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## National legislation

### Hungary

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## Sources of law

### I. Legislative hierarchy

#### 1. Fundamental Law

The **Fundamental Law** (Fundamental Law of Hungary promulgated on 25 April 2011) sits at the apex of the legislative hierarchy in Hungary, and every other law must be compatible with it. The Fundamental Law was enacted by the **National Assembly**, and an **amendment** requires a **two-thirds majority of the votes of all members of the Assembly** [Article S(2) of the Fundamental Law].

The Fundamental Law and its transitional provisions (Transitional Provisions of the Fundamental Law of Hungary promulgated on 31 December 2011) **entered into force on 1 January 2012**.

The Fundamental Law of Hungary consists of **six sections**: a preamble entitled the **National Avowal**, as well as the sections entitled **Foundation** (Articles A–T), **Freedom and Responsibility** (Articles I–XXXI), the **State** (Articles 1–54), **Special Legal Orders** and **Closing Provisions**.

The section entitled **Foundation** contains general provisions and prescribes:

- the form of government,
- the fundamental principles of state operation,
- the transfer of certain powers to the European Union,
- Hungary's capital and regional administrative entities,
- the key provisions on Hungarian citizenship and how to obtain it,
- Hungary's official language, coat of arms, flag, national anthem, national holidays and official currency,
- the Fundamental Law's place in the Hungarian legal system, i.e. the Fundamental Law is the foundation of Hungary's legal system,
- the procedure for adopting and amending the Fundamental Law,
- the types of Hungarian legislation,
- a number of fundamental principles, including:
  - the prohibition on seizing and exercising power by force,
  - responsibility for the fate of Hungarians living beyond the borders of Hungary,
  - cooperation in establishing European unity,
  - protection of the institution of marriage,
  - ensuring the conditions for fair competition,
  - the principle of balanced, transparent and sustainable budget management,
  - the obligation to protect and sustain natural resources,
  - the creation and preservation of peace and security, and striving to cooperate with all nations and countries of the world to achieve the sustainable development of humanity.

The section entitled **Freedom and Responsibility** sets out fundamental rights and obligations. The following (among others) are recognised as **fundamental rights**:

- the right to life and human dignity,
- the prohibition of torture, any inhuman or degrading treatment or punishment, enslavement and human trafficking,
- the prohibition of all practices aimed at eugenics, any use of the human body or any of its parts for financial gain, and human cloning,
- the right to freedom and personal safety, and provisions guaranteeing that no one is deprived of his or her liberty,
- the right to freedom of movement and to freely choose residence,
- the right to a private and family life,
- the right to the protection of personal data and access to data of public interest,
- the right to freedom of thought, conscience and religion,
- the right to peaceful assembly,
- the right to freedom of speech,
- to right to take part in cultural life,
- the right to freely choose one's work, occupation and entrepreneurial activities,
- the right to property,
- the prohibition on expelling Hungarian citizens from the territory of Hungary,
- the right to asylum,

equality before the law,  
non-discrimination,  
the prohibition of child labour,  
the right to a healthy environment,  
the right to vote and to stand as a candidate in the elections of Members of the National Assembly, local representatives and mayors, and of Members of the European Parliament,  
the right to have one's affairs administered by the authorities in an impartial, fair and reasonably timely manner,  
the right of every Hungarian citizen to be protected by Hungary during his or her stay abroad,  
the Fundamental Law also defines the nationalities and the key rights of persons subject to prosecution.

According to the Fundamental Law, Hungary strives, among other things, to:

provide social security to all of its citizens,

provide every person with decent housing and access to public services.

The Fundamental Law also lays down various **obligations, namely:**

the obligation to contribute to satisfying common needs (equal tax treatment),

the obligation for Hungarian citizens to defend their country.

The section of the Fundamental Law entitled the **State** contains the most fundamental rules applying to public dignitaries and the most important institutions of the country, setting out the legal status and tasks of:

the National Assembly,

the President of the Republic,

the government,

the autonomous regulatory bodies,

the Constitutional Court,

the judiciary and prosecution services,

the Commissioner for Fundamental Rights,

the local governments,

the National Bank of Hungary,

the State Audit Office,

the Hungarian armed forces,

the police and national security services,

the national referenda.

The section of the Fundamental Law entitled **Special Legal Orders** contains rules governing states of national crisis, states of emergency, states of preventive defence, unexpected attacks and states of extreme danger.

## **2. Acts of Parliament**

In Hungary, Acts are adopted by the **National Assembly**. According to the Fundamental Law **the rules for fundamental rights and obligations** are determined by Acts. The National Assembly adopts Acts by a **simple majority of votes** (more than half of the votes of the members present), except for so-called **cardinal Acts** defined by the Fundamental Law, the adoption and amendment of which require a **two-thirds majority** of the votes of Members of the National Assembly **present**.

According to the Fundamental Law cardinal Acts apply for example to citizenship, the churches, the rights of the national minorities living in Hungary, the legal status and remuneration of Members of the National Assembly and of the President of the Republic, the Constitutional Court, the local governments, the detailed rules for the use of the coat of arms and the flag, and the provisions on state decorations.

