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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

HUNGARY

**RELEVANT PROVISIONS OF THE FIFTEENTH AMENDMENT TO
THE FUNDAMENTAL LAW**

AND

EXPLANATORY REPORT

**Relevant provisions of the fifteenth amendment to the Fundamental Law of Hungary
(new amendments are indicated in bold and underlined)**

Article G(3)

(3) No one shall be deprived of Hungarian citizenship established by birth or acquired in a lawful manner. **The citizenship of a Hungarian citizen who also holds the citizenship of another State may be suspended for a definite period of time in accordance with the provisions of a cardinal Act. For the period of suspension, the person subject to suspension shall forfeit citizenship. Collective suspension shall be prohibited.**

Article L(1)

(1) Hungary shall protect the institution of marriage as the union of one man and one woman established by voluntary decision, and the family as the basis of the survival of the nation. Family ties shall be based on marriage or the relationship between parents and children. **Human beings shall be male or female.** The mother shall be a woman; the father shall be a man.

Article XVI(1)

(1) Every child shall have the right to the protection and care necessary for his or her proper physical, mental and moral development. **This right shall prevail over any other fundamental right other than the right to life.** Hungary shall protect the right of children to a self-identity corresponding to their sex at birth, and shall ensure an upbringing for them that is in accordance with the values based on the constitutional identity and Christian culture of our country.

Article XXVII(1)

(1) Everyone residing lawfully in the territory of Hungary shall have the right to move freely and to choose his or her place of residence freely. **The exercise of the right to choose place of residence freely shall be without prejudice to the fundamental right to self-identity of local communities in Hungary.**

Article 53(1)

(1) During the period of special legal order, the Government may adopt decrees by means of which it may take extraordinary measures as provided for by a cardinal Act, and may suspend the application of certain Acts and derogate from the provisions of Acts
a) without specific authorisation by the National Assembly during a state of war or a state of emergency;
b) on the basis of authorisation granted for a definite period by the National Assembly with the votes of two thirds of the Members of the National Assembly present during a state of danger.

Article 56(1)

(1) If the National Assembly is prevented from making such decisions, the President of the Republic shall have the right to declare a state of war, to declare and extend a state of emergency, and to authorise the Government to extend a state of danger, **as well as to suspend the application of certain Acts and to derogate from the provisions of Acts during a state of emergency.**

Explanatory report

[1] In recent years, there have been growing trends in Europe and North America to transform fundamental social and cultural values and norms that were previously taken for granted and that affect the very fabric of society. The transformation of these into legal norms is leading to a complete transformation of the social environment, a loss of values and the irreversible destruction of the forms of social functioning as we know them today, the signs of which are already showing in other countries.

[2] Trends in the Western world include a redefinition of the role of traditional institutions such as the family and national identity, and a shift in the balance between individual and community rights. These changes are often accompanied by political and ideological pressures that can lead to a weakening of nation-state sovereignty. Hungary's priority is to preserve its identity and ensure that the foundations of its social order continue to serve the interests of communities, including the family and the nation.

[3] The Hungarian society has strong community foundations historically as well, which create stability for the country and ensure the country's development. Accordingly, by amending the Fundamental Law, the basic rules of social functioning should be defined at constitutional level, preserving our fundamental values for future generations.

[4] The Fifteenth Amendment to Hungary's Fundamental Law confirms that the sex of a person at birth is a biological given, which can be either male or female. It is the duty of the state to ensure the legal protection of this natural order and to prevent efforts that suggest the possibility of changing the sex at birth. The fixed nature of biological sex ensures the healthy development of society and the maintenance of basic community norms.

[5] The family as the basic unit of society is based on the natural relationship between man and woman, from which the new generation is born. In order to ensure the physical, mental and spiritual development of children, the state has a special responsibility to ensure that future generations grow up in a clear and predictable legal and moral environment. Accordingly, the Hungarian legal system does not recognise any change of sex at birth, thus preserving the stability of the institution of family and the security of the social order.

[6] Cash is a legal means of payment that in its physical form is independent from digital systems, banks and other third parties. Only the maintenance of cash circulation can ensure that the functioning of the economy does not become completely vulnerable to electronic financial systems, which may be vulnerable for technical or market reasons. It is therefore necessary to enshrine at constitutional level the fundamental principle that the possibility to pay in cash is a fundamental right. The enshrinement of this right at constitutional level also guarantees that the possibility of paying in cash remains available to all, thus avoiding the possibility of financial exclusion. In the light of this, it is appropriate to place the right to pay in cash alongside and in parallel with the right to property [in the Fundamental Law].

[7] The amendment to the Fundamental Law states that the right of the child to adequate physical, mental and moral development takes precedence over all other fundamental rights, except the right to life, in the event of a conflict of fundamental rights.

[8] The production, use, distribution and promotion of drugs have serious social and health consequences. Drug addiction affects not only the individual, but hits also families, communities and the nation as a whole. The spread of drugs increases crime, weakens social cohesion and undermines the health of the population able to work. Firm action is therefore needed against the spread of drugs. The amendment to the Fundamental Law

sets out that the production, use, distribution and promotion of drugs is prohibited, thus reinforcing the state's commitment to public safety, healthy lifestyle and the protection of social order.

[9] Judicial and prosecutorial careers are inseparable and contribute equally to the operation of the rule of law and the administration of justice. The stability of the administration of justice requires that the service relationship of experienced judges and prosecutors with a lot of practice be governed by similar principles as regards the rules governing the end of their careers. The amendment to the Fundamental Law therefore ensures that the service relationship of prosecutors, with the exception of the Prosecutor General, may continue until the age of 70.

[10] The amendment to the Fundamental Law creates the possibility that the Hungarian citizenship of Hungarian citizens who are also citizens of another state, not including citizens of states with the right of free movement and residence, is suspended in accordance with the provisions of a cardinal Act.