



## **Full list of mistakes and omissions of the English Version of the Hungarian draft-Constitution**

This document contains the full list of mistakes and omissions of the draft-Constitution English version.

The term “original version” refers to Hungarian draft text of the Constitution, submitted to the Parliament, available on the website of the Parliament (<http://www.parlament.hu/irom39/02627/02627.pdf>). The term English version refers to the “CONSTITUTION\_in\_English\_DRAFT” document that was disseminated by MEP József Szájer for the Public Hearing on the Hungarian Constitution, that will take place in the European Parliament on the 29<sup>th</sup> of March.

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It has to be stressed in advance that it seems that the English version of the Constitution uses both “law” and “statute” when referring to laws (acts) of the Parliament, which may be confusing. The term “legislation” is sometimes used for all legal norms, including acts of Parliament, decrees of the Government, ministers, President of the National Bank of Hungary, etc. The term “legislation” is sometimes substituted by the term “laws and other legal norms”. The term “Basic Law” refers to the Constitution.

• Title:

**English version:** “Constitution”

**Original version:** “Fundamental Law”

• **English version:** *(missing part)*

National Avowal of Faith is missing. In Article Q there is reference to the National Pledge.

• Article S.

**English version:** *(missing paragraph)*

**Original version:** There is an additional paragraph in the original version: (3) No law may be contrary to the Fundamental Law.

• Article IV. (1)

**English version:** Everyone has the right to liberty and security of person; no one shall be deprived of this freedom except on the grounds and in accordance with the procedures provided

for by law. Persons may only be deprived of their personal freedom after a court has established the criminal responsibility in a final judgment for a crime committed.

**Original version:** Everyone shall have the right to freedom and personal security; no one shall be deprived of his or her freedom, except for reasons described in an Act of Parliament and in accordance with the procedure stipulated in an Act. A person may be deprived of his or her freedom for life only for committing a criminal offence and only on the basis of a final judgement.

- Article VI.

Paragraph (1)

**English version:** Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to choose and to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest or choose not to manifest religion or belief, in worship, teaching, practice and observance.

**Original version:** Everyone shall have the right to freedom of thought, conscience and religion. This right shall enable anyone to freely choose or change his or her religion or other conviction, to manifest or abstain from manifesting such religion or other conviction, to practice or teach – either individually or together with others, in public or in private – one’s religion or belief through religious acts or ceremonies, or in any other way.

- Article VIII.

Paragraph (3)

**English version:** A super majority law will provide the detailed the rules on the freedom of the media, as well as rules on the supervision of the electronic mass media and the news media market.

**Original version:** The detailed rules relating to the freedom of the press and to the supervision of the electronic mass media and communications market shall be laid down in a cardinal Act.

- Article XXI. (1), (2), (3), (4)

**English version:** *(missing parts, content difference)*

(1) All adult Hungarian citizens residing in the territory of Hungary shall have the right to be elected and the right to vote in parliamentary elections, local elections of representatives and mayors, as well as the elections of members of the European Parliament. The right to vote or the comprehensiveness of such right may be restricted to residence in Hungary and eligibility to be elected to further criteria in a separate super majority law.

(2) It cannot be considered an infringement of equal voting rights if a super majority law provides an additional vote for mothers in families with minor children, or as a provided by law, another person may be entitled to an additional vote.

(3) The right to vote shall not be granted to persons who are subject to the final judgment of a court forbidding them to participate in public affairs. The right to vote shall not be granted to persons who have been excluded by a court decision on the basis of limited or restricted capacity.

(4) Everyone eligible to vote at a parliamentary election has the right to participate in a national referendum. Everyone has the right to participate at a local referendum if they are eligible for voting at the local election of mayors.

**Original version:**

(1) All adult Hungarian citizens shall have the right to vote and to stand as candidates in parliamentary elections, in local governmental and mayoral elections, and in elections to the European Parliament. By a cardinal Act of Parliament, voters may be required to reside in Hungary in order to exercise or fully exercise their right to vote, or they may also be required to meet additional criteria to stand for election.

(2) A cardinal Act of Parliament may grant the right referred to in Paragraph (1) to minors as well. The right of the minor to vote shall be exercised – as determined in a cardinal Act of Parliament – by his or her mother or other legal representative and in such a way that the latter can have at most one vote in addition to his or her own.

