

Hungary: Legal Response to Covid-19

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Except where the text indicates the contrary, the law is as it stood on: 3 May 2022

The Covid-19 pandemic has hit Hungary five times so far, with nearly 1,880,000 confirmed cases resulting in more than 46,000 deaths.¹ The first two registered cases were announced on 4 March 2020,² and the first Covid-19-related death on 15 March 2020.³ During the first wave, from March to June 2020, two different periods can be identified. Between March and April, the number of active cases increased constantly, reached its peak in early May 2020, before declining steadily. This first wave, and the Government response to it, ended in mid-June 2020. By the second half of July, cases had again begun to increase steadily, then increasing more rapidly from August. This second wave saw greater infections but a lower mortality rate as more younger people became infected. Although the second wave lessened after three months, by the end of December 2020 the number of active cases was still higher than in the summer of 2020. In mid-February 2021, due to the arrival of the Alpha variant, the number of cases began to rise again. During the third wave, more people required hospital care than in previous waves. In August 2021, the Delta variant began to spread in Hungary, marking the beginning of the fourth wave. The number of people infected increased significantly and there was a period when more people died of Covid-19 in Hungary than anywhere else in the world.⁴ The fourth wave has claimed the lives of 10,000 people. The fifth wave, characterized by the Omicron variant, lasted from January 2022 to the end of February 2022.⁵

In preparation for the pandemic, the Government established an Operational Corps in January 2020. After the World Health Organization (WHO) declared the Covid-19 outbreak a pandemic, and the outbreak of the epidemic in Hungary, on 11 March 2020, on the basis of the Fundamental Law of Hungary,⁶ the Government declared a national state of danger. With this declaration, a special legal order came into force across Hungary. General rules of State operation were suspended, and the Government was given the authority to issue special, emergency decrees and introduce extraordinary and extensive measures, including restricting the daily lives of people. Although these measures were relaxed as the first wave subsided, they

¹ See Government of Hungary, ‘[Covid-19 Cases - Number of confirmed Covid-19 cases by county](#)’ (accessed 22 April 2022).

² See Government of Hungary, ‘[There are two patients with coronavirus in Hungary](#)’ (4 March 2020).

³ HungaryToday, ‘[First Coronavirus Death Reported in Hungary, Case Count Rises to 32](#)’ (15 March 2020).

⁴ Portfolio, ‘[40,000 people have already died in Hungary from the coronavirus](#)’ (11 January 2022).

⁵ See Government of Hungary, ‘[Orbán: We have defeated the fifth wave](#)’ (4 March 2022).

⁶ [Fundamental Law](#) (18 April 2011), art 53(1).

were reintroduced for the successive waves. Since November 2020, a state of danger has been declared in Hungary.

I. Constitutional Framework

1. Hungary is a parliamentary democracy operating in the form of a republic. Hungary is a unitary State, and parliamentary elections take place every four years under a mixed (majority- and proportionality-based) electoral system. The State structure is centralized, but municipalities have territorial autonomy with regards to questions of local public interest, although it is diminishing.
2. Since 2010 major changes have taken place in the Hungarian legal system, the Constitution as well as all major legal codes have been replaced. These amendments created a new constitutional identity for the State, often labelled 'illiberal' or 'non-liberal democracy'.⁷
3. Government is responsible to Parliament, its mandate can be withdrawn by a constructive vote of no-confidence, and the President has only a symbolic function. The Government is the general organ of executive power; it exercises all the functions and powers which are not expressly conferred by the Fundamental Law or the law on another organ. The Government, as the head of the executive branch, can issue Government decrees in delegated competence matters mostly, but also as an original law-making power in matters where there is no statutory law. The Government is the principal organ of public administration.
4. The relationship between the executive and the judiciary did not change during the state of danger. During the pandemic the judicial system maintained its operation, albeit mainly online. This is discussed further in Part III.C below.
- 5.
5. A special type of the dual management system, typical of military hospitals, was extended to non-military hospitals. On 29 March 2020, a Government decree effectively put the hospital system under military management. Military commanders were placed in hospitals as 'hospital commanders', and they made management decisions in a hierarchical military structure reaching up to the Government.⁸

⁷ T Drinóczi and A Bień-Kacała, 'Illiberal Constitutionalism: The Case of Hungary and Poland' (2019) 20 German Law Journal 1140–1166 (22 April 2022); G Walker, 'The Idea of Non-Liberal Constitutionalism' in I Shapiro and W Kymlicka (eds), *Ethnicity and Group Rights* (New York University Press 1997), 154–184.

⁸ See Government of Hungary, '[Hétfőtől kórházparancsnokok segítik a kórházak működését és az egészségügyi készlet védelmét](#)' [From Monday, hospital commanders will help hospitals operate and protect medical supplies] (28 March 2020); Ministry of Defense, '[Az orvosigazgatókat tehermentesítik a kórházparancsnokok](#)' [Medical directors are helped by hospital commanders] (30 March 2020).

6. During the pandemic the National Public Health Centre (NPHC)⁹ played a crucial role in informing the public, mostly through its website.¹⁰ The NPHC is a central budgetary body under the direction of the Minister of Human Capacities, acting as a central office,¹¹ headed by the National Chief Medical Officer (CMO).¹² The national response to Covid-19 is led by the Government; the Government appointed the Prime Minister to be in charge of eliminating the consequences of the Covid-19 pandemic.¹³
7. The Fundamental Law includes a very detailed separate chapter on ‘special legal order’, allowing deviation from the ordinary legislative process. A specific type of special legal order listed in the Fundamental Law is the ‘state of danger’ (*veszélyhelyzet*).¹⁴ The special legal orders of the state of emergency and state of national crisis are discussed in Part II.A below, and the question of by-elections held during the pandemic is addressed in more detail in Part III.D below.
8. In the aftermath of the first wave of the pandemic, some major Acts were amended,¹⁵ and a new legal order, ‘the state of epidemiological preparedness’ (*járványügyi készség*), was introduced in the Hungarian legal system. The concept of the state of epidemiological preparedness was introduced in connection with the previously known special legal situation, the state of health crisis (*egészségügyi veszélyhelyzet*), included in the Healthcare Act.¹⁶ On 17 June 2020 the Government declared a state of health crisis and introduced a state of epidemiological preparedness.¹⁷ As a result, the state of epidemiological preparedness replaced the state of danger from 18 June to 4 November 2020,¹⁸ and is still in force.¹⁹
9. The basic constitutional arrangements remained intact otherwise.

II. Applicable Legal Framework

A. Constitutional and international law

⁹ [Government Decree on the performance of the public health tasks of the capital and county government offices and the district \(capital district\) offices, as well as on the appointment of the state health administration body \(385/2016\) \(2 December 2016\)](#), arts 6–6/E; amended by [Government Decree amending certain government decrees regarding the establishment of the National Center for Public Health \(162/2018\) \(10 September 2018\)](#), art 35.

¹⁰ Government of Hungary, ‘[Official website](#)’ (accessed 3 May 2022).

¹¹ [Government Decree on the performance of the public health tasks of the capital and county government offices and the district \(capital district\) offices, as well as on the appointment of the state health administration body \(385/2016\) \(2 December 2016\)](#), art 6.

¹² [Government Decree on the performance of the public health tasks \(...\) \(385/2016\) \(2 December 2016\)](#), art 6/A(1).

¹³ [Government Decree on the declaration of state of danger \(40/2020\) \(11 March 2020\)](#), art 2(1); [Government Decree on the declaration of state of danger \(478/2020\) \(3 November 2020\)](#), art 2(1); [Government Decree on the declaration of state of danger and the entry into force of state of danger-related measures \(27/2021\) \(29 January 2021\)](#), art 2(1).

¹⁴ [Fundamental Law \(18 April 2011\)](#), art 53.

¹⁵ [Act CXXXVIII of 2011 on disaster management and amending certain related Acts; Act CLIV of 1997 on healthcare](#).

¹⁶ [Act CLIV of 1997 on healthcare](#), arts 228–232/G.

¹⁷ [Government Decree introducing a state of epidemiological preparedness \(283/2020\) \(17 June 2020\)](#), art 1.

¹⁸ [Government Decree on the declaration of state of danger \(478/2020\) \(3 November 2020\)](#).

¹⁹ [Government Decree terminating the state of danger declared on 11 March 2020 \(282/2020\) \(17 June 2020\)](#).

10. A constitutional state of emergency was not declared in Hungary, instead a state of danger was proclaimed. The Fundamental Law²⁰ currently includes six different categories of special legal order: the state of national crisis (*rendkívüli állapot*),²¹ state of emergency (*szükségállapot*),²² state of preventive defence (*megelőző védelmi helyzet*),²³ state of terrorist threat (*terrorveszélyhelyzet*),²⁴ unexpected attack (*váratlan támadás*),²⁵ and state of danger (*veszélyhelyzet*).²⁶ A state of danger shall be declared by the Government in the event of a natural disaster or industrial accident endangering life and property, or in order to mitigate its consequences.²⁷ It is important to note that the Fundamental Law does not mention the possibility to declare a state of danger in the case of an epidemic or a pandemic, but it allows the use of this special legal order only in cases of natural disaster or industrial catastrophe.²⁸
11. However, a state of danger was declared on 11 March 2020 by the Government in a Decree for the elimination of the consequences of the human epidemic endangering life and property and causing massive disease outbreaks, and for the protection of the health and lives of Hungarian citizens.²⁹ The Government claimed that the declaration of the special legal order was to ensure that rapid emergency measures necessary to control the epidemic are taken.³⁰ As a result of decisions made exclusively by the Government, with the approval and support of the Parliament, a state of danger was in force between 11 March and 17 June 2020,³¹ and it has again been in force since 4 November 2020.
12. During a state of danger, although the Parliament may remain in session, the basic legislative power temporarily resides with the Government. The Government is entitled to adopt decrees to suspend or derogate from certain Acts, or provisions of Acts, or take some other extraordinary measures;³² the executive authority at the central governmental level thereof has the power to adopt, amend, or repeal every extraordinary state of danger measure. The Government decree declaring the state of danger expires after 15 days, according to the Fundamental Law, if there is no further parliamentary authorisation for its prolongation.³³ Thus, on 23 March 2020, the Government submitted a proposal to the Parliament to extend the applicability of the Government decrees³⁴

²⁰ [Fundamental Law](#), Special Legal Order (18 April 2011), arts 48–54.

²¹ [Fundamental Law](#) (18 April 2011), art 49.

²² [Fundamental Law](#) (18 April 2011), art 50.

²³ [Fundamental Law](#) (18 April 2011), art 51.

²⁴ [Fundamental Law](#) (18 April 2011), art 51/A.

²⁵ [Fundamental Law](#) (18 April 2011), art 52.

²⁶ [Fundamental Law](#) (18 April 2011), art 53.

²⁷ [Fundamental Law](#) (18 April 2011), art 53(1).

²⁸ Z Sente and F Gárdos-Orosz, 'Using emergency powers in Hungary: against the pandemic and/or democracy?' in M C Kettleman and K Lachmayer (eds), *Pandemocracy in Europe: Power, Parliaments and People in Times of COVID-19* (Hart Publishing 2022) 155–178.

²⁹ [Government Decree on the declaration of state of danger](#) (40/2020) (11 March 2020), art 1.

³⁰ Government of Hungary, '[The Government is declaring a state of danger throughout the country](#)' [*Veszélyhelyzetet hirdet az ország teljes területére a kormány*] (11 March 2020).

³¹ As revoked by [Government Decree terminating the state of danger](#) (282/2020) (17 June 2020), art 1.

³² [Fundamental Law](#) (18 April 2011), art 53(2).

³³ [Fundamental Law](#) (18 April 2011), art 53(3).

³⁴ [Fundamental Law](#) (18 April 2011), art 53(1)–(2).

until the end of the state of danger period.³⁵ Hence, the Parliament authorized the Government to extend the applicability of Government decrees adopted during the state of danger.³⁶ It was technically an unlimited temporal scope for governmental actions, as the end of the state of danger was supposed to be declared by the Government.³⁷

13. During the state of danger, the Government did not evoke international conventions or directly quote standards developed by the WHO. That ‘[t]he WHO has classified the Covid-19 infection as a pandemic’ was announced at the beginning of the epidemic on the Government website.³⁸

B. Statutory provisions

14. The extraordinary power given to the Government was broad in scope and lacked express temporal limit or requirements on strict rational connection to the areas where an urgent response to the pandemic was required.³⁹ The Government was obliged to inform the Parliament regularly about measures taken to eliminate the state of danger.⁴⁰
15. After 79 days, on 18 June 2020, the Parliament repealed the first Enabling Act⁴¹—and the Government terminated the state of danger⁴²—but in doing so, the Parliament, in fact, transformed it into the new statutory state of medical emergency (*egészségügyi válsághelyzet*). According to the statutory provisions, if the CMO advises that a health emergency is warranted, the Government may invoke emergency powers on its own remit without consultation with Parliament—and the Parliament has no veto or ability to repeal such a declaration.⁴³ Following the recommendation of the CMO, in response to the Minister’s proposal, the Government declared a state of health crisis on 18 June 2020.⁴⁴ A state of health care crisis can last for a maximum of six months and is revised every three months,⁴⁵ unless the Government extends the measures.
16. During the second wave of the pandemic a second Enabling Act was adopted on 10 November 2020,⁴⁶ which provided the Government with exceptional powers for 90 days.⁴⁷

³⁵ [The First Enabling Act](#) (30 March 2020), art 3(1).

³⁶ [The First Enabling Act](#) (30 March 2020), art 3(1).

³⁷ [Fundamental Law](#) (18 April 2011) art 54(3); See European Parliament, ‘[P9_TA\(2020\)0054 EU coordinated action to combat the COVID-19 pandemic and its consequences](#)’ (2020/2616 (RSP)) (17 April 2020), [46]; European Parliament, ‘[Hungary’s emergency measures: MEPs ask EU to impose sanctions and stop payments](#)’ (14 May 2020).

³⁸ Government of Hungary, ‘[The WHO has classified a coronavirus infection as a pandemic](#)’ [A WHO világvárványnak minősítette a koronavírus-fertőzést] (11 March 2020).

³⁹ [The First Enabling Act](#) (30 March 2020), art 2(1).

