Decision 28/2017 (X. 25.) AB

on establishing the unconstitutionality by omission manifested in non-conformity with the Fundamental Law to take account of the nature conservation aspects of the sale and utilisation of Natura 2000 land not classified as protected areas of nature as well as dismissing the petition seeking the annulment of Section 31 (3), point 9, of Government Decree 262/2010 (XI. 17.) Korm on the Detailed Rules for the Utilisation of Land Parcels of the National Land Fund

In the matter of an ex-post review of the conformity of legislation with the Fundamental Law, with dissenting opinions by Justices *Dr. István Balsai* and *Dr. Dienes-Oehm Egon*, the Constitutional Court, sitting as the Full Court, rendered the following

decision:

1. The Constitutional Court, acting of its own motion, holds that the National Assembly has triggered unconstitutionality by omission manifested in non-conformity with the Fundamental Law to establish safeguards for the enforcement of the nature conservation aspects of the sale and utilisation of Natura 2000 land not classified as protected areas of nature in accordance with the objectives set out in Article P (1) of the Fundamental Law.

The Constitutional Court urges the National Assembly to fulfil its legislative obligation until 30 June 2018.

2. The Constitutional Court hereby dismisses the petition seeking the annulment of Section 31 (3), point 9, of Government Decree 262/2010 (XI. 17.) Korm on the Detailed Rules for the Utilisation of Land Parcels of the National Land Fund.

3. As for the remainder, the Constitutional Court rejects the petition.

The Constitutional Court shall order the publication of its Decision in the Hungarian Official Gazette.

Reasoning

I

[1] 1. Fifty-two Members of Parliament (postal address: Képviselői Irodaház, 1054 Budapest, Széchenyi rkp 19) have initiated the procedure pursuant to Article 24 (2) (e) of the Fundamental Law and Section 24 (1) and Section 37 (2) of Act CLI of 2011 on the Constitutional Court (hereinafter referred to as the "Constitutional Court Act") that the Constitutional Court review the conformity of Section 31 (3), point 9, of Government Decree 262/2010 (XI. 17.) Korm on the Detailed Rules for the Utilisation of Land Parcels of the National Land Fund (hereinafter referred to as the "Government Decree") with the Fundamental Law and, pursuant to Section 45 (4) of the Constitutional Court Act, annul the provision concerned, as it violates Article P (1) and Article XXI of the Fundamental Law.

[2] The petitioners also requested the Constitutional Court to consider the possibility of establishing unconstitutionality by omission manifested in non-conformity with the Fundamental Law of the provision challenged by the petition in the event that the Constitutional Court did not see any basis for finding that the provision challenged by the petition was contrary to the Fundamental Law.

[3] 2. The petitioners submitted that the challenged provision of the Government Decree is subject to review in an *ex post* norm control procedure pursuant to Section 37 (2) of the Constitutional Court Act, and the petitioners are entitled to initiate an *ex post* norm control procedure pursuant to Article 24 (2) (e) of the Fundamental Law.

[4] The petitioners explained that Government Decision 1666/2015 (IX. 21.) Korm on the measures necessary for the sale of State-owned land to farmers under the "Land for Farmers" Programme (hereinafter referred to as the "Government Decision") and the contested provision together result in the full transfer to private ownership of State-owned arable land under the 'Land for Farmers' Programme, with the exception of forests and nature reserves and certain model farms remaining in State ownership, including Natura 2000 sites. Indeed, point 1 (d) of the Government Decision does not exclude Natura 2000 sites from the scope of the sale, whereas the Government Decree explicitly provides for their sale by land auction (which has already been done for several of these sites).

[5 In their view, the contested provision of the Government Decree infringes Article P (1) of the Fundamental Law and the right to a healthy environment enshrined in Article XXI of the Fundamental Law by allowing the institutional level of nature protection achieved to deteriorate without this being inevitable for the purposes of the enforcement of another fundamental right or constitutional value.

[6] In their opinion, the sale of State-owned land is not based on an individual assessment in the light of a land tenure policy directive which includes nature conservation aspects, but on a general public policy decision by the Government which

does not take into account the specific management aspects of each Natura 2000 site. The sole form of utilisation of individual Natura 2000 sites is sale, and the only applicable procedure for sale, in the case of sites over three hectares, is auction sale, which leaves no scope for the integration of nature conservation considerations.

[7] Prior to adopting its decision, the Constitutional Court contacted the Minister of Agriculture, the Commissioner for Fundamental Rights and the Ecological Research Centre of the Hungarian Academy of Sciences.

[8] In the course of the procedure, the Hungarian Ornithological and Nature Conservation Society submitted an amicus curiae brief to the Constitutional Court.

II

[9] 1. The provisions of the Fundamental Law relevant to the petition read as follows:

"Article P (1) Natural resources, in particular arable land, forests and the reserves of water; biodiversity, in particular native plant and animal species; and cultural artefacts, shall form the common heritage of the nation, it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations."

"Article XXI (1) Hungary shall recognise and endorse the right of everyone to a healthy environment."

[10] 2. The provision of Act LIII of 1996 on the Nature Conservation relevant to the petition reads as follows:

"Section 41/A (1) Natura 2000 sites shall be designated and made public by the Government, which shall also determine the rules applicable to such areas. The Minister shall publish the parcels of land in Natura 2000 sites."

[11] 3. The provisions of the Government Decree relevant to the petition read as follows:

"Section 3 (1) The consent of the Minister responsible for nature conservation shall be required for the transfer or transfer into asset management under any legal title of a parcel of land that is a protected area of nature and a Natura 2000 site (hereinafter collectively referred to as the 'protected area')."

"Section 31 (3) The notice of publication shall state:

[...]

9. in the case of a parcel of land designated as a Natura 2000 site, a reference to the main legislation applicable to Natura 2000 sites"

III

[12] 1. The petition is partly well-founded.

[13] Pursuant to Article 24 (2) (e) of the Fundamental Law, the Constitutional Court "shall, at the initiative of the Government, one quarter of the Members of the National Assembly, the President of the Curia, the Prosecutor General or the Commissioner for Fundamental Rights, review the conformity with the Fundamental Law of any law". The Constitutional Court held that the initiative had been submitted by the entitled person, more than a quarter of the one hundred and ninety-nine Members of Parliament, that is, fifty-two Members. The Constitutional Court also found that the petition fulfilled the requirement of a explicit request under Section 52 (1b) of the Constitutional Court Act.

