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A short overview of the reform of Hungarian defence and security regulations*

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At the autumn session of 2020, the Hungarian National Assembly issued the ninth amendment of the Fundamental Law of Hungary, which substantially reforms the foundations of the system of rules concerning the special legal order which enters into force on 1 July 2023.¹ However, the Fundamental Law provision is only the first step in a comprehensive series of legislation and measures that will put the entire defence and security administration on a new footing. Without aiming to be exhaustive, this text provides a short overview of the provisions and legislative steps underlying the Fundamental Law that will renew the depth and functioning of the defence and security regulatory system and enable public administration as a whole to better meet the security challenges of the 21st century.

KEYWORDS: special legal order, defence administration, reform of the defence and security regulation in Hungary, resilience

A magyar védelem és biztonság szabályozás reformjának rövid áttekintése

Az Országgyűlés 2020 őszi ülészakán fogadta el az Alaptörvény kilencedik módosítását, amely a különleges jogrendre vonatkozó szabályrendszert 2023. július 1-jei hatállyal lényegesen átalakítja. Az alaptörvényi rendelkezés azonban csak az első lépése annak az átfogó intézkedés sorozatnak, amely a védelmi és biztonsági igazgatás egészét új alapokra helyezi.

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1 For the details see: István Hoffman – Pál Kádár, A különleges jogrend és a válságkezelés közigazgatási jogi kihívásai I.; (*The administrative law-related challenges of the special legal order and crisis management I*) Védelmi-biztonsági Szabályozási és Kormányzástani Műhelytanulmányok 2021/2. (*Working Papers on the Regulation of Defence and Security and Governance 2021/2.*) 23–26.

A szerző a cikkben a teljesség igénye nélkül azokról a rendelkezésekről és az Alaptörvényen túlmutató jogalkotási lépésekről ad áttekintést, amelyeken keresztül a védelmi és biztonsági szabályozás rendszere mélységében és működésében is megújul, s amelyeknek köszönhetően a közigazgatás egésze felkészültebben nézhet szembe a 21. századi biztonsági kihívásokkal.

KULCSSZAVAK: különleges jogrend, védelmi igazgatás, védelmi biztonsági szabályozás reformja, nemzeti ellenálló képesség

Background

At the end of 2020, with the ninth amendment of the Fundamental Law of Hungary, the National Assembly decided on the first step in a process of major changes that would fundamentally reform the system of rules for the defence and security of the Hungarian legal system. Apparently, all that has happened is that the system of special legal rules has been streamlined, the number of special legal cases has been reduced from six to three, and in some respects the executive branch will be given additional powers with effect from 1 July 2023. The reform is not limited to this, it is not an end in itself, it focuses on the organisation and administration of a state capable of maintaining the continued functioning of the state beyond the crisis-free period, by means of crisis management and, ultimately, special legislation under the regime of the special legal order; at the same time, it provides a more flexible operational framework for law enforcement agencies and the Hungarian Defence Forces in order to guarantee the security of the life and property of its citizens and the defence of the country.

Many authors have written about the complexity of the challenges of the 21st century and the shortcomings of the tools available to address them, as well as the challenges of state responses to hybrid warfare² discussed both at home and abroad, but looking back to the change of regime, the Hungarian regulations were essentially only able to formulate event-specific, ad hoc answers to certain questions – even if this is the highest or lowest level of our constitutional system³ level also did. There has been no comprehensive regulatory reform. No adequate, sufficiently complex

