judit Zeller: In addition to the constitution In: Public Law Review, 1/4/2010 1-12) 1 These branches of power are exercising part of the created state power and their derivative rights only within the framework of that constitution. Exercising the constitutive power, the people can decide what form of state and government they wish to create (a monarchy, a republic or something completely new, a presidential, semi-resident or collective government form, parliamentarism, a constitutional monarchy, a socialist government system or something completely new) and how to exercise power (what proportion of the representation and direct exercise of power, if the mandates shall be mandatory and revocable, the representatives shall be accountable, etc.).

1.2. The reasons of the temporary status of the Act XX of 1949 on the Constitution of the Republic of Hungary

The Act XX of 1949 on the Constitution of the Hungarian People's Republic By October 22, 1989 contained that all the rights derived from the popular sovereignty were exercised by the Parliament and instead of **supreme power is vested in the people³**, it contained **supreme power is vested in the working people⁴** . Since on the meeting of the Parliament in 1989 was aware of that, despite the fact that by the Constitution of the People's Republic of Hungary the Parliament exercised all the rights derived from the popular sovereignty, but according to the principle of popular sovereignty and international law they had no constitutional power, so in 1989 a two-stage constitutional process could only be started.

Act XX of 1949, Constitution of the Hungarian People's Republic (effective until October 1989)

Article 19

(1) The Parliament is the supreme body of state power and popular representation of the Hungarian People's Republic.

(2) Exercising its rights based on the sovereignty of the people, the Parliament shall ensure the constitutional order of society and defines the organization, orientation and conditions of government.

Stage 1:

In accordance with the Part II, Article 2 of the International Covenant on Civil and Political Rights in which the States shall ensure the adoption of legislative or other measures necessary for the exercise of the rights recognized in the Covenant, if they were not yet in force, in the amendment of Act XX of 1949 in 1989 the members of parliament included **supreme power is vested in the people³** and that People's sovereignty can be exercised directly by the People.

The significance of this act was that the Parliament passed the power to the people, that is to say, the right of decision above the Parliament, and the declaration of the equality of direct and indirect power meant that during the transition, the people and the Parliament are practicing the power jointly.

Given that constitutional power is the original constitutive power that can only be exercised by the sovereign, the Parliament at that time - as long as the new constitution is not adopted by a referendum following the widespread social reconciliation - ratified the modified Constitution as the temporary constitution of the Republic of Hungary under the name "Constitution of the Republic of Hungary".

The temporary constitution fulfills the function of the Constitution until the people create and adopt their final constitution through the direct exercise of popular sovereignty. The fact that the creation of a definitive constitution is to be established later after a broad-ranging social consultation and only through the direct exercise of power by the people is logically easy to deduce, since the statement **supreme power is vested in the people**³ is true only if the supreme power, that is, the constitutional power, takes place through the direct exercise of power by the people. Accordingly, they adopted the **act XVII of 1989** on the People's Initiative and the Popular Initiative, **Article 7** of which explicitly stipulated that **the adoption (ratification) of the new constitution must be decided by a referendum**.

The Articles 19 (3) and 24 (3) of this temporary Constitution (the Constitution of the Republic of Hungary) limited the empowerment of the Members of Parliament to constitute the Constitution of the Republic of Hungary and to modify the Constitution*, but they were not authorized to terminate the Republic of Hungary without a social consultation, referendum or statutory mandate, particularly not to create a new state. * "Constitution" in the normative text denotes the Constitution of the Republic of Hungary (ie the Act XX of 1949) itself.

The International Covenant on Civil and Political Rights

PART II, Article 2:

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Constitution of the Republic of Hungary (Act XX of 1949 – being in force since 23. October, 1989.)

Preamble

In order to facilitate a peaceful political transition to a constitutional state, establish a multi-party system, parliamentary democracy and a social market economy, the Parliament of the Republic of Hungary hereby establishes the following text as the Constitution of the Republic of Hungary, until the country's⁵ new Constitution is adopted.

Chapter I, General Provisions

*Article 2 (2) In the Republic of Hungary, **supreme power is vested in the people**, who exercise their popular sovereign rights directly and through elected representatives³.*

Chapter II, The Parliament

Article 19 (3) Within this sphere of authority the Parliament shall

a) adopt the Constitution of the Republic of Hungary¹; <= Important: Please see the note!