(3) Those deprived of their right to vote by a court for a criminal offence shall not have the right to vote.

(4) Those deprived of their right to vote by a court for limited mental ability shall not have the right to vote.

(5) All those entitled to vote in parliamentary elections shall have the right to vote in national referenda. All those entitled to vote in local governmental and mayoral elections shall have the right to vote in local referenda.

• Article XXVI.

**English version:** *(missing paragraph)*

**Original version:** (5) Paragraph (4) may not exclude the prosecution and conviction of a person for an act which, at the time it was committed, was a criminal offence according to the generally recognized rules of international law.

• Article XXVII.

**English version:** (1) Every nationality and ethnic group living in Hungary shall be considered a part of the state forming entity. National and ethnic minorities will have the right to use their own languages, to use their names in their own languages, to foster their culture and to education in their own languages.

**Original version:** (1) Nationalities and ethnic groups living in Hungary shall be constituent elements of the State. Every Hungarian citizen belonging to a nationality or ethnic group shall have the right to freely declare his or her identity. Nationalities and ethnic groups shall have the right to use their mother tongue, to use their own names in their mother tongue, to foster their culture and to receive education in their mother tongue.

• Article 6.

**English version:** (6) The Constitutional Court shall examine motions received as set forth in paragraphs (2) or (4) in an extraordinary procedure. If the Court deems the text to be unconstitutional, the Parliament will debate the law again in order to resolve the unconstitutionally issue.

**Original version:** (6) The Constitutional Court shall decide upon the motion pursuant to Paragraphs (2) or (4) with special dispatch, but within thirty days at the latest. Should the Constitutional Court assert a violation of the Fundamental Law, the Parliament shall renegotiate the Act in order to terminate the violation.

- Article 8. (3)

**English version:** *(missing part)*

**Original version:** i) questions concerning participation in military operations;

- Article 15.

Paragraph (2)

**English version:** The Government is the main authority of the executive branch; its duties and scope of authority covers all matters that are otherwise not specifically delegated to another authority.

**English version:** (2) The Government shall be the principal organ of public administration; it may establish organs of state administration pursuant to provisions laid down in an Act of Parliament.

There are no a) and b) points in Paragraph (3) in the original version (the content of the paragraph is the same).

Paragraph (3)

**English version:** Within its competence, the Government shall issue decrees

a) on issues not otherwise regulated in law and

b) on the basis of a mandate set forth in law

A decree of the Government shall not be in violation of a law.

**Original version:** Acting within its remit, the Government shall adopt decrees in matters not regulated by an Act of Parliament, or on the basis of an authorization given by an Act of Parliament.

- Article 17.

Paragraph (3)

**English version:** *(missing part)*

**Original version:** The capital and castle county government offices shall be organs of the Government with general territorial state administration competence.

Paragraph (3) of the English version is Paragraph (4) in the original version.

Paragraph (3) of the original version is entirely missing from the English version.

- Article 22.

Paragraph (2)

**English version:** “If the mandate of the Prime Minister ended upon the inauguration of the newly elected Parliament or upon the resignation of the Prime Minister or of the Government, the Prime Minister shall continue exercising powers without the power to propose the appointment or dismissal of ministers, and may only issue a decree in cases when delay is not permissible and on the basis of express authorization provided for by statute.”

**Original version:** If the mandate of the Prime Minister is terminated upon his or her resignation, or upon the inauguration of a newly-elected Parliament, the Prime Minister shall exercise his or her powers as acting Prime Minister; however, he or she may not propose the dismissal of a

Minister or the appointment of a new Minister, and may issue a decree only in case of an urgency and on the basis of the express authorization provided for by an Act of Parliament.

Paragraph (3)

**English version:** “If the mandate of the Prime Minister terminated upon death, disfranchisement, the declaration of incompatibility or because of a vote of no-confidence (...)”

**Original version:** If the mandate of the Prime Minister has ended due to his or her death, due to the establishment of a conflict of interest, due to the absence of conditions required for his or her election, or due to the fact that the Parliament has expressed its lack of confidence in the Prime Minister in a vote of confidence, the powers of the Prime Minister shall be exercised by the Deputy Prime Minister until a new Prime Minister is elected, with the limitations provided for in Paragraph (2) hereof; should there be more than one Deputy Prime Ministers, these powers shall be exercised by the Deputy Prime Minister designated for this role.

