Decision 4/2023 (V. 16.) AB

on establishing that the wording "and the buildings accommodating the Office of the National Assembly" and "these" in section 49 (1) and section 49/A (1) to (6) of the Act XXXVI of 2012 on the National Assembly are in conflict with the Fundamental Law, and the annulment thereof

In the posterior examination of a statutory regulation's compatibility with the Fundamental Law, the plenary session of the Constitutional Court – with concurring opinion by Justice dr. Zoltán Márki and with dissenting opinion by Justice *dr. Balázs Schanda* – adopted the following

decision:

1. The Constitutional Court finds that the wording "and the buildings accommodating the Office of the National Assembly" and "these" in section 49 (1) of the Act XXXVI of 2012 on the National Assembly violate the principle of the equality of representatives enshrined in Article 4 (1) of the Fundamental Law and the right to perform the activity of representatives, and therefore annuls them with effect from 30 June 2023.

Section 49 (1) of the Act XXXVI of 2012 on the National Assembly shall remain in force with the following text:

"Section 49 (1) Suspended Members shall leave the premises of the House of Parliament and, with the exceptions referred to in section 49/A (7) and section 51 (4), shall not stay in, or enter its premises during the period of suspension."[1]

2. The Constitutional Court finds that the provisions of section 49/A (1) to (6) of the Act XXXVI of 2012 on the National Assembly are contrary to Article 5 (6) of the Fundamental Law, and therefore annulled them with effect from 30 June 2023.

3. The Constitutional Court rejects in other respects the petition seeking the declaration of section 47, section 49 and section 49/A of the Act XXXVI of 2012 on the National Assembly being in conflict with the Fundamental Law and its annulment.

This decision of the Constitutional Court shall be published in the Hungarian Official Gazette.

[1] The translator's note: by reason of the structural lingustic difference betwen the Hungarian and English languagages, in the English translation of the new text of section 49 (1) of the Act, in addition to the deletion of the word „these" – as provided for by the decision of the Constitutional Court – it is necessary to insert the word „its".

Reasoning

I

[1] 1 Tímea Szabó, Member of Parliament, and the other Members of Parliament who signed the attached petition (hereinafter referred to as the petitioners), representing more than one quarter of the Members of Parliament, pursuant to Article 24 (2) (e) of the Fundamental Law and section 24 (1) of the Act CLI of 2011 on the Constitutional Court (hereinafter: ACC) requested to declare that sections 47, 49 and 49/A of the Act XXXVI of 2012 on the National Assembly (hereinafter: ANA) as enacted by section 18 of the Act CVIII of 2019 on amending certain Acts affecting the functioning of the National Assembly and the status of Members of Parliament (hereinafter: "Amending Act") are contrary to the Fundamental Law and to annul them retroactively to the date of their entry into force.

[2] 2 The petitioners held that from among the provisions of Chapter 18 of the ANA entitled "Maintaining the order of discussion and the disciplinary power at the sittings of the National Assembly", the provisions on the rate of reduction of the honorarium of Members of Parliament by the Speaker [section 47 (1)] for conduct giving rise to disciplinary liability [section 46 (2) and sections 46/B to 46/H]; the extent to which Members may be suspended for such reasons, whether on the written initiative of the chair of the sitting, on the initiative of the leader of any parliamentary group or ex officio [section 47 (2)]; information on such measures [section 47 (3)]; the rules relating to suspension and suspension with immediate effect ordered pursuant to section 48 (2) (section 49); and the exercise of the right to vote by suspended Members (section 49/A) were held to be contrary to the Fundamental Law on the grounds of the infringement of Article B (1), Article I (3), Article IX (1), Article XXVIII (7), Article 1 (1), Article 4 (1) as well as Article 5 (1) and (6) of the Fundamental Law.

[3] 2.1 With regard to the provisions on the reduction of the honorarium of Members [section 47 (1)], the petitioners complained that the changes introduced by the Amending Act had led to a significant increase in the upper limit of the reduction of the remuneration. Referring also to the case-law of the Constitutional Court, they argued that the sanctions for the statements made during the sitting of the National Assembly and other conduct which, in their view, could be regarded as political action, amounted to a restriction of the right to freedom of expression through the restriction of freedom of speech in the National Assembly. This fundamental constitutional right, which is entitled to enhanced protection, is protected by Article IX (1) of the Fundamental Law, and therefore, in order to protect the fundamental rights defined in Article I (3) and, as a constitutional value, to ensure the effectiveness of the functioning of the National Assembly, to ensure its smooth operation and to preserve its authority and dignity, it may be restricted only in a justifiable manner, to the extent strictly

necessary and proportionate to the aim pursued. In their view, the fact that the legal consequences laid down in the contested provisions can be applied even in combination means that the “combined level” of the sanctions thus created goes far beyond what is necessary (and which can be considered as proportionate) on the basis of the protected grounds; and the reduction or withdrawal of Members' honorarium to the extent permitted by those provisions (up to 12 months' honorarium in the case of immediate suspension) in fact serves to make the Member's existence impossible, rather than to maintain order in the House, and is therefore disproportionate and contrary to the Fundamental Law.

[4] According to the petitioners, the wording of the rules (e.g. the imposition of a severe sanction for “disrupting” a sitting, a debate or a vote) gives the sanctioning authority unduly wide discretion; there are no real and accountable criteria for assessment; and immediate suspension is not proportionate (since it is 15 days in any event); in the case of a reduction of honorarium, the minimum rate is always mandatory; and the legal remedy can only cure the unjustified application of sanctions rather than any disproportionate sanction {whereas, in the petitioners' view, this is a requirement also on the basis of the decision Karácsony and Others v Hungary [GC] (42461/13. and 44357/13) of 17 May 2016 of the European Court of Human Rights (hereinafter: ECHR)}. On the basis of all the above, the petitioners, referring also to past findings made by the Constitutional Court on legal certainty, stated that “the difficulties arising from the drafting of the norm raise the question of legal certainty and, therefore, in our view, it is necessary to annul the norm, given that the law is inherently uninterpretable, making its application unpredictable and unforeseeable for the addressees of the norm.”

[5] 2.2 The petitioners cited section 47 (3) and section 49 (3) of the ANA in connection with the violation of the right to legal remedy. In that connection, they complained that, whereas the former provision also lays down an obligation to state in writing the reasons for the decision of the Speaker and to inform the Member concerned of that decision in the case of a sanction in the form of the reduction of the honorarium, the latter provision lays down 'only' the obligation to provide written notification in the case of a suspension.

[6] In their view, since the application of a sanction is “based on the subjective impression” of the person imposing it (the Speaker), “it would be necessary, in order to guarantee the right of appeal enshrined in the Fundamental Law, to impose a detailed and thorough obligation to state reasons on the person with the right to impose sanctions, which would also ensure the possibility of a fair and transparent procedure for the person subject to the normative text. If the content of the obligation to state reasons is not regulated, the right of remedy is essentially emptied out, since the person subject to the sanction is not aware of the conduct, the norm and the extent to

which it has been breached, and the person assessing the legal remedy cannot make an informed decision on the justification for the application of the subjective sanction."

[7] For all these reasons, the petitioners submit that sections 47, 49 and 49/A of the ANA are contrary to Articles B (1), IX (1) and XXVIII (7) of the Fundamental Law and also infringe the principles enshrined in Article I (3).