2 Charles J. Dunlap Jr., *Lawfare 101: A Primer*, 97 *Military Review* 8-17 (May-June 2017); Tawia Ansah: *Lawfare. A Rhetorical Analysis. Case Western Reserve Journal of International Law*, Vol. 43, 2010, 87–119.; Rode F. Kittrie: *Lawfare. Law as a Weapon of War*. New York, Oxford University Press, 2016.; Sari, Aurel: *Blurred Lines: Hybrid Threats and the Politics of International Law*. Helsinki, The European Centre of Excellence for Countering Hybrid Threats, 2018; Sari, Aurel: *Hybrid Warfare, Law and the Fulda Gap. Exeter, University of Exeter Law School*, 2017.; Ádám Farkas – István Resperger: *Az úgynevezett „hibrid hadviselés? kihívásainak kezelése és a nemzetközi jog mai korlátai (Management of the challenges of hybrid warfare, and the current limits of international law)* Ádám Farkas – Károly Végh (eds.), *Új típusú hadviselés a 21. század második évtizedében és azon túl (A new type of warfare in the second decade in and beyond the second of the 21st century)* Intézményi és jogi kihívások (*Institutional and legal challenges*) Budapest, Zrínyi Kiadó (Zrínyi Publishers), 2020., 132–149; Hoffman István – Kádár Pál, *A különleges jogrend és a válságkezelés közigazgatási jogi kihívásai I. (The administrative law-related challenges of the special legal order and crisis management I)* In: *Védelmi-Biztonsági Szabályozási és Kormányzástani Műhelytanulmányok 2021/2. (Working Papers on the Regulation of Defence and Security and Governance 2021/2.)*

3 Undoubtedly, the highest level of intervention is exemplified by constitutional corrections, in particular, the sixth amendment to Hungary's Basic Law (14 June 2016), which introduced the legal institution for the terrorist threat, while lower level responses include the amendment of Act LXXX of 2007 with Act CXLII of 2015) in response to the migration crisis, and the amendment of Act CLIV of 1997 with Act LVIII of 2020 in response to the health crisis. But in a broader sense we can also include government-level decisions, which

and flexible responses have been given to the rapidly changing and new types of challenges⁴ in either regulatory or operational procedures.

In order for a comprehensive review of the system to be performed, a sound, high-level policy decision, an examination of all key actors in the central administration, and an examination of the individual international examples were needed.⁵ The examination also covered the legal level of defence and security regulations, the special legal order regime and crisis management,⁶ some related classified documents and draft emergency measures, as well as the management of various recent crisis situations. The COVID pandemic, which put the operation of the single countries, allies and EU member states to a hitherto unseen test, added a sad topical touch to the professional task started in the second half of 2019. The domestic experience of the crisis management was also incorporated into the regulation.⁷

It is important to emphasize that protection regulations are still available today in our constitutional regulation, but their effectiveness in the mirror of 21st century-type challenges is already limited. More modern and efficient tools are needed.

To sum up, although the Hungarian regulations offer extremely diverse and forward-looking solutions, the inevitable outcome of the complexity of the system and the emergence of new challenges, the rapid and unpredictable changes in their manifestations, and the time required for related decision-making procedures, inter-ministerial cooperation, and the growth in importance of a cross-government and cross-society approach⁸ the inevitable outcome of the complexity of the system and the emergence of new challenges, the rapid and unpredictable changes in their manifestations, and the time required for related decision-making procedures, inter-ministerial cooperation, and the growth in importance of a cross-government and

served to deal with a particular situation (e.g. Government decree no 1012/2020 (I. 31.) on the establishment of an operational staff responsible for the control of the coronavirus epidemic and Government decree no 1101/2020 (III. 14.) on further measures necessitated by protection against the corona virus.