• Article 23. (*content differences*)

Paragraph (1)

**English version:** „ (...) set forth in law for the executive branch of power”.

**Original version:** The Parliament may establish autonomous regulatory organs in a cardinal Act for the performance of certain tasks and the exercise of certain competences belonging to the Executive.

Paragraph (2)

**English version:** „ (...) for a period defined in law.”

**Original version:** The head of the autonomous regulatory organ shall be appointed by the President of the Republic, upon a proposal by the Prime Minister, for a period specified by a cardinal Act.

Paragraph (4)

**English version:** The head of the independent regulatory authority may on the mandate granted in law and within the scope set forth in law issue decrees, which cannot be in conflict with law, government decree, ministerial decree or the decree of the President of the Hungarian National Bank. The head of the independent regulatory authority may designate in a decree a deputy to substitute for the head of the regulatory authority.

**Original version:** As provided for by an Act of Parliament, the head of the autonomous regulatory organ shall issue decrees within his or her competence defined by a cardinal Act; such a decree may not be contrary to an Act of Parliament, a Government decree, a decree of the Prime Minister, a ministerial decree or a decree of the President of the National Bank of Hungary. In issuing a decree, the head of the autonomous regulatory organ may be substituted by the deputy he or she has designated in a decree for this task.

• Article 24.

Paragraph (3)

**English version:** Acting pursuant to its jurisdiction in its competence under section b)-d) of paragraph (2), the Constitutional Court will annul laws and other legal norms, judicial decisions that it finds to be unconstitutional, pursuant to its jurisdiction under section e) of paragraph (2)

annul laws or legal norms deemed to be in conflict with international treaties and will also rule on other issues set forth in super majority laws.

**Original version:** The Constitutional Court shall, within its competence pursuant to Points b) to d) of Paragraph (2), annul any law, provision or judicial decision that is contrary to the Fundamental Law, within its competence pursuant to Point e) of Paragraph (2), may annul the law or its provision conflicting with an international treaty, and may determine other legal consequences as laid down in a cardinal Act.

Paragraph (4)

**English version:** “Acting pursuant to its jurisdiction under section c)-d) of paragraph (2), the Constitutional Court shall review the constitutionality of laws on the State Budget and its implementation, on central taxes, fees and customs duties, pension and health care contributions, as well as on the content of the statutes concerning uniform requirements on local taxes only if the petition refers exclusively to the right to life and human dignity, the right to the protection of personal data, the right to freedom of thought, conscience and religion or the right connected to the Hungarian citizenship, if the conditions defined for adopting and promulgating the law have not been met.”

**Original version:** The Constitutional Court may, within its competence pursuant to Points b) and d) of Paragraph (2), rule on the conformity with the Fundamental Law of Acts related to the central budget, on the implementation of the budget, on central taxes, on stamp duties and contributions, on customs duties, and on the central requirements related to local taxes, exclusively in connection with the rights to life and human dignity, to the protection of personal data, to the freedom of thought, conscience and religion, or in connection with the rights related to Hungarian citizenship, and it may only annul these Acts for the violation of these rights. Acts governing the above matters may be annulled by the Constitutional Court without restriction if the procedural requirements laid down in the Fundamental Law for the creation and publication of such rules of law have not been complied with.

• Article 25.

Paragraph (3) b)

**English version:** “*b*) on the initiative of the Municipal or County Government Offices rule on the conflict of local government decrees with other laws, with the exception of a conflict with the Constitution; will annul local government decrees in conflict with other laws.”

**Original version:** b) rule, at the initiative of the Capital or a Castle County Office of the Government, on a conflict between a local government decree and another law and annul any local government decree which is contrary to another law;

Paragraph (3) c)

**English version:** “*c*) on the initiative of a judge rule on the conflict of local government decrees with other laws if these are to be applied in an individual case, with the exception of a conflict with the Constitution; will annul local government decrees in conflict with other laws.”

**Original version:** rule, at the initiative of a judge, on a conflict between a local governmental decree and another law to be applied in an individual case, and annul any local government decree which is contrary to another law.

• Article 28.

**English version:** “During the application of law the courts will interpret the language of the law consistent with its intent and the Constitution. When interpreting laws it has to be assumed that these serve rational, ethical and economic objectives.”