⁴⁰ [The First Enabling Act](#) (30 March 2020), art 4.

⁴¹ [The First Enabling Act](#) (30 March 2020), art 8; [Act LVII of 2020 on terminating the state of danger](#), art 2.

⁴² [Government Decree terminating the state of danger declared on 11 March 2020](#) (282/2020) (17 June 2020).

⁴³ [The First Transitional Act](#), art 314.

⁴⁴ The Government immediately exercised its new authority via [Government Decree introducing a state of epidemiological preparedness](#) (283/2020) (17 June 2020).

⁴⁵ [Government Decree introducing a state of epidemiological preparedness](#) (283/2020) (17 June 2020), art 1(2).

⁴⁶ [The Second Enabling Act](#) (10 November 2020).

⁴⁷ [The Second Enabling Act](#) (10 November 2020), art 5; however, the second state of danger was already proclaimed by [Government Decree on the declaration of state of danger](#) (478/2020) (3 November 2020), which

17. Under the first Enabling Act, after the first 15 days of the state of danger, the Parliament gave the Government the power to renew the emergency decree repeatedly until the end of the state of danger.⁴⁸
18. Under the second Enabling Act, during the second term of the pandemic, the Government immediately got the authorisation to act freely until the end of the state of danger.⁴⁹
19. The third Enabling Act on the containment of the Covid-19 pandemic was adopted by the Parliament and entered into force on 22 February 2021; originally, it limited its own effects as well, and set out that it would lose force after 90 days.⁵⁰ Later on, an amendment to the law added that the law would remain in effect until the fifteenth day of the autumn session of Parliament in 2021; the Minister of Justice would be in charge to specify the day when the Enabling Act would be repealed by a ministerial decree.⁵¹
20. Two general laws, the so-called Transitional Acts, were introduced, providing emergency powers to respond to Covid-19, laying down certain rules relating to epidemiological measures, and amending certain acts relating to epidemiological measures.⁵² These acts were adopted through the normal course of legislation; the Parliament was in session during the state of danger.
21. The first Transitional Act amended the rules of the state of medical crisis, significantly widening the Government's ability to adopt restrictive decrees and measures.⁵³ Unlike the state of danger, the state of medical crisis is not one of the special legal orders provided for by the Fundamental Law, but a regime governed by the Health Care Act.⁵⁴ During the second and third wave of the pandemic the amended Act on Disaster Management⁵⁵ and the Health Care Act were relied on for the primary public health measures.⁵⁶ However, the Government decrees adopted in the course of the pandemic diverged from those measures provided for by pre-pandemic laws. Similar to the state of danger, the state of medical crisis is declared and terminated by the Government.⁵⁷ It may initially last for a period of six months, and then may be extended practically indefinitely.⁵⁸ Parliamentary approval is not needed to keep the decrees adopted under a state of medical crisis in force, unlike the decrees adopted in a state of danger.⁵⁹ The

had a temporal scope of 15 days; thus, it is argued that [the Second Enabling Act](#) was merely prolonging the initial 15 days to 90 days.

⁴⁸ [The First Enabling Act](#) (30 March 2020).

⁴⁹ [The Second Enabling Act](#) (10 November 2020), art 2(1).

⁵⁰ [The Third Enabling Act](#) (22 February 2021), art 5.

⁵¹ [Act XL of 2021](#), amending Act I of 2021 on the containment of the Covid-19 pandemic, arts 2–3.

⁵² [Act LVIII of 2020](#); [Act CIV of 2020](#).

⁵³ [The First Transitional Act](#), arts 314-319.

⁵⁴ [Act CLIV of 1997 on healthcare](#), art 228; amended by [The First Transitional Act](#), art 313.

⁵⁵ [Act CXXVIII of 2011](#).

⁵⁶ See eg [Government Decree on the declaration of state of danger](#) (478/2020) (3 November 2020); [Government Decree on further protective measures applicable during the period of state of danger](#) (479/2020) (3 November 2020); [Government Decree on the first phase of gradually lifting the protective measures](#) (144/2021) (27 March 2021); [Government Decree on returning to normal education in public upbringing institutions, vocational training institutions and in adults training, and terminating the extraordinary break in kindergartens](#) (177/2021) (15 April 2021).

⁵⁷ [Act CLIV of 1997 on healthcare](#), art 228(1); amended by [the First Transitional Act](#), art 313.

⁵⁸ [Act CLIV of 1997 on healthcare](#) art 228(2)(b); enacted by [the First Transitional Act](#), art 314.

⁵⁹ [Act CLIV of 1997 on healthcare](#) art 228(2)(b)–(2)(c); enacted by [the First Transitional Act](#), art 314.

reasons for the extension need to be reported to the Parliament's standing Committee on Health. On the basis of the amended Health Care Act, the Government ordered a state of medical crisis on 18 June 2020 for six months and later prolonged it.⁶⁰

22. The Second Transitional Act was enacted and entered into force on 1 December 2021.⁶¹ These regulations were intended to protect the life, health, and personal safety of citizens in the event of an emergency, property and legal security, and to guarantee the stability of the national economy, in particular in the event of emergency measures.

C. Executive rule-making powers

23. As the Enabling Act authorized the Government to override any Act of Parliament, Government decrees were adopted in many areas,⁶² not just in the areas originally listed by the cardinal Act concerning Disaster Management and Amending Certain Related Acts.⁶⁴ Between 30 March 2020 and the end of the first state of danger in June 2020, the Government issued over 150 decrees, using the powers granted by the first Enabling Act.
24. Some of the decrees adopted during the periods of state of danger were challenged before the Constitutional Court (see Part VI below). However, neither the Enabling Acts, nor the Transitional Act included any provisions that would facilitate the swift and effective constitutional review of Government decrees adopted during a state of danger or a state of medical crisis. Thus, the Constitutional Court refused in most cases to decide on the constitutionality of emergency decrees on procedural grounds, namely that the decrees were not in force any more at the time of the actual decision.
25. Furthermore, the overlap between the state of danger and the state of medical crisis created an unclear constitutional situation: the Government could decide arbitrarily whether it would act according to the state of danger or on the basis of the statutory medical crisis situation.⁶⁶
26. There were no executive rules adopted other than Government decrees. However, some of the specific rules related to the execution of Government decrees were set forth by ministerial decrees,⁶⁷ and during the third wave of the pandemic Government decrees gradually lifting the protective measures were enacted by decisions of the Ministers of

⁶⁰ [Government Decree introducing a state of epidemiological preparedness](#) (283/2020) (17 June 2020), art 1(1).

⁶¹ [Act XCIX of 2021 on the transitional rules related to the state of danger](#); according to [Act CXV of 2021 on the entry into force of Act XCIX of 2021 on the transitional rules related to the state of danger](#).

⁶² [Fundamental Law](#) (18 April 2011), art 53(2)–(3).

⁶⁴ [Act CXXVIII of 2011](#).

⁶⁶ A state of epidemiological preparedness was declared by [Government Decree introducing a state of epidemiological preparedness](#) (283/2020) (17 June 2020); and was amended by [Government Decree](#) (584/2020) (15 December 2020), art 1; as a result [Government Decree introducing a state of epidemiological preparedness](#) (283/2020) (17 June 2020) will be in force until 17 June 2022.

⁶⁷ [Decree of the Minister of the Interior on the implementation of Government Decree on the rules of the asylum procedure during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, for the elimination of its consequences, and for the protection of the health and lives of Hungarian citizens \(233/2020\) \(26 May 2020\)](#) (15/2020) (26 May 2020); [Decree of the Minister of the Interior on the procedure for making a declaration of intent to lodge an application for asylum](#) (16/2020) (17 June 2020).

the Interior.⁶⁸ All areas in connection with the pandemic, not only those related strictly to public health, were regulated by Government decrees.

D. Guidance

27. The Government was solely in charge of the regulations related to the pandemic, legislation was not delegated. Soft-law measures or guidance for the implementation of Government decrees were not introduced.
28. The NPHC published its first guidelines regarding Covid-19 on 23 January 2020, providing basic information about Covid-19 and some travel instructions.⁶⁹ Since March 2020, several links to information and fact sheets on different topics related to Covid-19, in Hungarian and in English,⁷⁰ were made available on this website.⁷¹ Another major source of information offered to the public during the pandemic was the central governmental website,⁷² connected to and updated by the Government of Hungary,⁷³ containing news and short, informative multimedia content—eg videos featuring the spokesman of the National Ambulance Service and the daily numbers of confirmed Covid-19 cases, those who had recovered, those who needed hospital care, and deaths.⁷⁴ During the first wave of the pandemic, an extensive media (internet and television) campaign called ‘Stay at Home!’ was launched, with the spokesman of the National Ambulance Service asking the elderly to stay home.⁷⁵ The mayors of the settlement local governments were in charge of providing supplies to the elderly of 70 years and above who, at the request of the Government, did not leave their domicile.⁷⁶ After vaccines against Covid-19 became available to the general public, a new separate website designed for registration for Covid-19 vaccination was created.⁷⁷

⁶⁸ [Decision 1/2021 \(6 April 2021\) BM](#); [Decision 3/2021 \(30 April 2021\) BM](#); [Decision 4/2021 \(22 May 2021\) BM](#); [Decision 5/2021 \(2 July 2021\) BM](#).

⁶⁹ National Public Health Centre, ‘[Information on the new coronavirus](#)’ [*Tájékoztató az új koronavírusról*] (23 January 2020).

⁷⁰ National Public Health Centre, ‘[Coronavirus information English](#)’ [*Koronavírus tájékoztatók English*] (accessed 1 May 2022); National Public Health Centre, ‘[General precautions in relation to the new Coronavirus infection](#)’ (13 March 2020); National Public Health Centre, ‘[Isolation, quarantining, and self-surveillance concerning the Coronavirus COVID-19 outbreak](#)’ (13 March 2020); National Public Health Centre, ‘[Opportunities to Reduce Contact Numbers – Community Events In Relation to COVID-19 Virus Infection](#)’ (14 March 2020); National Public Health Centre, ‘[Coronavirus disease \(COVID-19\) FAQ](#)’ (9 March 2020).

⁷¹ National Public Health Centre, ‘[Coronavirus information](#)’ [*Koronavírus tájékoztatók*] (accessed 14 April 2022).

⁷² Government of Hungary, ‘[Information website on the coronavirus](#)’ [*Tájékoztató oldal a koronavírusról*] (accessed 1 May 2022).

⁷³ Government of Hungary, ‘[About Hungary](#)’ (accessed 1 May 2022).

⁷⁴ Government of Hungary, ‘[Brochures available for download](#)’ [*Letölthető tájékoztatók*] (accessed 1 May 2022).

⁷⁵ Government of Hungary, ‘[The Government’s call to the elderly: stay home!](#)’ [*A kormány felhívása az idősekhez: maradjanak otthon!*] (20 March 2020).

⁷⁶ [Government Decree on the measures to be taken during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, for the elimination of its consequences, and for the protection of the health and lives of Hungarian citizens \(III\)](#) (46/2020) (16 March 2020), art 2.

⁷⁷ Government of Hungary, ‘[National Chief Medical Officer: Registration for the vaccination has started](#)’ [*Országos tisztifőorvos: elindult a regisztráció a védőoltásra*] (8 December 2020); Government of Hungary, ‘[Vaccine information](#)’ [*Vakcinainfó*] (accessed 1 May 2022).

29. The CMO had a visible role in advising the public during the daily press conferences of the Operational Corps Responsible for the Containment of the Covid-19 Epidemic,⁷⁸ concerning the necessary measures to be taken to diminish the negative impact of the disease.⁷⁹ The CMO was made a member of the Operational Corps. The CMO offered regular advice on how to keep small children attending nurseries and kindergarten safe and their toys and personal belongings clean,⁸⁰ how and how often hands should be disinfected,⁸¹ how to safely buy, store, and consume food bought in shops or ordered from supermarkets,⁸² how to protect and care for farm animals and pets,⁸³ etc. Basic rules in relation to Covid-19 were laid down for the operation and disinfection of restaurants.⁸⁴ Special information about financial support for employers,⁸⁵ special advice and precautions for expecting mothers and mothers with young children,⁸⁶ for vulnerable and high-risk groups,⁸⁷ and for children⁸⁸ were published, as well as a sample poster for home quarantine apartments and houses.⁸⁹ Emergency numbers by county were also collected and published online.⁹⁰
30. The CMO issued one significant, but questionable regulatory act in relation to the special legal order. The Government needed the Parliament's authorisation after 15 days

⁷⁸ [Government Decision setting up the Operational Corps Responsible for the Containment of the Coronavirus Epidemic](#) (1012/2020) (31 January 2020), 4; [Government Decree on the responsibilities of the Operational Corps operating during the period of state of epidemiological preparedness](#) (286/2020) (17 June 2020), art 2(2)(f).

⁷⁹ Government of Hungary, '[National Chief Medical Officer: Extreme discipline is required](#)' [*Országos tisztifőorvos: rendkívüli fegyelmezetségre van szükség*] (11 November 2020); Government of Hungary, '[National Chief Physician: We live in the most critical weeks of epidemic management](#)' [*Országos tisztifőorvos: a járványkezelés legkritikusabb heteit éljük*] (17 March 2021); National Public Health Centre, '[General precautions for new coronavirus infection](#)' [*Általános óvintézkedések az új koronavírus fertőzéssel*] (13 March 2020); National Public Health Centre, '[Isolation, epidemiological surveillance and self-monitoring for COVID-19 virus infection](#)' [*Elkülönítés, járványügyi megfigyelés és önmegfigyelés a COVID-19 vírus fertőzéssel*] (13 March 2020).

⁸⁰ National Public Health Centre, '[Practical advice on coronavirus for kindergartens and nurseries](#)' [*Gyakorlati tanácsok koronavírussal kapcsolatban óvodák, bölcsődék részére*] (10 March 2020).

⁸¹ National Public Health Centre, '[How to wash your hands properly](#)' [*Helyes kézmosás menete*] (16 March 2020).

⁸² National Public Health Centre, '[Food involvement with coronavirus](#)' [*Élelmiszerek érintettsége a koronavírussal kapcsolatban*] (28 February 2020); National Public Health Centre, '[Food safety advice to the general public during the coronavirus epidemic](#)' [*Élelmiszerbiztonsági tanácsok a lakosság részére a koronavírus járvány idején*] (24 March 2020).