- 4 For the details, see: Gueldry – Gokcek – Hebron (eds): *Understanding New Security Threats*; Routledge 2019
- 5 For the details see Anna Khakee: *Securing Democracy? A Comparative Analysis of Emergency Powers in Europe*; Geneva Centre for the Democratic Control of Armed Forces; Geneva 2009; vagy Michael Head: *Emergency Powers in Theory and Practice – The Long Shadow of Carl Schmitt*; Routledge 2016, in addition to which Hungarian research institutes also studied certain components of the topic, e.g. Dávid Hojnyák – Álmos Ungvári: *Az Európai Unió egyes tagállamainak koronavírus-járványra adott válasza, különös tekintettel a vizsgált államok által bevezetett különleges jogrendi szabályozásra (The responses of the individual Member States of the EU to the COVID-19 pandemic, with special regard to the special legal order)*. Miskolci Jogi Szemle (Legal Bulletin, Miskolc), XV/1. 2020.;
- 6 Különösen emlékezetes a vörösiszap-katasztrófa 2010, az ukrán válság, az európai terrorhullám, a migrációs válság vagy legutóbb a COVID pandémia kezelése. (*The management of the 2010 red mud disaster, the crisis in Ukraine, a wave of terrorism in Europe, the migration crisis and, recently, the COVID-19 pandemic is particularly memorable.*)
- 7 For more details, see Pál Kádár: *A pandémia kezelése mint a nemzeti ellenállóképesség „tesztje” (The management of the COVID-19 pandemic as a test of national resilience)*; Honvédségi Szemle (Hungarian Army Bulletin) 2021/2. 3–13
- 8 For an EU approach see: Mikael Wigell, Harri Mikkola, Tapio Juntunen: *Best Practices in the Whole-of-society Approach in Countering Hybrid Threats*; European Parliament, 2021

cross-society approach was legislative work aimed at rebuilding the system from scratch. At the end of the process, the goal is a state organisation that manages security not only at the level of declarations, but also in its regulations, administration, procedures and the professionalism of the public administration staff, ensuring a high level of public awareness of defence and security issues and the actual involvement of the members of the society.

However, this does not happen overnight, it needs to be built, the different levels of regulation need to be gradually brought together and compliance with a full set of conditions for implementation needs to be ensured. In addition, an appropriate amount of preparation time must be ensured for the actual application of the system of rules, as the operation of the system of defence and security rules does not tolerate interludes or temporary disorder. It must be continuous, and even temporary malfunctions should not be allowed. A 'failure' would have a direct adverse impact on the functioning of the country and the security of the population, which could, in extreme cases, lead to a direct violation of our sovereignty.

The development of the regulation – its evolvement – is extremely thorough and complex professional preparation, of which the public is often unaware, and which is unavoidably fragmented both in time and in its professional content. The big picture is not yet clear, but its aims can be identified easily on the basis of the regulation already in place – in particular, the provisions of Act XCIII of 2021 on the Coordination of Defence and Security Activities (hereinafter referred to as Hungarian abbreviation: Vbö.).

As the supporting argument in the Vbö. stresses, „The legal development of the Hungarian state has reached a milestone in the field of defence and security. The triple conditionality of the ninth amendment of the Fundamental Law, the effective management of new types of crises in the 21st century, hybrid threats and the widest possible protection of fundamental rights necessitated a renewal of the legal framework for defence and security tasks and measures.”⁹

1. The cardinal law level of defence and security regulations

In addition to the basic law level of the renewal of the system of defence and security rules, the laying down of and amendments to cardinal laws has always been given top priority.

1.1 Act XCIII of 2021 on the Coordination of Defence and Security Activities

A significant step in regulatory reform is the passing of the Vbö., which has raised the regulation of defence and security administration to an unprecedented level. The unprecedented nature does not lie in cardinality, as the pertinent rules have already been enshrined in cardinal laws – typically the Home Defence Act and Disaster Management Act – rather, in the fact that in connection with the complexity of the Vbö, and the management of challenges, a holistic approach is now emerging for the

9 See: <https://www.parlament.hu/irom41/16221/16221.pdf> 66.

first time as a single framework applicable to all sectors, which will continue to serve as a benchmark.¹⁰ The Vbö. also contains flexible rules to meet the specificities of the challenges of the 21st century, while ensuring a system of guarantees of the rule of law.

It is not the purpose of this study to describe the provisions in detail, rather, to highlight some of the key issues in which the novel approach can be identified.

The Vbö. sets out the principles of defence and security,¹¹ which should not be interpreted exclusively as internal requirements determined in the Vbö. They also provide a framework for the regulation of all defence and security activities.