[14] However, the Constitutional Court also held that pursuant to Section 46 (1) of the Constitutional Act, the Constitutional Court may establish as a legal consequence unconstitutionality by omission manifested in non-conformity with the Fundamental Law if it discovers such unconstitutionality in the course of its procedure in the exercise of its competences, and the petitioners are not entitled to submit a petition in this regard {Order 3143/2013 (VII. 16.) AB, Reasoning [18]}, and therefore rejected the petition in this respect.

[15] 2. The Constitutional Court examined, first of all, whether it could address the merits of the legislation on Natura 2000 sites challenged by the petitioners, in view of the EU legal background of Natura 2000 sites.

[16] The legal basis for the Natura 2000 network is Directive 79/409/EEC (hereinafter referred to as the "Birds Directive") and Directive 43/92/EEC (hereinafter referred to as the "Protection of Habitats Directive"). The general objective of the Birds Directive is to protect all species of birds naturally occurring in the territory of the Member States, while the main objective of the Protection of Habitats Directive is to conserve biodiversity and ensure the long-term survival of species and habitat types by maintaining or increasing their natural range. Hungary has 21.44% of its territory designated as Natura 2000 sites, which is slightly above the average for EU Member States (18.12%). With the accession of Hungary to the European Union, the Natura 2000 network of the European Union has been extended to include a new biogeographical region, the Pannonian biogeographical region, which covers the whole territory of Hungary. In the Pannonian region, many species are found that are not found in other Member States or in other Natura 2000 regions. The 56 habitat types

present in the Pannonian region represent about 26% of all European habitat types, of which one occurs exclusively and ten predominantly in the Pannonian region. The concept of a Natura 2000 site is laid down in Section 2 of Government Decree 275/2004 (X. 8.) Korm on Sites of European Community Importance for Nature Conservation [hereinafter referred to as "Government Decree 275/2004 (X. 8.) Korm"], which can be interpreted as a national implementing act of the EU Directive regulating the Natura 2000 network. Neither Government Decree 275/2004 (X. 8.) Korm nor the Birds Directive and Protection of Habitats Directive contain any restriction on the ownership of Natura 2000 sites. It follows that the national legislation on the ownership of Natura 2000 sites cannot be regarded as a question relating to the implementation of the Natura 2000 directives and that the Constitutional Court was not required to interpret the provisions of either the Protection of Habitats Directive or the Birds Directive as sources of secondary legislation of the European Union. Nor did the Constitutional Court have to determine whether the Hungarian legislation providing for the possibility of private ownership of Natura 2000 sites is in conformity with EU law. However, in line with the consistent practice of the Constitutional Court, there is no impediment to the Constitutional Court referring to specific EU rules in its decision without giving or requiring an independent interpretation of those rules. {Decision 143/2010 (VII. 14.) AB, reaffirmed in Decision 22/2012 (V. 11.) AB, Reasoning [46]} On the basis of the above, the Constitutional Court concluded that there was no obstacle to an examination of the substance of the specific petition concerning the ownership of Natura 2000 sites.

[17] 3. Prior to considering the merits of the petition, the Constitutional Court briefly refers to the scientific importance of biodiversity conservation and the current state and trends of biodiversity. The trend of biodiversity loss is clearly confirmed by all professional indicators, at global, European and Hungarian level. Based on the Global Living Planet Index, the most authoritative and continuously updated by the World Wide Fund Nature (WWF), the population of terrestrial, freshwater and marine species has declined by 58% compared to the 1970 baseline year, and could reach 67% by 2020 if human activity remains unchanged (Living Planet Report 2016). The Centre for Ecological Research of the Hungarian Academy of Sciences has also pointed out that biodiversity loss is continuing despite the commitments made by States to prevent it in a number of international agreements. The most obvious public measure to halt biodiversity loss is the designation of protected areas. However, scientific research has shown that 75% of the areas designated as protected areas are of negligible economic importance and are not affected by human activities. The United Nations Environment Programme (UNEP), on the other hand, states that agricultural production is responsible for more than two-thirds of biodiversity loss (Time to embed biodiversity into the 2030 Agenda, UNEP, 2016), while one-third of the food produced globally is

lost (Waste not want not. An editorial by Achim Steiner UN Under Secretary General, 2015).

[18] In Hungary, the loss of close-to-nature habitats is high, reaching 0.44 percent per year, which, at this rate of loss, means that Hungary's biodiversity will decline by more than one third in 100 years, even if current levels of environmental and nature conservation are maintained. In areas affected by agriculture, the rate of decline is even faster: the bird population in agricultural habitats in Hungary has already declined by at least 30 per cent compared to the 1999 base year (amicus curiae brief of the Hungarian Ornithological and Nature Conservation Society The Natura 2000 network is ensuring that this process is slowed down. Biodiversity can only be more or less protected as a whole, because the environmental pressures on individual species have an impact on other species and ultimately on the ecosystem as a whole. The conservation of biodiversity in Hungary is ensured by the combination of protected areas, the Natura 2000 network and the environmental rules that apply in non-protected areas. The special nature conservation importance of Natura 2000 sites lies precisely in the fact that they create the gateways between natural ecosystems embedded in human agricultural activity, what are known as ecological corridors, which provide the essential foundations for the maintenance of these ecosystems.

[19] The Pannonian biogeographical region is a specific segment of this ecosystem, which is in many areas isolated from other subsystems, and Hungary has a special responsibility to protect it, given that 80 percent of it lies within the territory of Hungary. However, biodiversity conservation requires a long-term approach and regulation that spans governmental cycles. This is all the more justified because the latest Hungarian National Report to the Convention on Biological Diversity (National Report), the fifth report of the Convention on Biological Diversity, dated 2014, mentions short-term economic considerations as the first of the factors that threaten biodiversity, taking precedence over long-term environmental considerations (National Report 1.2).