⁸³ National Public Health Centre, '[Advice for animal keepers during the coronavirus epidemic](#)' [*Tanácsok állattartóknak koronavírus járvány idején*] (23 March 2020); National Public Health Centre, '[Animal welfare advice for livestock holdings during the coronavirus pandemic](#)' [*Állatvédelmi szempontú tanácsok koronavírus járvány idején a haszonállat tartó gazdaságok vonatkozásában*] (24 March 2020).

⁸⁴ National Public Health Centre, '[Basic rules for coronavirus in catering establishments](#)' [*Vendéglátóhelyekre vonatkozó alapvető szabályok koronavírussal kapcsolatban*] (28 February 2020).

⁸⁵ National Public Health Centre, '[Information for employers about COVID-19 virus infection](#)' [*Tájékoztató munkáltatói lehetőségekhez a COVID-19 vírus fertőzéssel kapcsolatban*] (14 March 2020).

⁸⁶ National Public Health Centre, '[Precautions for pregnant women and mothers with regard to their own health and the health of their baby with regard to COVID-19 virus infection](#)' [*Óvintézkedések várandósok, kismamák részére saját egészségük és a csecsemő egészsége érdekében a COVID-19 vírus fertőzéssel kapcsolatban*] (14 March 2020).

⁸⁷ National Public Health Centre, '[Precautions for high-risk patients with regard to COVID-19 virus infection](#)' [*Óvintézkedések várandósok, kismamák részére saját egészségük és a csecsemő egészsége érdekében a COVID-19 vírus fertőzéssel kapcsolatban*] (13 March 2020).

⁸⁸ National Public Health Centre, '[Precautions for children with regard to COVID-19 virus infection](#)' [*Óvintézkedések gyermekek számára a COVID-19 vírus fertőzéssel kapcsolatban*] (13 March 2020).

⁸⁹ National Public Health Centre, '[A poster for condominiums about home quarantine for COVID-19 virus infection](#)' [*Plakát társasházaknak az otthoni karanténról a COVID-19 vírus fertőzéssel kapcsolatban*] (16 March 2020).

⁹⁰ National Public Health Centre, '[County emergency numbers](#)' [*Megyei ügyeleti telefonszámok*] (6 March 2020).

for the measures to remain in force (see Part II.A above), which was eventually granted in Act XII of 2020.⁹¹ However, the law did not enter into force within 15 days of the adoption of the first emergency government decrees, so in order to maintain the measures, the CMO used a specific solution: she extended the measures imposed by the government decree by means of a normative decision, as an epidemiological measure.⁹² This solution was not in accordance with the general rules of the Act on Legislative Drafting,⁹³ and it demonstrates that legal order was occasionally interpreted in an ad hoc manner during the pandemic.⁹⁴

III. Institutions and Oversight

A. The role of legislatures in supervising the executive

31. The Fundamental Law provides that Government is obliged to lift the state of emergency when the conditions for its proclamation no longer exist (see Part II.A above). The provisions of the Fundamental Law do not contain any guarantees on the time limitation of the power to issue decrees. This means that if Parliament agrees to extend the emergency decrees without time limit, the Government can in principle maintain them in force indefinitely, since it has exclusive power to lift the emergency. Since the Parliament can only take its decisions in plenary session, it can only fulfil this constitutional obligation if it remains in session during the special legal order. Pursuant to the Enabling Act, the Government must regularly inform Parliament of the measures it has taken on the basis of the mandate. Secondly, Parliament may revoke the authorisation for the Government to extend its own emergency decrees for the entire duration of the emergency.⁹⁵
32. Regarding the temporary scope of its actions, the Government itself could not extend its power without further action required by Parliament, as the third Enabling Act in 2021 set forth a sunset clause and it will be repealed on 1 June 2022. The Parliament has consented to the extension of the validity of all government decrees issued from the declaration of the state of emergency until the adoption of the first Enabling Act, without a separate examination or debate.⁹⁶

⁹¹ [Act XII of 2020](#).

⁹² Government of Hungary, '[Prohibition and binding decision of the National Chief Medical Officer in view of the epidemiological situation](#)' [Az országos tisztifőorvos tiltó és kötelező határozata a járványügyi helyzetre tekintettel] (26 March 2020); Government of Hungary, '[Decision of 26 March 2020 of the National Public Health Centre prescribing prohibitions and obligations by the Chief Medical Officer having regard to the epidemiological situation](#)' [Nemzeti Népegészségügyi Központ Az országos tisztifőorvosnak a járványügyi helyzetre tekintettel 2020. március 26-án kiadott tiltó és kötelező normatív határozata]; [Government Decree 81/2020 \(1 April 2020\) on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#), art 16(1); repealed by [Government Decree 81/2020 \(1 April 2020\) on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#), art 16(2); [Act CLIV of 1997 on healthcare](#) (1997. évi CLIV. törvény az egészségügyről) may also be repealed by the Government by means of a decree.

⁹³ [Act No CXXX of 2010 on Legislative Drafting](#).

⁹⁴ I Balázs and I Hoffman, '[Közigazgatás koronavírus idején – a közigazgatási jog rezilienciája?](#)' [Public administration in times of Covid - the resilience of administrative law?] MTA Law Working Papers 2020/21.

⁹⁵ [The First Enabling Act](#) (30 March 2020).

⁹⁶ Z Sente and F Gárdos-Orosz, 'Using emergency powers in Hungary: against the pandemic and/or democracy?' in M C Kettleman and K Lachmayer (eds), *Pandemocracy in Europe: Power, Parliaments and People in Times of COVID-19* (Hart Publishing 2022) 155–178.

33. Although the parliamentary control has its apparent limits, since the declaration of the state of danger on 11 March 2020 and as of mid-April 2022, there were 41 interpellations⁹⁷ and 556 immediate questions⁹⁸ discussed by Parliament related to the pandemic. Since the 2010 general elections, the Government holds a two-thirds majority in Parliament; thus, passing resolutions in support or in opposition to the decisions taken by the Government is extraordinary in Hungarian parliamentary practice. The lack of effective parliamentary control could be measured also by the number of petitions against Government decrees submitted to the Constitutional Court. According to the Fundamental Law, the Constitutional Court shall, at the initiative of one quarter of the Members of Parliament, review the conformity of any law with the Fundamental Law.⁹⁹ However, less than five such petitions have been submitted to the Constitutional Court and all of them were rejected by the Court (see Part VI below).¹⁰⁰

B. The functioning of the legislature where its ordinary business is disrupted

34. The Parliament has not ceased its sessions during the pandemic; thus, there was no need to resort to virtual meetings. The opposition parties have not complained about the functioning of the Parliament, except for some MPs. Parliamentary committees have also continued their work without interruption. Although some groups, the far right, libertarians, and some individuals raised their voices against the closures, the mask mandates, and vaccinations, and a few virus sceptics also expressed their opinion, mostly on social media,¹⁰¹ their exact numbers and the total impact of their views on the Hungarian society is unknown.¹⁰²

C. Role and access to courts

35. An extraordinary court break was ordered from 14 March to 31 March 2020.¹⁰³ After that period, remote hearings were set as the default court system procedure.¹⁰⁴

36. Judges held hearings either via the electronic communication network or by other audio-visual electronic means—specified by the guidance of the National Office for the

⁹⁷ Hungarian Parliament, '[Interpellations](#)' (accessed 1 May 2022).

⁹⁸ Hungarian Parliament, '[Regular questions/instantaneous questions](#)' (accessed 1 May 2022).

⁹⁹ [Fundamental Law](#) (18 April 2011), art 24(2)(e).

¹⁰⁰ See Constitutional Court ([Alkotmánybíróság](#)) [3234/2020 \(VII.1\) ABH](#); Constitutional Court, ([Alkotmánybíróság](#)) [3326/2020 \(VIII.5\) ABV](#); Constitutional Court, ([Alkotmánybíróság](#)) [3388/2020 \(X.22\) ABV](#).; Constitutional Court, [Az Alkotmánybíróság 3426/2021 \(X.25\) ABH](#).

¹⁰¹ [ÁZ](#), '[Oltatlansági igazolványt hirdettek, de Gődény György sajtótájékoztatójára senki nem volt kíváncsi](#)' [*Unvaccinated certificate was announced, but no one was curious about György Gődény's press conference*] index (Online, 20 June 2021).

¹⁰² B Vitárius and Róbert-István Antal, '[Szélsőjobb, libertáriusok, Gődény: mutatjuk, amit a lezárásellenes mozgalmakról tudni kell](#)' [*Far right, libertarians, Gődény: we show what you need to know about anti-closure movements*] azonnali (Online, 17 March 2021).

¹⁰³ [Government Decree on the measures to be taken during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, for the elimination of its consequences, and for the protection of the health and lives of Hungarian citizens \(II\)](#) (45/2020) (14 March 2020), art 1.

¹⁰⁴ [Government Decree on certain procedural measures applicable during the period of state of danger](#) (74/2020) (31 March 2020); this government decree overrode various Acts of Parliament, including [Act XC of 2017 on the Code of Criminal Procedure](#) [Government Decree on certain procedural measures applicable during the period of state of danger](#) (74/2020) (31 March 2020), arts 44–94.

Judiciary (NOJ), the national authority for the administration of justice, such as Skype or Microsoft Teams. If no such electronic means were available, judges were obliged to accept the parties' written submissions; the statements to be recorded at the hearing had to be obtained by the court in writing or by using an electronic means of identification and, if necessary, recorded in the minutes.¹⁰⁵ In cases where the physical presence of a party was necessary, submissions were to be obtained in writing or the person might have been interviewed by eligible electronic means capable of identifying persons (these were the same options as mentioned above). In September 2018, the President of the NOJ launched a project called 'VIA VIDEO', the aim of which was to connect the courtrooms with the help of appropriate technology tools to international bodies, domestic partner institutions and other courts for remote hearings.¹⁰⁶ Former data suggests that, until February 2020, VIA VIDEO has been used in more than 6,400 cases for remote interrogations and witness and expert hearings.¹⁰⁷ Mostly it was used in criminal cases, and the Act on Criminal Procedure was amended accordingly.¹⁰⁸ However, courts have limited access to VIA VIDEO, as there is usually only one equipped conference room per court building available. Each party and the judge would need a separate courtroom dedicated to conducting a remote hearing VIA VIDEO in order to be channelled to the official electronic network. Thus, VIA VIDEO is not suitable for such multi-party hearings, but may come useful for one-party submissions, or small cases. Despite all these difficulties, the President of the NOJ stated that there was no backlog of cases in the courts during the pandemic, rather the work of the courts had accelerated.¹⁰⁹ Skype for Business and Microsoft Teams are expressly recommended by the NOJ for online hearings, but judges are free to make use of other encrypted programs too.¹¹⁰

37. As for civil litigation, remote hearings became the default procedure.¹¹¹ Accordingly, court buildings were closed to clients, but adjudication still continued. Civil proceedings continued to run and so did deadlines. Hearings were also to be held in a limited number. Although a protocol from the NOJ or the courts was expected, it rested entirely upon

¹⁰⁵ [Government Decree on certain procedural measures applicable during the period of state of danger \(74/2020\)](#) (31 March 2020), art 21(3); amended, on 1 June 2020, by [Government Decree amending Government Decree on certain procedural measures applicable during the period of state of danger \(74/2020\) \(31 March 2020\) and Government Decree amending certain rules on sentence enforcement in connection with the declaration of state of danger \(90/2020\) \(5 April 2020\)](#) (229/2020) (25 May 2020), art 2.

¹⁰⁶ An electronic solution to improve work organisation and communication for public administration in different geographical locations [Elektronikus megoldás az eltérő földrajzi helyszíneken történő közigazgatási ügyintézés [munkaszervezésének](#) és kommunikációjának fejlesztésére], KÖFOP-1.0.0-VEKOP-15-2015-00003.

¹⁰⁷ Courts of Hungary, '[In 2019, the popularity of VIA VIDEO continued to grow](#)' [*Tovább nőtt 2019-ben a VIA VIDEO népszerűsége*] (12 February 2020).

¹⁰⁸ [Government Decree on certain criminal measures applicable during the period of state of danger and amending Government Decree on certain procedural measures applicable during the period of state of danger \(74/2020\) \(31 March 2020\) and Government Decree on certain measures amending criminal correction in relation to the declaration of state of danger \(90/2020\) \(5 April 2020\)](#) (188/2020) (7 May 2020).

¹⁰⁹ J Fehér, '[Az Országos Bírósági Hivatal szerint felgyorsult a bíróságok munkája, egy év alatt 1,15 millió ügyet fejeztek be](#)' [*According to the National Office of the Judiciary, the work of the courts has accelerated, with 1.15 million cases closed in one year*] telex (Online, 22 June 2021).

¹¹⁰ For more information on the digitalization of courts in Hungary, see Sz Kékedi, '[Hogyan tovább bírósági digitalizáció avagy hogyan lett az elektronikus kapcsolattartás a veszélyhelyzetben az ítékezés kulcsa?](#)' [What's next judicial digitization or how did electronic communication become the key to judgment in the state of danger?] (2020) 2 In Medias Res 308–321.

¹¹¹ [Government Decree on certain procedural measures applicable during the period of state of danger \(74/2020\)](#) (31 March 2020), arts 21, 23, 50, 54, 56, 60, 61, 63.

judges to choose the audio-visual means and the host for the virtual hearing, including whether to shift the procedure to a document-only basis. Written electronic communication with clients is indisputably the safest solution for judges, as it is carried out through their own well-established network system called E-Per. There was no evidence found of disadvantages for users having no online presence or platform experience.¹¹²

38. The Hungarian Helsinki Committee conducted research on the Hungarian experience of remote hearings during the epidemic.¹¹³ According to this research, the number of legally completed criminal proceedings decreased in 2020 compared to previous years: while in both 2018 and 2019, 89 per cent of the 2016 volume was completed, in 2020 only 73 per cent of the base year's volume was concluded.¹¹⁴ The research found that the number of pending criminal cases fell sharply between 30 June 2017 and 30 June 2019, and then on 30 June 2020 produced an outstanding value from this trend.¹¹⁵ In 2020, the number of pending lawsuits increased not only in criminal cases, but in all cases.¹¹⁶
39. During the state of danger, the Constitutional Court's bodies have been meeting online; the full session of the Constitutional Court and its panels have been meeting via online video-conferencing.¹¹⁷ The constitutionality of ordering a state of danger or public health emergency was not referred to the Constitutional Court. In other issues related to the legislation during the pandemic, until 26 July 2021, 50 cases have been brought before the Constitutional Court.¹¹⁸ Many petitions were rejected on procedural grounds, because the challenged provision was no longer in force at the time of the decision.