The legislation also outlines a complete system of defence and security obligations,¹² consolidates the current fragmented legislation and refers further details of some obligations to the scope of further legislation. This ensures the enforceability of the professional interests of the sector, serves professional purposes well, and, thanks to the nature of the framework, guarantees that the fulfilment of obligations does not impose disproportionate burden on or that such obligations do compete with each other. The uniform regulation of civil defence is intended to strengthen that this legal institution is not related exclusively to national defence or law enforcement. The issue should be addressed in the broadest sense of defence. Experience gained in dealing with the COVID pandemic also suggests that this capability and task are becoming increasingly important and should not be ignored in the development of NATO's new Strategic Concept.¹³

The novelty of the legislation is that it provides a framework for defence-security planning at the highest level. In order for the country to be able to truly withstand the challenges of any crisis, the most organised preparation possible is needed. The established system of plans that covers the entire state administration and public administration can, in addition to declaring the principles of the defence-security system, plan the related tasks and costs and ensure cooperation. The relevant elements of the planning system should also be linked to budget planning, thus ensuring the feasibility of the planning documents.

The emergence at the level of legislation of the fundamental provisions that pertain to the mobilisation of the national economy and to statutory reserves is also of paramount importance. A significant part of the relevant provisions is contained in a government decree of which professional content has been outdated by now.¹⁴

10 Section 1 of the Vbö., „The protection and security of Hungary is a national issue on which the survival and development of the nation and the exercise of community and individual rights are based, therefore, the legal provisions related to the defence and the maintenance and the development of the security of the Hungarian nation shall be laid down in accordance with this Act.”

11 Pursuant to section 4 of the Vbö., they are the requirement of necessity and proportionality, the requirement of defence and security necessity, the principle of comprehensive approach, the requirement of community-level security.

12 See section 6(1) of the Vbö.

13 A basis for this is NATO 2030: United for a New Era (Analysis and Recommendations of the Relection Group Appointed by the NATO Secretary General); 25 November 2020 https://www.nato.int/nato_static_fl2014/assets/pdf/2020/12/pdf/201201-Reflection-Group-Final-Report-Uni.pdf

14 government decree no 131/2003 on the rules governing the tasks concerning the defence-related preparation and mobilisation of national economy.

The Vbö. provides an opportunity to create a state-of-the-art set of rules along the new principles, focusing on the sustainability of the country's viability, taking all defence and security considerations and sectoral specificities into account.

The establishment of a central body is part of the development of the defence and security administration from a cross-government perspective;¹⁵ this body has strong administrative coordination powers and, in some cases, control powers. The establishment of a permanent central body is a decisive step from the previously typically ad hoc working groups in the direction of an organisational solution that is regulated at a high legal level and thus provides a real opportunity for preparation. This organisation will be responsible for mediating between cooperating organizations in preparation and implementation periods in the future, planning and coordinating defence and security tasks, continuously monitoring and evaluating activities, and operating a coordinated defence and security alert system. It will also provide direct support for decision-makers in times of crises to be addressed at a governmental level and in special order periods, providing a basis for operational management.

The new legal institution created by the Vbö., i.e. coordinated defence activity, serves the purpose of ensuring the joint, coordinated use of forces for the defence and security of the country in crisis situations requiring government interventions without any separate amendments to the law. The Vbö. has created a framework for this: the Government may, in a given situation, decide by decree to order coordinated defence while laying down the detailed rules for the co-operation of the bodies under its control. Coordinated defence activities are not a special legal order, but in order to deal with crises, it provides an opportunity to use the resources under the control of the Government differently from the way they are in ordinary periods and to introduce certain restrictive measures.

An essential element of the Vbö. is the section of the special legal order regime, which regulates the extraordinary measures that can be ordered in a new approach. In the practical application of the rules in force today, the measures listed in detail have proven to be too rigid in a number of cases, they fail to meet all potential challenges and, in some cases, fail to specify exactly what may be required.¹⁶ In view of this, the law specifies, in a breakdown by topic, the regulatory areas in which the Government may suspend the application of certain laws, deviate from legal provisions or take other extraordinary measures.