[8] 2.3 The petitioners also complained that the Amending Act introduced a new type of sanction, the institution of suspension, compared to the previous exclusion (from the sitting day). In case of the application of this sanction, the Member concerned is obliged to leave the premises of the House of Parliament, the National Assembly's Office Building and the buildings accommodating the Office of the National Assembly, may not stay in or enter these premises during the period of the suspension, and may exercise his or her right to vote – in case of open ballot –, in the case of a Member belonging to a parliamentary group only by way of a delegation of representation given to the leader of the parliamentary group [or exceptionally, if delegated by the leader of the parliamentary group, by the deputy leader of the parliamentary group, see section 49/A (3)] or, in the case of an independent Member, through another Member of Parliament by proxy. The petitioners pointed out that, under the previous legislation, even the most serious acts of physical violence or threat of physical violence were not punishable by any restriction on the right of Members to work outside the sittings and their right to vote beyond the day of the sitting. The new sanction is therefore, in their opinion, not only more restrictive in its content, but also in its scope of application, given that suspension may be applied to any infringement except for interjections that obstruct the sitting, whereas the previous suspension was reserved by law only for violent conduct or one threatening with violence.

[9] According to the petitioners, suspension, by making it impossible for them to exercise their rights as Members and to work, even for months, constitutes an infringement of the equal rights of Members. Since, in the opinion of the Members who signed the petition, there is no justification for suspending a Member who has committed a disciplinary offence from other places in addition to the sitting (the sitting hall), the imposition of such a sanction is also unnecessary to maintain order in the House. Therefore, the application of such a sanction is not only disproportionate, but also unnecessary.

[10] According to the petitioners, in view of the fact that, in the case of an open ballot, a Member belonging to a parliamentary group may, in the event of his or her suspension, exercise his or her right to vote through the leader of the parliamentary group, on the basis of a proxy mandate which may be given to him or her (and which cannot be refused), and, if the leader of the parliamentary group is prevented from doing so, through the deputy leader designated by him or her, this may also have the

effect – in the case of smaller parliamentary groups, where the suspension may also affect the group leader and his or her deputy – of making the activities of the parliamentary group concerned impossible, since the excluded Members are *de facto* deprived of their mandate for a period of time. Not only is this contrary to the constitutional requirement of equal rights of representatives and the principle of representation of the people, but in such a case, according to the petitioners, the sanction necessarily becomes disproportionate to the infringement committed.

[11] According to the petitioners, voting by proxy is in clear contradiction to the decision-making process, which is linked to the number of Members present and indirectly, by implication, requires (personal) presence in plenary session [cp: the first sentence of section 28 (2) of ANA: "Members shall be present at the sittings of the National Assembly"]. In addition, the restriction of the right to vote embodied in the suspension or in the connected 'exceptional' voting method is also unjustified, since, in their view, as in the case of secret ballots [see section 49/A (7)], there would be a technical solution to the problem of keeping the Members of Parliament away from the sitting hall along with letting them exercise their right to vote. With regard to the rules on proxy voting, the petitioners also argued that they were not suitable for ensuring that the right to vote was properly exercised, as is illustrated by the fact that, even if the Member giving the proxy indicates under section 49/A (6) that the vote was not cast in accordance with the mandate given by him or her, this does not affect the validity of the decision adopted, as provided for in the second sentence of that provision.

[12] 3 On the basis of the foregoing, the petitioners concluded that the provisions challenged by them, as a result of the amendments introduced by the Amending Act, constitute an extension of the disciplinary powers of the Speaker to such an extent that they result in an unjustifiable violation of the constitutional principle of representation of the people. In view of this, they submit that, for the reasons set out above, sections 47 (2), 49 and 49/A of the ANA are contrary to Article I (3) of the Fundamental Law and also infringe Articles 1 (1), 4 (1) as well as Article 5 (1) and (6).

II

[13] 1 The provisions of the Fundamental Law invoked in the petition and relevant for the assessment:

"Article B (1) Hungary shall be an independent, democratic rule-of-law State." (2) The form of government of Hungary shall be a republic.

(3) The source of public power shall be the people.

(4) The power shall be exercised by the people through elected representatives or, in exceptional cases, directly."

"Article I (3) The rules relating to fundamental rights and obligations shall be laid down in an Act of Parliament. A fundamental right may only be restricted in order to allow the exercise of another fundamental right or to protect a constitutional value, to the extent that is absolutely necessary, proportionately to the objective pursued, and respecting the essential content of such fundamental right."

"Article IX (1) Everyone shall have the right to freedom of expression."

"Article XXVIII (7) Everyone shall have the right to seek legal remedy against any court, authority or other administrative decision which violates his or her rights or legitimate interests."

"Article 1 (1) HUNGARY's supreme organ of popular representation shall be the National Assembly."

"Article 4 (1) Members of the National Assembly shall have equal rights and obligations; they shall perform their activities in the public interest, and they shall not be given instructions in that respect.

(2) Members of the National Assembly shall be entitled to immunity and to remuneration ensuring their independence. A cardinal Act shall specify the public offices which may not be held by Members of the National Assembly, and may lay down other cases of incompatibility or conflict of interest."

"Article 5 (1) The sittings of the National Assembly shall be public. At the request of the Government or of any Member of the National Assembly and with the votes of two thirds of the Members of the National Assembly, the National Assembly may decide to hold a sitting in camera.

[...]

(6) Unless otherwise provided in the Fundamental Law, the National Assembly shall make its decisions with the votes of more than half of the Members of the National Assembly present. The Rules of Procedure Instruments may provide that a qualified majority shall be required for certain decisions to be taken."

[14] 2 The provisions of the ANA in force after the entry into force of the Amending Act, challenged by the petitioners and other relevant provisions:

"Section 46 (1) The chair of the sitting may reprimand or warn a Member who

(a) departs, during his or her speech, from the subject matter in a clearly unreasonable manner, or needlessly repeats in the same debate his or her own or other person's speech,

(b) ostentatiously disturbs a speech or the conduct of the sitting with his or her interjection.

(2) Should the measure referred to in paragraph (1) be without result, the chair of the sitting may deny the right to speak to the Member, and the Member shall not be given the floor on the same sitting day in the discussion of the same agenda item.

Section 46/A The chair of the sitting may without reprimanding and warning deny the right to speak to any Member who objects to any decision by the chair of the sitting or to his or her conducting of the sitting. The Member who has been denied the right to speak shall not be given the floor on the same sitting day in the discussion of the same agenda item; however, he or she may ask the committee responsible for the interpretation of the Rules of Procedure Instruments to take an *ad hoc* standpoint.

Section 46/B (1) The chair of the sitting may reprimand or warn any Member who uses a term that harms the reputation of the National Assembly, the dignity of the sitting, or any person or group, in particular a national, ethnic, racial or religious community, or is otherwise indecent, or who commits another act of such nature.

(2) Should the measure referred to in paragraph (1) be without result, the chair of the sitting may deny the right to speak to the Member, and the Member shall not be given the floor on the same sitting day in the discussion of the same agenda item.

Section 46/C (1) The chair of the sitting may reprimand or warn any Member who violates the provisions of the Rules of Procedure Instruments pertaining to illustration.

(2) Should the measure referred to in paragraph (1) be without result, the chair of the sitting may deny the right to speak to the Member, and the Member shall not be given the floor on the same sitting day in the discussion of the same agenda item.

Section 46/D The chair of the sitting may exclude from the relevant sitting day or sitting any Member, or order his or her suspension with immediate effect, if the Member uses a term that ostentatiously harms the reputation of the National Assembly or the dignity of the sitting, or ostentatiously harms or intimidates any person or group, in particular a national, ethnic, racial or religious community, or commits another act of such nature.

Section 46/E The chair of the sitting may exclude from the relevant sitting day or sitting any Member, or order his or her suspension with immediate effect, if the Member disturbs the proceeding of the sitting, the debate or the voting, or disturbs a participant of the sitting of the National Assembly in exercising his or her rights or performing his or her obligations on the floor.

Section 46/F The chair of the sitting may order the suspension of a Member with immediate effect if the Member hinders the proceeding of the sitting, the debate or the voting, or hinders a participant of the sitting of the National Assembly in exercising his or her rights or performing his or her obligations on the floor.

Section 46/G The chair of the sitting may order that a Member be suspended with immediate effect if, at the sitting of the National Assembly, the Member directly threatens to exert physical violence, calls for physical violence, hinders the taking out of another person, or exerts physical violence.