D. Elections

40. By-elections, national and local, and referendums were suspended during the state of danger.¹¹⁹ During the state of epidemiological preparedness in September and October 2020, by-elections were held in 59 cases due to either the death or the resignation of the

¹¹² [Government Decree on certain procedural measures applicable during the period of state of danger](#) (74/2020) (31 March 2020), arts 69–70.

¹¹³ Hungarian Helsinki Committee, '[Képernyőn az igazság – elektronikus kapcsolattartás a büntető igazságszolgáltatásban](#)' [Justice on Screen – using remote communication in the criminal justice system] (30 November 2021).

¹¹⁴ Hungarian Helsinki Committee, '[Képernyőn az igazság – elektronikus kapcsolattartás a büntető igazságszolgáltatásban](#)' [Justice on Screen – using remote communication in the criminal justice system], 17 (30 November 2021).

¹¹⁵ Hungarian Helsinki Committee, '[Képernyőn az igazság – elektronikus kapcsolattartás a büntető igazságszolgáltatásban](#)' [Justice on Screen – using remote communication in the criminal justice system], 18 (30 November 2021).

¹¹⁶ Hungarian Helsinki Committee, '[Képernyőn az igazság – elektronikus kapcsolattartás a büntető igazságszolgáltatásban](#)' [Justice on Screen – using remote communication in the criminal justice system], 19 (30 November 2021).

¹¹⁷ [The First Enabling Act](#) (30 March 2020), art 5.

¹¹⁸ Constitutional Court of Hungary, '[Constitutional Court cases assigned to the Constitutional Court Judge in connection with the epidemiological emergency](#)' [*A járványügyi veszélyhelyzettel kapcsolatosan indult, előadó alkotmánybíróra kiszignált alkotmánybírói ügyek*] (accessed 1 May 2022).

¹¹⁹ Official statistics and all election data are available and retrievable from National Election Office, '[Official website](#)' (accessed 1 May 2022); via National Election Office, '[Időközi helyi önkormányzati választások](#)' [Local by-elections] (accessed 1 May 2022).

incumbents or due to the dissolution of the body of representatives in municipalities; in 32 cases by-elections were postponed due to the state of danger.

41. The Act on the Containment of Covid-19 provided that, if a dissolution of the representative body of a local government or a national minority self-government is declared, the decision to this effect shall become effective on the day following the end of the period of state of danger.¹²⁰ Furthermore, no by-elections may be called until the day following the end of the period of state of danger; the elections already called shall not be held. Moreover, no national and local referendums may be initiated until the day following the end of the period of state of danger; the national and local referendums already called shall not be held.
42. At the end of April 2022, a total of 135 elections were called to make up for the missed by-elections: in 80 settlements, a new mayor had to be elected, but in several cases a whole new municipal council had to be elected, and in many places a vacant seat had to be filled.¹²¹
43. After the Act on the Containment of Covid-19 was repealed,¹²² transitional provisions related to by-elections during the period of the state of danger were adopted, providing that by-elections are postponed and referendums cannot be initiated.¹²³ Later on, the temporary effect of [Government Decree](#) (483/2020) (5 November 2020) was prolonged.¹²⁴ National referendums could be held after 21 July 2021.
44. The performance of mayoral duties during the period of the state of danger provided that, in cases where the mayor is prevented from conducting their duties, the deputy-mayor should be acting temporarily.¹²⁵
45. Due to the aforementioned restrictions on assemblies, no rallies could be held to support electoral campaigns. All assemblies—meaning a public gathering held with the participation of at least two persons for the purpose of expressing an opinion in a public affair¹²⁶—were forbidden.¹²⁷
46. A motion to considerably amend the Election Bill was initiated by the Government during the pandemic.¹²⁸ The Government justified the proposed amendment with the alleged need to address the issue of so-called dwarf or fake parties, which have no real social backing. However, the key element of the proposition was to increase the minimum number of candidates for a national party list. The Act provides that a party

¹²⁰ [Act XII of 2020](#).

¹²¹ ‘[A Covid-zárlat utóhatása: hetente lesznek időközi választások](#)’ [Aftermath of the Covid shortage: there will be weekly by-elections] HVG (Online, 22 April 2022).

¹²² Repealed as of 18 June 2020 by [Act LVII of 2020 terminating the state of danger](#).

¹²³ [Government Decree](#) (483/2020) (5 November 2020).

¹²⁴ [The Second Enabling Act](#) (10 November 2020), art 4; and [The Third Enabling Act](#) (22 February 2021), art 4.

¹²⁵ [Government Decree on certain aspects on certain aspects of the performance of mayoral duties during the period of state of danger](#) (15/2021) (22 January 2021) art 1(1).

¹²⁶ [Act LV of 2018 on the right of assembly](#), art 2(1).

¹²⁷ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), Preamble, arts 4(1), 5(1)–(2).

¹²⁸ [Motion No T/13679](#) (10 November 2020).

may set up a party list only if it has a higher number of nominated candidates.¹²⁹ Finally, a further challenge is to pass the electoral threshold which, in the case of coalition lists of more than two parties, is 15 per cent. The amendment triggered harsh criticism from opposition parties,¹³⁰ political analysts,¹³¹ and non-governmental organizations (NGOs).¹³²

E. Scientific advice

47. The Operational Corps, an administrative body,¹³³ played a major part in providing information and making specific orders regarding public health and protection,¹³⁴ although decision-making remained with the Government and decisions were promulgated by Government decrees. The Operational Corps is led by the Minister of Interior and the Minister of Human Capacities, and its members include, among others, the CMO, the National Police Chief, the Director-General of the National Ambulance Service, and the Director-General of National Healthcare Service Centre. During the pandemic, the Prime Minister met occasionally with some selected specialists and epidemiologists, but a specific legally provided role was not granted to them.¹³⁵
48. The scientific advice on the basis of which the Government made its decisions to control the epidemic was not made public and was not published in any form during the pandemic; practically no data were available except for the daily updated infection numbers.¹³⁶ Although, it must be mentioned that vaccine efficacy data ending on 10 June 2021 were published in November 2021, however, not for the general public but in an English-language scientific journal.¹³⁷

¹²⁹ [Act CLXVII of 2020 on the amendment of certain Acts relating to elections](#); an unofficial translation of the Act is available at Venice Commission (CoE), '[Hungary - Act CLXVII of 2020 on the amendment of certain acts relating to elections](#)' (3 September 2021).

¹³⁰ '[Gov't Move to Amend Election Law Draws Concern](#)' HungaryToday (Online, 11 November 2020).

¹³¹ See eg Gábor Török's opinion, Sz. J., '[Török Gábor a választási törvény módosításáról: másfél évvel a választások előtt ez tagadhatatlanul hatalomtechnikai trükközés](#)' [Gábor Török on the amendment of the Election Act: one and a half years before the elections, this is undeniably a trick of power technology] nyugat.hu (Online, 11 November 2020).

¹³² See eg the analyses of Hungarian Civil Liberties Union, '[Kényszerpályára tereli az ellenzék a választási törvény módosítása](#)' [The amendment to the electoral law is driving the opposition to a forced path] (17 November 2020); Hungarian Civil Liberties Union, '[Elemzésünk az egyes választási tárgyú törvények módosításáról szóló T/13679. számú törvényjavaslatról](#)' [Our analysis of Bill No. T/13679 on the amendment of certain acts relating to elections] (1 May 2022).

¹³³ Introduced by [Government Decision setting up the Operational Corps Responsible for the Containment of the Coronavirus Epidemic](#) (1012/2020) (31 January 2020), 4; [Government Decree on the responsibilities of the Operational Corps operating during the period of state of epidemiological preparedness](#) (286/2020) (17 June 2020), art 1.

¹³⁴ See 'Ministry of Interior', '[Operational Corps recommends introduction of visiting ban in hospitals and old people's homes](#)' (8 March 2020).

¹³⁵ Government of Hungary, '[Viktor Orbán: the hardest two weeks of the whole epidemic are coming](#)' [*Orbán Viktor: az egész járvány legnehezebb két hete jön*] (25 February 2021).

¹³⁶ M Vaskor, '[Biostatistikus: Nemcsak visszatartják a járványadatokat, de megfejelik valami hihetetlen cinizmussal is](#)' [Biostatistic: Not only do they hold back epidemic data, but they also do it with some incredible cynicism] 24.hu (Online, 22 November 2021); See Government of Hungary, '[Information Page on Coronavirus](#)' [*Tájékoztató oldal a koronavírusról*] (accessed 2 May 2022).

¹³⁷ '[Kiderült, mennyire hatékonyak a hazánkban használt vakcinák](#)' [*The effectiveness of the vaccines used in Hungary is Revealed*] 24.hu (Online, 25 November 2021).

49. Half a year later, at the end of the fifth wave of the pandemic in April 2022, it turned out that important research had been carried out in Hungary during the pandemic using domestic data—without the knowledge of the public. On 6 April 2022, the Hungarian Academy of Sciences and the Ministry of Human Capacities signed an agreement to cooperate in the scientific processing, analysis, evaluation, and dissemination of data and experience of the Covid-19 epidemic.¹³⁸ As it turned out, the Epidemiological and Clinical Research Working Group launched several research projects involving leading experts from the Ministry of Human Capacities and its institutions, national institutes, and universities, the results of which were published continuously. The general public was not informed about this during the pandemic.¹³⁹

F. Freedom of the press and freedom of information

50. Hungary's media legislation has been the subject of sustained criticism, both nationally and internationally, since its introduction in 2010.¹⁴⁰ While minor adjustments were made to the legislation in 2013, the main causes for concern remained intact, shaping significantly the environment for media pluralism in Hungary up to the present day.¹⁴¹

51. As to the freedom of speech, the first Enabling Act introduced a new specific incrimination of fearmongering,¹⁴² stating that '[a] person who, during the period of a special legal order and in front of a large audience, states or disseminates any untrue fact or any misrepresented true fact that is capable of hindering or preventing the efficiency of protection is guilty of a felony and shall be punished by imprisonment for one to five years.'¹⁴³

52. This amendment of the Criminal Code was criticized heavily by the profession from the beginning. It was argued that this definition, 'with the elastic concept of the "effectiveness of protection", the specification of the criterion of "suitability" of its "obstruction" or "prevention" raises serious concerns about rule of law.'¹⁴⁴ Although relatively few cases have reached the courts, according to official information, by mid-May 2020, the police had initiated criminal proceedings in 87 cases for fearmongering

¹³⁸ Hungarian Academy of Sciences, '[The Hungarian Academy of Sciences and the EMMI have reached an agreement to scientifically process the experience of the coronavirus epidemic](#)' [*Megállapodást kötött az MTA és az EMMI a koronavírus-járvány tapasztalatainak tudományos feldolgozására*] (6 April 2022).

¹³⁹ O Kormos, '[Hoppá, igenis születtek magyar COVID-tanulmányok](#)' [Oops, yes there were Hungarian COVID studies] mfor.hu Menedzsment Fórum (Online, 19 April 2022), 168; '[Titkolóztak a járvány körül](#)' [Secrets were kept about the epidemic] 168 (Online, 25 April 2022 – 2 May 2022); N Nagy, '[Fü alatt publikáltak magyar kutatásokat a koronavírusról, életeket is lehetett volna menteni velük](#)' [Hungarian research on the coronavirus, which could have saved lives, was secretly published] 24.hu (Online, 25 April 2022).

¹⁴⁰ Commissioner for Human Rights (CoE), '[Opinion of the Commissioner for Human Rights Hungary's media legislation in light of Council of Europe standards on freedom of the media](#)' (25 February 2011), 3.

¹⁴¹ OSCE, Office of the Representative on Freedom of the Media (RfOM), '[Analysis and assessment of a package of Hungarian legislation and draft legislation on media and telecommunications](#)' (September 2010), 5.

¹⁴² Eötvös Károly Institute, '[Concentration of Power Salvaged: Coronavirus Stocktaking \(Analysis\)](#)' (19 June 2020); Eötvös Károly Institute, '[Concentration of Power Salvaged: Coronavirus Stocktaking](#)' (17 April 2022); '[The First Enabling Act](#)' (30 March 2020), art 10.

¹⁴³ [Act C of 2012 on the Criminal Code](#), art 337(2).

¹⁴⁴ Eötvös Károly Institute, '[Concentration of Power Salvaged: Coronavirus Stocktaking](#)' (17 April 2022); Eötvös Károly Institute '[Még egyszer a koronavírus elleni védekezésről szóló törvénytervezetről \(állásfoglalás\)](#)' [Once again on the draft law on the containment of coronavirus (resolution)] (22 March 2020).

relating to the Covid-19 pandemic, which could disturb public order.¹⁴⁵ By July 2020, 134 related criminal investigations had been initiated. The majority of cases concerned people who had made critical remarks on social media about the government's handling of the pandemic.¹⁴⁶ Two cases received special attention when criminal proceedings started because of Facebook posts that were critical of the government; criminal procedure involved early morning searches, seizing computers, and taking people in for questioning.¹⁴⁷ The Hungarian authorities have argued that the provision is precise enough to limit its applicability.¹⁴⁸ However, due to the high number of investigations launched, the Constitutional Court found it necessary to clarify that the crime must be interpreted in line with freedom of expression safeguards.¹⁴⁹ Although investigations were often dropped without charges, the high media coverage of the arrests had an intimidating and chilling effect on freedom of expression.¹⁵⁰ Eventually, the Constitutional Court decided that the amendment did not violate the Fundamental Law.¹⁵¹

53. Research proved that contact between independent media and public authorities became even more compromised during the Covid-19 pandemic in Hungary, not least because of the new provisions of fearmongering.¹⁵² Journalists claimed that the new legal provisions created a high level of uncertainty amongst them, as the interpretation of the law would in large measure depend on the goodwill of judges, especially the regulations concerning the burden of proof.¹⁵³
54. A Government Decree on derogations from certain data protection and data request provisions during the state of danger allowed public bodies to extend the deadline for responding to freedom of information requests to 45 days,¹⁵⁴ which could be prolonged once by an additional 45 days (instead of the original 15 + 15 days), if it was 'probable' that responding within the original deadline would jeopardize the fulfilment of their pandemic-related public duties.¹⁵⁵ It has been argued that this deadline, which can be up

¹⁴⁵ National Police Headquarters, '[NOTICE The police take note of the position of the prosecution](#)' [KÖZLEMÉNY A rendőrség tudomásul veszi az ügyészség álláspontját] (13 May 2020).