**Original version:** In the course of the application of law, the courts shall interpret the law primarily in light of their purpose and in accordance with the Fundamental Law. When interpreting the Fundamental Law or any other law, it shall be presumed that they are reasonable and serve the public good and morally right and economic purposes.

- Article 29.

Paragraph (1)

**English version:** „The Public Prosecutor General and the Prosecution Service of Hungary will serve to administer justice and shall enforce vindicate the claim of the State to punishment. They ensure the protection of the rights of natural and legal persons as well as legal persons established through law, and shall prosecute consistently any act which violates or endangers the constitutional order, security and independence of the country.”

**Original version:** The Office of the Public Prosecutor shall enforce the punitive authority of the State. The Office of the Public Prosecutor shall prosecute criminal offences, take action against other illegal acts or omissions and facilitate the prevention of illegal acts.

In Paragraph (2) (missing part), an additional sub-paragraph is included (as sub-paragraph c)), which goes as follows: c) initiate proceedings in private matters, take part in the proceedings and have recourse to legal remedy, provided that the person concerned is not able to protect his or her rights or that such recourse is necessary to protect the public interest;

- Article 30.

Paragraph (3)

**English version:** „The Parliamentary Commissioner elected will in turn appoint his deputies for a period identical to his mandate.”

**Original version:** The Commissioner for Fundamental Rights shall appoint his or her deputies.

Paragraph (5)

**English version:** “Law will define the detailed regulations for the Parliamentary Commissioner for Fundamental Rights and the deputies, as well as the order of substitution.”

**Original version:** The detailed rules relating to the Commissioner for Fundamental Rights and to his or her deputies shall be laid down in an Act.

- Article 31.

Paragraph (1)

**English version:** „Local governments will function in Hungary in order to manage public affairs and to exercise public authority.”

**Original version:** „Local governments will function in Hungary in order to manage local\_public affairs and to exercise public authority.

- Article 32.

There are no sub-paragraphs in the original version of Paragraph (2) and the last sentence of Paragraph (2) constitutes a separate paragraph.

The text of Paragraph (3) of the English version („The legal supervision of local governments is performed by Government Offices.”) is entirely missing from the original version of Paragraph (3).

- Article 34.

Paragraph (4) and (5): instead ”Municipal”, the term „Metropolitan” should be used.

- Article 35.

Paragraph (2)

**English version:** „The members of the local representative body and the mayors are elected for a period of five years in a manner defined in the Act on Local Governments.”

**Original version:** Local government representatives and mayors shall be elected for a term of five years as laid down in a cardinal Act.

Paragraph (5)

**English version:** “The Parliament may decide after consulting the Government and the Constitutional Court to dissolve a representative body that has been deemed to function unconstitutionally.”

**Original version:** At the submission of a motion of the Government made following its request for an opinion of the Constitutional Court, the Parliament shall dissolve the representative body functioning contrary to the Fundamental Law.

- Article 36.

In the original version, Article 36 consists of seven paragraph instead of six. The additional Paragraph (5) of the original version goes as follows: “As long as state debt exceeds the level defined by Article 37 Paragraph (2), the Parliament may adopt the law on central budget only if it includes the reduction of state debt.

Paragraph (5) of the English version is Paragraph (6) in the original Hungarian version, and it refers also to Paragraph (5), not only Paragraph (4).

- Article 37.

Paragraph (2)

**English version:** The Central Budget – with the exceptions set forth in paragraph (5) of Article 36. – will have to ensure that the level of the state debt does not exceed half of the value of the gross domestic product of the previous calendar year.

**Original version:** In the course of the implementation of the central budget, the Government may not – with the exceptions specified in Paragraph (6) of Article 36 – contract such debts or undertake such financial obligations on behalf of the State as a result of which the level of state debt would exceed fifty per cent of the gross domestic product of the previous calendar year. The method for calculating the level of state debt and of the gross domestic product shall be laid down in an Act of Parliament.

Paragraph (3)



**English version:** During the period referred to in Paragraph (5) of Article 36, while implementing the Central Budget – with the exceptions set forth in paragraph (6) of Article 36. – the Government may not take out loans in the name of the state and may not undertake financial obligations, which would result in the level of the state debt exceeding half of the value of the gross domestic product of the previous calendar year.

**Original version:** During the period specified in Paragraph (5) of Article 36, the Government when implementing the central budget may not, with the exceptions specified in Paragraph (6) of Article 36, contract such debts or undertake such financial commitments on behalf of the State as would result in an increase of the state debt compared to that of the preceding calendar year.