It can also be traced back to the above reasons that in the future, in the context of the special legal order, the pre-determined itemised and situation dependent gradation of the measures allowed to be introduced will disappear, i.e. the individual measures can be introduced under all schemes of special legal order. The only limitation is the principle that measures must be necessary and proportionate and, if the desired objective is achieved by a less severe restriction, that solution must be used. Graduality here is therefore ensured by the declaration of principles, not by the prioritisation of measures.

15 Section 52 of the Vbö.

16 This is perhaps best illustrated if we study the laws promulgated in connection with the COVID pandemic, the emergency measures taken in the form of orders and the legal concerns that arose in this regard, which also affected the effectiveness of the defence.

In light of the above the Vbö. is not a mere integration of the various existing rules, rather, it is the expression of a new approach to defence and security. In view of the significance of the bill and its system-creating regulatory content overarching terms of governments, a seven-party consultation took place after the government had adopted its position, but before its submission to the National Assembly.¹⁷

The draft, as amended according to the results of the consultation, was submitted to Parliament, which was adopted on 15 June 2021.

1.2 Home Defence and Disaster Management Laws

Taking account of the framework nature of the Vbö. and the determinations of the Fundamental Law, the regulatory reform also entailed a review of Act CXIII of 2011 on the Home Defence and the Hungarian Defence Forces as well as the Measures Permitted to be Taken under the Special Legal Order (Hungarian abbr.: Hvt.) and Act CXXVIII of 2011 on Disaster Management and Amending Certain Related Acts (Hungarian abbr.: Kat.)

In respect of the Hvt., new legislation was needed in view of the fact that not only the terminological changes brought about by the provisions of the Fundamental Law had to be dealt with, but also the title of the currently effective Hvt. should be changed because the rules governing the measures taken under the special legal order, the operation of defence and security and defence administration covered in part by the Kat. and in part by the Hvt. will be integrated into the Vbö. in the future. In addition, the legal institutions transferred to the Vbö and rethought by placing the individual provisions in focus would vacate the Hvt. in such a way that its substantial re-creation cannot be avoided.

Special challenges linked to the Hvt. are the partial reflection of measures previously linked to pre-emptive defence or those under the special legal order in the case of an unexpected attack, the clarification of the rules governing armed defence plans as well as the reform of the institution of national defence emergency, along with coordinated defence and the use of the new term of 'national defence emergency.

Concurrently, the new Hvt. provides an opportunity to address the regulatory gaps identified in the defence sector recently¹⁸ in connection with the COVID-19 pandemic or other challenges, to rethink less topical orders and to improve the efficiency of operation.

Due to the above mentioned factors a totally new Home Defence Act was adopted by the National Assembly: Act CXL of 2021 on the Home Defence and the Hungarian Defence Forces. It also enters into force on 1 July 2023 just like the Ninth Amendment of the Fundamental Law.

17 <https://kormany.hu/hirek/hetparti-egyezettetes-a-honvedelmi-miniszteriumban>

18 Many of the provisions of the Hvt. went into law and got 'stuck there' when the entire MoD was part of the Hungarian Armed Forces, the general staff of the Defence Forces operated in the ministry. During this period, the minister himself performed a number of managerial/ control tasks, the maintenance of which become superfluous because of the establishment of the independent Hungarian Defence Forces Command, and the maintenance of which powers are not absolutely necessary at the level of a central administrative organisation.

As regards the Kat., it is not absolutely necessary to formulate new laws; nevertheless, all decrees should comply with the Vbö. At the current stage of the legislation, it is also possible that certain crisis management rules are applied as part of the normal operation of the legal order without any further measures adopted. It should be reiterated that the Vbö. will not replace the sectoral rules set forth in it in all areas. Rather, it integrates the individual operational elements into one single administrative system and institutionalizes the possibility of central coordination, strengthens the crisis management capacity across the government. Clarifications need to be made in the light of these.

Finally, the Kat. was amended by CXXI Act of 2021 and no full conceptual review seemed necessary. The regulation also enters into force on 1 July 2023.