Section 46/H (1) If a Member does not cease engaging in a conduct specified in sections 46 to 46/G despite being reprimanded or warned multiple times by the chair of the sitting, the Member shall be obliged to leave the sitting hall immediately, and, with the exception of voting periods, he or she shall not be present in the sitting hall in the remainder of the sitting day.

(2) If a legal consequence referred to in paragraph (1) is applied, the chair of the sitting shall announce it at the sitting of the National Assembly. Within three working days, the chair of the sitting shall communicate his or her announcement in writing to the Member, indicating the cause of the announcement and the legal basis for the legal consequence.

(3) The provisions of section 51 and section 51/A, in accordance with the rules applicable to excluded Members, and the provisions of section 52 shall apply accordingly to Members engaging in a conduct referred to in paragraph (1)."

"Section 47 (1) The Speaker shall reduce the honorarium of a Member as follows:

(a) in the case specified in section 46 (2), if the Member engages in a conduct referred to in section 46 (1) (b), by at least half the amount of the monthly honorarium, but not more than the amount of one month's honorarium of the Member,

(b) in the cases specified in section 46/B (2) and section 46/C (2), by at least the amount of the monthly honorarium, but not more than the amount of two months' honorarium of the Member,

(c) in the cases specified in section 46/D and section 46/E, by at least the amount of two months' honorarium, but not more than the amount of four months' honorarium of the Member,

(d) in the cases specified in section 46/F and section 46/G, by at least the amount of four months' honorarium, but not more than the amount of six months' honorarium of the Member.

(2) At the written initiative of the chair of the sitting or the leader of any parliamentary group, or *ex officio*, the Speaker may order the suspension of a Member as follows:

(a) in the cases specified in section 46/B (2) and section 46/C (2), for not more than three sitting days or for not more than eight calendar days,

(b) in the cases specified in section 46/D and section 46/E, for not more than six sitting days or for not more than fifteen calendar days,

(c) in the case specified in section 46/F, for not more than twelve sitting days or for not more than thirty calendar days,

(d) in the case specified in section 46/G, for not more than twenty-four sitting days or for not more than sixty calendar days.

(3) The Speaker shall make his or her decision according to paragraphs (1) and (2) within fifteen days from the conduct, regardless of whether or not a measure has been taken by the chair of the sitting or a legal consequence under section 46/H (1) has been imposed. The Speaker shall communicate without delay his or her decision in writing to the Member, also stating the reasons."

"Section 48 (1) Members excluded from a sitting day or a sitting of the National Assembly shall leave the sitting hall immediately and, with the exception of voting periods, shall not be present in the sitting hall in the remainder of the sitting day or sitting.

(2) If an excluded Member does not comply with the call made by the chair of the sitting to leave the sitting hall, the chair of the sitting may order the suspension of the Member with immediate effect.

(3) Within three working days of exclusion, the chair of the sitting shall communicate his or her decision ordering exclusion in writing to the Member, indicating the cause of, and the legal basis for, the measure."

"Section 49 (1) Suspended Members shall leave the premises of the House of Parliament, and the buildings accommodating the Office of the National Assembly and, with the exceptions referred to in section 49/A (7) and section 51 (4), shall not stay in, or enter, these premises during the period of suspension.

(2) If a Member suspended with immediate effect by the chair of the sitting does not comply with the call made by the chair of the sitting to leave the sitting hall, the upper limit of the amount of the reduction of the honorarium applicable against him or her shall be set to double.

(3) Within three working days of suspension with immediate effect, the chair of the sitting shall communicate his or her decision ordering suspension with immediate effect in writing to the Member, indicating the cause of, and the legal basis for, the measure.

(4) The period of suspension ordered with immediate effect by the chair of the sitting shall be fifteen calendar days. The period of suspension ordered by the Speaker may extend to the limit specified in section 47 (2), with the proviso that the first day of suspension shall be the first sitting day or first calendar day after the decision of the Speaker becomes final and binding.

(5) The period between ordinary sessions shall also be taken into account in the calculation of the period of suspension. A suspension ordered with regard to sitting days shall also apply to the calendar days between the sitting days affected by the suspension."

"Section 49/A (1) Suspended Members may exercise their right to vote at a sitting of the National Assembly – in the case of open ballot – by proxy.

(2) A suspended Member who is a member of a parliamentary group may, in order to exercise his or her right to vote in accordance with paragraph (1), give a proxy mandate to the leader of the parliamentary group for the entire period of his or her suspension. The parliamentary group leader may not refuse the proxy mandate. If the group leader is prevented from exercising his or her mandate, the deputy leader designated by the group leader shall exercise it.

(3) A suspended parliamentary group leader may give a mandate to the deputy leader in order to exercise his or her right to vote in accordance with paragraph (1).

(4) A suspended independent Member may give a proxy mandate to a Member for the entire period of the suspension in order to exercise his or her right to vote in accordance with paragraph (1).

(5) The Member exercising the mandate shall exercise the right to vote on behalf of and in accordance with the mandate of the suspended Member. The suspended Member and the Member acting as proxy may agree in writing beforehand on the suspended Member's voting intentions. The proxy holder shall have no other rights and shall not be subject to any other obligations of the suspended Member.

(6) If the suspended Member considers, after the machine vote, that the electronic register does not contain the result he or she intended, he or she may within one day report the matter to the Clerks of the National Assembly. This shall not alter the announced result of the vote.

(7) If voting takes place by secret ballot, a suspended Member shall be allowed to exercise his or her right to vote during the voting period in a room designated by the Speaker."

"Section 50 The full amount of the honorarium, without deductions, payable to the Member in the month of the conduct serving as grounds for ordering the measure

shall be taken into account for determining the amount of the reduction of the honorarium."

Section 51 (1) A Member excluded or suspended with immediate effect by the chair of the sitting may, in a request submitted to the chair of the Committee on Immunity within eight days of the written communication of the decision, ask the committee to establish that there were no grounds for ordering the measure; in the case of section 48 (2), exclusion may be challenged only in a request submitted against the suspension with immediate effect, but not in a separate request.

(2) A Member affected by a decision of the Speaker according to section 47 may, in a request submitted to the chair of the Committee on Immunity within eight days of the written communication of the decision, ask the committee to set aside the decision.

(3) The Committee on Immunity shall adjudicate all requests submitted according to paragraphs (1) and (2) against measures ordered with respect to the same conduct of the Member jointly, in a single proceeding, within twenty days of receiving the last request. The time limit for adjudicating a request referred to in paragraph (1) shall commence upon the expiry without result of the time limit for taking a measure under section 47 or for submitting a request under paragraph (2).

(4) If in his or her request the Member proposes to be heard, the Committee on Immunity shall hear the Member in the legal remedy proceeding. For the purpose of appearing at, and for the period of, the hearing, the Member shall be allowed to attend the sitting of the committee, irrespective of any suspension.

(5) The chair of the Committee on Immunity shall inform the Member and the Speaker without delay of the decision made by the committee regarding the Member's request according to paragraph (1) or paragraph (2), or of the expiry without result of the time limit for making the decision.

(6) If the Committee on Immunity grants the Member's request according to paragraph (1) or paragraph (2), the measure ordered against the Member shall not be enforced and the disciplinary proceeding shall be terminated. This decision of the committee shall be presented at the next sitting of the National Assembly.

(7) If the Committee on Immunity does not grant the Member's request according to paragraph (1) or paragraph (2), or does not decide on it within the time limit set for adjudication, then, with respect to the request concerned, the Member may, in a request submitted to the Speaker within eight days of the written communication of the decision of the Committee on Immunity or of the information referred to in paragraph (5), ask the National Assembly

(a) to establish in the case under paragraph (1) that there were no grounds for ordering the measure,

(b) to set aside the decision in the case under paragraph (2).