Article 24 (3) The majority of two-thirds of the votes of the Members of Parliament is required to amend the Constitution and for certain decisions specified therein.

Act XVII of 1989 on the People's Initiative and the Popular Initiative

Article 7 The adoption (ratification) of the constitution must be decided by a referendum.

Stage 2:

The second stage, that is to say that the people create and adopt the final constitution of the country through the direct exercise of popular sovereignty, has not so far been done.

In the era of Enlightenment, the so called contract theories expressed the principle that a state power can only be considered legitimate by the voluntary agreement of citizens and by their social contract. Early contract theories defined this agreement as a contract for the limitations of powers between the subjects and their leaders, whereas in the classical contract theories the constitutions are agreements in which the equal members of the community conclude a contract with each other on the exercise of political power. This has not happened yet.

Let's examine the text of the Constitution.

The expression "through elected representatives" means that the power is exercised by the People, not the representative! A representative is only a device of the exercise of the power and has only rights that are explicitly allowed by the principal (in this case the people) in the contract (in this case the Constitution).

Accordingly, the powers of the Parliament are listed in the Constitution (Article 19 (3)). To create and adopt a new constitution or a new fundamental law, that could repeal the Constitution, is not listed, so the Parliament has no such right. Article 19 (3) a) entitles the Parliament to constitute¹ the Constitution of the Republic of Hungary as a one time legal act (done in 1989), since to constitute something can only be done no more than once (see the Interpretation dictionary of the Hungarian Language - mek.oszk.hu/adatbazis/magyar-nyelv-ertelmezo-szotara).

The Parliament has not explicitly been authorized to amend the Constitution because the amendment of the Constitution is not listed in Article 19 (3), where the rights of the Parliament are listed, only the Article 24 (3) permits this legal act. However, since the owner of all power is the People, the representative is only a means of exercise of the People's power, so the amendment of the Constitution mustn't extend the power of either the parliament or any other bodies (eg the rights of the Constitutional Court) in particular, can not abolish the constitutional power of the people and must not limit the direct exercise of people's power.

1.3. The Fundamental Law is unconstitutional because it does not include the principle of popular sovereignty and it also significantly limits the possibility of direct exercise of people's power

Since the Fundamental Law, due to the invalidity of its adoption, is an invalid document irrespective of its content, therefore the examination of its content serves only the purpose of showing that, if the Parliament had the right to adopt the Fundamental Law and adopted it validly, then it would also be invalid due to its content. Analyzing the content at the same time provides evidence of what was the purpose of the parliament (or rather the directing people in the background) with this action.

The Constitution of the Republic of Hungary contains the principle of popular sovereignty by asserting that the **supreme power is vested in the people**³ and declares the equality of the indirect and direct exercise of the people's power. In the Fundamental Law, on the other hand, it is:

The Fundamental Law of Hungary, Foundation

Article B)

(3) The source of public power shall be the people.

(4) The power shall be exercised by the people through elected representatives or, in exceptional cases, directly.

The Fundamental Law of Hungary, The state

The National Assembly

Article 1

(1) HUNGARY's supreme organ of popular representation shall be the Parliament.

(2) The National Assembly:

a) shall adopt and amend the Fundamental Law of Hungary;

National Referendums

Article 8

(3) No national referendum may be held on:

a) any matter aimed at the amendment of the Fundamental Law;

In the Fundamental Law the people is just the source of the public power, the principle of popular sovereignty, which is essentially manifested in the constitutional power of the people, is completely absent from the text of the Fundamental Law. The owner can get back its property, while a source has no control over the resulting thing. The fact that "the source of public power is the people" means that, based on the Fundamental Law, the one who receives the power exercises all power. Moreover, the adopters of the Fundamental Law would have restricted the direct exercise of power by the people, which - according to the Fundamental Law - would only be possible in exceptional cases.

Even in the case of a valid adoption, the Fundamental Law would only be an invalid foundation document of a representative dictatorship.

According to the Fundamental Law, the power of the representative would be an unlimited and independent power, but logically follows that nobody could exercise any power through the Members of Parliament. In the Fundamental Law, the claim that "the power shall be exercised by the people through elected representatives" is simply not true. It follows from the joint interpretation of the provisions of the Fundamental Law that Members could exercise unlimited and autonomous power once they have elected by the people. If the Fundamental Law were valid and these provisions would not be absurd and illegal, then the people would forever be deprived of the possibility of self-determination for the purposes of the Fundamental Law.