¹⁴⁶ Zs Szigetváry, '[Hungary Events of 2020](#)' Human Rights Watch World Report 2021 (24 July 2020).

¹⁴⁷ Eötvös Károly Institute, '[Concentration of Power Salvaged: Coronavirus Stocktaking](#)' (17 April 2022).

¹⁴⁸ National Office for the Judiciary, '[INFORMATION on the subject of Act XII of 2020 on the containment of coronavirus](#)' [TÁJÉKOZTATÓ a koronavírus elleni védekezésről szóló 2020. évi XII. törvény tárgyában] (31 March 2020).

¹⁴⁹ Constitutional Court, ([Alkotmánybíróság](#))15/2020 (VII.8) ABH; for more on this decision, see European Centre for Press and Media Freedom, '[Hungary's two pandemics: COVID-19 and attacks on media freedom](#)' (17 June 2020).

¹⁵⁰ Hungarian Civil Liberties Union, '[Research on the obstruction of the work of journalists during the coronavirus pandemic in Hungary](#)' (27 April 2020).

¹⁵¹ Constitutional Court, ([Alkotmánybíróság](#)) 15/2020 (VII.8) ABH.

¹⁵² Hungarian Civil Liberties Union, '[Research on the obstruction of the work of journalists during the coronavirus pandemic in Hungary](#)' (15 April 2020), 6–7.

¹⁵³ Hungarian Civil Liberties Union, '[Research on the obstruction of the work of journalists during the coronavirus pandemic in Hungary](#)' (27 April 2020), 6.

¹⁵⁴ [Government Decree on derogations from certain data protection and data request provisions during the state of danger](#) (179/2020) (4 May 2020), the Decree was in effect between 5 May 2020 and 18 June 2020.

¹⁵⁵ [Government Decree on derogations from certain data protection and data request provisions during the state of danger](#) (179/2020) (4 May 2020), art 2; for more details, see CMS Cameron McKenna Nabarro Olswang LLP, '[Hungarian government overwrites the GDPR in its COVID-19 state-of-emergency decree](#)' Lexology (Online, 7 May 2020); Dóra Petrányi, Katalin Horváth, and Márton Domonkos, '[Hungarian government overwrites the GDPR in its COVID-19 state-of-emergency decree](#)' CMS Law-Now (Online, 7 May 2020).

to 90 days, may render most information requests irrelevant by the time a response reaches the applicant and so seriously undermine the freedom of information enshrined in the Fundamental Law.¹⁵⁶ The same rules were adopted during the second wave of the pandemic,¹⁵⁷ until the third Enabling Act was in force.¹⁵⁸

55. In 2020, repeated legislative restrictions on freedom of expression and information over the successive states of danger and thus during periods when opportunities for public consultation and debate were severely restricted, triggered serious concerns.¹⁵⁹ Several complaints were filed at the Constitutional Court. Regarding the derogations from certain data protection and data request provisions during the state of danger, the Constitutional Court did not decide the case in its merits because, according to the Fundamental Law of Hungary,¹⁶⁰ the questioned decree was no longer in force, there were no cases where the provision of the decree was applicable, and the rule lost its effect.¹⁶¹ The decision of the Constitutional Court was received with objective acceptance by some representatives of legal scholars in Hungary.¹⁶²
56. The same petitioner relaunched the constitutional complaint on 21 January 2021, when the same provisions became effective in autumn 2020, after the state of danger was repeatedly declared.¹⁶³ The Constitutional Court formulated a so-called constitutional requirement regarding the rules on the access to data of public interest of the Fundamental Law: when the decree is applied, State organizations must explain the pandemic-related reasons for their restriction of the right of access to data of public interest.¹⁶⁴

G. Ombuds and oversight bodies

¹⁵⁶ See [Fundamental Law](#) (18 April 2011), art X; for more details see [Case NAIH-3071-2-2020](#); National Authority for Data Protection and Freedom of Information, '[Opinion 3071/2020 on the Draft Government Decree on the reduction of certain administrative burdens on the state for the prevention of the consequences of the human epidemic endangering life and property and causing massive disease outbreaks](#)' [*NAIH-3071-2-2020 Állásfoglalás Az élet- és vagyónbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány következményeinek elhárítása érdekében egyes, az államot terhelő adminisztrációs kötelezettségek csökkentéséről szóló kormányrendelet tervezete*] (30 March 2020); '[On the Draft Government Decree on the reduction of certain administrative burdens on the state for the prevention of the consequences of the human epidemic endangering life and property and causing massive disease outbreaks](#)' (*Az élet- és vagyónbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány következményeinek elhárítása érdekében egyes, az államot terhelő adminisztrációs kötelezettségek csökkentéséről szóló kormányrendelet tervezete*) (26 March 2020).

¹⁵⁷ [Government Decree on derogations from certain data request provisions during the state of danger](#) (521/2020) (25 November 2020), art 1.

¹⁵⁸ [The Third Enabling Act](#) (22 February 2021), art 2(4)(17); [Government Decree on renewing certain state-of-danger measures related to the state of danger declared on 8 February 2021](#) (271/2021) (21 May 2021), art 1(17).

¹⁵⁹ Commissioner for Human Rights (Council of Europe), '[Memorandum on freedom of expression and media freedom in Hungary](#)' (30 March 2021).

¹⁶⁰ [Fundamental Law](#) (18 April 2011), art 53(4).

¹⁶¹ Constitutional Court, [Az Alkotmánybíróság 3413/2020 \(XI.26\) ABV](#).

¹⁶² N Chronowski, 'Információszabadság járvány idején. Az Alkotmánybíróság döntése a közérdekű adatigénylés teljesítésének határidejéről veszélyhelyzetben' [Freedom of information during an epidemic. The decision of the Constitutional Court on the deadline for fulfilling a request for data in the public interest in an emergency situation] (2021) 14 *Közjogi Szemle* 81–84, 83; G Mészáros, 'Az autokratikus legalizmus vége' [The end of autocratic legalism] (2021) 25 *Fundamentum* 55–61, 58.

¹⁶³ [Government Decree on the declaration of state of danger](#) (478/2020) (3 November 2020), art 1.

¹⁶⁴ Constitutional Court, [\(Alkotmánybíróság\) 15/2021 \(V.13\) ABH](#).

57. The actual activity of the Ombudsman (Commissioner for Fundamental Rights) has recently raised some doubts, mostly by NGOs.¹⁶⁵ During the pandemic the Hungarian Helsinki Committee turned to the Ombudsman on a number of issues, for example: asking the Ombudsman to investigate the extent to which the fundamental rights of convicts and their guards are respected in the implementation of epidemiological measures,¹⁶⁶ the forced evacuation of hospitals after 7 April 2020 when the Minister of Human Resources had instructed the heads of the hospitals that in less than two weeks about 40,000 hospital beds had to be made available to treat those infected with the new Covid-19 virus,¹⁶⁷ the timely vaccination of incarcerated/detained people,¹⁶⁸ or the ban on assembly ordered at the beginning of the state of danger and maintained throughout the state of danger.¹⁶⁹
58. Moreover, the pandemic itself and the measures taken were seen to have a significant effect on vulnerable groups in society.¹⁷⁰ After declaring that it is essential to care about vulnerable groups in this situation,¹⁷¹ the Ombudsman launched some investigations. On 29 April 2020, an *ex officio* investigation was launched after many people in nursing homes became infected with Covid-19,¹⁷² the Ombudsman visited several homes of

¹⁶⁵ Hungarian Helsinki Committee, '[Assessment of the activities and independence of Hungary's Ombudsperson](#)' (22 February 2021); Hungarian Helsinki Committee, '[Shadow report to the GANHRI Sub-Committee on Accreditation on the activities and independence of the Commissioner for Fundamental Rights of Hungary](#)' (18 February 2021); Hungarian Civil Liberties Union, '[Rossz döntést hozott a kormány, gyülekezési jogot sértett a rendőrség – Ombudsmanhoz fordultunk](#)' [The Government made a bad decision, the police violated the right of assembly – we turned to the Ombudsman] (9 October 2020); Hungarian Civil Liberties Union, Hungarian Helsinki Committee, '[Indítvány a Covid-19 járvány okozta megváltozott helyzetben a gyülekezéshez való jog érvényesülésének átfogó vizsgálatára](#)' [Motion for a comprehensive investigation of the enforcement of the right to assembly in the changed situation caused by the Covid-19 pandemic] (25 September 2020); Hungarian Helsinki Committee, '[The ombudsman must not shy away from his job - lawyers respond to Ákos Kozma](#)' [Az ombudsman nem ugorhat el a feladata elől – jogvédők válasza Kozma Ákosnak] (24 September 2021).

¹⁶⁶ Hungarian Helsinki Committee, '[The Ombudsman cannot leave convicts and their guards alone](#)' [Az ombudsman nem hagyhatja magukra az elítélteket és őreiket] (9 April 2020).

¹⁶⁷ Hungarian Helsinki Committee, '[The Hungarian Helsinki Committee turned to the Ombudsman about the forced evacuation of hospitals](#)' [A kórházak kényszerkiürítése miatt ombudsmanhoz fordult a Magyar Helsinki Bizottság] (20 April 2020).

¹⁶⁸ Hungarian Helsinki Committee, '[Detainees should also be vaccinated in time](#)' [A fogvatartottaknak is jár időben az oltás] (26 April 2021).

¹⁶⁹ Hungarian Helsinki Committee, '[No right of assembly, no party](#)' [No gyülekezési jog, no party] (11 May 2021).

¹⁷⁰ Fruzsina Gárdos-Orosz and András László Pap, 'A járvány kezelésének alkotmányjogi vonatkozásai' [Constitutional aspects of epidemic management] (2021) 5 Magyar Tudomány 583–592.

¹⁷¹ Office of the Commissioner for Fundamental Rights of Hungary, '[Exception should strengthen dignity - Communication of the Commissioner for Fundamental Rights on the special situation of people with intellectual disabilities and autism spectrum disorders in relation to epidemiological restrictions](#)' [A kivétel erősítse a méltóságot – az alapvető jogok biztosának közleménye az értelmi fogyatékkal, illetve az autizmus spektrumzavarral élő emberek speciális helyzetéről a járványügyi korlátozások kapcsán] (20 November 2020); Office of the Commissioner for Fundamental Rights of Hungary, '[Dr. Réka Varga, Secretary-General of the Office of the Commissioner for Fundamental Rights, participated in the video conference of the ENNHRI \(European Network of National Human Rights Institutions\) Legal Working Group](#)' [Dr. Varga Réka, az Alapvető Jogok Biztosának Hivatala Főtitkára részt vett az ENNHRI (Nemzeti Emberi Jogi Intézmények Európai Hálózata) jogi munkacsoportjának videokonferenciáján] (25 May 2020).

¹⁷² Office of the Commissioner for Fundamental Rights of Hungary, '[Commissioner for Fundamental Rights launches ex officio inquiry due to the Covid-19 infection situation in nursing homes caring for the elderly](#)' [Az Alapvető Jogok Biztosának hivatalból vizsgálatot indít idős embereket ápoló-gondozó otthonokban a Covid-19-fertőzéssel kapcsolatban kialakult helyzet miatt] (29 April 2020).

older adults, some social institutions¹⁷³ and prisons,¹⁷⁴ and social housing for people with disabilities¹⁷⁵ during the pandemic. On 23 June 2021, the Ombudsman launched an investigation, at the request of Bernadett Szél, an independent Member of Parliament, because those who did not have an immunity certificate (who were not vaccinated) were required to take a PCR test at their own expense in hospitals for the resumption of elective interventions and rehabilitation benefits.¹⁷⁶ In August 2021, the Ombudsman issued a report declaring that this measure violates the rule of law, does not meet the requirements of legal certainty, may violate the right to human dignity, and violates the principle of equal treatment and should therefore be withdrawn.¹⁷⁷ The government only partially amended the decree, ordering that parents who accompany their children to surgery do not have to pay for their PCR test themselves.¹⁷⁸

59. However, based on the reports of the Ombudsman, in every visited institution, proper protection against the pandemic was provided. The Ombudsman could have initiated procedures regarding the Government Decrees,¹⁷⁹ opening the country in the autumn of 2021, without any prior public professional justification or scientific explanation,¹⁸⁰ and Government Decrees that might have violated the right to life, privacy, human dignity, or the right to health of the Hungarian people. Some subsequent attempts were made to professionally clarify the decision,¹⁸¹ even though the epidemic still posed a serious threat to health and life.

¹⁷³ Commissioner for Fundamental Rights (National Human Rights Institution accredited by the United Nations), '[REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case no AJB-2799/2020 in connection with the visit to the EMMI Aszódi Correctional Institute, Primary School, Vocational School and Special Vocational School](#)' [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-2799/2020. számú ügyben az EMMI Aszódi Javítóintézet, Általános Iskola, Szakiskola és Speciális Szakiskola látogatásával összefüggésben*] (2020).

¹⁷⁴ Commissioner for Fundamental Rights (National Human Rights Institution accredited by the UN), '[REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case no AJB-6421/2020 in connection with the visit to the Tamási Police Headquarters](#)' [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-6421/2020. számú ügyben a Tamási Rendőrkapitányság látogatásával összefüggésben*] (2020).

¹⁷⁵ Office of the Commissioner for Fundamental Rights of Hungary, '[Report on the activities of the Commissioner for Fundamental Rights and his deputies 2020](#)' [*Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2020*] (January 2021), 67.