(8) The National Assembly shall decide without debate on the request referred to in paragraph (7) at its sitting following the submission of the request, provided that the request has been received not later than on the last working day of the week preceding the sitting. If this is not the case, the National Assembly shall decide on the request at its second sitting following the submission of the request.

(9) In the case of a request

(a) under paragraph (1), the National Assembly may uphold the measure taken by the chair of the sitting, or, granting the request, it may establish that there were no grounds for ordering the measure,

(b) under paragraph (2), the National Assembly may uphold the effect of the decision made by the Speaker, or, granting the request, it may set aside the decision of the Speaker.

(10) If the National Assembly grants the Member's request, the measure ordered against the Member shall not be enforced and the disciplinary proceeding shall be terminated."

"Section 51/A (1) Exceptionally, *ex officio*, and assessing specific circumstances, the Speaker may terminate the effect of exclusion, or suspension with immediate effect, ordered by the chair of the sitting within five days after it has been ordered. The Speaker shall inform without delay the Member, the chair of the sitting and the chair of the Committee on Immunity of this decision.

(2) By virtue of the decision of the Speaker referred to in paragraph (1), the measure ordered, including the further measures ordered on the basis of section 48 (2), shall cease to have effect, and the provisions of section 49 (2) shall not apply to the conduct concerned.

(3) The measure referred to in paragraph (1) shall not exclude carrying out the procedure under section 51."

"Section 107/B (1) The amount of the reduction of honorarium ordered on the basis of the provisions of this Act shall be deducted from the honorarium paid to the Member following the ordering of the reduction of honorarium becomes final and binding.

(2) The reduction of honorarium shall be implemented in a way that, taking into account all reductions of the Member's honorarium according to this Act, the amount of the honorarium paid to the Member may not be less in any month than the amount of the mandatory minimum wage established for an employee employed full time (minimum wage), as applicable in the month in question.

(3) If, taking into account also the provisions of paragraph (2), the monthly honorarium of the Member is insufficient to cover the implementation of honorarium reduction or reductions ordered, the remaining part shall be deducted from the honorarium of the Member to be paid in the subsequent months.

(4) If the amount of the honorarium reduction or reductions ordered cannot be deducted due to the termination of the mandate of the Member, the amount not deducted shall qualify as public dues collectible as taxes to be collected, in the absence of voluntary performance, by the state tax and customs authority in accordance with the procedure specified in the Act CLIII of 2017 on Enforcement Procedures to be Applied by the Tax Authority.

(5) If the mandate of the Member terminates upon termination of the mandate of the National Assembly, the amount of honorarium reduction not yet deducted shall be deducted from the allowance referred to in section 119 (1), before the application of the provisions of paragraph (4)."

[15] 3 The provisions of the ANA in force prior to the entry into force of the Amending Act which are relevant for the assessment of the petition:

"Section 46 (1) A speaker who departs, during his or her speech, from the subject matter in a clearly unreasonable manner, or needlessly repeats in the same debate his or her own or other person's speech, shall be called upon by the chair of the sitting to return to the subject, and shall be warned of the consequences of failure to do so.

(2) The chair of the sitting may cut off the floor to a Member who, in the course of his or her speech, continues the conduct specified in paragraph (1) despite a second call not to do so."

"Section 47 The chair of the sitting may, by stating its reason, cut off the floor of a speaker who has used up his or her own time or that of his or her parliamentary group."

"Section 48 (1) A speaker who, in the course of his or her speech, uses an insulting or indecent expression against the authority of the National Assembly or against a person or group, in particular a national, ethnic, racial or religious community, shall be reprimanded by the chair of the sitting, who shall at the same time warn him or her of the consequences of repeated use of the insulting or indecent expression.

(2) The chair of the sitting shall cut off the floor of any speaker who, after being called to order, repeatedly uses insulting or indecent language.

(3) If, in the course of his/her speech, a Member uses a blatantly offensive expression against the authority of the National Assembly or against a person or group, in particular a national, ethnic, racial or religious community, or if the offensive expression used leads to serious disorder, the chair of the sitting may, without reprimanding or

warning, propose the exclusion of the Member from the remainder of the sitting day, or the Member's due honorarium may be reduced by applying section 51/A.

(4) The National Assembly shall decide on the proposal for exclusion without debate. If the National Assembly is not quorate, the chair of the sitting shall decide on the exclusion. The chair of the sitting shall inform the National Assembly of the exclusion and the reasons for it at the next sitting of the National Assembly. The National Assembly shall then decide without debate on the lawfulness of the decision of the chair of the sitting.

(5) A Member who has been excluded from a sitting day may not speak again during the sitting day. A Member who has been excluded from a sitting day shall not be entitled to any honorarium for the day of exclusion."

"Section 49 (1) The chair of the sitting may without notice and warning cut off the floor of any speaker who objects to any decision by the chair of the sitting or to his or her conducting of the sitting, with the exception of a procedural proposal. A speaker who has been deprived of the floor without notice and warning by the chair of the sitting may request an *ad hoc* opinion of the committee responsible for the interpretation of the Rules of Procedure Instruments.

(2) With the exception of paragraph (1), the floor may not be cut off if the chair of the sitting has not warned the Member of the consequences of the notice at the time of making the notice.

(3) A person who has been deprived of the floor under paragraph (1), section 46 (2) or section 48 (2) may not speak again on the same sitting day during the discussion of the same item on the agenda.

(4) If a Member behaves in a manner that seriously offends the authority and order of National Assembly or violates the Rules of Procedure Instruments concerning the order of deliberation, voting or the presentation of evidence, the chair of the sitting may, without reprimanding or warning, propose the exclusion of the Member from the remainder of the sitting day, or the Member's due honorarium may be reduced by applying Section 51/A. The proposal shall state the reason for the action taken and, in the case of a breach of the Rules of Procedure Instruments relating to the order of deliberation, voting or the presentation of evidence, the relevant rules of procedure instrument that has been breached.

(5) The National Assembly shall decide on the proposal for exclusion without debate. If the National Assembly is not quorate, the chair of the sitting shall decide on the exclusion. The chair of the sitting shall inform the National Assembly of the exclusion and the reasons for it at the next sitting of the National Assembly. The National

Assembly shall then decide without debate on the lawfulness of the decision of the chair of the sitting.

(6) A Member who has been excluded from a sitting day may not speak again during the sitting day. A Member who has been excluded from a sitting day shall not be entitled to any honorarium for the day of exclusion."

"Section 50 (1) If a Member has used physical violence, or threatened to use direct physical violence, called for such violence, or obstructed the conduct of others during a sitting of the National Assembly, the chair of the sitting may propose the exclusion of the Member from the sitting day, or, by applying paragraphs (5) to (8) and section 51/A, the exercising of the Member's rights may be suspended and his or her due honorarium may be reduced.

(2) The National Assembly shall decide on the proposal for exclusion without debate. If the National Assembly is not quorate, the chair of the sitting shall decide on the exclusion. If a Member has been excluded from the sitting day pursuant to paragraph (1), he or she shall not be entitled to attend sittings of the National Assembly or to participate in the work of parliamentary committees during the period of exclusion, and shall not be entitled to any honorarium. The chair of the sitting shall inform the National Assembly of the exclusion and the reasons for it at the next sitting of the National Assembly. The National Assembly shall then decide without debate on the lawfulness of the decision of the chair of the sitting.

[...]

(5) The National Assembly may, in the event of the continuation of the conduct specified in paragraph (1) within the same session, suspend the exercise of the rights of the Member

(a) for a second time for six sitting days,

(b) for the third and each subsequent time for nine sitting days.

(6) If a Member's rights as a Member have been suspended, the Member shall not be entitled to attend sittings of the National Assembly or to participate in the work of parliamentary committees or to receive any honorarium during the period between the first and the last sitting days of the suspension.