However, as an individual cannot be validly deprived of his right to self-determination, that is, cannot be declared a slave, so parliamentarians cannot do so with the community and with the right to collective self-determination. And as a person cannot validly renounce his right to self-determination, that is to say, he cannot sell himself as a slave, there cannot be any legally binding constitution or a substantive law in which the people renounce their right to self-determination, not even with collective will. Self-determination can not apply to a statement by which a declarant abandons his right to self-determination, as this would be a contradiction.

Since the UN International Covenant on Civil and Political Rights has declared the principle of popular sovereignty, such constitution or a substantive fundamental law is not valid, which does not include "people hold all the power", and in which the constitution does not involve direct power procedure to follow. The Temporary Constitution met the above criteria, but the Fundamental Law did not.

In 1989, the Parliament passed all power to the people, so the unlimited power got back to its rightful owner. After that, members of parliament can not limit the power of the people, and can not impose conditions on how can the owner of the unlimited power exercise its power. On the contrary, the people are the ones who have right in their own constitution, or when it is set up, they must also create a law on the representatives in which they regulate their mandate in regards of mandate, the revoke of mandate, accountability and immunity.

With the establishment of the Fundamental Law, the Parliament - violating the international law and the Constitution - attempted to deprive the Hungarian people of their constitutional power, that is, their right to self-determination. The power of the people was simply degraded to the source of the power of the representative bodies, and the members of parliament illegally captured the constitutional power in the country and, with the multitude of laws, which were almost entirely covered by the two-thirds majority, created an invalid new legal structure for the exclusive possession of power. (See: Buried Democracy - Interview with Imre Vörös with Constitutional Judge In: (Hungarian) Sunday News.)

Final Conclusion:

The Fundamental Law is invalid because of the lack of legitimacy and therefore does not have any legal effect.

2. The lack of legality:

Nullity in public law: the law is not validly created if created by a public body which is not authorized to do it, or created by an authorized body, but not in the prescribed procedural order given for it.

2.1 The Fundamental Law was adopted on a non-existent legal basis:

The Fundamental Law was adopted on the basis of Article 19 (3) (a) of the Constitution (see page 1), ie this point was named as the legal basis for the adoption of the Fundamental Law, but this point is solely the legal basis for constitution of the Constitution of the Republic of Hungary in a single act (in 1989), not for any other legal act, therefore:

The Fundamental Law is invalid because of the lack of legality and therefore does not have any legal effect.

2.2 During the creation of the Fundamental Law the prescribed legal order of law creating procedure was violated

These invalidity reasons were relevant, if the Parliament would have the power to create and adopt a new constitution and / or a fundamental law. We discover these reasons only to point out that the Fundamental Law would be also invalid even if the Parliament had the right to create and adopt it.

2.2.1. The Fundamental Law was not created by a public body authorized to create it

We have already pointed out (see point 1) that constitutional power is the people based on both the principle of popular sovereignty and the Constitution, and accordingly the Parliament did not have the power to create a new constitution and / or a fundamental law and that they had no right to give such authorization themselves. The Fundamental Law was therefore not created by an authorized public body, consequently:

The Fundamental Law is invalid and therefore does not have any legal effect.

2.2.2. Procedural irregularities during creation of the Fundamental Law

2.2.2.1. Unconstitutional amendment of the Constitution:

Act XX of 1949 on the Constitution of the Republic of Hungary (text as in force until 04.07.2010)

Section 24 (5) The majority of four-fifths of the votes of the members of parliament shall be required for the adoption of a resolution on the detailed rules for the preparation of the new constitution. (translated from Hungarian text)

However, this provision was abolished by the two-thirds of members of parliament with effect from 05.07.2010. Repealing a provision by a two-thirds majority which prescribes four-fifths majority and also had been adopted with such majority in itself a violation of constitutional principles (see *Fundamentum*, 2011/1 p. 62), because this would extend of the rights of the Parliament in the Constitution, which must not do, since the members of the parliament are only the means of exercise of people's power. It can be seen that members of parliament have even abused their limited constitutional rights.

2.2.2.2. Non-compliance to the formal rules of legislation

The Fundamental Law was submitted to the Parliament - in the form of an individual petition - which adopted it without any prior consultation, without any impact assessments, ignoring the timetable of the legislation, ignoring the formal requirements of the legislation and without providing sufficient time for its implementation. The Constitutional Court pointed to in the case of other laws that these solutions are incompatible with the requirements of the rule of law. Even one of them may result nullity in public law.

