



Main concerns regarding the Fourth Amendment to the Fundamental Law of Hungary

The Fourth Amendment undermines the rule of law, the protection of human rights and the stability of the constitution in Hungary by continuing the practice of inserting provisions into the Fundamental Law which had been previously found unconstitutional by the Constitutional Court (CC); including provisions in the Fundamental Law which violate international standards; and further weakening the control exercised by the CC over the Parliament.

1. The Fourth Amendment declares void the CC decisions adopted prior to the Fundamental Law. In effect, this prohibits any national court and the CC from relying on previous CC decisions when interpreting the Fundamental Law and abolishes important principles established by the CC over the last two decades. This purely arbitrary restriction undermines the CC's independence, may result in decreasing the level of the protection of fundamental rights, and contradicts the CC's recent case law.
2. The Fourth Amendment prohibits the CC from examining the substantive constitutionality of proposed amendments to the Fundamental Law. This is not only in contradiction to a recent decision of the CC, but also allows the Fundamental Law to be amended according to the political agenda of the governing majority. Because of this, whenever the government enjoys a two-thirds parliamentary majority, the CC will be unable to perform its essential role of ensuring that proposed amendments comply with constitutionally guaranteed rights.
3. Despite the concerns of the Venice Commission, the Fourth Amendment makes the originally transitory restriction of the CC's powers in budgetary and tax matters permanent.
4. The Fourth Amendment upholds the right of the President of the National Judicial Office to transfer (reassign) cases. This power has been severely criticized by the Venice Commission as violating the right to a fair trial.
5. As a reaction to the CC abolishing a law providing for a restrictive interpretation of the notion of family, the Fourth Amendment severely narrows the notion of family, restricting it to marriage and parent-child relationships. Thus, the Fundamental Law itself discriminates against all other family configurations, in contradiction to the case law of the European Court of Human Rights.
6. As a response to the CC abolishing provisions banning political advertisements in commercial media, the Fourth Amendment expressly restricts political campaigning to the public media, which also violates the right to freedom of expression as guaranteed by the European Convention on Human Rights.
7. According to the Fourth Amendment certain groups have dignity just like individuals and hence they enjoy special protection against criticism, which is in contradiction with the European Convention on Human Rights.
8. The Fourth Amendment enables the Parliament and local governments to criminalize homelessness, even though the CC concluded that punishing homeless persons for living in the streets constitutes a violation of human dignity, as guaranteed in the constitution.
9. Going against the CC's decision and the Venice Commission, the Fourth Amendment upholds the violation of the principle of separating State and Church stipulating that churches shall be recognized by the Parliament instead of a court and continues to discriminate between religious communities.
10. The Fourth Amendment abolishes the autonomy of higher education institutions in financial matters. Furthermore, in order to prevent an unfavourable CC decision regarding the matter, it creates a constitutional basis for contracts requiring higher education students to work in Hungary for a certain period of time after obtaining their degree in exchange for the state contributing to the costs of their studies. This disproportionately violates students' rights to freely choose their occupation and interferes with the right of free movement under European Union law.

For a detailed assessment of the Fourth Amendment to the Fundamental Law of Hungary, visit:
<https://sites.google.com/site/ruleoflawinhungary/>.