¹⁷⁶ '[Vizsgálatot indított az ombudsman a fizetős kórházi PCR-tesztek miatt](#)' [*The Ombudsman opened an inquiry into paid hospital PCR tests*] HVG (Online, 23 June 2021).

¹⁷⁷ Office of the Commissioner for Fundamental Rights of Hungary, '[The ombudsman expressed his opinion in connection with the prescription of PCR and antigen tests in connection with certain public health interventions and their financing](#)' [A PCR- és az antigéntesztek egyes népegészségügyi beavatkozások kapcsán történő előírásával, azok finanszírozásával összefüggésben foglalt állást az ombudsman] (30 July 2021); '[Káslernek vissza kell vonnia azt az utasítást, amivel kifizetik a PCR-tesztet a műtétre](#)' [Kásler must withdraw the instruction that those waiting for surgery must pay for the PCR test] HVG (Online, 3 August 2021).

¹⁷⁸ '[A kormány az ombudsman véleménye ellenére is kifizeteti a PCR-tesztet a műtétre várókkal](#)' [The Government maintains that those waiting for surgery must pay for the PCR test, despite the Ombudsman's opinion] HVG (Online, 3 August 2021).

¹⁷⁹ [Fundamental Law](#) (18 April 2011), art 24(2)(e).

¹⁸⁰ D Bihari, '[Miért pont 2,5 millió oltottnál nyitna Orbán?](#)' [Why would Orbán open the country with 2.5 million vaccinees?] 24.hu (19 March 2021).

¹⁸¹ '[Szlávik: 2,5 millió ember beoltása megváltoztathatja a járvány lefolyását](#)' [Szlávik: Vaccination of 2.5 million people could change the course of the epidemic] 168 (Online, 5 April 2021).

60. The opinion of the Hungarian Medical Chamber was not considered by the Government. When the number of registered cases and fatalities was at its peak,¹⁸² the first phase of lifting the protective measures had started.¹⁸³ According to the Hungarian Medical Chamber the opening was too early.¹⁸⁴
61. During the pandemic no special reviewer of legislation or other public official was appointed.

IV. Public Health Measures, Enforcement and Compliance

62. Public health measures have been introduced in Hungary in a scattered manner during the first two periods of state of danger. Almost all measures were stipulated by Government decrees with a nationwide scope.¹⁸⁶ Little autonomy was given to local municipalities. Most of the regulations were general in terms of territorial scope,¹⁸⁷ in some cases, different and more stringent measures were introduced in the capital.¹⁸⁸ Bans have been lifted gradually, subject to the number of individuals who have received at least the first dose of vaccination.¹⁸⁹

¹⁸² HVG, '[Minden eddigénél több, 11 265 új fertőzöttet azonosítottak egy nap alatt](#)' [More than ever, 11,265 newly infected persons were identified in a single day] (Online, 26 March 2021). HVG, '[Ismét 10 ezer felett az új fertőzöttek száma, elhunyt 253 beteg](#)' [More than 10,000 newly infected persons were identified again, 253 patients died] (Online, 27 March 2021). HVG, '[311 újabb áldozata van a járványnak Magyarországon](#)' [The pandemic claimed 311 more victims in Hungary] (Online, 7 April 2021).

¹⁸³ [Government Decree on the first phase of gradually lifting the protective measures](#) (144/2021) (27 March 2021), art 7.

¹⁸⁴ '[Megkérdeztük az orvoskamarától, jó ötlet-e az oltások száma alapján újranyitni az országot](#)' [We asked the medical chamber if it was a good idea to reopen the country based on the number of vaccinations] HVG, (Online, 7 April 2021); '[Magyar Orvosi Kamara: Korai még a nyitás](#)' [Hungarian Medical Chamber: It is too early to open] HVG (Online, 7 April 2021).

¹⁸⁶ [Government Decree on the declaration of state of danger](#) (40/2020) (11 March 2020), art 1; [Government Decree on the declaration of state of danger](#) (478/2020) (3 November 2020), art 1; [Government Decree on the declaration of state of danger and the entry into force of state of danger-related measures](#) (27/2021) (29 January 2021), art 1.

¹⁸⁷ [Government Decree on the declaration of state of danger](#) (40/2020) (11 March 2020), art 1; [Government Decree on the declaration of state of danger](#) (478/2020) (3 November 2020), art 1; [Government Decree on the declaration of state of danger and the entry into force of state of danger-related measures](#) (27/2021) (29 January 2021), art 1.

¹⁸⁸ Regarding the territory of Hungary, with the exception of Budapest Capital, [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 1(1); regarding the territory of Budapest Capital, [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 1(1); [Government Decree on the next phase of protective measures in the capital](#) (240/2020) (27 May 2020), art 1(1).

¹⁸⁹ Regarding the first phase of gradually lifting the protective measures, see [Government Decree on the first phase of gradually lifting the protective measures](#) (144/2021) (27 March 2021), art 11; brought into force by [Decision 1/2021 \(6 April 2021\) BM](#); regarding the second phase, see [Government Decree on certain state-of-danger measures](#) (176/2021) (15 April 2021); brought into force by [Decision 2/2021 \(23 April 2021\) BM](#); regarding the third phase, see [Government Decree](#) (194/2021) (26 April 2021); and [Government Decree](#) (202/2021) (29 April 2021); Government Decrees 194/2021 and 202/2021 were brought into force by [Decision 3/2021 \(30 April 2021\) BM](#); regarding the fourth phase, see [Government Decree](#) (233/2021) (6 May 2021); regarding the fifth phase, see [Government Decree](#) (264/2021) (21 May 2021); brought into force by [Decision 4/2021 \(22 May 2021\) BM](#); regarding the sixth phase, see [Government Decree](#) (365/2021) (June 30 2021); brought into force by [Decision 5/2021 \(2 July 2021\) BM](#).

A. Public health measures

1. *Individual mobility restrictions on citizens (stay-at-home, curfews, etc)*

63. The first restrictions on individual mobility were introduced on 27 March 2020, and the corresponding Government Decree set forth that leaving one's place of residence or private residence could only take place for essential reasons.¹⁹⁰
64. The Government entrusted local governments to adopt stricter rules than the Decree on restricting movement and on physical distancing over the Easter holiday and the following two weekends.¹⁹¹ Under this authorisation, in several towns of Hungary, local governments ordered curfews for the night, closed popular tourist attractions, parks, and public spaces, ordered people to keep a 10-metre distance from each other while jogging, ordered people to wear masks in public places, and allowed people to walk their dogs for no more than 30 minutes.
65. During the second wave, curfew was, together with further protective measures, applicable during the period of state of danger between 12 am and 5 am—with certain exceptions, such as commuting to or from work—everyone had to stay at home or their place of residence during this period.¹⁹² On 10 November 2020, the Government introduced new, stricter rules on curfews: curfew was introduced for the period between 8 pm and 5 am. Although a person was allowed to leave his domicile, place of residence or accommodation, or stay in a public space, between 8 p.m. and 5 a.m. for performing work, for travelling to and from work and for participating in a training or sports competition held for a competitive athlete, for travelling to and from the venue of a training or sports competition held for a competitive athlete but these reasons had to be certified by a deed.¹⁹³ Dog walking was allowed with the proviso to remain within 500 metres of one's domicile.¹⁹⁴

2. *Restrictions on international and internal travel*

66. When the state of danger was proclaimed, on 11 March 2020, borders with Austria and Slovenia closed, and travel restrictions were introduced with regards to persons (non-citizens and citizens) travelling from Iran, China, Korea, and Italy.¹⁹⁵ The scope of restricted countries kept changing, taking into consideration the actual epidemic

¹⁹⁰ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 5.

¹⁹¹ [Government Decree extending the restriction on movement](#) (95/2020) (9 April 2020), art 3.

¹⁹² [Government Decree on further protective measures applicable during the period of state of danger](#) (479/2020) (3 November 2020), art 1(1)–(2); [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), Preamble, art 3.

¹⁹³ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), Preamble, art 3(5)–(7).

¹⁹⁴ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), Preamble, art 3(3); A Egyed, 'Here's a map where you can see how far you can walk with your dog after 8 p.m.' [*Itt a térkép, amin megnézheti, hogy milyen távolra sétálhat a kutyájával este 8 után*] telex (13 November 2020).

¹⁹⁵ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), arts 2–3.

situation in those countries. The special provisions for the listed states expired on 27 March 2020.

67. The restrictions on international travel have gradually been lifted since 22 May 2020. Different rules governing entry into Hungary have been adopted for some of the neighbouring countries.
68. Hungary has lifted Covid-19-related restrictions gradually also with regards to business travellers entering the country from abroad.¹⁹⁶ The CMO was in charge of listing the countries from which Hungarian citizens could return without restrictions,¹⁹⁷ based on the WHO classification and the applied epidemiological professional rules. From August 2020, those arriving for business purposes could enter Hungary from the territory of any State.¹⁹⁸
69. Different rules were introduced governing the entry into Hungary of Hungarian citizens, of persons not holding Hungarian citizenship, of military convoys, of cross-border workers, and of persons passing through the territory of Hungary.¹⁹⁹ Hungarian citizens arriving from abroad or their non-citizen family members had to undergo a medical examination upon entry.²⁰⁰ In case of suspected infection, they were placed in a quarantine facility.
70. Non-Hungarian citizens could not enter the territory of Hungary in passenger traffic—the scope of the Decree covered border crossings with an ordinary passport or other travel document for non-official reasons.²⁰¹
71. Citizens of neighbouring States, and Hungarian citizens living there, could enter the territory of Hungary within a distance of 30 kilometres from the State border for a maximum of 24 hours. Hungarians living in this 30-kilometer area could also enter if they had stayed within 30 kilometres of the border of the neighbouring State for less than 24 hours.²⁰²

3. Limitations on public and private gatherings and events

¹⁹⁶ [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (291/2020) (17 June 2020), art 15.

¹⁹⁷ [Government Decree on travel restrictions during the state of epidemiological preparedness](#) (341/2020) (12 July 2020), art 2(2).

¹⁹⁸ [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (408/2020) (30 August 2020), arts 9(1), 19(1).

¹⁹⁹ [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (408/2020) (30 August 2020), arts 2–16.

²⁰⁰ [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (408/2020) (30 August 2020), art 2(1).

²⁰¹ [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (408/2020) (30 August 2020), art 1(1).

²⁰² [Government Decree on travel restrictions during the period of state of epidemiological preparedness](#) (408/2020) (30 August 2020), art 10(1)–(2).

72. During the first wave of the pandemic, it was forbidden to stay at a venue conducting regular music and dance events.²⁰³ It was also forbidden to stay at a venue or an event, regardless of the number of participants and the location of the event, or to stay at a place of an assembly, regardless of whether they were public or private—a rite of a religious community, a conclusion of a civil marriage, or a funeral did not qualify as an event.²⁰⁴ Sports events were to be held without spectators and behind closed doors.²⁰⁵ Regardless of the number of persons present and except for those employed there, it was forbidden to visit events or performances from any branch of performing arts (theatre, dance, cinema, museum).²⁰⁶ Except for those employed there, it was forbidden to stay in a catering facility.²⁰⁸ A person who stayed, at an illicit time or in an illicit manner in these premises, committed an infraction (See: Part IV. B.1 below).²⁰⁹ This decree did not apply to pick-up and delivery of food for take-away.²¹⁰
73. During the second wave of the pandemic, from midnight of 10 November 2020, most of the restrictions were reintroduced and new regulations were announced: family gatherings and private events may only be attended by a maximum of ten people; weddings were only possible without a wedding reception, and only the best man, maid of honour, parents, and siblings may attend church and civil ceremonies; only 50 people could attend funerals.²¹¹

4. Closure of premises and facilities (eg schools, shops, services, parks, churches, sport facilities)

74. Students were prohibited from entering higher education institutions.²¹² With the exception of kindergartens, no extraordinary break was to be ordered in public schools or nurseries for the purpose of coordinated protection.²¹³ From 15 June 2020 onwards, universities were reopened, subject to the decision of the rector, but dormitories remained closed. It was the duty of the rector to ensure the conditions for maintaining

²⁰³ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 3.

²⁰⁴ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 4(1)–(2).

²⁰⁵ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 4(3).

²⁰⁶ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 5.

²⁰⁸ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 6; [Government Decree on restricting movement](#) (71/2020) (27 March 2020).

²⁰⁹ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 7.

²¹⁰ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 2.

²¹¹ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 6(3)–(5).

²¹² [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 4(b); [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), art 6(2).

²¹³ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 4(c); amended by [Government Decree on the measures to be taken during the state of danger \(...\) \(II\)](#) (45/2020) (14 March 2020), art 6(e); [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), art, 6(3).

protective

distance.²¹⁴

75. During the first wave, the opening hours of restaurants were restricted to 3 pm,²¹⁵ and all shops had to be closed except for food stores, pharmacies, and drug stores.²¹⁶ Compliance with these measures was controlled by the police, and non-compliance was qualified as an infraction resulting in a fine (on compliance see Part IV.B.2 below).²¹⁷ The Minister responsible for innovation and technology is authorised to access and process any available data with a view to eliminating the state of danger.
76. After the initial period, a second phase of protection measures were introduced, which were applied throughout the country, with the exception of the capital.²¹⁸ Special restrictions were introduced to the capital by the Government—arguably without sufficient consultation with the municipal authorities, especially with the Mayor of Budapest—which stated that ‘[i]n the case of the capital, the government is asking for the opinion of the mayors of [the 23 districts of] Budapest’.²¹⁹ During this second phase, restaurants could be visited by observing the protective physical distance between individuals (1.5 metres) and staff had to wear protective face masks.²²¹ Hotels could be opened and open-air playgrounds could be visited.²²² From 1 June 2020, family events with no more than 200 attendees could be held, including weddings at restaurants and hotels.²²³ During a rite of a religious community, conclusion of civil marriage, or a funeral, maintaining protective distance of 1.5 metres had to be ensured, with the exception of the parties entering into marriage.²²⁴ Mask wearing was not obligatory while playing sports or visiting parks.²²⁵

²¹⁴ [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 7(1)–(2).

²¹⁵ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 1(1)–(2).