2.2.2.3. Performing invalid changes after changes have been officialy completed

After the amendments were closed, the Parliament made a fundamental change to the content of the Fundamental Law when legally it was already no option.

The Fundamental Law would be invalid due to breach of procedural rules and therefore would not have any legal effect, even if the Parliament had right to adopt it.

2.3. The adoption of the Fundamental Law is unconstitutional:

Act XX of 1949 on the Constitution of the Republic of Hungary

Article 77 (1) The Constitution is the fundamental law of the Republic of Hungary.⁶

As under Article 77 of the Constitution, the Constitution is also a fundamental law, so the Fundamental Law is also unconstitutional and therefore invalid.

Therefore, the Fundamental Law, being unconstitutional, would also be an invalid document which would have no legal effect, even if the Parliament had the right to adopt it.

2.4. Self-contradicting and self-nulling content:

The Fundamental Law of Hungary

National Avowal

„We do not recognise the suspension of our historical constitution due to foreign occupations.”

„We do not recognise the communist constitution of 1949, since it was the basis for tyrannical rule; therefore we proclaim it to be invalid.”

„We date the restoration of our country’s self-determination, lost on the nineteenth day of March 1944, from the second day of May 1990, when the first freely elected organ of popular

representation was formed. We shall consider this date to be the beginning of our country's new democracy and constitutional order."

The Fundamental Law of Hungary

FOUNDATION

Article R

(3) The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal contained therein and the achievements of our historical constitution.

The text of the Fundamental Law does not include a list of which laws and legal provisions constitute the historical constitution exactly. In the absence of a taxative listing, the historical constitution is an indeterminable concept, including the Golden Bull, Werbőczy's Tripartitum, the 1848 Act or some of its parts, but may include the Act XII. of 1867. You can expand the list as you like it. And if the National Avowal does not recognize the "the suspension of our historical constitution due to foreign occupations" and if, pursuant to Article R (3) of the Fundamental Law, "The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal contained therein and the achievements of our historical constitution." means that anyone can rely on a medieval law in court if he thinks it is part of the historical constitution.

It is worth to note that in the section on the National Avowal of the Fundamental Law **the legislator first declared the law, that is, the Act XX of 1949 invalid, which was later the legal basis for the adoption of the Fundamental Law itself in its closing provisions!**

The Fundamental Law, in its entirety, conceals the fact that the Act XX of 1949. in 1989, in order to fulfill the role of the provisional constitution after the fall of the communist dictatorship, until adopting the final constitution of the Hungarian people on a referendum, it was so comprehensively modified that almost its number remained the same – firstly declares that constitution communist and invalid which later justifies its own existence.

As a further, incomprehensible manifestation of the schizophrenic view of law and history, the text of the National Avowal defines not the 23 October 1989, the date of the new State replacing the Hungarian People's Republic, the entry into force of the new constitution of this new state as the date of the "new democracy and constitutional order of our country, the restoration of state self-determination" and the beginning of the new constitutional order, but rather the second of May 1990, the day of founding meeting of the first freely elected members of the parliament ignoring that a new state is created with entering its new constitution into force, not with the first assembly of the new members of its parliament.

Therefore, the Fundamental Law, because of its self-nulling content, would also be an invalid document which would have no legal effect, even if the Parliament had the right to adopt it.

2.5. Because of the lack of the subjects of the contract and the mutual and consonant declaration of will, the Fundamental Law as a contract has not been established

„Our Fundamental Law shall be the basis of our legal order; it shall be an alliance among Hungarians of the past, present and future.”

For creation of Alliance as a social contract is required to conclude a contract. The conclusion of the contract requires mutual and consonant expression of the will of the parties. However, it is physically impossible to conclude a contract with dead and even non-born persons, and because of the failure to hold a referendum, with the exception of the 262 parliamentary members adopting the Fundamental Law, the present Hungarians did not express their will regarding to the conclusion of this treaty.