[20] The loss of biodiversity and associated ecosystems has a direct impact on human life itself. An ecosystem is a complex and dynamic entity of plants, animals, micro-organisms and the natural environment, coexisting together and interdependent. Biodiversity consists of the myriad living elements of these partnerships. The Earth's ecosystems provide countless benefits to humanity in the form of goods and services. The goods produced by ecosystems include food, water and even fuel, while services can be grouped into four distinct categories. Provisioning services provide the goods themselves. Regulatory services control climate and rainfall, waste production and the spread of disease. Cultural services include, among others, the provision of recreational purposes, while support services include soil formation, photosynthesis and nutrient cycling (for details see Ecosystem and Human Well-Being: Scenarios. Millennium Ecosystem Assessment, 2005, especially 4.1 Biodiversity and Its Assessment). As the

Centre for Ecological Research of the Hungarian Academy of Sciences has stated in response to a request from the Constitutional Court, ecosystems play a role in, inter alia, water purification, air quality (binding particulate matter, increasing humidity), food security, pollination, and the production of plant-based medicines and pharmaceuticals. (Biodiversity loss—the role of Hungarian domestic and international protected areas in biodiversity conservation and in meeting treaty obligations, pp. 2 and 3.) Consequently, if biodiversity and the availability of services provided by nature are reduced, the conditions for human life may be lost, as both basic material needs (clean water, food, clean air) and health protection (mental and physical) are compromised.

[21] The intensification of agricultural production plays a major role in the destruction of biodiversity in Hungary, as stated in the report "Indicators of Sustainable Development in Hungary" published by the Hungarian Central Statistical Office. It can also be clearly stated that one of the greatest threats to biodiversity in Hungary is the intensification of agriculture (Europe's Environment: The Third Assessment, 11. Biological Diversity, 231). The situation of biodiversity has clearly deteriorated since Hungary's accession to the European Union, because the financial resources of the European Union's agricultural policy have encouraged farmers to bring into agricultural production areas that could previously have been preserved in their natural state due to the less profitable nature of economic production.

[22] The conservation of biodiversity in Hungary is served by the combination of protected areas of nature, the Natura 2000 network and the environmental rules that apply in non-protected areas. The special nature conservation importance of Natura 2000 sites lies precisely in the fact that they create the gateways between natural ecosystems embedded in human agricultural activity, what are known as ecological corridors, which provide the essential foundations for the maintenance of these ecosystems. As the Centre for Ecological Research of the Hungarian Academy of Sciences stated in response to a request by the Constitutional Court, "in Hungary, as in the European Union, the Natura 2000 network is a fundamental and indispensable tool for the conservation of biodiversity."

[23] 4. The Constitutional Court subsequently proceeded to review the provisions of the Fundamental Law relating to the environment and specifically to future generations, and the system of such provisions.

[24] Within the meaning of Article P (1) of the Fundamental Law, "[n]atural resources, in particular arable land, forests and the reserves of water; biodiversity, in particular native plant and animal species; and cultural artefacts, shall form the common heritage of the nation, it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations". However, the protection

of the interests of future generations is not only derived from Article P: Article 38 (1) of the Fundamental Law states that: "The property of the State and of local governments shall be national assets. The management and protection of national assets shall aim at serving the public interest, meeting common needs and preserving natural resources, as well as at taking into account the needs of future generations."

[25] The obligation to preserve the physical, biological and cultural foundations, as laid down in Article P (1) of the Fundamental Law, is a structural principle that permeates the whole spirit of the Fundamental Law and expresses Hungary's commitment to preserving our natural resources in order to pass them on to future generations. For example, Article L(1) of the Fundamental Law protects the institution of marriage and the family because they are "the basis for the survival of the nation". Accordingly, the National Avowal also provides that "[w]e commit ourselves to promoting and safeguarding our heritage, [...] along with all man-made and natural assets of the Carpathian Basin. We bear responsibility for our descendants and therefore we shall protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources." Within the meaning of the National Avowal, the Fundamental Law "shall be the basis of our legal order; it shall be an alliance among Hungarians of the past, present and future". In accordance with Article R(3) of the Fundamental Law, "[t]he provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal contained therein and the achievements of our historical constitution."

[26] The fundamental rights dimension of the careful and sustainable use of the physical conditions of existence of future generations is reflected in Article XX of the Fundamental Law. Article XX of the Constitution, paragraph (1) of which states that "[e]veryone shall have the right to physical and mental health", while paragraph (2) states that "Hungary shall promote the effective application of the right referred to in paragraph (1) through agriculture free of genetically modified organisms, by ensuring access to healthy food and drinking water, by organising safety at work and healthcare provision and by supporting sports and regular physical exercise as well as by ensuring the protection of the environment". Within the meaning of Article XXI (1) of the Fundamental Law, "Hungary shall recognise and endorse the right of everyone to a healthy environment".

[27] As the Constitutional Court has held, "the Fundamental Law not only preserved the level of protection of the fundamental constitutional right to a healthy environment, but also contains significantly more extensive provisions in this area than the Constitution. The Fundamental Law thus further developed the environmental set of values and approach of the Constitution and the Constitutional Court. It is the task of the Constitutional Court to interpret the provisions of the Fundamental Law in

today's circumstances and to explain their content" {Decision 16/2015 (VI. 5.) AB, Reasoning [91]}.

[28] While the previous Constitution merely declared the right to a healthy environment, the Fundamental Law, by name, considers arable land and biodiversity as a value that, among many other things, constitutes the heritage of the nation, and its protection, maintenance and preservation for future generations is the duty of the state and of everyone. Consequently, it is now directly derived from Article P) of the Constitution that the will of the Constitutional Authorities is to protect human life and the conditions of existence, in particular the land and its biodiversity, in such a way as to safeguard the livelihood of future generations and in no way to impair it, in accordance with the generally accepted principle of non-derogation. The principle of non-derogation, as an additional obligation of the State with regard to environmental regulation, must apply to both the substantive and procedural environmental law and the organisational regulation of the institutional system {Decision 3223/2017 (IX. 25.) AB, Reasoning [27] and [28]}.

[29] 5. In assessing the obligation to protect institutions, the Constitutional Court has determined who exactly is subject to this obligation under the Fundamental Law and what its content is.