(7) The first sitting day of the suspension shall be the sitting day following the day on which the decision on suspension is taken. In calculating the period of suspension, the break between sessions shall be disregarded.

(8) For the purposes of paragraph (5), account shall also be taken of the Member engaging in the conduct referred to in paragraph (1) at a committee meeting."

“Section 51 If there is a disturbance at a sitting of the National Assembly which makes it impossible to continue deliberations, the chair of the sitting may suspend or adjourn the sitting for a specified period. If the sitting is adjourned, the Speaker shall convene a new sitting. If the chair the sitting is unable to announce his or her decision, he or she shall leave the Chair, whereupon the sitting shall be adjourned. If the sitting is adjourned, it may only be resumed when the Speaker reconvenes it.”

“Section 51/A (1) The House Committee may, at the initiative of any of its members, order the reduction of the due honorarium of a Member within fifteen days of the performance of the activity specified in section 48 (3), section 49 (4) or section 50 (1), in the absence of any other legal consequence. The decision on reducing the honorarium shall state its reason and, in the case of a breach of the Rules of Procedure Instruments relating to the order of deliberation, presentation or voting, the relevant rules of procedure instrument that has been breached.

(2) The House Committee may, at the initiative of any of its members, propose the suspension of the rights of a Member within fifteen days of performing the activity specified in section 50 (1), in the absence of any other legal consequence. The decision on proposing the suspension of the Member’s rights shall state its reason and, in the case of a breach of the Rules of Procedure Instruments relating to the order of deliberation, presentation or voting, the relevant rules of procedure instrument that has been breached.

(3) The Speaker shall immediately inform the Member of the reasoned decision or proposal taken pursuant to paragraph (1) or (2).

(4) If the Member does not agree with a decision taken in respect of him or her pursuant to paragraph (1), he or she may, within five working days of being informed pursuant to paragraph (3), request the Committee on Immunity, Conflict of Interest, Discipline and the Verification of Credentials to set aside the decision taken pursuant to paragraph (1). If the Member has not requested the annulment of the decision taken pursuant to paragraph (1) within the time limit, the Member's due honorarium shall be reduced by the rate set in the decision taken pursuant to paragraph (1).

(5) If the Member does not agree with a decision taken in respect of him or her pursuant to paragraph (2), he or she may, within five working days of being informed pursuant to paragraph (3), request the Committee on Immunity, Conflict of Interest, Discipline and the Verification of Credentials to set aside the decision taken pursuant to paragraph (2). If the Member has not requested the annulment of the proposal taken on the basis of paragraph (2) within the time limit, the National Assembly shall decide on the suspension of the exercise of the Member's rights by applying paragraph (14).”

III

[16] Pursuant to Article 24 (2) (e) of the Fundamental Law, the Constitutional Court shall review the conformity with the Fundamental Law of the laws in respect of which it conducts the procedure under section 24 of the ACC. Pursuant to Article 24 (2) (e) of the Fundamental Law, one quarter of the Members of Parliament, among others, are entitled to initiate the procedure. In view of the fact that the number of Members of Parliament is one hundred and ninety-nine, the Constitutional Court held that, since the petition was signed by 58 Members of Parliament, it satisfied the condition laid down in Article 24 (2) (e) of the Fundamental Law. In addition, the petition also meets the requirements laid down in section 52 (1b) of the ACC, since it contains the provision of the Fundamental Law which establishes the competence of the Constitutional Court to rule on the petition, the legislative provisions to be examined by the Constitutional Court, the provisions of the Fundamental Law which are alleged to have been violated, a statement of reasons as to why the challenged statutory provisions are considered to be contrary to the provisions of the Fundamental Law, and an explicit request for a declaration that the challenged provisions of the law are contrary to the Fundamental Law and for their annulment retroactively to the date of taking effect.

IV

[17] The motion is in part well-founded, for the reasons set out hereunder.

[18] 1 The Constitutional Court first refers to its case-law, which has been developed over several decades with regard to the operation of the National Assembly and the rights and obligations of its members, and more recently with regard to the disciplinary liability of members in connection with their obligations. In this context, it notes that, although some of the most important observations in this area were originally made under the scope of the Constitution, they have been confirmed and further developed in the case-law of the Constitutional Court in several decisions since the entry into force of the Fundamental Law, in view of the identity of the content of the constitutional rules with that of the Fundamental Law {c.p. Decision 13/2013. (VI.17.) AB, Reasoning [24]}.

[19] In the context of the relationship between the principle of popular sovereignty and the general functioning of the National Assembly, the Constitutional Court stated that "Pursuant to Article B of the Fundamental Law, Hungary is an independent, democratic state governed by the rule of law; the source of public power is the people, who exercise their power primarily through their elected representatives. Hungary's form of state is republic and its form of government is parliamentary democracy. In view of this, the representatives democratically elected in parliamentary elections take the most

important decisions of public power for the country as a whole in the public interest, bearing in mind the rights and duties incumbent upon them, with due consideration for the views of the electorate and their fellow representatives, by complying with the rules of operation and the order of deliberation laid down in the ANA and the resolution on the Rules of Procedure Instruments [Resolution No. 10/2014 (II. 24.) of the National Assembly on certain Rules of Procedure Instruments, hereinafter: RRPI].

»The basis of the functioning of parliamentary democracy, i.e. the legitimacy of the exercise of public power by the parliamentary majority, is therefore, on the one hand, the existence of electoral rules in accordance with the Fundamental Law, on the other hand, the existence of rules of legislative procedure that provide a guarantee framework for the Members of Parliament to carry out their activities in a prudent manner and in the public interest, and, thirdly, the effective observance of these rules« (CCDec [Decision 6/2013. (III. 1.) AB], Reasoning [66])" {Decision 15/2019. (IV.17.) AB (hereinafter: CCDec1), Reasoning [29]}.

[20] The rules governing the legal status of Members of Parliament, their rights and obligations (the so-called "representatives' rights") are set out jointly in several pieces of legislation. Some rights and obligations are explicitly mentioned in the Fundamental Law, while others – together with the detailed rules on the former – are contained and elaborated in detail in the legislation enacted on the basis of the authorisation given by the Fundamental Law [mainly the ANA and the Resolution No. 10/2014 (II. 24.) of the National Assembly on certain Rules of Procedure Instruments, hereinafter: RRPI], as well as in the related decisions of the Constitutional Court (and the generally recognised theses of jurisprudence). Their main features are summarised below.

[21] According to Article 1 (1) of the Fundamental Law, "HUNGARY's supreme organ of popular representation shall be the National Assembly", whose members shall be elected by free elections in accordance with Article 2 (1). Pursuant to Article 4 (1), Members of the National Assembly shall have equal rights and obligations; they shall perform their activities in the public interest, and they shall not be given instructions in that respect.

[22] Members of Parliament have rights and obligations in connection with their activities and by virtue of their office. The first group includes, on the one hand, classical rights (e.g. the right to attend and participate in sittings; the right to speak; the right to make proposals and motions; the right to vote; the right to hold parliamentary office) and, on the other hand, "special" rights of the representatives (e.g. the right to ask questions; the right to interpellate or request information). Traditionally, the most important obligations of Members of Parliament are the duty to participate, to observe parliamentary ethics and discipline, to make certain declarations and statements and to communicate with the electorate. In order to ensure that all these rights and duties

are exercised and performed without interference, Article 4 (2) of the Fundamental Law provides for the representatives' right of immunity and the right to remuneration to ensure their independence.