Furthermore, as the Fundamental Law does not define who are "members of the Hungarian nation", it is not possible to determine who the potential subjects of the treaty are: members of nationalities living in the country who are themselves non-Hungarians are included in this circle or the Hungarians out of the border who do not have Hungarian citizenship are parties of this contract or not? In the light of the foregoing, it can be concluded that **this contract is a simulated contract, which is null and void because of the inaccuracy of the subjects of the contract or the lack of mutual and congruent will.**

The legal consequence of nullity is invalidity. Anyone can refer to the invalidity of a null and void contract without a deadline. There is no need for a separate procedure to determine nullity. In the case of an invalid contract, the situation before the conclusion of the contract must be restored.

Act IV of 1959. about the Civil Code^z

Article 205 (1) The contract is created by the mutual and consonant expression of the will of the parties.

Section 207 (6) The simulated contract is null and void; and if another contract is disguised by this contract, this contract must be judged on the basis of the disguised contract.

Section 234 (1) Anyone can refer to the invalidity of a null and void contract without a deadline.

Section 237 (1) In the case of an invalid contract, the situation before the conclusion of the contract shall be restored.

II. THE LEGAL CONSEQUENCES OF THE INVALIDITY OF THE FUNDAMENTAL LAW

An illegal and illegitimate constitutional act must not result in either legal continuity or a successor state, consequently the new state, which was intended to found unconstitutionally by parliamentary deputies, is a non-existent legal entity, it is just an illegal private organization that usurps the public power. The Hungarian Constitution in force is the Constitution of the Republic of Hungary and the legitimate Hungarian State is the Republic of Hungary.

We have to prove some basic legal facts before deriving the consequences: **1.** A new state was intended to create with the Fundamental Law; **2.** If the state called "Hungary" had been legally created, even then would not be the Hungarian state; **3.** The state called "Hungary" had not been legally created, so there is no such state; **4.** The Fundamental Law is not in force in the legal system of the Hungarian State, **5.** As the Fundamental Law is not even apparently in force it must not be applied in the Hungarian State until its destruction, **6.** In the case of validity of the Fundamental Law, and so the existence of the state called "Hungary", it could be just an empty legal entity: (a) no territory, (b) no population, (c) no legal system, and (d) no institutional system (no President, no Government, no Parliament, no local governments, no offices, etc.). **7.** Since 1 January 2012 all laws and public acts are invalid.

1. The purpose of the Fundamental Law was to create a legally not continuous new state, which called "Hungary" to deceive the whole world.

Evidence of interruption of legal continuity:

1.) in the Fundamental Law's National Avowal, the following revelations of the deputies:

„We DO NOT RECOGNISE the communist constitution of 1949, since it was the basis for tyrannical rule; therefore WE PROCLAIM IT TO BE INVALID”

2.) The Transitional Provisions to the Fundamental Law of Hungary (31 december 2011.) - Magyar Közlöny/Hungarian Bulletin, edition 166 of year 2011:

THE TRANSITION FROM COMMUNIST DICTATORSHIP TO DEMOCRACY

*5. At the time it was not possible to prosecute the crimes committed under the communist dictatorship and aiming at the building and maintenance of the regime, and, **in the absence of a constitutional turning point which could have interrupted legal continuity, no possibility to prosecute these crimes opened up even after the first free elections. The leaders of the dictatorship were not held legally or even morally responsible. The coming into force of the Fundamental Law opens the possibility to enforce justice.***

Article 31

(1) The Transitional Provisions of the Fundamental Law of Hungary (hereinafter referred to as 'Transitional Provisions') shall come into force on 1 January 2012.

*(2) Parliament shall adopt the Transitional Provisions under Sections 19(3)a) and 24(3) of Act XX of 1949 on the Constitution of the Republic of Hungary, in accordance with point 3 of the Closing Provisions of the Fundamental Law of Hungary. **The Transitional Provisions shall form part of the Fundamental Law.***

Since the Fundamental Law interrupted the legal continuity, the prosecution of the crimes would be possible, so the members of the parliament - referring to communist crimes as a pretext - intended to create a new State which have no legal continuity with the Republic of Hungary and paragraph 5

of the Transitional Provisions of the Fundamental Law undoubtedly proves the seceding from Hungarian law as well as the occupying and dictatorial nature of this new state to be created.

We proved that if the Fundamental Law was valid, it would be a fundamental law of a new state, that is, a new state would be created.