According to the Fundamental Law the authorisation to recognise the binding nature of the European Union's founding and amending Treaties, the declaration of a state of war, conclusion of peace and declaration of a state of special legal order require a two-thirds majority of the votes of all Members of the National Assembly.

Prior to the adoption of Act XXXI of 1989 on the amendment of the Constitution, the Presidential Council of Hungary was authorised to issue decree laws. From the point of view of legislative hierarchy, decree laws still in force qualify as regulations at the same level as Acts.

## **3. Decrees**

The Fundamental Law recognises government decrees, Prime Ministerial decrees, ministerial decrees, decrees by the Governor of the National Bank of Hungary, decrees by the heads of autonomous regulatory bodies and local government decrees.

In a state of national crisis the National Defence Council, and in a state of emergency the President of the Republic, can also issue decrees.

### **3.1. Government decrees**

The **government's authority to enact decrees** may be **primary** or based on **legislative authority**. The primary powers are established by Article 15(3) of the Fundamental Law, which declares that the government may issue decrees within its sphere of authority on any matter not regulated by an Act. No decree of the Government shall conflict with any Act. This does not restrict the powers of the National Assembly, which may consider any regulatory field under its authority.

According to the Fundamental Law and Act CXXX of 2010 on legislation, the government may, also based on specific legislative authority, enact decrees that implement Acts. Under Section 5(1) of the Legislation Act, an authorisation to issue implementing regulations must specify the holder, subject and scope of the authority. The holder may not pass legislative authority to another party.

### **3.2. Prime Ministerial decrees**

According to the Fundamental Law the Prime Minister can also issue decrees, e.g. appoint a deputy prime minister from among the ministers by decree. Prime ministerial decrees are ranked at the same level as ministerial decrees in the hierarchy of legislation.

### **3.3. Ministerial decrees**

**Ministerial decrees** are ranked below government decrees in the hierarchy of legislation. According to the Fundamental Law ministers adopt decrees **by authority** of an Act or a government decree (issued within their original legislative competence), whether independently or in agreement with any other minister; such decrees may not conflict with any Act, government decree or decree of the Governor of the National Bank of Hungary.

### **3.4. Decrees of the Governor of the National Bank of Hungary**

Acting within his or her competence defined by a cardinal Act, the Governor of the National Bank of Hungary may issue decrees **by statutory authorisation**, which may not conflict with any law.

### **3.5. Decrees by the heads of autonomous regulatory bodies**

According to Article 23(4) of the Fundamental Law, acting within their competence defined by a cardinal Act, the heads of autonomous regulatory bodies issue decrees by statutory authorisation, which may not conflict with any Act, government decree, Prime Ministerial decree, ministerial decree or with any decree of the Governor of the National Bank of Hungary.

### 3.6. Local government decrees

According to Article 32(2) of the Fundamental Law, acting within their competences, local governments may adopt local decrees in order to regulate local social relations not regulated by an Act or by authority of an Act.

Local government decrees may not conflict with any other legislation.

The detailed rules on decrees to be adopted by local government representative bodies are laid down in Act CLXXXIX of 2011 on Hungary's local governments.

## 4. International agreements and the fundamental principles of international law

The government of Hungary may conclude **international agreements** with other states / the governments of other states. In Hungary, the relationship between international agreements and domestic law is based on a dualist system; that is, international agreements become **part of domestic law** via their **promulgation** by legal regulations.

### Principles of international law

According to Article Q(3) of the Fundamental Law, Hungary accepts the generally recognised rules of international law. Customary international law and the general principles of international law become part of domestic law without the need for transformation.

## II. Other sources of law taken in a broader sense and not qualifying as legislation

### 1. Legal instruments of state administration

The Hungarian legal system includes legal instruments of state administration which, although they contain normative provisions, do not qualify as legislation. The Legislation Act (Act CXXX of 2010) defines two types of legal instruments of state administration: normative decisions and normative orders. These are rules of conduct that are not generally binding, i.e. not binding on everyone. They are merely internal provisions, organisational and operational rules relating solely to the issuer or subordinated bodies or persons. Normative decisions and orders cannot determine the rights and obligations of citizens. Legal instruments of state administration cannot conflict with other legislation and cannot repeat legislative provisions.

Under the former Legislation Act (Act XI of 1987) **statistical communications** and **legal guidelines** also qualified as sources of law (known as other legal instruments of governance) not qualifying as legislation. The new Legislation Act no longer mentions them. However, whereas legal guidelines were repealed when the new Act entered into force (on 1 January 2011), statistical instruments issued prior to that date remain in force until they are repealed. (Statistical communications are issued by the President of the Central Statistical Office and contain legally binding provisions, consisting exclusively of statistical terms, methods, classifications, lists and figures.)

#### 1.1. Normative decisions

In normative decisions the National Assembly, the government and other central administrative bodies, the Constitutional Court and the Budget Council may lay down their own organisation and functioning, activities and action programmes.