[23] The majority of Members' duties are connected with the day-to-day running of the National Assembly and the performance of their representative mandate, which may in a certain sense be seen as the manifestation of the other side of the participation rights mentioned. The obligation to participate (the failure to do so may in itself be sanctioned by the internal rules of the various parliaments) also entails, in the context of participation in parliamentary work, taking part in the vote. This is of particular importance for the quorum and the public validity of legislative acts. The importance of complying with the obligations to make declarations and statements lies in ensuring the independence of parliamentary work and guaranteeing freedom from influence. Although partly from a different angle – for example in the context of the rules on the conflict of interest –, the rules under which Members of Parliament are entitled to an honorarium in connection with the exercise of their office, and under which (as a rule) they may not engage in any other gainful activity, hold any other office or mandate, or accept any remuneration, with a few exceptions (the rules on the conflict of interest of Members of Parliament), also ensure the same.

[24] In contrast, the obligation to observe the rules on parliamentary ethics and discipline and the order of deliberations is primarily intended to guarantee the smooth and proper functioning of parliamentary work (also secured by the obligation to participate), i.e. the conduct of parliamentary deliberation (public debate) and legislation, and at the same time to protect the authority and dignity of the National Assembly.

[25] In the context of the examination of the institution of obstruction and the legislation aimed at preventing it, and the method of conducting the sitting in the case of a specific disorderly conduct by a Member, CCDec1 stated the following:

"The political forces that are represented in elections have different political motivations and preferences. The primary venue for enforcing these is the Parliament, and the way to do this is the adoption of laws (the constitution, where applicable) that establish the main legal framework. As in this context the Parliament is also the main forum for holding political debates, deliberation principle is the most important guiding principle for the legislation that takes place here. The rules of operation of a democratically functioning legislative body, based on the principle of deliberation, shall (and therefore also aim to) give effect to two main principles: the principle of the democratic nature of deliberation and the principle of majority decision-making." (CCDec1, Reasoning [29])

[26] In the context of the provisions of Article 5 (7) of the Fundamental Law, the CCDec1 held that

"[...] pursuant to this provision, the Speaker of the House has the right and the duty to ensure the smooth functioning of the National Assembly and to preserve the dignity of the National Assembly in accordance with the Rules of Procedure Instruments adopted by a two-thirds majority of its Members; to that end, the Fundamental Law empowers the Speaker of the House to exercise policing and disciplinary powers as provided for in the Rules of Procedure Instruments. With regard to the application of these means – in the context of freedom of expression in the National Assembly and its limits – the Constitutional Court confirmed in its Decision 3206/2013 (XI.18.) AB and Decision 3207/2013 (XI.18.) AB that there is an overriding (public) interest in the effective and smooth functioning of the National Assembly which may constitutionally justify the restriction of certain rights of the Members under certain conditions, namely the exercise of disciplinary and policing powers {see: Decision 3206/2013. (XI.18.) AB, Reasoning [17], [21] to [30] and Decision 3207/2013. (X.18.) AB, Reasoning [17] to [30]}." (CCDec1, Reasoning [36])

[27] The provisions challenged in the present petition are part of the provisions of Chapter 18 of the ANA, entitled "Maintaining the order of discussion and the disciplinary power at the sittings of the National Assembly", which are part of the scope of parliamentary disciplinary law and which affect the rights of Members of Parliament, the exercise of all or some partial rights of them; they contain restrictions on certain forms of expression which are considered improper and impose legal consequences associated with the exercise of such expressions by breaching these restrictions.

[28] The Constitutional Court has recently stressed with respect to the importance of the protection of the rights of representatives in the Ruling 3178/2021. (V.19.) AB of the Constitutional Court in the context of a petition by the Members of Parliament submitted against a resolution of the National Assembly containing a derogation from the RRPI that "the Constitutional Court considers both the functioning of the National Assembly as the supreme representative body of Hungary, the guarantee of its ability to function, and the guarantees of the exercise of the rights of representatives, which are closely related to this and are also specifically mentioned in the Fundamental Law, the equality of Members of Parliament and the enforcement of the principle of equal mandate as constitutional values that deserve enhanced protection. [...] In this regard, when drafting the legislation which contains provisions affecting the right of Members laid down in the Fundamental Law, the law-maker pay particular attention to ensuring that any restrictions in the legislation to be drafted do not empty out that right on the one hand and that all Members of Parliament, whether members of a parliamentary group or independent, have the same opportunity (although not necessarily under the same rules by virtue of their status) to actually exercise it. The provisions [...] which

contain restrictions [...] and which constitute discrimination or restrictions which cannot be supported by a constitutionally acceptable and reasonable justification [...] are to be annulled; this is what the Constitutional Court is required to do in order to protect the functioning of modern representative democracy, as enshrined in the Fundamental Law, and the duty of protection laid down in Article 24 (1) of the Fundamental Law itself." {Decision 3178/2021. (V.19.) AB, Reasoning [31]}

[29] At the same time, it should also be pointed out that both the Constitutional Court and the ECtHR – in the ECtHR judgement cited by the petitioners – has already made significant findings on the admissibility of the provisions of the ANA on disciplinary law, the restrictions on certain (unauthorised) conducts of representatives in the exercise of their rights as representatives, and the provisions containing sanctions for such conduct. With respect to the present case, the report "on the role of the opposition in a democratic parliament" [CDL-AD (2010)025.] of the Venice Commission also contains important findings in general about the relevant practice of certain national parliaments (hereinafter: "Report") (for more details, see CCDec1, Reasoning [38]).

[30] As it is clear from the Report and the ECtHR judgement – and as referred to in the Constitutional Court's own previous case-law – the various "standing orders" (Statute, Rules of Procedure, etc.) of most of the national parliaments in Europe and even of the Parliamentary Assembly of the Council of Europe and the European Parliament contain provisions and connected sanctions designed to safeguard their functioning and order of operation and to ensure the democracy, authority and dignity of the relevant bodies and the debates within them, by restricting the rights of Members in terms of the conduct they may engage in. The disciplinary (and, where appropriate, policing) powers to be usually exercised by the Speaker or the chair of the sitting are therefore not unusual in international comparison, although this practice is not necessarily applied in all national parliaments (and certainly not to the same extent). The ECtHR has itself compared the disciplinary measures that can be imposed on Members for conduct that breaches parliamentary order in 44 of the 47 Member States of the Council of Europe (exceptions: Andorra, Monaco and San Marino). It found that "in each of the Member States examined, such rules were laid down in the Parliament's rules or regulations of procedure and/or in specific legislation. [...] The nature and the extent of disciplinary measures against Members of Parliament varies considerably from country to country."

[31] These sanctions include "reprimand and/or warning as the most common measure, applied in 33 Member States [... (list)]; refusal to give or withholding the floor in 26 Member States [... (list)]; in most (28) Member States surveyed, the most severe sanction is temporary exclusion, which can range from suspension from the remainder of the sitting [... (list)] to exclusion from several parliamentary sittings or sessions [... (list)]. The exclusion of a Member from the sitting shall necessarily entail he or she will

not able to speak in the debate. 58. Further disciplinary measures may include an apology [... (list)], the naming of the Member [... (list)] or a reprimand [... (list)]. 59. As regards the different forms of financial penalties that can be imposed on Members of Parliament, laws of 18 of the 44 Member States examined allow for this [... (list)]. In Germany (Bundestag), Georgia, Hungary and Slovakia, fine is an independent sanction. In the remaining 14 Member States examined, the imposition of certain disciplinary measures also entails, as an additional sanction, the reduction of the Member's honorarium for a certain period. In the other 26 Member States, there does not appear to be any financial penalty." (see: ECtHR judgement, paragraphs 56 to 59 of the Reasoning). The ECtHR also recorded that in some Member States the maintenance of order and the taking of disciplinary measures are mostly the responsibility of the Speaker, while in others it is shared between the Speaker and the Parliament itself or another body of it (e.g. the Office or a particular committee). The result of the ECtHR's examination of the possibilities for legal redress was also mixed: while in a number of states no such possibility is provided, in other countries Members can challenge disciplinary measures taken against them for disorderly conduct in parliament either through a form of internal complaints procedure or through judicial redress ("in addition to or as an alternative to internal reparation measures") (cp: ECtHR judgement, paragraphs 60 to 61 of the Reasoning).

