



NEVER-ENDING STORY?

Rapid analysis of the Bills T/10747 and T/10748

27 May 2020

Shortly before midnight on 26 May, Hungarian Deputy Prime Minister Zsolt Semjén submitted to parliament the Bill on Terminating the State of Danger ([T/10747](#)) and the Bill on Transitional Provisions related to the Termination of the State of Danger ([T/10748](#)). The government hails the Bills as allaying the fears of those who had warned about the dangers of government rule-by-decree powers. However, the proposals are unsuitable to dispel these fears. On the contrary: they shed a harsh light on the true nature of the regime.

1. Bill T/10747 on Terminating the State of Danger does not terminate the state of danger, instead, it very well illustrates that in Hungary, it's not the parliament that has a government, rather the government has a parliament. The proposal whereby the parliament has to call on the government to terminate the state of danger will be coming from the government itself.

Hence in fact the government will be making a request to itself after a short detour, and the Bill does not contain a deadline for when this request has to be made. The government will be requested to end the special legal order at a time when it sees fit to do so. This does not make too much sense, unless it's meant to prove to a superficial observer that, in contrast to earlier critical remarks, the Authorisation Act did not do away with parliamentary oversight of the government. A more detailed reading of the Bill, however, reveals that it's exactly the opposite case.

2. The amendment of the Disaster Management Act, which transposes one of the most problematic provisions of the Authorisation Act, would do away with an important safeguard in the Fundamental Law. The Fundamental Law wishes to maintain the balance of power between the branches of government by permitting the government to suspend and set aside laws, but only insofar and in such a manner as allowed by parliament in the Disaster Management Act. Now, under a proposed amendment of the Disaster Management Act, the government may order any measures it deems necessary if the measures previously specified by parliament are inadequate. This renders futile the provision of the Fundamental Law that the government may only exercise powers under a special legal order in accordance with the provisions of cardinal laws -- from now on, cardinal laws will no longer restrict this power and will permit anything that the government deems necessary in the given circumstances.

3. Bill T/10748 on the transitional provisions contains another provision that is not provisional at all: by amending the rules of "state of medical emergency", the Bill creates a "little sister" to the special legal order. According to this amendment, in a state of medical emergency, the government may restrict by decree the exercise of essential fundamental rights, such as the freedom of movement or the freedom of assembly. Restrictions may initially last for a period of six months but then may be extended practically

indefinitely. In practical terms, introducing as well as terminating this semi-special legal order, which is not regulated by the Fundamental Law, is entirely up to the government's discretion. Furthermore, in the case of such decrees there is no guarantee that they would lapse after a certain period of time unless Parliament approves them (compared to decrees adopted in a special legal order).

In light of the above, it's clear that those who have been sounding the alarm that the government can and will abuse the powers it gained in relation to managing the Covid-crisis were in fact right. During the past two months, the government had adopted a series of decrees which had nothing to do with protection measures or that disproportionately restricted fundamental rights. The promise to revoke the Authorisation Act and to terminate the state of danger is nothing but an optical illusion: if the Bills are adopted in their present form, that will allow the government to again rule by decree for an indefinite period of time, this time without even the minimal constitutional safeguards.