1.3 Other cardinal laws

The regulation of the operation of the Constitutional Court is also cardinal. This needs to be reviewed because any remedies arising from the ninth amendment to the Fundamental Law, due to the fact that the Government has been given much broader powers as a special legislator, must be dealt with an utmost urgency in accordance with the subject matter of the regulation. In connection with the current proceedings of the Constitutional Court, the appropriate competence can be identified, however, it may be expedient to impose some kind of restrictions on the procedural deadlines for the subsequent review of norms or constitutional complaints¹⁹ or to establish a special procedural rule specifically for special legislation and decisions taken as a result.

An important aspect of the regulation is that the procedure for controlling the decisions of the Government should be as quick as possible, because the timeliness of emergency or crisis management measures has a fundamental impact on the security of the country.

In addition to the above, subject to the provisions of the Fundamental Law, the rules on the freedom of the press and media services, as well as the body supervising press products and the communications market, may also need to be reviewed. This legislation is particularly important in a crisis situation, as information operations play a key role in tackling the threats of the 21st century, and in connection with which it is unavoidable that the possibility of certain operational measures that can be found in standard statutory rules with the necessary guarantees should emerge.

The legal institution of coordinated defence as set out in the Vbö. is also cardinal.²⁰ In this respect, the regulation of asylum rights and the related review of crises caused by mass immigration can also be the target of consideration. The framework provided in the coordinated defence²¹ provide a framework for taking practicable action in virtually any crisis caused by mass migration, and consideration should be given to whether it is justified to maintain this regulation with essentially the same content.

19 Sections 24 and 26 of Act CLI of 2011

20 Section 74 of the Vbö.

21 Section 76 of the Vbö.

The rules governing the organisation and operation of the police and national security services, the use of secret service tools and methods, and the rules relating to national security activities, which are of paramount importance in the system set up by the Vbö. The enacting provisions of the Vbö. also make some clarifications in these areas in order to ensure the coherence of the legal system. Nevertheless, in view of the overlapping new rules of the Kat. and the new Hvt., it will be necessary to review them and analyse them systematically.

2. Further related set of rules for defence and security regulations

2.1 Legal level

In addition to the cardinal level of legislation, the paradigm shift in defence and security regulation requires a number of additional pieces of legislation that require corrections, but at least a substantive review. These clarifications do not only mean the introduction of the new concepts of the Fundamental Law, but in all cases a substantive examination must be made as to whether the changes in the content of the new special legal order or the removal of the National Defence Council from the legal system affect the substantive content of the regulation or possibly deregulation. Without wishing to be exhaustive, in this chapter I would like to highlight some of the pieces of legislation that I consider to be of paramount importance, the consistent and coordinated correction of which will strengthen the functioning of the defence system as a whole.

Interpretative provisions of Act C of 2012 on the Criminal Code relating to war, emergency or state of emergency²² and the system of sanctions for related facts will certainly be involved in the review, as will the facts related to national defence obligations. These are necessary not only for terminological clarifications, but also for examining whether it is justified to create new facts in order to properly enforce our security as a value to be protected.

It also seems appropriate to rethink some procedural rules, as it may seem practical, for example, to create some special rules for the legal institution of coordinated defence in order to speed up procedures in the event of a crisis/special legal order. It is true that the special legal order allows the creation of such legislation by extraordinary legislation, but if these rules are known in peace under certain conditions, all the conditions for implementation can be created even in a crisis-free period, which increases applicability and relieves the state in a crisis period. When preparing the regulation, it may be worthwhile to rely on certain rules of the regulations issued during the emergency announced in the context of the COVID pandemic,²³ which have put in place a number of exceptional measures in practice in the light of the specific legal order, and the generalisation of which, under certain conditions, can also help to manage crises smoothly.

22 Sections 433 and 459 paragraph 10 of the CC

23 See for instance the provisions of Government decree no 104/2021 (III. 5.) on the temporary tightening of defence measures or Government decree no 112/2021. (III. 6.) on the reintroduction of certain procedural law measures in force during an emergency.