[30] Under Article P (1) of the Fundamental Law, the protection of the environment is not only a duty of the State, but also "the obligation of the State and everyone". Article P(1) of the Fundamental Law contains a significant improvement over the previous Constitution in terms of the scope of the obligation: "Whereas under the Constitution only state obligations were emphasised in environmental protection, the Fundamental Law also speaks of the obligations of "everyone", including civil society and every citizen." {Decision 16/2015 (VI. 5.) AB, Reasoning [92]} However, while the obligation to protect the environment is incumbent on both the State in the broad sense and on natural and legal persons, this obligation cannot, by its very nature, be entirely identical in relation to each subject of law. Whereas natural and legal persons cannot be expected, beyond knowledge of and compliance with the legal provisions in force, to adapt their conduct to an abstract objective not specified by the legislator in a general and enforceable manner, the State may be expected to define clearly the legal obligations which both the State and private parties must comply with, *inter alia* in order to ensure effective protection of the values specifically mentioned in Article P (1) of the Fundamental Law. This obligation is fulfilled, *inter alia* (but not exclusively), by the State through the adoption of a cardinal law pursuant to Article P (2) of the Fundamental Law. In relation to the legislative obligation in the field of environmental protection, the Constitutional Court has already pointed out that "the tasks that the State performs elsewhere by protecting individual rights must be performed here by providing legal and organisational guarantees" [Decision 28/1994 (V. 20.) AB, ABH,

1994, 134, 138]. The State must also ensure that the specific conduct adopted in order to protect the environment remains readily known, unambiguous and legally enforceable.

[31] 6. However, separate substantive requirements for State protection can also be derived from Article P (1) of the Fundamental Law. Article P (1) endows future generations with a hypothetical heritage. The wording of Article P (1), "common heritage of the nation", can be seen as a specification of the concept of "common concern of humankind" under the Convention on Biological Diversity, of "heritage of the peoples of Europe" under the Birds Directive and of "natural heritage" under the Protection of Habitats Directive. Accordingly, the Hungarian citizens and the Hungarian State undertake that the institutional system of the State will ensure the protection of the values set out in Article P (1) in a non-exhaustive manner for future generations. All this can be seen as a specific commitment in relation to the "common concern of humankind" existing in international law.

[32] By virtue of this particular concept of heritage, and as a consequence of the principle of non-derogation, it would render the State's obligations under Article P meaningless if it were able to fulfil its obligation to protect irrespective of the state of the heritage of future generations, even by 'handing over' natural resources in a state of degradation. Article P of the Fundamental Law thus also sets an absolute, substantive criterion for the state of natural resources, which imposes objective requirements on the State's activities.

[33] Article P (1) of the Fundamental Law imposes three main obligations on the current generation: a preserving choice, preserving quality and ensuring accessibility. The preservation of choice is based on the consideration that the living conditions of future generations can best be safeguarded if the natural heritage that has been handed down is able to give future generations the freedom of choice to solve their problems, rather than the decisions of the present setting future generations on a forced course. The requirement to preserve quality means that we must strive to ensure that the natural environment is passed on to future generations in at least the same state as it was handed down to us by past generations. And the requirement of access to natural resources means that present generations have free access to available resources as long as they respect the equitable interests of future generations.

[34] The legislator can only meet these principled expectations if it takes a long-term view, across governmental cycles, when making decisions. As the Constitutional Court stated in relation to the Convention on Biological Diversity in its Decision 988/E/2000 AB: "[t]he legislative tasks arising from the Convention, and from our other international obligations in this field, require, because of the specificities of the life

situations concerned, a longer-term and continuous codification and planning activity." (ABH 2003, 1281, 1289)

[35] Article P (1) of the Fundamental Law lists the objects of environmental protection, including the protection of biodiversity, in particular native plant and animal species, in a non-exhaustive list (see the phrase "in particular"). By specifically mentioning the obligation to conserve biodiversity, the Fundamental Law has made it a constitutional value in the Hungarian legal order, which the legislator must take into account when drafting legislation in the field of sectoral policies. The obligation to conserve species diversity is important not only because it can be understood as a resource that can be exploited and put at the disposal of human activity, but also because it is valuable and worthy of protection in its own right.

[36] Pope Francis, in his encyclical Laudato si', drew attention to the natural law basis for the preservation of biodiversity: "Each year sees the disappearance of thousands of plant and animal species which we will never know, which our children will never see, because they have been lost for ever. The great majority become extinct for reasons related to human activity." The encyclical is categorical: "We have no such right." The preservation of life on earth for our descendants is, beyond the obligation of natural law, "a basic question of justice" and is most closely related to the question of human dignity and the purpose of human life itself. (Pope Francis: Encyclical Laudato si') Patriarch Bartholomew speaks of a "crime against nature" in relation to human actions that destroy "the biodiversity of God's created world" (Ecological Vision and Initiatives of Ecumenical Patriarch Bartholomew).

[37] 7. The interpretation of Article P (1) of the Fundamental Law cannot be divorced from Hungary's international obligations in the environmental field, in particular those concerning the protection of biodiversity.

[38] The international legal obligation to conserve biodiversity is based on the Convention on Biological Diversity adopted at the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, promulgated by Act LXXXI of 1995. The basic obligation to conserve biodiversity, which is also included in the Convention with 196 Contracting Parties and is thus directly proclaimed in Hungarian law, is a rule of international law that is unconditionally applicable and reflects the will of the international community as a whole.

[39] The Convention, while not denying that States have sovereign rights over their own biological resources, affirms that the conservation of biological diversity has become a common concern of humankind as a separate category of international law, and that States are responsible for the conservation of their biological diversity and the sustainable use of their biological resources.

[40] Article 8 of the Convention imposes an obligation on Contracting Parties to establish a system of protected areas or areas where special measures are to be taken to ensure the conservation of biological diversity [Article 8 (a) of the Convention]. Contracting Parties are also obliged to regulate or manage biological resources, whether within or outside protected areas, that are important for the conservation of biological diversity with a view to ensuring their conservation and sustainable use [Article 8 (b) of the Convention]. The objective of the Convention is sustainable use, which means the use of the components of biological diversity in a way and at a rate that does not lead to their long-term loss, thereby maintaining their potential to meet the needs and aspirations of present and future generations (Article 2 of the Convention).

[41] The Conference of the Parties (COP), which is responsible for implementing the Convention, has adopted a number of decisions of major importance and binding on Hungary as a State Party, which may be regarded as an authentic interpretation of the Convention and may therefore be used by the Constitutional Court to determine the precise content of certain international legal obligations. One of the fundamental conclusions of the 2002 COP was that biodiversity is the foundation on which human civilisation itself is built, and that biodiversity loss is not only one of the greatest challenges facing humanity, but also threatens the concept of sustainable development and the interests of future generations.