2. If the state called "Hungary" had been established, even then it would not be the Hungarian state

We have already proved that in the case of the validity of the Fundamental Law, it would not be the fundamental law of the Hungarian State but of a new state. Since in the "Transitional Provisions of the Fundamental Law of Hungary (31 December 2011)" which was declared as the part of the Fundamental Law, the legal continuity with the Republic of Hungary had been interrupted without restoring the legal continuity with any former Hungarian State, therefore the new state to be created could not be the successor of the Republic of Hungary or any former Hungarian State, and because it was not founded by the Hungarian people, so this new state (called "Hungary") could not be the Hungarian State, but a foreign "private" state.

The legal continuity of this new state cannot be remade later modifying the Fundamental Law or repealing a part thereof, since after the establishment of a foreign, non-Hungarian state, the Hungarian State (the Republic of Hungary) will not cease to exist. Especially it was not possible to repeal the Constitution of the Hungarian State by a law of a foreign state as it was attempted by the amendment of the point 26. a) of the Fundamental Law (4th amendment of the Fundamental Law).

We have proved that if the Fundamental Law was valid and that the new state called "Hungary" had been successfully created, then it would not be a Hungarian State either.

3. The state called "Hungary" had not been successfully created, so it does not exist

We have deduced above that the purpose of the Fundamental Law to create a new state under the name "Hungary" of which the foundation document was the Fundamental Law. We have also proved that **the Fundamental Law is an invalid document that does not have any legal effect.** This document, because of its invalid legal basis, is invalid not only as a public law document, but also as a private legal document. **Due to the lack of legal effect of this invalid foundation document, as a result, the new state, called "Hungary" had not been successfully created.** If it had not been created, then it does not exist, so **there is no such state.**

4. The Fundamental Law does not exist in the legislation of the Hungarian State!

We have proved that the Fundamental Law was intended to adopt as a law of a different state and could not be in force in the Hungarian State even if it was valid, because the new state would not be the Hungarian state.

a) The Fundamental Law, being the law of a foreign (non-Hungarian) state, does not exist in the Hungarian State, so it can not be in force.

b) Since the Fundamental Law is invalid, so a new state called "Hungary" does not exist. The law of a non-existent state cannot be in force anywhere, also in the Hungarian State.

c) In the case of validity of the Fundamental Law, the new state called "Hungary", as a foreign (non-Hungarian) state, could not lawfully have the territory and population of the Hungarian State, so its Fundamental Law could not have territorial effect in the territory of the Hungarian State, and personal scope of effect on the Hungarian citizens, thereby the Fundamental Law in the Hungarian State would not be an existing law even if it was otherwise valid.

We have proved that the Fundamental Law - irrespectively of its validity - does not exist as a law in the Hungarian State.

5. The Fundamental Law as a non-existent law does not have to and must not be applied in the Hungarian State

We have proved that the Fundamental Law - irrespectively of its validity - is a non-existent law in the Hungarian State, so cannot be in force in the territory of the Hungarian State and concerning to its citizens, and therefore there is no need to annulate it by a competent body and not to be considered valid and applicable until its destruction, since **a non-existent law does not require destruction, it simply needs to be ignored.**

6. If the Fundamental Law was valid, then the resulting state called "Hungary" would not have a legitimate state power

We have already proved that, due to the lack of legal continuity, the state called "Hungary" would not be the Hungarian State even if it was validly created, so the legitimate Hungarian State remained the Republic of Hungary as it is even now. It follows that this foreign state would have no territory and population. Here we prove that even it would not have an institution system.

A foreign state in its foundation document cannot dispose about things that are not its own (belong to a different state). Only an international treaty (like Trianon) or the UN decision (like Kosovo) might do lawfully so. Consequently, if the Fundamental Law had been validly adopted and the new foreign state called "Hungary" had been successfully created, all the provisions of the Fundamental Law, which concern to any property or entity of the Hungarian State (as a different existing sovereign state), are null and void particularly to the territory and the citizens, state assets, etc, besides that all provisions concerning to the legal entities, elected bodies, offices and institutions of the Hungarian State are also null and void.

Therefore the President, the Government, the Parliament, the local government, the Constitutional Court, the police, army, and any public authority of the Republic of Hungary, as of January 1, 2012 may not be the appropriate legal entity of this new, non-successor, foreign (non-Hungarian) state called "Hungary"! The consequence of this is that although if the new, non-successor, foreign (non-Hungarian) state called "Hungary" was validly established, in the absence of legitimate state power, and legislators, there would be no legal acts since January 1, 2012.