Regarding the Vbö., it is also appropriate to review additional legislation related to the concept of defence and security incident, in particular those that contain some kind of crisis regulations or emergency provisions. In particular, the rules governing nuclear emergencies, natural gas supply crises, electricity supply crises, oil and petroleum product crises and natural gas supply crises deserve special attention,²⁴ the connections of which with the Vbö. need to be clarified.

The regulation of the health crisis needs to be specifically examined, as the real challenge of the recent period has put the regulation to 'live' test, and it has been proved relatively quickly that the rules previously established in the ministerial offices are unable to tackle such tangible and real disasters, and they had to be modified. However, it is also safe to say that the amendment was made because of the situation itself;²⁵ responding to it, it sought to find a quick solution, and a systematic modernisation of the legal system was not its goal. All this suggests that in some cases the pertinent provisions of the Health Law could still not be properly applied, a comprehensive review is justified. The entry into force of the Vbö. provides an excellent professional rationale for that.

In addition to the above, many of the provisions of the Vbö. are explicitly linked to transport: transport bodies are involved in defence and security tasks, transport is also a national reserve for defence and security purposes, if a coordinated defence activity is ordered or during the special legal regime, transport measures may also be introduced. In view of all this, it is advisable to review the laws on transport²⁶ in order that their compliance with the rules of the Vbö. can be guaranteed and cooperation with the central body of the defence and security administration can be ensured.

Because of the Vbö., crisis management in general and the operation of the special order regime a review of the Postal Services Act is also justified;²⁷ furthermore, the postal services providers to be involved in defence and security and their role must also be identified. Although technological advances in the 21st century have the potential to replace many traditional postal services, this is also the vulnerability of the system, as a comprehensive cyber attack could make a number of services impossible that would have to be replaced with traditional postal services over the short term. It is highly probable that in a state of war, conscription orders will not be sent by the military administration through a client gateway, and such activities must be prepared not only by the proper development of legal regulations, but also by the provision of adequate enforcement personnel.

24 Act XXIII of 2013 on the emergency stockpiling of imported crude oil and petroleum products, Act XL of 2008 on natural gas supply and Act LXXXVI of 2007 on electricity, Act CXVI of 1996 on Nuclear Energy

25 This is supported by the specific regulatory solution that explicitly names the SARS-COV-2 virus in several sections in the text of the law. This is obviously an insufficient approach, as it does not allow the general application of certain defence rules; it only allocates tasks in relation to this virus. See e.g. section 244/I, 24 /J and 244/K of Act CLIV of Act 1997

26 These are Act I of 1988 on Road Transport; Act XCVII of 1995 on Aviation; CLXXXIII of 2005 on rail transport; a XLII of 2000 on water transport

27 Act CLIX of 2012 on Postal Services

2.2 Level of decrees and public law means of regulating organizations, internal regulators

The reform of defence-security regulations obviously needs to be carried out in full depth of the regulatory system. In the absence of this, the rules at the legal level can only be considered as a declaration, their implementation would be delayed in the absence of elaboration of the details.

There are a number of outdated provisions in the current legal environment that cannot be effectively applied in the new approach, either because of their professional content or because of their contexts, and would run counter to the new rules at a higher level in the hierarchy of legal norms after 1 July 2023. Perhaps one of the most significant of these is Decree 131/2003 (VIII. 22.) on the regulation governing the implementation of the tasks of defence-related preparation and mobilisation of the national economy, which was drafted almost two decades ago, in a constitutional, security and economic environment where the rules of the Defence Forces had a completely different focus, military service in peace time based on mandatory military service was part of our daily life. Accordingly, the relationship between the army and national economy, as well as the civilian population, was also at a level completely different from where it is today. The entry into force of the Vbö. in itself will make the professional bodies responsible for drafting it, in this case the staff of the Minister for the Interior, to reassess the related objectives, examine the needs and find the way in which national economy can continue to provide the appropriate background for the armed forces and the supply of the population in crisis situations.