[42] The UN General Assembly resolution A/70/L.1 "Transforming our world: the 2030 Agenda for Sustainable Development", adopted unanimously on 25 September 2015, also sets out commitments to biodiversity conservation in line with the Convention. As one of the seventeen Sustainable Development Goals (SDGs) set out in the Agenda, States commit to "[p]rotect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss." Under Target 15.5, a commitment is undertaken to "[t]ake urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species".

[43] On the basis of the foregoing, the Constitutional Court finds that, while Hungary may dispose of its natural resources in a sovereign manner, this right of disposal is not unlimited: It must have regard to the sustainable use of biological resources and the obligation to preserve biodiversity, in accordance with Article P (1) of the Fundamental Law, and in conformity with Hungary's international obligations.

[44] It follows both from the obligation to protect the environment, including biodiversity, based on Article P (1) of the Fundamental Law, and from the international obligation undertaken by Hungary to protect the environment and biodiversity, that

the Hungarian State has an active obligation to take action (legislative) to conserve biodiversity.

[45] 8. The obligation to conserve biodiversity, which, as mentioned above, can be derived both directly from the Fundamental Law and indirectly from the international obligations undertaken by Hungary, currently exists in the Hungarian legal system in several forms, both as a strategic goal and as a specific obligation. For instance, the National Sustainable Development Framework Strategy, which replaced the 2007 National Sustainable Development Strategy and was adopted by the Parliamentary Resolution 18/2013 (III. 28.) OGY, sets out as a minimum requirement the maintenance of species diversity, which is unique in Europe, the conservation of landscape and natural values, and the prevention of the depletion of ecosystem services (Point 6: Goals and measures for the transition to sustainability). The National Biodiversity Strategy, adopted by Parliamentary Resolution 28/2015 (VI. 17.) OGY, aims to halt the loss of biodiversity and the further decline of ecosystem services in Hungary by 2020 and to improve their status as far as possible. o achieve this, biodiversity conservation needs to be integrated into cross-sectoral policies, strategies and programmes and their implementation (National Biodiversity Strategy, Executive Summary).

IV

[46] 1. The preamble to Act LIII of 1996 on Nature Conservation (hereinafter referred to as the "Nature Conservation Act") declares that natural values and natural areas are a specific and irreplaceable part of national assets, and that their maintenance, management, improvement, preservation for present and future generations, ensuring the economical and rational management of natural resources, the protection of natural heritage and biodiversity, and the establishment of a harmonious relationship between man and nature, in accordance with our international commitments, require the establishment of effective nature protection as a fundamental condition for the survival of mankind.

[47] Pursuant to Section 41/A (1) of the Nature Conservation Act, Natura 2000 sites are designated and published by the Government, and the rules governing these areas are determined. The responsible Minister shall publish the parcels of land in Natura 2000 sites. Pursuant to Section 41/A (2) of the Nature Conservation Act, the fact of designation must be recorded in the land register, and once the designation is lifted, the record must be deleted. The record or its deletion shall be initiated by the nature conservation authority of its own motion. Section 17 (1), point 10, of Act CXLI of 1997 on the Real Estate Register provides for the recording of legal character in the

recording of legally significant facts relating to real estate. Section 39/A (j) of Decree 109/1999 (XII. 29.) FVM of the Minister of Agriculture and Regional Development on the implementation of Act CXLI of 1997 on the Real Estate Register states that the legal character of the real estate may be recorded as a Natura 2000 site.

[48] 2. On the basis of the authorisation contained in the Nature Conservation Act, the Government regulated the legal status of sites of European Community importance for nature conservation by Government Decree 275/2004 (X. 8.) Korm. Pursuant to Section 8 (1) of Government Decree 275/2004 (X. 8.) Korm, activities that do not endanger or prejudice the achievement of the conservation objectives of a Natura 2000 site and that are lawfully carried out in accordance with a legally valid permit at the time of designation of the Natura 2000 site may be continued without restriction Pursuant to Section 8 (2), it is prohibited to carry out any activity or investment in a Natura 2000 site other than a protected area of nature without a permit or in a manner other than what is prescribed in the permit, which may hinder the achievement of the site's conservation objectives, and in case of violation of this provision, the environmental and nature conservation authority acting as the nature conservation authority shall prohibit the person carrying out the activity subject to a permit from carrying out such activity in the absence of a permit or in a manner other than that prescribed in the permit. The prohibition of the activity may be replaced by a restriction if this is sufficient to ensure the protection of the Natura 2000 site.

[49] Among the Natura 2000 sites belonging to various categories of land use, only the rules of land use for the maintenance of grassland (meadows, pasture land) are laid down in a separate law [(Government Decree 269/2007 (X. 18.) Korm on the Rules of Land Use for NATURA 2000 Grassland (hereinafter referred to as the "Decree 269/2007 (X. 18.) Korm")]. Sections 3 to 5 of this Decree lay down clear obligations for all owners regarding the use of grassland. In the case of compliance with the grassland management obligations, the Decree 128/2007 (X. 31.) FVM of the Minister of Agriculture and Regional Development on the Detailed Rules for Compensatory Grants from the European Agricultural Fund for Regional Development for the Management of Natura 2000 Grassland also provides for compensatory grants. No similar legislation has been adopted for other categories of land use.

[50] 3. The Constitutional Court then reviewed the rules of the "Land for Farmers" Programme challenged by the petitioners, also with regard to the fact whether the sale by auction of State-owned land belonging to the Natura 2000 network is possible under the Programme.

[51] The Government decided by Government Decision on the measures necessary for the sale of State-owned land to farmers under the "Land for Farmers" Programme . The Constitutional Court examined the unconstitutionality by non-conformity

with the Fundamental Law of the Government's decision in Decision 36/2015 (XII. 16.) AB on the "Land for Farmers" Programme, but the procedure did not examine the regulation on the sale of Natura 2000 sites.

[52] The Government Decision was first replaced by Government Decision 1062/2016 (II. 25.) Korm, and then by Government Decision 1203/2016 (IV. 18.) Korm, which is still in force, with unchanged provisions regarding the sale of Natura 2000 sites.

[53] By virtue of the Government Decision, the "Land for Farmers" Programme allowed farmers to purchase State-owned land (subject to the 300-hectare maximum land acquisition limit set by Act CXXII of 2013 on Transactions in Agricultural and Forestry Land). Pursuant to point 1 (d) of the Government Decision, forests and nature conservation areas were not the subject of the sale.