Similarly, all amendments to the Fundamental Law are null and void, since the provision in Fundamental Law, which declares the Constitutional Court of the Hungarian State to be the Constitutional Court in the new state is also null and void, so the decisions of the Constitutional Court concerning to the Fundamental Law and any other laws of the foreign state are also null and void. These laws are non-existing laws in the Hungarian State, and which - in the absence of legislators – had been legally never born are also null and void, including the subsequent repeal of that point in the law called "Transitional Provisions of the Fundamental Law" which declared the interruption of legal continuity. They tried to erase the interruption of legal continuity later, for they could lie their new state as if it was the Hungarian state.

We have proved that, if the Fundamental Law was to be considered valid and that the state called "Hungary" was to be considered existing, there would not be legal President, Government, Parliament, Constitutional Court, public prosecutor's office, court, police, army, etc in it.

We proved that in the case of the validity of the Fundamental Law, and existence of the state called "Hungary", it would be just a state which have no rightfully owned area, population, and institutional system, consequently it would be an empty State.

7. Since 1st of January, 2012 all legislations and public legal actions are invalid

Since January 1, 2012, elected bodies and authorities of the Hungarian State (President, Government, Parliament, Mayors, Municipalities, Constitutional Court, ...) are acting illegally as "bodies and authorities" of this private organization called "Hungary", so in the Hungarian State no legislations have been adopted and no public legal act have been executed.

Therefore, since 1 January 2012 all documents, published in the occupied Hungarian Journal, Official Gazette and therefore thought to be laws, have never been created and published in the legitimate Hungarian State, so they have never entered into force, and these false laws and false legal acts are de facto invalid, not suitable for legal effect, and de jure they do not exist in the Hungarian State.

At the same time, if somebody considered the Fundamental Law to be valid and the state called "Hungary" to be existent, he would have to face the legal fact we have shown in point 6 that there would not have never been legitimate legislators since 1 January 2012 (see point 6), so it would not have never been possible to adopt a valid electoral law in 2013 and so no valid "elections" could be held in 2014. As a result, all (false) laws adopted all legal transactions made on behalf of this "state" would be de facto invalid, de jure non-existent as well.

We have proved that since January 1, 2012, all laws and other acts are de facto invalid, de jure non-existent, regardless of whether the Fundamental Law is valid or not.

8. The legal consequences of the invalidity of the Fundamental Law (without the need for completeness):

- there are no parliamentary representatives, no government, no public legal dignitaries, all appointments are invalid, there are no local governments,
- all legislation and amendments of laws adopted after December 31, 2011 are invalid,
- after 31 December 2011 all legal act bound to statutory registration are invalid (eg establishment of companies, establishment of social organizations)
- any legal transactions after 31 December 2011, either on behalf of the so called "Hungary" (even by its body), or in the name of the Hungarian State are invalid,
- all legal acts after 31 December 2011 are also wholly or partially invalid in the case of the application of ineffective legislation: marriages, divorces, obtaining state-recognized educational qualifications, enforcements, contracts, property acquisitions, etc.,
- any payment made to a body of this non-existent state after 31 December 2011 was baseless, or payment made by an organ of this non-existent state was also unlawful,
- all judgments and official decisions passed after 31 December 2011 are invalid,
- any international treaty concluded after December 31, 2011 are invalid,

this non-existent state called "Hungary" is not the member of the United Nations, the European Union, NATO or any international organization - the member of these organizations is the Republic of Hungary

9. Jurisdiction and applicable law

9.1 The legal status of the public bodies:

Organizations that appear to be state bodies (eg Curia, Constitutional Office, Local Government Policing Office, etc.) that came into being after 31 December 2011 are de facto illegally operating in the Hungarian state, de jure they do not exist. Those who work there exercise public authority

illegally. These institutions should be terminated according to the law and their bodies must be dispersed.

The bodies that acted as elected bodies before January 1, 2012, were existing bodies of the Hungarian State between January 1, 2012 and the end of their term of mandate, but were acting illegally, not behalf of the Hungarian State and according to its laws, but continuously violating the effective laws and committing numerous criminal offenses. Since their mandate has been expired - 6 April 2014 (government, parliament) and October 2014 (municipalities) - there are no such bodies in the Hungarian State, these bodies are legally not existent as there was no lawful election in the Hungarian State since 2012. These illegal bodies must be dispersed according to the law.