Local government representative bodies can also lay down their own activities and those of bodies run by them, as well as their action programmes and the organisation and functioning of bodies run by them in normative decisions. Similarly, the representative body of national self-governments can lay down their own organisation and functioning, activities and action programmes as well as those of bodies run by them in normative decisions.

#### 1.2. Normative orders

Within their remit and as provided for in legislation, the President of the Republic, the Prime Minister, the head of central administrative bodies (with the exception of the government), the President of the National Judicial Office, the Supreme Prosecutor, the Commissioner for Fundamental Rights, the Governor of the National Bank of Hungary, the President of the State Audit Office, the head of the metropolitan or county government office, mayors and town clerks may lay down the organisation, functioning and activities of bodies led, run or supervised by them in normative orders.

Moreover, the National Assembly, the President of the Republic, the Constitutional Court, the Commissioner for Fundamental Rights, autonomous regulatory bodies, the Prime Minister's Office and the head of the official organisation of the ministry may issue normative orders which are binding on the organisation's staff.

### 2. Decisions of the Constitutional Court

Decisions of the Constitutional Court play an important role in the Hungarian legislative system.

According to Act CLI of 2011 on the Constitutional Court the **tasks** of the Constitutional Court are as follows:

ex post review of the compliance of legislation with the Fundamental Law (ex post review procedure);

(preventive) review of the compliance of Acts that have been adopted but not yet promulgated and certain provisions of international treaties with the Fundamental Law;

an individual review at the request of a judge: if in the course of hearing a case a judge is to apply a piece of legislation which he or she considers unconstitutional or which the Constitutional Court has found to be unconstitutional, he or she shall suspend the proceedings and ask the Constitutional Court to find the piece of legislation or legislative provision unconstitutional and prohibit the unconstitutional piece of legislation from being applied;

handing down judgments on constitutional complaints based on violation of rights guaranteed in the Fundamental Law: the person or organisation involved in the individual case may lodge a constitutional complaint if his, her or its right guaranteed in the Fundamental Law is breached following the implementation of the unconstitutional legislation in the judicial proceedings on going in the case, and he, she or it has exhausted all appeal options or does not have any right of appeal;

examining any legislative act for conflict with any international agreement;

termination of legislative omissions by the legislator which conflict with the Fundamental Law;

resolution of certain conflicts of competence between state bodies or between local governments and other state bodies;

interpretation of provisions of the Fundamental Law;

miscellaneous proceedings falling under its competence according to provisions of law.

The Constitutional Court provides detailed reasons for its decisions. Constitutional Court decisions may not be appealed and are binding on all.

### 3. Case-law of the courts

In order to fulfil its responsibility of ensuring the uniform application of law and providing judicial guidance to lower courts, Hungary's supreme court, the **Curia** (known prior to 1 January 2012 as the Supreme Court) passes **judicial uniformity decisions** and issues **judicial decisions of principle**.

A **judicial uniformity procedure** can be initiated if the development and uniformity of judicial practice requires the adoption of a judicial uniformity decision in a matter of principle, and if a chamber of the Curia intends to deviate from the decision taken by another chamber of the Curia. A decision relating to uniformity in the law is binding on the courts.

**Decisions** of principle derive from the practice of the Curia's judicial chambers and also promote uniformity in sentencing.

Decisions handed down to ensure uniformity in law and decisions of principle are published in the **Supreme Court's Official Repertory of Decisions**.

### III. Scope of application of legislation

The geographical scope of application of legislation extends to the territory of Hungary, while that of local government decrees extends to the administrative area of the local government. The personal scope of application of legislation extends to natural persons, legal persons and organisations without legal personality in the territory of Hungary, Hungarian citizens outside the territory of Hungary, and in the case of local government decrees to natural persons, legal persons and organisations without legal personality in the administrative area of the local government.

The Legislation Act prohibits **retroactive validity**, stating that a piece of legislation cannot establish obligations or make them more onerous, withdraw or restrict rights or declare conduct illegal in the period preceding its entry into force.

Legislation must always establish the date of its **entry into force** in such a way that sufficient time is available to prepare for its application.

The **legislation and its implementing regulations** must enter into force at the same time. A piece of legislation (or a legislative provision) becomes invalid if it is repealed or – if it contains only amending or repealing provisions – on the basis of the Legislation Act.

### IV. Legal databases

In Hungary the Official Gazette is the [Magyar Közlöny](#), which is published in electronic form and whose text must be considered authentic.

The Gazette contains Hungarian legislation (excluding local government decrees), including:

orders and decisions of the Constitutional Court, which must be published in the Official Gazette in line with legal provisions or on the basis of a decision by the Constitutional Court;

decisions of the National Assembly;

judicial uniformity decisions of the Curia;

opinions of the National Election Committee;

annexure, including the Collection of Decisions;

the Official Report.

The [National Legislation Database](#) contains all legislation (excluding local government decrees) and legal instruments of state administration in force on the date of the search. This is presented in a consolidated version, together with amendments and other changes.

You can search for this information by title and number, and it is also possible to search the text.

Access to these databases is **free of charge**, and no restrictions apply.

#### Related links

[Authentic Electronic Official Gazette](#)

[National Legislation Database](#)

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