[54] Pursuant to Section 31 (3), point 9, of the Government Decree, the auction notice must include a reference to the main legislation applicable to Natura 2000 sites in the case of land parcels that are Natura 2000 sites. Under Section 3 (1) of the Government Decree, the consent of the Minister responsible for nature conservation is required for any transfer or transfer into asset management of a parcel of land that is a protected area of nature or a Natura 2000 site.

[55] On the basis of the foregoing, the Constitutional Court held that the sale of State-owned land designated as Natura 2000 sites was also lawfully possible under the "Land for Farmers" Programme.

[56] 4. The petitioners sought the annulment of Section 31 (3), point 9, of the Government Decree, which provides that the auction notice must indicate the main legislation applicable to Natura 2000 sites in the case of land parcels classified as Natura 2000 sites. The Constitutional Court holds that the obligation to indicate the mandatory content of the auction notice, in particular the obligation to indicate the main legislation applicable to Natura 2000 sites, has an important guarantee value. In particular, it serves the purpose of ensuring that potential purchasers at auction are informed, even before the auction begins, of the main legal provisions governing the use and exploitation of the site in question and that they are aware that the site they wish to purchase is included in the Natura 2000 network and that its use and exploitation are therefore subject to additional obligations. The annulment of that provision would not, contrary to the petitioners' intentions, have the effect of preventing the sale by auction of Natura 2000 sites from public ownership, but would merely mean that the auction notice would not have to include the special status of Natura 2000 sites. The Constitutional Court therefore dismissed the petition seeking the annulment of Section 31 (3), point 9, of the Government Decree.

V

[57] 1. The Constitutional Court, acting of its own motion under Section 46 of the Constitutional Court Act, then ascertained whether the sale of State-owned land in Natura 2000 sites under the "Land for Farmers" programme constituted unconstitutionality by omission manifested in non-conformity with the Fundamental Law of the legislature. In this context, the Constitutional Court reviewed the legislation on the sale and utilisation of Natura 2000 sites.

[58] 2. With regard to the sale of Natura 2000 sites, the Constitutional Court found the following. From the point of view of EU law, areas with Natura 2000 status can be classified as protected areas of nature or Natura 2000 sites that are not protected areas of nature, on the basis of Section 4 (g) and (h) of the Nature Conservation Act. Point 1 (d) of the Government Decision [and, by analogy, point 1 (d) of Government Decision 1062/2016 (II. 25.) Korm and point 1 (d) of the current Government Decision 1203/2016 (IV. 18.) Korm] clearly excluded nature conservation areas from the scope of the sale, with the result that the contested provision concerned only Natura 2000 sites which are not protected areas of nature. Pursuant to Section 68 (5) of the Nature Conservation Act, "protected natural values and areas are subject to limited marketability", whereas pursuant to Section 68 (6) the State has a right of first refusal in the event of a change of ownership of a protected natural value or area. Under Section 68 (8) (a) of the Nature Conservation Act, "the disposal of a protected area of nature owned by the State is not possible, except in the case of an exchange with a protected area of nature of at least equal conservation value, with the consent of the Minister, or in other cases provided for by law". This implies that the Nature Conservation Act does not categorically exclude the possibility of private ownership of protected areas of nature. In line with this, pursuant to Section 4 (1) of the Government Decree, "[ownership of] a parcel of land that is a protected area of nature may only be transferred by exchange", while pursuant to Section 44 (4), "[a] protected area of nature that is part of the National Land Fund may be exchanged for a protected area of at least equal conservation value [...]". Pursuant to Section 3 (1) of the Government Decree, "[the] consent of the Minister responsible for nature conservation is required for the transfer or transfer into asset management of any legal title of a parcel of land that is a protected area of nature and a Natura 2000 site (hereinafter together referred to as 'protected area')".

[59] This means that, even in the case of State-owned protected areas of nature, it is possible to dispose of them, but the process of sale is subject to strict legal guarantees,

which are, on the whole, suitable for the quantitative and qualitative protection of the values mentioned in Article P of the Fundamental Law.

[60] 3. The Constitutional Court has held that, under the "Land for Farmers" Programme, there is no legal obstacle to the private ownership of Natura 2000 sites that are not protected natural areas, with the consent of the Minister of Agriculture and Nature Conservation, in accordance with Section 3 (1) of the Government Decree. The legislator has not adopted any specific provisions on the exercise of the right of consent. Furthermore, Section 34 of the Government Decree prescribes that the contract of sale must specify whether the parcel of land which is the subject of the contract is a protected area or, in accordance with Section 39 (7), that in such a case the contract of sale must include, as an integral part thereof, a list of specifications for the preservation or improvement of the natural state, drawn up by the body responsible for the nature conservation management of protected areas of nature. As for the remainder, however, the general rules apply to the procedure for the sale of Natura 2000 sites other than protected areas of nature. This means that there are no specific rules or additional requirements for the sale of Natura 2000 sites other than the exercise of the right of consent by the Minister responsible for nature protection, and that these sites can be sold in essentially the same way as land without Natura 2000 status. There are no guarantee rules for the selection of the areas to be sold to ensure the quantitative or qualitative protection of these publicly owned areas, which are selected solely on the basis of the Government's general objectives for land tenure policy. In that connection, the Constitutional Court notes that, under Section 28 of Act LXXXVII of 2010 on the National Land Fund, the revenue from the use of the land included in the National Land Fund may also be used to reduce the public debt, and that the legislation therefore allows the selection of Natura 2000 sites for sale to be determined not by their natural value but rather by their monetary value and thus by the maximisation of public revenue. There is also no general rule guaranteeing that environmental protection and nature conservation aspects will be taken into account in the sale process, for example when selecting the buyer of the land. The auction sale itself does not naturally take into account the suitability of the Natura 2000 site sold for nature management, as it allocates the land to the highest bidder, even in the face of bidders who are significantly more suitable for the specific management of the sites. Consequently, the selection of the Natura 2000 sites to be sold and the process of sale are not subject to the requirement, first laid down in Decision 28/1994 (V. 20.) AB and consistently applied by the Constitutional Court since then, that in the system of environmental protection and nature conservation "preventive guarantees are needed that exclude the possibility of damage with the same probability as if the area were owned by the State and managed by nature conservation authorities". {ABH 1994, 134, 142, last reaffirmed by Decision 16/2015 (VI. 5.) AB, Reasoning [81]}.