²¹⁶ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 6.

²¹⁷ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), arts 7–8; [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 11.

²¹⁸ Regarding the territory of Hungary, with the exception of Budapest Capital, see [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 1(1); regarding the territory of Budapest Capital, see [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 1(1); regarding the territory of Budapest Capital, see [Government Decree on the next phase of protective measures in the capital](#) (240/2020) (27 May 2020), art 1(1).

²¹⁹ Government of Hungary, ‘[Government information: further reliefs in the countryside, and Pest county is subject to the same rules as the other counties](#)’ [*Kormányinfó: újabb enyhítések vidéken, Pest megye pedig a többi megyével azonos szabályok alá esik*] (14 May 2020).

²²¹ [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 2(1)–(2).

²²² [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), arts 3–4.

²²³ [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 5(1)–(2); during family events, the protective distance according to [Government Decree on protective measures](#) (168/2020) (30 April 2020) shall be maintained; [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 5(3).

²²⁴ [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 6(1)–(2).

²²⁵ [Government Decree on protective measures](#) (168/2020) (30 April 2020), arts 2(3), 4(4), 4(6); [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 3; [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), arts 2(3), 4(4), 4(6); [Government Decree on the next phase of protective measures in the capital](#) (240/2020) (27 May 2020), art 3.

77. During the third wave of the pandemic, from midnight of 10 November 2020, most of the restrictions were reintroduced and new regulations were announced:²²⁶ all forms of assembly were forbidden;²²⁷ restaurants had to close, but food delivery remained possible;²²⁸ shops and services had to close by 7 pm;²²⁹ hotels were allowed to host business travellers and personnel of the Hungarian Armed Forces and other law enforcement agencies and assigned health care workers only;²³⁰ there was a general ban on events;²³¹ extracurricular facilities, including gyms, indoor swimming pools, museums, theatres, and zoos had to close;²³² higher education could be continued only in an online format, and university dormitories were closed;²³³ a digital curriculum for distance learning was reintroduced in high schools, for children typically, 14 years old or older;²³⁴ kindergartens, nurseries, and primary schools stayed open for children under 14;²³⁵ mask wearing was compulsory in certain public spaces in towns larger than 10,000 people;²³⁶ and the designation of these public spaces was the responsibility of the local mayor.²³⁷

5. Physical distancing

78. During the first wave of the pandemic, strict provisions for restricting movement were introduced.²³⁸ Everyone was obliged to restrict social contact with other persons as much as possible, with the exception of those living in the same household, and to maintain a distance of at least 1.5 meters from other individuals, if possible.²³⁹ Leaving a domicile, place of residence, or private home was permitted only for a justified reason set out in the Decree.²⁴⁰ Persons of 65 years of age and older were allowed to visit a

²²⁶ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 29.

²²⁷ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 2.

²²⁸ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 8.

²²⁹ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 9.

²³⁰ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 10(3)–(4).

²³¹ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 5(1)–(3).

²³² [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 12.

²³³ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 14.

²³⁴ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 17(2).

²³⁵ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 17(1).

²³⁶ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 1(1)(b).

²³⁷ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 27.

²³⁸ [Government Decree on restricting movement](#) (71/2020) (27 March 2020); [Government Decree extending the restriction on movement](#) (95/2020) (9 April 2020).

²³⁹ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 1(1).

²⁴⁰ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 3.

grocery store, drugstore, market, or pharmacy only between 9 am and 12 pm.²⁴¹ During this timeframe, it was forbidden for people under this age to visit the aforementioned facilities.²⁴² Individual recreational sports and walking may only be pursued outside settlement limits or, if pursued within settlement limits, alone or together with persons living in the same household and possibly in green spaces, with the proviso that a distance of at least 1.5 meters shall be maintained from others.

79. In late April and early May 2020, regulations regarding social distancing were slightly changed. During the second phase visiting public spaces and parks was again permitted, provided that the protective physical distance was maintained.²⁴³ However, the regulation providing for restricting social contact with other persons, with the exception of those living in the same household, was reinforced.²⁴⁴ Two weeks later, Government Decree 207/2020 (15 May 2020) on the next phase of protective measures came into effect. From 18 May 2020, restaurants could be visited again by observing social distancing (1.5 metres).²⁴⁵

6. Use of face coverings and personal protective equipment (PPE)

80. During the first wave, wearing ‘mouth and nose covers (such as medical masks, scarfs or shawls)’ was compulsory when shopping in a store or using a means of public transportation.²⁴⁶ From 18 May 2020, staying and consuming ordered food or drink was permitted in the indoor part of a catering facility, but social distancing had to be maintained, and employees also had to wear mouth and nose covers in areas accessible to guests.²⁴⁷ Measures in the capital (Budapest) were introduced separately, but also by a Government Decree.²⁴⁸ These measures remained in force until the end of the first wave.²⁴⁹

7. Isolation of infected individuals and quarantine of individuals suspected of infection

81. Before 26 March 2020, only travellers who returned from countries considered to be affected by a high number of cases (China, Italy, South Korea, Iran) were required to self-isolate for 14 days.²⁵⁰ After 15 March 2020, Hungarian citizens entering the country

²⁴¹ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 6(1).

²⁴² [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 6(2).

²⁴³ [Government Decree on protective measures](#) (168/2020) (30 April 2020), art 2(3).

²⁴⁴ [Government Decree on protective measures](#) (168/2020) (30 April 2020), art 2(1).

²⁴⁵ [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 2(1)–(2).

²⁴⁶ [Government Decree on protective measures](#) (168/2020) (30 April 2020), art 2(2).

²⁴⁷ [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 2(1)–(2).

²⁴⁸ [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 4(1)–(2); [Government Decree on the next phase of protective measures in the capital](#) (240/2020) (27 May 2020), art 2(1)–(2).

²⁴⁹ On the basis of Article 53(1) of the [Fundamental Law](#) (18 April 2011); the Government terminates the state of danger under [Government Decree on the declaration of state of danger](#) (40/2020) (11 March 2020); [Government Decree on the declaration of state of danger](#) (40/2020) (11 March 2020) shall be repealed; [Government Decree terminating the state of danger declared on 11 March 2020](#) (282/2020) (17 June 2020), arts 1, 3.

²⁵⁰ [Government Decree on the measures to be taken during the state of danger](#) (...) (41/2020) (11 March 2020), arts 2–3.

from abroad had to undergo a medical examination upon entering Hungary.²⁵¹ Depending on the outcome of the examination, individuals were subjected to different types of quarantine.²⁵² Those who were suspected of being infected with Covid-19 were placed in designated quarantine facilities.²⁵³ Those who were not suspected of being infected were required to undergo official home quarantine for 14 days at their place of residence or stay.²⁵⁴

82. The NPHC published a new procedure on Covid-19 on 21 September 2020. Important new elements were included: people who were asymptomatic, but were identified through contact tracing should remain in home quarantine for 10 days; self-isolation ('home quarantine') was mandatory for any asymptomatic person who had been in close contact with suspected or confirmed Covid-19 cases during the onset of symptoms and for two days prior to the onset of symptoms; and people with symptoms were asked to call their GP or the Emergency Ambulance Service instead of visiting health facilities for consultations. Home quarantine for these individuals could not end after two negative PCR tests.²⁵⁵

83. The last and actual version of this procedure was adopted on 5 April 2022. According to this procedure, people who have been in close contact with an officially confirmed infected person must be placed under epidemiological surveillance for 7 days. The 7 days are counted from the last encounter with the infected person (or, for household contacts, from the beginning of the isolation of the infected person). On the fifth day from the start of the epidemiological surveillance, the person concerned may carry out a rapid test and, if the result is negative, the epidemiological surveillance may be lifted. There are separate rules for kindergartens and schools.²⁵⁶

8. Testing, treatment, and vaccination

84. On 16 March 2020, the NPHC published a procedure for Covid-19 testing.²⁵⁷ According to this procedure, if at least one of the following categories is met, the patient is a

²⁵¹ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 3(1)(a).

²⁵² [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 3(1)(b)–(d).

²⁵³ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 3(1)(b).

²⁵⁴ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 3(1)(c).

²⁵⁵ M Kovács-Angel, 'Even without a test, your GP may classify you as infected' [*Teszt nélkül is fertőzöttnek minősíthet a háziorvos*] 24.hu (21 September 2020); National Public Health Centre, 'Procedure for the new coronavirus identified in 2020' [*Eljárásrend a 2020. évben azonosított új koronavírussal kapcsolatban*] (9 October 2020); the actual and the only available version of the procedure was published on 5 April 2022, see National Public Health Centre, 'Procedures Epidemiological rules for SARS-CoV-2 infections 5 April 2022' [*Eljárásrend SARS-CoV-2 okozta fertőzések esetén követendő járványügyi szabályok 2022. április „05”*] (5 April 2022).

²⁵⁶ National Public Health Center, 'Procedures Epidemiological rules for SARS-CoV-2 infections 5 April 2022' [*Eljárásrend SARS-CoV-2 okozta fertőzések esetén követendő járványügyi szabályok 2022. április „05”*] (5 April 2022), ss 3.1, 3.1.1.

²⁵⁷ Ministry of Human Resources State Secretariat for Healthcare, 'Information about the new coronavirus disease (COVID-19)' [*Tájékoztató az új koronavírus betegséggel (COVID-19) kapcsolatban*] (13 March 2020). National Public Health Centre, 'Procedures Epidemiological rules for SARS-CoV-2 infections 5 April 2022' [*Eljárásrend SARS-CoV-2 okozta fertőzések esetén követendő járványügyi szabályok 2022. április „05”*] (5 April 2022).

suspected case and a laboratory test should be taken. Category A is a patient with acute respiratory illness who has at least one of the following symptoms: fever ($\geq 38^{\circ}\text{C}$), cough, shortness of breath, *and* has a history of travel abroad during the 14 days prior to symptom onset. Category B is a patient with acute respiratory illness *and* who has been in close contact with a confirmed or probable Covid-19 case in the last 14 days prior to symptom onset. Category C is a patient with severe acute respiratory illness who has fever ($\geq 38^{\circ}\text{C}$) and at least one symptom/sign of respiratory disease (eg cough, shortness of breath, clinical or radiological sign of pneumonia), *and* requires hospitalization. In addition, any patient exhibiting respiratory symptoms can be considered a suspected case by the family doctor or the attending specialist, or the public health agency on the basis of the assessment of clinical and epidemiological data, such as the occurrence of multiple respiratory diseases in small communities, like hospital wards, workplaces, families, or among friends.

85. Free testing was only available for those whose general practitioner (GP) prescribed it and if it was performed by the ambulance. Private laboratories also operate, but the NPHC does not accept it as an official result. Anybody can request this test, at a cost of HUF 31,000 (approximately USD \$92), the delivery is HUF 15,000 (approximately USD \$45). If it is positive, the laboratory notifies the NPHC and sends the sample to them in order to do a confirmatory test.²⁵⁸ From 21 September 2020, for a person to whom SARS-CoV-2 RT-PCR sample collection and laboratory examination are available, subject to payment of a fee, the fee payable shall not be higher than HUF 19 500 (approximately USD \$58).²⁵⁹
86. The local government in Budapest screened healthcare and social workers for Covid-19 in a private laboratory, according to the city's Mayor, on 29 March 2020. Mobile screening units were introduced to help Covid-19 detection to ensure the elderly and those with chronic illness did not have to leave their homes.

9. Contact tracing procedures

87. It is important to note that since 5 March 2020, it was not clear from the procedural rules regarding contact tracing exactly who was looking for contacts and how. After the third wave, according to the experience of some GPs, contact tracing had virtually ceased, although this was never officially recognized or declared.²⁶⁰ During the summer of 2021, between the third and the fourth wave of the pandemic²⁶¹ and at the beginning of the fourth wave, the inadequacy of contact tracing was also highlighted by some experts.²⁶²

²⁵⁸ O Kormos, '[NEW UPDATE! Here you can get tested privately for coronavirus](#)' [*Új FRISSÍTÉS! Itt lehet magánúton koronavírus-tesztet végeztetni*] mfor.hu Menedzsmenet Fórum (Online, 12 March 2020).

²⁵⁹ [Government Decree amending Government Decree on usage fees of certain healthcare services subject to usage fee \(284/1997\) \(23 December 1997\)](#) (433/2020) (18 September 2020), arts 1(2), 2, Annex 1.

²⁶⁰ A Danó, '[Contact tracing was terminated while it was not terminated according to the Operational Corps](#)' [*Úgy szűnt meg a kontaktkutató, hogy az operatív törzs szerint nem szűnt meg*] Népszava (Online, 3 November 2021).

²⁶¹ Presidency of the Hungarian Medical Chamber, '[So far we have been lucky with the delta, let's not take any chances!](#)' [*Eddig szerencsénk volt a deltával, ne kockáztassunk!*] (19 August 2021).

²⁶² J Barát, '[Fourth wave: incomplete defence](#)' [*Negyedik hullám: hiányos védekezés*] 168 (Online, 25 October 2021).

88. Individuals who were in mandatory home quarantine could download, on a voluntary basis, a tracking application that shared their location data, photo, and health data with the authorities, in order for the police to regularly check whether they complied with the quarantine.²⁶³ For those who downloaded the app, the police checked electronically through the software whether the quarantine rules were adhered to.²⁶⁴ Those who violated these rules, but installed the software, were subject to a fine amount to 50 per cent of the originally imposed amount.²⁶⁵ If the home quarantine ended, the software could be deleted, but the data would be retained for another 60 days.²⁶⁶ If someone did not voluntarily agree to install the software, the police would perform home visits more often to personally check on compliance with home quarantine.²⁶⁷

10. Measures in long-term care facilities or homes for the elderly, restrictions on visitors etc

89. The CMO ordered a nationwide ban²⁶⁸ on visits to social institutions and nursing homes.²⁶⁹ During the second wave, the nationwide ban was reintroduced.²⁷⁰ The ban was lifted in several stages,²⁷¹ and visits in elderly homes were allowed since 29 April

²⁶³ [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020), art 1(2).

²⁶⁴ [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020), art 1(5).

²⁶⁵ [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020).

²⁶⁶ [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020), arts 1(6), 3(5).

²⁶⁷ [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020), art 1(7).