Among the regulations at a decree level, the implementing order of the Hvt. will also play a key role in the defence-security segment, as the underlying act itself, i.e. the Hvt. was also re-codified, and so will the new rules related to the Kat. and all the orders, even those applicable to the various sectors, that can be interpreted as tools of cross-governmental crisis management or those capable of national resilience. Their number and depth will become identifiable as soon as we analyse thoroughly the content of the statutory new rules indicated in the section above.

The implementing regulations of the Vbö. will be a challenging task of codification, and they will have to be developed in the light of a current but not yet effective regulatory framework. According to the text available currently²⁸ this set of regulations covers a minimum of 18 specialised areas, from the detailed rules related to defence and security safety obligations, the detailed rules related to the defence and security reserve or the central body of defence and security administration, the bodies and persons performing defence and security management tasks and its rules of procedure and the professional management of defence and security administration, to the detailed rules of planning and control.

Following the harmonisation of the text of the implementing regulations, further internal and regulatory instruments may be prepared. This task is no less complex than those above, but their visibility is limited, and in some cases documents

28 Section 83 of the Vbö.

with specifically classified content are required. This includes government decisions, ministerial instructions, defence, stockpiling, preparation, supply, design documents and so on, all of which ensure the full operation of the defence-security system, their content can complete the validation of the total approach to defence. These documents are not only intended to schedule and coordinate the internal operation or preparation of organisations, but they may also include closer targeting and methods for defence and security organisations, the implementation of which will ultimately make all segments of society part of ensuring our wider security.

The basic documents of defence and security planning are also included in this category: security and defence policy principles issued by the National Assembly,²⁹ National Security Strategy approved by the Government³⁰ and the Integrated Defence and Security Guidelines, as well as additional sectoral or challenge- or threat-based strategies, action plans and action plans required by sectoral laws and government decrees.

It is also worth stressing the need to prepare for crisis management and operation under the special legal order scheme to the fullest possible depth and thoroughness in the crisis-free periods. This means that draft emergency measures to be applied during the period of the special legal order must also be drawn up and coordinated. Owing to the recent rapid changes in the security environment and the day-to-day crisis management tasks of the pandemic, these have probably not always been clarified and updated, all of which need to be done.

Although it is clearly a specific rule, but the coordination of the government surveillance system and the security-alarm system is also crucial. The adequacy of these provisions makes it possible to nudge the entire system of defence and security organisations and to kick in the decision-making mechanism. If the basic information about the crisis situation does not reach the decision-maker, the automations built into the defence-security system will only be able to maintain a certain level of operation, and as the gravity of a situation increases, so a high-level public law decision becomes inevitable.³¹

Summary

The constraints of this study do not make an analysis of the whole set of defence and security rules and providing an adequate administrative response to all future challenges possible. In my paper, I intended to draw attention to the fact that in 2021 the ninth amendment of the Fundamental Law and Act XCIII of 2021 on the Coordination of Defence and Security Activities laid down the foundation of a law that will finally provide an opportunity for the actual modernisation of our defence and security system and a paradigm shift. We, professionals and managers, are all

29 Currently, National Assembly resolution no 94/1998. (XII. 29.) on the fundamental principles of the security and defence policy of the Republic of Hungary

30 Government resolution no 1163/2020. (IV. 21.) on Hungary's National Security Strategy

31 Such may be the promulgation of the special legal order or its initiation by the Government, and the decision to increase the readiness of the Hungarian Armed Forces also belong here.

responsible for being able to seize this opportunity, not to provide uniform answers to the questions that may arise, and to have the courage to make all the proposals for the regulations and procedures to be developed that can provide answers to previously unimaginable challenges. It is very likely that referring to personal experience of 20 years ago, the „that’s the way we used to do it” approach, the „this has worked so far” approach will not be enough. We all need to acknowledge that the world has accelerated, and changed. In a changed environment, our answers cannot be the same as before. If they are the same, they are most likely to be incorrect. We need to think ahead and use regulation to prevent crises from occurring, or, if they still occur, we must prevent them from getting out of control across the state.³²

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32 The author says thank you for OFFI, which originally translated the Hungarian version of the text.