The state authorities that existed in the Hungarian State on December 31, 2011 are still authorities of the Hungarian state. Each has the duty to act according to the legal order of the Hungarian State, otherwise it has no jurisdiction. Leaders who were appointed after 31 December 2011 are illegitimate, have no right to sign, they must be dismissed simply.

Since as these measures have not yet taken place, **these institutions** - without the need for completeness: all elected bodies (including municipalities), ministries and their institutions, notaries, public prosecutors, courts, executives, government offices, land offices, police, TEK etc. - are acting to serve a private organization called "Hungary" and **are illegally exercising public authority and/or following false legislation which do not exist in the Hungarian State and enforcing them to the Hungarian citizens, so no public institution has currently jurisdiction in the Hungarian State.**

9.2 The public law situation

Coup d'état: evasion of the constitution, the act of the possessor of the state power which aims or results in the unlawful alteration of the constitutional form. "- Pallas Nagylexikon/Pallas Great Lexicon"

"During the coup d'état, the power is taken by a part of the political elite, with the political means at its disposal, that is to say, with constitutional means, terminates the constitutionality of itself and seizes the power." - Wikipedia

Putsch: A putsch is an activity - that is not supported by wider folk masses - to seize the political power violently in a predetermined way. However, violence can be interpreted not only as armed violence, but also as a legal violence, because it is carried out in opposition to the will of the people or in a way that is not supported by the people (such as the lack of a referendum).

On the basis of the above definitions, it can be stated that, on 1 January 2012, with 262 members of the parliament holding the state power had executed a coup d'etat involving certain marks of the putsch, establishing an organized private power, with participation of the President, the Government, the Parliament, all the parliamentary parties created and since then using the occupied state apparatuses, by the support of media and the collaborative "opposition" parties, have been maintaining the semblance that this organized private power would be the legitimate Hungarian State.

However, since the coup d'état was not in a constitutional framework, but with the disregard of the constitution, and thus with the attempt of unlawfully altering the constitutional order, so that the status of public law situation created by parliamentarians adopting the Fundamental Law, the following quotation represents:

„If we combine legality and legitimacy we have four options for describing constitutional interruptions: a) legally-legitimate; b) legal-illegal; c) illegal-legitimate; or **d) illegal-illegitimate** (legality is at the moment of disruption, meaning; legality of the former order). What differences are

among the four quarters formed by the conceptual pair can be easily seen by giving empirical examples in the order above (and in common language): a) agreed political alternation, b) coup d'état, c) revolution, and **d) foreign occupation.**" (Varga Zs. András: The values of our Constitution: The conceptual frameworks In: *Iustum Aequum Salutare* V. 2009/1.96. p).

Let us also remember that they wanted to create a foreign (non-Hungarian) state with the Fundamental Law, and this foreign (non-existent) state is operated de facto through the institutions of the legitimate Hungarian State, that is, the Hungarian State has been occupied by a foreign organization, so it is under foreign occupation.

On the basis of the above, this private organization, which invaded the Hungarian State (the Republic of Hungary), is qualified as a foreign occupying power, therefore all citizens have a constitutional duty to take action against it.

23 October 2017.

Sources:

* Legal Standpoint on Invalidity of the Fundamental Law and its Consequences (23 October 2016)

* Legislation

Notes:

[<1] The official translation is not exact, the exact translation: *a) constitutes **the Constitution of the Republic of Hungary;***

[<2] The official translation is not exact, the exact translation: *The Constitution is the Fundamental Law of the Republic of Hungary.*

[<3] The official translation does not reflect the whole meaning of this provision. The exact translation is: *In the Republic of Hungary, **people hold all the power**, who exercise their popular sovereign rights directly **as well as** through elected representatives.*

The corrections are bolded. Yes, the people is really the supreme power as it holds (owns) all power.

[<4] The official translation does not reflect the whole meaning of this provision. The exact translation is: ***working people hold all the power.** As the Parliament exercised all power, the popular sovereignty was formal only.*

[<5] The official translation is not exact. The more exact translation is: ... ***until our homeland's new Constitution is adopted***

[<6] The text in the official translation is „This Constitution is the supreme law of the Republic of Hungary” which does not exactly comply with the Hungarian text. We quoted the accurate translation of the original Hungarian text, because this has key importance in this case.

[<7] The quoted text from the Civil Code is translated by the translator of this legal statement, since the official translation is not provided