[32] The Constitutional Court has already examined the conformity with the Fundamental Law of certain provisions of the relevant domestic legislation, i.e. the provisions of the ANA falling within the scope of disciplinary law – relating to the exclusion of disorderly Members and the reduction of their honorarium – on the basis of (direct) constitutional complaint(s) under section 26 (2) of the ACC, in the Decision 3206/2013 (XI.18.) AB (hereinafter: CCDec2) and the Decision 3207/2013 (XI.18.) AB (hereinafter: CCDec3), also referred to in CCDec1. Despite the fact that these decisions contain findings on the rules in force before the amendments introduced by the Amending Act, with regard to the freedom of expression enshrined in Article IX (1) of the Fundamental Law and its limitations under paragraphs (4) to (5) of that Article, the findings in those decisions are generally relevant in the present case as well regarding the admissibility of disciplinary rules and the sanctions (types of sanctions) for their violation [the necessity provided for in Article I (3) of the Fundamental Law].

[33] In CCDec2, the Constitutional Court has already stated, with regard to committee meetings, that "each Member may be expected to comply with the provisions of the rules of procedure. Therefore, a Member must, from the outset, take into account the provisions of the rules of procedure which restrict his freedom of speech in the National Assembly. [...]

As provided for in Article 5 (7) of the Fundamental Law, the National Assembly may establish, by a majority of two-thirds of the votes of the Members of Parliament

present, its rules of operation and the order of deliberation in the Rules of Procedure Instruments. The the National Assembly enjoys a high degree of freedom in the drafting of the Rules of Procedure Instruments, and its self-regulatory autonomy is a power protected by the Fundamental Law, in which the Constitutional Court may intervene only on the basis of very serious arguments and grounds, in extreme cases, in case of direct violation of the constitution. [...] Pursuant to Article 5 (7) of the Fundamental Law, and in order to ensure the smooth functioning of the National Assembly and to preserve its dignity, the Speaker of Parliament shall exercise powers of policing and discipline as laid down in the Rules of Procedure Instruments. The purpose of parliamentary disciplinary and policing powers is therefore to ensure the smooth functioning of the National Assembly and to preserve its dignity. In this way, the Constitution creates the constitutional basis for parliamentary disciplinary and policing powers, which necessarily restrict the rights of Members, including freedom of expression, in order to ensure the smooth functioning of the National Assembly and to preserve its dignity. The calm, uninterrupted and balanced functioning of the body, including the smooth and balanced conduct of committee meetings, is a prerequisite for the definition and implementation of the National Assembly's tasks. [...]

The efficiency and smooth functioning of the National Assembly, as well as the preservation of the authority and dignity of the National Assembly can therefore be a constitutionally justifiable limitation on the right of Members to speak. [...]

To sum up, the reduction of the honorarium of Members of Parliament and the exclusion of Members from the work of the National Assembly are the most serious disciplinary sanctions, although they are not unknown either in legal history or in international comparison. However, in the view of the Constitutional Court, these sanctions may only be applied in the cases listed in section 52 (2) (a) of the ANA, in order to protect constitutional values, which are duly justifiable by the law-maker, [...]" {CCDec2., Reasoning [25] to [30]; similarly see. CCDec3., Reasoning [27] to [30]}.

[34] Bearing in mind the domestic constitutional development and the achievements of the historical constitution, in the light of Hungarian constitutional and international case-law, – in examining obstruction and its prevention by constitutional means – the Constitutional Court took a similar position also in CCDec1 with regard to the justifiability [the necessity provided for in Article I (3) of the Fundamental Law] of sanctioning unauthorised conduct by representatives by means of disciplinary provisions. (See: Reasoning [38]).

[35] 2 Thus, based on its own case-law and an overview of international practice, the Constitutional Court has generally held, as stated above, that in order to protect the appropriate constitutional values, the restriction of certain Members' rights in a cardinal law (ANA) by way of a reduction of their honorarium or, where appropriate,

by way of their restraining or removal from the sitting or sitting day of the National Assembly, as a disciplinary measure, is constitutionally permissible, as long as such a measure can be considered proportionate to the conduct of the Member, is not arbitrary and can reasonably be presumed to have a sufficient deterrent effect and to achieve the constitutional objective to be protected; the existence of such rules is justified.

[36] However, the examination of the specific arguments put forward in each of the petitioners' objections against the rules currently in force, in particular their proportionality, requires an assessment of those arguments individually. In that regard, the Constitutional Court has examined separately (i) the arguments put forward by the petitioners in relation to the disproportionality of the possible rates of reduction in the honoraria and thus the unforeseeability (use of vague legal concepts) of the sanctionable conducts, and set out in paragraph I/2.1 of the reasoning of the decision (Reasoning [3] et seq.); (ii) the arguments put forward in relation to the infringement of the right to a legal remedy, as set out in paragraph I/2.2 of the reasoning of the decision (Reasoning [5] et seq.); and (iii) the arguments put forward against suspension and the related voting by proxy, as set out in point I/2.3 of the reasoning of the decision (Reasoning [8] et seq.).

[37] 2.1 In order to carry out the above-mentioned examinations, the Constitutional Court first provided an overview of the changes in the content of the provisions of parliamentary disciplinary law introduced by section 18 of the Amending Act and contested by the petitioners, and the considerations taken into account by the law-maker when drafting these provisions.

[38] As is clear from the relevant part of the reasoning of the Amending Act, the law-maker took into account, in reaching its decision, a number of observations made by the Constitutional Court in CCDec2 and CCDec3, by the ECtHR and the Venice Commission in the ECtHR judgement and in the Report, as well as the disciplinary rules of other parliaments (in particular the Bundestag, the European Parliament and the House of Commons of the United Kingdom). As the purpose of the amendments, which undoubtedly contain a number of tightening-up measures, the reasoning basically sets an aim, accepted as equally justifiable in all the documents mentioned, of ensuring the efficient and smooth functioning of the National Assembly, preserving its authority and dignity, and seeking to ensure that the principle of majority voting is not unduly compromised by the abuse of the democratic nature of deliberation; and that the exercise of the rights and the performance of the duties of all Members of Parliament in the sitting hall should be enforced equally, without interfering with or obstructing the work of other Members, parliamentary and public officials, or the conduct of the sitting, the debate or the voting.

[39] In view of all this, the amendment introduced – among other changes not contested by the petitioners – more detailed rules than before with regard to the definition of conduct in breach of disciplinary law (see: sections 46 to 46/G of ANA). In these provisions, according to the reasoning, the Amending Act, referring also to the criteria set out in the ECtHR judgement, defined certain conducts which could disturb the order of the deliberation, violate the authority of the institution or interfere in the exercise of the rights of others – and were therefore considered unacceptable – in a differentiated manner, in line with the gravity of the specific acts, taking into account the principle of gradualness. In addition to the conducts already (but then uniformly) sanctioned in the previous legislation, the legislation introduces two new elements as argued in the law-maker's reasoning: (i) interjections that ostentatiously disturb a speech or the conduct of the sitting; and (ii) disruption or hindrance of the proceeding of the sitting, the debate or the vote, or disruption or hindrance of another Member, office holder of the National Assembly or public official in the exercise of his or her rights or duties on the floor. According to the amendment, if a Member engaged in a conduct violating disciplinary law continues to disregard the warnings and reprimands made by the chair of the sitting; fails to cease the conduct voluntarily or on the call of the chair of the sitting, the Member shall be obliged to leave the floor by virtue of the Act if the measures taken by the chair of the sitting are in vain (section 46/H).