²⁶⁸ National Public Health Centre, '[Notice on the national ban on visits](#)' [*Közlemény az országos látogatási tilalommal kapcsolatosan*] (11 March 2020); National Public Health Centre, '[DECISION - Ordering a ban on visits](#)' [*HATÁROZAT – Látogatási tilalom*] (8 March 2020).

²⁶⁹ National Public Health Centre, '[A national ban on visits has taken effect](#)' [*Országos látogatási tilalom lépett érvénybe*] (9 March 2020); this ban was officially lifted in inpatient specialist care facilities first, see National Public Health Centre, '[Lifting the ban on visits](#)' [*Látogatási tilalom feloldása*] (14 June 2020); National Public Health Centre, '[DECISION - Amendment of the decision ordering a ban on visits and exits](#)' [*HATÁROZAT – Látogatási és kijárási tilalmat elrendelő határozat módosítása*] (14 June 2020); National Public Health Centre, '[CIRCULAR – On lifting the ban on visits](#)' [*KÖRLEVÉL – Látogatási tilalom feloldásával kapcsolatos körlevél*] (12 June 2020); then the ban was lifted in social institutions, see National Public Health Centre, '[Amendment to the decision ordering a ban on visits and exits](#)' [*Látogatási és kijárási tilalmat elrendelő határozat módosítása*] (19 June 2020).

²⁷⁰ National Public Health Centre, '[Ordering a ban on visits to inpatient health care providers](#)' [*Látogatási tilalom elrendelése a fekvőbeteg-szakellátást nyújtó egészségügyi szolgáltatóknál*] (9 September 2020); National Public Health Center, '[DECISION – ordering a ban on visits to all inpatient health care providers operating in Hungary, both publicly funded and non-publicly funded](#)' [*HATÁROZAT – Látogatási tilalom elrendelése a Magyarországon területén működő összes – közfinanszírozott és nem közfinanszírozott – fekvőbeteg-szakellátást nyújtó egészségügyi szolgáltatóknál*] (8 September 2020).

²⁷¹ Government of Hungary, '[The ban on hospital visits has been lifted](#)' [*Feloldották a kórházi látogatási tilalmat*] (13 June 2020); National Public Health Center, '[Lifting the ban on visits](#)' [*Látogatási tilalom feloldása*] (14 June 2020); National Public Health Centre, '[DECISION - Amendment of the decision ordering a ban on visits and exits](#)' [*HATÁROZAT – Látogatási és kijárási tilalmat elrendelő határozat módosítása*] (14 June 2020); an attached circular letter was addressed to the heads, rectors, commanders, director-generals of the institutions concerned, see National Public Health Centre, '[CIRCULAR – On lifting the ban on visits](#)' [*KÖRLEVÉL – Látogatási tilalom feloldásával kapcsolatos körlevél*] (12 June 2020). The decision was modified by another decision of the Chief

2021, but only for those who had been vaccinated.²⁷²

B. Enforcement and compliance

1. *Enforcement*

90. The CMO has been responsible for the implementation of the epidemiological interventions together with the county and district Government Offices, in particular their public health departments and units. They coordinate the surveillance and the testing.²⁷³
91. An epidemiological deployment unit within the Operational Corps, headed by the Deputy Chief Medical Officer, has been established. If immediate intervention is needed in a particular area due to a high number of Covid-19 cases, the deployment unit should go on site.²⁷⁴
92. The National Hospital Directorate General was established on 18 November 2020,²⁷⁵ to monitor the functioning of the health care system, to substantiate the strategic Government decisions about the review of the health care system, and to contribute to the development of a coherent and transparent new national health management system. During the state of danger, the Minister of Interior controls the new institution.²⁷⁶
93. Enforcement of restrictive measures, with some exceptions, was controlled by the police. In cases of non-compliance with any restrictive measures, a police officer may take the measures and apply the coercive means specified in Act XXXIV of 1994 on the Police.²⁷⁷
94. The mayor of the settlement local government—or in the case of the capital, the mayor of the district—was entitled to order an extraordinary holiday for institutions providing

Medical Officer on 18 June 2020. National Public Health Center, '[Amendment to the decision ordering a ban on visits and exits](#)' [*Látogatási és kijárási tilalmat elrendelő határozat módosítása*] (19 June 2020); National Public Health Center, '[DECISION – Amendment to the decision ordering a ban on visits and exits](#)' [HATÁROZAT – *Látogatási és kijárási tilalmat elrendelő határozat módosítása*] (18 June 2020).

²⁷² Government of Hungary, '[National Chief Medical Officer: nursing homes can be visited again](#)' [*Országos tisztifőorvos: újra látogathatók az idősothonok*] (29 April 2021).

²⁷³ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), arts 3(1)(ca), 3, 3/A(c); [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), arts 3(1)(ca), 4–5; [Government Decree on certain rules applicable to epidemiological observation related to the COVID-19 disease](#) (409/2020) (30 August 2020), art 2.

²⁷⁴ Government of Hungary, '[Tibor Lakatos: the epidemiological deployment unit will be the pillar of epidemiological preparedness](#)' [*Lakatos Tibor: a járványügyi készenlét pillére lesz a járványügyi bevetési egység*] (15 June 2020).

²⁷⁵ [Government Decree on the National Hospital Directorate General](#) (506/2020) (27 November 2020), art 1.

²⁷⁶ [Government Decree](#) (517/2020) (25 November 2020), art 2(1); '[Coronavirus: Interior Minister to Oversee New Hospital Directorate-General](#)' HungaryToday (Online, 26 November 2020).

²⁷⁷ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 8; [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), arts 3(1)(cb), 3(4)–(6), 5(3); [Government Decree on the electronic monitoring of official home quarantines ordered with respect to the human epidemic endangering life and property and causing massive disease outbreaks](#) (181/2020) (4 May 2020), arts 1(1), 1(3) 1(5)–(7), 2–3.

nursery or kindergarten services. The mayor was obliged, as a matter of priority, to notify the Minister of Human Capacities when ordering a holiday.²⁷⁸ The mayor of the settlement local government was in charge of providing supplies to elderly persons of 70 years and more who, at the request of the Government, did not leave their domicile or place of residence.²⁷⁹

95. The autonomy of mayors or bodies of local governments to issue protective regulations was limited to decrees and rules concerning: the opening hours of a market operating in the settlement and its access by persons of 65 years and more;²⁸⁰ the use of public spaces by catering facilities;²⁸¹ and, for a limited period of time, the introduction of special local protective measures for Easter 2020.²⁸² Municipalities could introduce stricter measures (see Part IV.A.1 above).²⁸³

96. The military assumed an extensive role during the periods of the state of danger.²⁸⁴ A Government Decree on hospital commanders and protecting healthcare supply created the institution of hospital commanders.²⁸⁵ The Government ordered the heads of the healthcare institution providing inpatient care or outpatient care in connection with inpatient care, irrespective of identity, to ensure the protection of healthcare equipment and devices, and supplies of medicinal products and disinfectants.²⁸⁶ After obtaining the opinion of the Operational Corps, if required, the Minister of Interior could make a recommendation for the secondment by a hospital commander of a healthcare institution to monitor the use of healthcare supplies purchased with budgetary funds.²⁸⁷ The Prime Minister, on a proposal from the Minister responsible for law enforcement, issued a letter of mandate to hospital commanders. After a letter of mandate was issued, the Minister responsible for law enforcement had to send the hospital commander to the healthcare institution.²⁸⁸ The activities of hospital commanders had to be directed by the Minister responsible for law enforcement.²⁸⁹ The head of the healthcare institution had to enforce recommendations by the hospital commander with regards to following the rules concerning epidemiological risks and protecting the healthcare supply.²⁹⁰ A hospital commander could not make any recommendations or take any decisions on

²⁷⁸ [Government Decree on the measures to be taken during the state of danger \(...\) \(II\)](#) (45/2020) (14 May 2020), art 2(1).

²⁷⁹ [Government Decree on the measures to be taken during the state of danger \(...\) \(III\)](#) (46/2020) (16 March 2020), art 2.

²⁸⁰ [Government Decree extending the restriction on movement](#) (95/2020) (9 April 2020), arts 2, 6(1); [Government Decree on protective measures](#) (168/2020) (30 April 2020), arts 3, 10(3); [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), arts 3, 10(2).

²⁸¹ [Government Decree on the next phase of protective measures](#) (207/2020) (15 May 2020), art 8.

²⁸² [Government Decree extending the restriction on movement](#) (95/2020) (9 April 2020), arts 3, 6(2).

²⁸³ [Government Decree extending the restriction on movement](#) (95/2020) (9 April 2020), arts 3, 6(2); [Government Decree on municipal measures to be taken in connection with the curfew for the weekend](#) (167/2020) (30 April 2020), arts 1, 3.

²⁸⁴ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 7; [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), art 9.

²⁸⁵ [Government Decree on hospital commanders and protecting healthcare supply](#) (72/2020) (28 March 2020).

²⁸⁶ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 1.

²⁸⁷ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 2(1).

²⁸⁸ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 2(2).

²⁸⁹ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 2(3).

²⁹⁰ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 2(4).

medical

professional

matters.²⁹¹

97. The use of the military in companies of strategic importance was quite unusual and considered disproportionate to the situation existing in spring 2020,²⁹² as the Hungarian military is to protect the territory and the independence of the Hungarian State and its borders, and to participate in peace-making and ensuring international military cooperation, and none of its major goals are related to fighting against a pandemic.
98. Non-compliance with restrictions resulted in administrative sanctions.²⁹³ Civil sanctions were not introduced. The lowest amount of fine for this infraction, by way of derogation from Article 11(1) of Act II of 2012, was HUF 5,000 (approximately USD \$15), while its highest amount was HUF 500,000 (approximately \$USD 1500).²⁹⁴ According to the Infringement Act, in a pandemic-free legal order, the lowest amount of fine—unless otherwise provided by the Act—is HUF 5,000 (approximately USD \$15), the highest amount is HUF 150,000 (approximately USD \$450), and in the case of offences punishable also by imprisonment, the highest amount is HUF 300,000 (approximately USD \$900).
99. The first Enabling Act introduced amendments to the Criminal Code in relation to the criminal offence of fearmongering.²⁹⁵ For more details see Part III.F above.

2. Compliance

100. The data on compliance were collected and processed by the Ministry of Interior, as part of the crime statistics published by the Ministry on a separate website. According to these data, in 2020 a total of 54,278 and in 2021 a total of 91,864 procedures were initiated for breaches of state of danger government decree measures. Most of the procedures were initiated for violating the curfew: in 2020 a total of 16,363 and in 2021 a total of 44,576 cases were registered (data according to STAT-VIR as of 14 April 2022).²⁹⁶
101. The number of procedures initiated for non-compliance with local government decrees related to the opening of markets amounted to 211 in 2020.²⁹⁷ For violating the rules on wearing masks, 8,507 procedures in 2020 and 15,236 procedures in 2021 were initiated. For violating the rules on social distancing, 2,329 procedures in 2020 and only

²⁹¹ [Government Decree on hospital commanders \(...\)](#) (72/2020) (28 March 2020), art 2(5).

²⁹² I Vörös, 'A felhatalmazási törvénytől az egészségügyi válsághelyzetig és tovább...' [From the Enabling Act to the health crisis and beyond...] in F Gárdos-Orosz and V O Lőrincz (eds), *Jogi diagnózisok: a COVID-19-világjárvány hatásai a jogrendszerre* [Legal diagnoses: the effects of the COVID-19 pandemic on the legal system] (L'Harmattan 2020) 17–43.

²⁹³ [Government Decree on the measures to be taken during the state of danger \(...\)](#) (41/2020) (11 March 2020), art 5; [Government Decree on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy](#) (81/2020) (1 April 2020), art 5(1).

²⁹⁴ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 9(2).

²⁹⁵ [The First Enabling Act](#) (30 March 2020), art 10(2).

²⁹⁶ The data were collected by and are available at Ministry of Interior, 'Criminal Statistics System' [*Bűnügyi Statistikai Rendszer*] (15 April 2022).

²⁹⁷ [Government Decree on restricting movement](#) (71/2020) (27 March 2020), art 9(1); [Government Decree on protective measures](#) (168/2020) (30 April 2020), art 3; [Government Decree on protective measures in the capital](#) (211/2020) (16 May 2020), art 3.

68 procedures in 2021 were instigated. Between 11 November 2020 and 22 May 2021, 1425 procedures were initiated for gathering or assembling in a public space or a space open to the public,²⁹⁸ and between 11 November 2020 and 2 July 2021, 860 procedures were initiated for staying at the venue of an event and at the place of an assembly.²⁹⁹ The total amount of fines imposed on individuals in 2020 and 2021 was HUF 2.9 billion (approximately USD \$8.27 million), and the average amount of a fine in 2020 was HUF 80,000 (approximately USD \$228) and in 2021 was HUF 65,000 (approximately USD \$185). The total amount of administrative on-site fines imposed was HUF 833 million (approximately USD \$2.38 million), and the average amount of an on-site fine was HUF 27,100 (approximately USD \$77). Twenty-five persons in 2020 and 76 persons in 2021 were imprisoned. As of 14 May 2020, the police had launched 87 investigations over ‘fearmongering’³⁰⁰ and 27 investigations over ‘threatening with public danger’³⁰¹ in connection with the state of emergency.³⁰² While some investigations appear to have targeted online posts promoting false facts, others have focused on citizens criticizing the Government.³⁰³

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²⁹⁸ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 4(1).

²⁹⁹ [Government Decree on the second phase of protective measures applicable during the period of state of danger](#) (484/2020) (10 November 2020), art 5(2).

³⁰⁰ [Act C of 2012 on the Criminal Code](#), art 337.

³⁰¹ [Act C of 2012 on the Criminal Code](#), art 338.

³⁰² National Police Headquarters, ‘[NOTICE The police take note of the position of the prosecution](#)’ [*KÖZLEMÉNY A rendőrség tudomásul veszi az ügyészség álláspontját*] (13 May 2020).

³⁰³ European Union Agency for Fundamental Rights, ‘[Coronavirus pandemic in the EU – Fundamental Rights Implications](#)’ (4 May 2020); and POLITICO, ‘[Orbán critics fall foul of Hungary’s controversial corona law](#)’ (Online, 14 May 2020).