[61] 4. In view of the above, the Constitutional Court held that the National Assembly, by not at the same time allowing the sale of Natura 2000 sites which are not protected natural areas and which are State-owned, did not also adopt a rule which would ensure that the environmental and nature conservation values and characteristics referred to in Article P of the Fundamental Law are taken into account and thus protected in terms of quantity and quality when selecting the land parcels to be sold and during the sale procedure, triggered unconstitutionality by omission manifested in non-conformity with the Fundamental Law. The Constitutional Court therefore calls upon the National Assembly to remedy the omission on the basis of Section 46 (1) and (2) (c) of the Constitutional Court Act.

VI

[62] 1. The Constitutional Court then proceeded to consider whether the private ownership of Natura 2000 sites, which are not protected natural areas, would lead to a deterioration of the institutional level of nature protection at the level of regulation. The rules governing the use of publicly owned Natura 2000 sites are provided for partly by Natura 2000 maintenance plans, partly by records of prescriptions for the preservation or enhancement of the natural state, partly by the management of assets for nature conservation purposes and partly by the institution of property control. The Constitutional Court has therefore determined whether the principle of non-derogation applies to these levels of regulation in the case of the transfer of Natura 2000 sites from public to private ownership.

[63] 2. Section 4 of Government Decree 275/2004 (X. 8.) Korm regulates the general principles for the use of Natura 2000 sites. Section 4 (5) of the Government Decree provides that for Natura 2000 sites, "[t]he maintenance plan shall contain proposals for the management of the Natura 2000 site and possible means for their implementation, and shall not establish binding land use rules, unless otherwise provided by law". Natura 2000 maintenance plans must be prepared for all Natura 2000 sites, irrespective of the owner. The consideration of Natura 2000 conservation plans prepared by public bodies by the public owner is self-evident. However, although these maintenance plans also provide guidance for private owners sensitive to environmental and nature conservation concerns, they are not in themselves, by virtue of their legal status, suitable for imposing binding and accountable land use rules on non-State owners.

[64] 3. The use of State-owned Natura 2000 sites in a manner that takes full account of environmental protection and nature conservation aspects is ensured by the institution of conservation asset management. Pursuant to Section 43/A (1) of the Government

Decree, "[t]he primary purpose of nature conservation management on State-owned land is to achieve public nature conservation objectives, to preserve living and inanimate natural values, to conserve landscape and cultural-historical values, to preserve and protect the condition and value of natural assets and to increase their value in a sustainable manner". Subsection (2) states that "[a]s part of the management of nature conservation assets, the management of fields and forests in protected areas (hereinafter referred to as "farming") may be carried out with regard to nature conservation objectives, preference shall be given to traditional (landscape), nature-friendly, the use of farming methods that are close to nature, the maintenance of indigenous and long-established domestic animal populations as genetic reserves, and the maintenance of the protected area in accordance with nature conservation interests through the livestock (in appropriate numbers, species and breed composition)". Pursuant to Section 3 (1) of the Government Decree, the above provisions apply to both protected areas of nature and Natura 2000 sites that are not protected areas.

[65] With regard to Natura 2000 areas owned by the State but used by a non-State owner under a lease, Section 37 of the Government Decree provides that "[i]f the part of the land subject to the lease is a protected area, the contract shall include as an integral part a list of specifications for the preservation or improvement of the natural state, drawn up by the body responsible for the nature conservation management of protected natural areas." Thus, for Natura 2000 sites used by the State on the basis of a lease, there is a binding and accountable land use rule for the land user, based on a specific contract in the particular case. Accountability and control is ensured by the institution of ownership control laid down in Section 47 (1) of the Government Decree: "[t]he National Land Fund shall control the exercise of the rights of the trustee, the lessee or the user under a contract based on other titles pursuant to the National Land Fund Act. To this end, the contract between the user and the National Land Fund for the use and utilisation of the land parcel (hereinafter referred to in this Chapter as the "user") shall stipulate that the procedures for ownership control under this Decree, the rights and obligations of the parties shall be considered part of the contract." Under Subsection (2), "[t]he purpose of the ownership control shall be to examine the management of the land parcel, including the detection of any improper, illegal, non-contractual or prejudicial actions against the interests of the owner and the restoration of the legal status, and to ensure the authenticity, completeness and accuracy of the property register." In accordance with Section 39 (7) of the Government Decree, a list of specifications for the preservation or improvement of the natural state shall form an integral part of the sale contract for the sale of land that is a protected area.

[66] However, while in the case of leases of State-owned Natura 2000 sites, compliance with the list of specifications for the maintenance or enhancement of the natural state is monitored by the National Land Fund in the framework of the ownership control,

there is no control mechanism and no system of sanctions for compliance with the list in the case of privately owned Natura 2000 sites. For Natura 2000 sites that are not protected areas and are transferred from public ownership to private ownership and then possibly resold or exploited (leasehold), there is no provision for the list of standards for the conservation or enhancement of the site to be an integral part of the contract, even in the event of resale or utilisation. Nor does it follow from the legislation in force that the body responsible for the conservation management of protected natural areas, which initially drew up the list, will subsequently review the content of the list on a regular basis.

[67] 4. The Constitutional Court was then required to determine the legal regime applicable to the use of privately owned Natura 2000 sites.

[68] Government Decree 269/2007 (X. 18.) Korm lays down the rules of land use for the maintenance of Natura 2000 grasslands (meadows and pastures), regardless of their form of ownership [with the exception of Section 1 (2), which states that the "Decree does not apply to State-owned Natura 2000 grasslands held by the defence and water management authorities and their land users."] Given that Sections 3 to 5 of the Decree lay down explicit obligations for all owners to use grassland, the owners or users of grassland not owned by the State are subject to exactly the same binding obligations as the State owner in the case of grassland in the Natura 2000 network. However, even in the case of privately owned grassland, only one element of the regulation, the land use, has been fixed and there is no management for nature conservation, no conservation or enhancement register and no ownership control for public ownership.

[69] 5. However, while Government Decree 269/2007 (X. 18.) Korm regulates the rules for the use of Natura 2000 grassland [meadows under Section 41 of Decree 109/1999 (XII. 29.) FVM of the Minister of Agriculture and Regional Development, and pasture under Section 42 of Decree 109/1999 (XII. 29.) FVM of the Minister of Agriculture and Regional Development], the legislator has not regulated the use of other types of land under Decree 109/1999 (XII. 29.) FVM of the Minister of Agriculture and Regional Development (in particular (in particular: arable land under Section 40, reedbeds under Section 46, forests under Section 47, wooded areas under Section 48 and fish ponds under Section 49), for which no specific legal provision beyond the general land use requirements applies.