- In the original version the article on national assets precedes the article on the protection of public funds (Articles 38 and 39).

- Article 41.

Paragraph (2)

**English version:** „The President of the Hungarian National Bank is appointed by the President of the Republic for a period of nine years. The Vice-President or the Vice-Presidents of the Hungarian National Bank will be appointed by the President of the Hungarian National Bank. The period of appointment may not exceed the period remaining from the term of office of the President of the Hungarian National Bank.”

**Original version:** The President of the National Bank of Hungary shall be appointed for a period of nine years by the President of the Republic, upon the proposal of the Prime Minister. The Vice-President or Vice-Presidents of the National Bank of Hungary shall be appointed by the President of the National Bank of Hungary.

Paragraph (4)

**English version:** „Within its authority specified by a separate statute, the President of the Hungarian National Bank shall issue decrees, which may not conflict with law.”

**Original version:** As authorized by an Act of Parliament, the President of the National Bank of Hungary shall issue decrees on matters falling within his/her competence defined by an Act of Parliament, such decrees may not be contrary to Acts of Parliament. In issuing a decree, the President of the National Bank of Hungary may be substituted by the Vice-President he or she has designated in a decree.

- Article 42.

Paragraph (1)

**English version:** Performing this function the State Audit Office shall audit the implementation of the State Budget; the management of public finances; the use of state revenues; and shall audit the management of State assets. The State Audit Office shall conduct its audits from the perspective of legality, expediency and efficiency.

**Original version:** Within its remit as laid down in an Act of Parliament, the State Audit Office shall control implementation of the central budget, the management of public finances, the utilisation of public funds and the management of national assets. The State Audit Office shall carry out such oversight according to the criteria of legality, expediency and effectiveness.

- Article 43.

Paragraph (1)

**English version:** The Budgetary Council is an organ supporting the legislative activity of the Parliament, which examines the validity of the Central Budget.

**Original version:** The Budgetary Council shall be an organ assisting the legislative activities of the Parliament by examining whether the central budget is well-founded.

Paragraph (3)

**English version:** „The preliminary approval of the Budgetary Council will be required in order to comply with the requirements articulated in Article 36. paragraph (4) and Article 37. paragraph (2).”

**Original version:** For the adoption of the Act of Parliament on the central budget, the prior approval of the Budgetary Council shall be needed in order to enforce the provisions contained in Paragraphs (4) and (5) of Article 36.

• Article 44.

In Paragraph (2), the last sentence of the original version is missing from the English version. It goes as follows: “The Hungarian Defence Forces shall operate under the direction of the Government.”

Further articles translated inadequately include Article 47 Paragraph (7)–(9), Article 48 Paragraph (3) c) and (4), Article 49 Paragraph (3) and (6), Article 50 (1)–(2) and (4), plus Paragraph (5) is missing, Article 51 (3), plus Paragraph (4) is missing, Article 52 Paragraph (2) plus Paragraph (4) is missing.

• Article 53.

Paragraph (1)

**English version:** (1) During a state of extraordinary measures, state of emergency or an emergency situation, the exercise of fundamental rights may be suspended with the exception of the fundamental rights enshrined in articles II. and III, as well as article XXVI, paragraph (2)-(5) or restricted in accordance with the stipulations of article I., paragraph (3)

**Original version:** Under special legal order, the exercise of fundamental rights – except for the fundamental rights laid down in Articles II and III, as well as in Paragraphs (2) to (5) of Article XXVI – may be suspended or restricted beyond the extent defined by Paragraph (3) of Article I.

• Closing provisions

In the original version the title „Closing provisions” precedes the declaration of the MPs.

**English version:**

1. The Constitution of Hungary will enter into force on January 1, 2012.

2. A special law adopted with a two-third majority of Members of Parliament will define the interim provisions required for the Constitution to enter into force.

**Hungarian version:** 1. The Fundamental Law of Hungary shall enter into force on 1 January 2012. 2. The Parliament shall adopt the Fundamental Law according to Point a) of Paragraph (3) of §19 and to Paragraph (3) of §24 of Act XX of 1949. 3. The transitional provisions shall be adopted separately by the Parliament according to the procedure referred to in Point 2 above. 4.

The Government shall submit to the Parliament the Acts necessary for the implementation of the Fundamental Law.