[70] Taking into account that the rules on the management of assets for nature conservation purposes under Section 43/A of the Government Decree are not applicable to Natura 2000 sites that are transferred out of State ownership, and the legislator has provided for special land use rules only in relation to Natura 2000 grassland, there is a real possibility that the level of protection of the environment, and in particular of biodiversity, already achieved after the sale of Natura 2000 sites from

State ownership by auction may be reduced. In the case of State-owned Natura 2000 sites, there are specific and legally enforceable requirements for both the State owner (management of the property for nature conservation purposes) and the lessee (a register as part of the lease contract and owner control to ensure compliance). In contrast, such legally enforceable provisions for Natura 2000 sites that are being taken out of public ownership are only applicable to Natura 2000 grassland. For privately owned Natura 2000 sites other than grassland, only the non-binding Natura 2000 maintenance plans and the list of conservation or enhancement requirements annexed to the sales contract lay down the rules of use, concerning which the legislator has not laid down rules for the regular review of the latter list or for monitoring compliance with it.

[71] 6. This also means that, in the case of land included in the Natura 2000 network which is not covered by Government Decree 269/2007 (X. 18.) Korm and which is sold by auction from public ownership, there is no substantive regulatory restriction on the possibility of the new owner acquiring the land to utilise it in a manner which, although more profitable for the new owner, would lead to the frustration or jeopardisation of the nature conservation objectives of the site.

[72] The use of Natura 2000 sites on the basis of purely economic considerations thus also entails the risk that, in Natura 2000 sites which are contiguous from a nature conservation point of view but fragmented in terms of their ownership structure and which were previously under single public ownership, individual private owners will make different decisions on the way they use the land in the light of the market alternatives they consider realistic. This risk is particularly realistic if the legal requirements for the use of Natura 2000 sites that are being taken out of State ownership are limited to Natura 2000 grassland.

[73] The Commissioner for Fundamental Rights and his deputy stated in their observations in response to the Constitutional Court that the conservation of biodiversity cannot be achieved effectively in isolated, small areas, since isolated, mosaic areas do not allow populations to interact freely, which in the long term also jeopardises the viability of species populations. The National Biodiversity Strategy has also identified direct management-related impacts as a primary cause of the deteriorating biodiversity data for Natura 2000 sites. The National Biodiversity Strategy also states that "[t]he fragmentation of habitats is a serious problem for the conservation and maintenance of biodiversity" (2.1.5 Green Infrastructure Development and Planning Context).

[74] This also means that if, following the transfer of Natura 2000 sites to private ownership, the legal provisions applicable to each site were to remain in force and applicable in their unchanged form, and thus no infringement of the prohibition of

encroachment would arise at the level of legislation, there would still be a real risk of a material infringement of the prohibition of encroachment, given the fragmented ownership structure. The Constitutional Court has already stated in Decision 28/1994 (V. 20.) AB that, in the case of protected areas or areas intended for protection in private ownership, the same rules as those applicable to public ownership are not sufficient: where these areas are in private ownership or management, "the severity of the obligations imposed on the users must be increased in all of the above cases so that there will be no decrease in the level and efficiency of protection." (ABH, 1994, 134, 142)

[75] In order to protect the environment, and therefore both in adopting the cardinal Act under Article P (2) of the Fundamental Law and in the development of detailed legislation on Natura 2000 sites (including their sale from State ownership and their legal status after sale), the legislator must also take into account the precautionary principle, according to which the State must demonstrate that, in the light of scientific uncertainty, the deterioration of the state of the environment as a result of a given measure will certainly not occur. The precautionary principle is enshrined in international law (in particular in the Convention on Biological Diversity, the UN Framework Convention on Climate Change promulgated by Act LXXXII of 1995, the Cartagena Protocol on Biosafety to the Convention on Biological Diversity promulgated by Act CIX of 2004), are recognised and applied both in international case law (ECtHR, Tatar v. Romania (67021/01), 27 January 2009), in EU law (in particular Article 191 of the Treaty on the Functioning of the European Union) and in Hungarian law (Section 6 of Act LIII of 1995 on the General Rules for the Protection of the Environment).

[76] 7. In the light of the above, the Constitutional Court held that, by allowing the sale of State-owned Natura 2000 sites which are not protected areas of nature, the National Assembly did not at the same time lay down rules ensuring that the list of sites which are not protected areas is complied with and that the content of the list is regularly reviewed, irrespective of the identity of the subsequent owners, and by failing to lay down specific rules governing the resale of the land and to establish land-use rules similar to those for grassland in all the agricultural parcels covered by the Natura 2000 network, it has failed to fulfil its obligation under Article P (1) of the Fundamental Law to protect the environment and to conserve and preserve natural resources for future generations and has triggered unconstitutionality by omission manifested in non-conformity with the Fundamental Law. The Constitutional Court therefore calls upon the National Assembly to remedy said omission pursuant to Section 46 (1) and (2) (c) of the Constitutional Court Act.

[77] The Constitutional Court calls on the National Assembly to fulfil its legislative obligation until 30 June 2018.

VII

[78] The Constitutional Court has ordered the publication of this decision in the Hungarian Official Gazette pursuant to the second sentence of Section 44 (1) of the Constitutional Court Act.

Budapest, 17 October 2017

Dr. Tamás Sulyok, sgd., Chief Justice of the Constitutional Court

Dr. István Balsai, sgd.,
Justice

Dr. Ágnes Czine, sgd.,
Justice

Dr. Egon Dienes-Oehm, sgd.,
Justice

Dr. Attila Horváth, sgd.,
Justice

Dr. Ildikó Hörcher-Marosi, sgd.,
Justice

Dr. Tamás Sulyok, sgd., Chief Justice of the Constitutional Court, on behalf of dr. Imre Juhász Justice, prevented from signing

Dr. Béla Pokol, sgd.,
Justice

Dr. László Salamon, sgd.,
Justice

Dr. Balázs Schanda, sgd.,
Justice

Dr. István Stumpf, sgd.,
Justice

Dr. Marcel Szabó, sgd.,
Justice

Dr. Péter Szalay, sgd.,
presenting Justice

Dr. Mária Szívós, sgd.,
Justice

Dr. András Varga Zs., sgd.,
Justice