[40] The amendment also regulated the legal consequence of exclusion (to be applied by the chair of the sitting) differently from the provisions previously in force [sections 46/D to 46/E; section 48 (1)], and – similarly to the rules of other parliaments – also provided that the excluded Member shall leave the floor immediately after the decision is communicated orally to him or her [section 48 (1)]. Failure to do so could lead to the imposition of a more serious and immediate measure, i.e. suspension [section 48 (2)]. [Since, according to the reasoning of the Amending Act, along with the chairing of the sitting, it is not possible to provide immediately during the sitting a detailed reasoning for the exclusion, which may also be the basis for an appeal, the Member shall be informed on this in writing within three working days; see section 48 (3)]. Depending on the seriousness of the conduct, the period of exclusion may cover the remainder of the sitting day or the whole of the sitting, but it does not preclude the Member excluded from taking part in the decision-making process, since he or she may return to the floor when decisions are to be taken even during the period when he or she is subject to the measure [section 48 (1)].

[41] In addition to the possibility of exclusion, which had existed earlier as well, the Amending Act also introduced a new, more serious legal consequence, as mentioned above, namely suspension [section 48 (2)]. The Member subject to this is obliged to leave not only the floor but also the premises of the House of Parliament, the National Assembly's Office Building and the buildings accommodating the Office of the National

Assembly [section 49 (1)]. Suspension may be ordered as an immediate measure either by the chair of the sitting by oral decision immediately after the conduct giving rise to the suspension has been committed, or – similarly to the rules applicable in the German Bundestag, where its immediate and subsequent application is also possible – by the Speaker (ex officio or at the written request of the chair of the sitting or of the leaders of the parliamentary groups) within fifteen days of committing the conduct. According to the law-maker's reasoning, the rules on immediate suspension require a detailed written statement of the reasons for the decision communicated orally and its communication within three working days in order to enforce the right to an effective remedy [section 49 (3)]. If a Member who has been immediately suspended by the chair of the sitting does not comply with the call to leave the floor, the maximum amount of the reduction in the honorarium to be imposed on him or her is doubled [section 49 (2)]. The period of the suspension (with immediate effect) ordered by the chair of the sitting is fixed by the Act uniformly and in all cases for the same period (fifteen calendar days), subject to the limits of the chair's discretion as to the seriousness of the conduct in the particular situation [section 49 (4)]. The duration of a suspension ordered (subsequently) by the Speaker may vary from three sitting days or a maximum of eight calendar days to twenty-four sitting days or a maximum of sixty calendar days, depending on the act committed (see sections 46/B to 46/G) [section 47 (2)]. In calculating the duration, the period between ordinary sessions shall also be taken into account and the period of suspension set in sitting days shall extend to the calendar days between the sitting days to which the suspension relates [section 49 (5)].

[42] The Amending Act also introduced the institution of voting by proxy in the case of open ballots (section 49/A). The suspended Member may authorise the leader of the parliamentary group to vote in his/her place, acting on his/her behalf and as he/she wishes, during the votes held throughout the period of the suspension. The group leader shall be obliged to carry out the mandate and, if he or she is prevented from doing so, the deputy group leader designated by him or her shall act in his or her place. With this exception, the voting mandate shall be personal and may not be transferred to another Member. The parliamentary group leader may delegate his or her deputy leader in the event of his or her own suspension. Independent Members may delegate any of their fellow Members to act on their behalf; in that case, they shall not be obliged to accept the mandate. Section 49/A (5) allows the authorising Member to express his or her intention to vote on a particular matter in a written agreement with the Member exercising the mandate. If the suspended Member considers, after the machine vote, that the electronic register does not contain the result he or she intended, on the basis of section 49/A (6), he or she may within one day report the matter to the Clerks of the National Assembly (but this shall not alter the announced result of the vote). Section 49/A (7) allows the exercise of the right to vote in person also by suspended Members in the case of secret ballots. During secret ballots, the Member may cast his or her vote

at the same time as the other Members, but in the premises designated by the Speaker, which shall be located in the House of Parliament, the National Assembly's Office Building or the buildings accommodating the Office of the National Assembly.

[43] Taking into account the findings made in the case-law of the ECtHR, the Amending Act has reorganised the system of legal remedies applicable against the legal consequences applied (section 51). The legal remedy procedure for the application of all legal consequences is two-tiered: the first instance of legal remedy is the Committee on Immunity [section 51(1) to (6)], on the second instance, the decision is taken by the National Assembly [section 51 (7) to (10)]. The uniform time limit for submitting an application for legal remedy is eight days. Given that the chair of the sitting is entitled to apply disciplinary provisions in his or her capacity as deputy Speaker, section 51/A empowers the Speaker to terminate – exceptionally, ex officio, on the basis of equitable considerations – the effect of suspension or exclusion applied with immediate effect at the sitting,

[44] Since the law-maker – presumably partly due to other conducts of Members falling within the scope of disciplinary law, which were referred to in the aforementioned Constitutional Court decisions and the ECtHR judgement, and were committed after them – considered that the severity of the previously existing sanctions was not sufficient to guarantee the aforementioned objectives and to deter Members from engaging in unacceptable conduct, it decided to (significantly) increase the level of certain sanctions. Accordingly, it introduced a graduated system of possible minimum (½ to 4 months) and maximum (1 to 6 months) rates of reducing the honorarium, linked to the conducts described in sections 46 and 46/B to 46/F, where the maximum limit is doubled in the case provided for in section 49 (2). Similarly, the Amending Act has resulted in a significant increase in the case of suspension, which replaces the sanction of "suspending the Member's rights" provided for in the previously applicable rules. This introduced suspension to replace the previous measure that had applied on the first occasion for the relevant sitting day, six sitting days on the second time and nine sitting days for the third and each subsequent time, with the aforementioned regime ranging from three sitting days or a maximum of eight calendar days up to twenty-four sitting days or a maximum of sixty calendar days, as provided for in section 47 (2).

[45] 2.2 First, the Constitutional Court examined the petitioners' arguments relating to the level of the reduction of the honorarium and the definition of the conducts justifying it, in the context of the violation of the right to freedom of expression and legal certainty.

[46] In this context, the Constitutional Court recalls that both CCDec1, CCDec2 and CCDec3 have established that the National Assembly is a particularly important forum

for the exercise of freedom of expression, that is to say, the place where Members of Parliament take decisions on matters directly affecting the future of the country, after having heard arguments for and against. "The publicity of parliamentary debate and the freedom of speech of Members of Parliament are indispensable for constitutional legislation. [...] On the one hand, free parliamentary debate on public affairs is therefore an indispensable prerequisite for good legislation, while on the other hand, free parliamentary debate contributes to making it possible for voters to gain an adequate picture about the activities of the Members of Parliament and other important officials under public law, so that they can participate in political discussions and decision-making in possession of proper information." [...] One of the National Assembly's tasks is to represent the opposing views in society. In doing so, it helps to defuse tensions in society, even if it often fails to resolve them. The stability of a pluralist society is enhanced when representatives of the political camps can clash in public in the National Assembly over the major divisive issues of society." {See CCDec3, Reasoning [17] to [19], similarly CCDec2, Reasoning [21]}

[47] Therefore, the freedom of expression in Parliament, i.e. the right to parliamentary speech granted to Members of Parliament, which has a special content and which is a constitutional manifestation in the course of parliamentary activities of the general freedom of speech, which applies to all, and which is – according to the relevant case-law of the Constitutional Court – protected by Article IX (1) of the Fundamental Law. (Despite the fact that, on the one hand, it is broader than the general rules for the protection of the right to freedom of expression, because of the broader protection granted by immunity; on the other hand, it is inherently limited by the written rules protecting the authority and dignity of the National Assembly, by the written rules defining the requirements of the culture of debate and the reasonable conduct of parliamentary debates, and by the unwritten rules which have been fleshed out by parliamentary practice.) In the context of this freedom, however, the Constitutional Court has previously stated that this protection should be interpreted at all times only within the values of the Constitution (Fundamental Law); this applies in particular to Members of Parliament who, at the inaugural session, take an oath to uphold the constitution in force. The Constitutional Court held that the conducts challenged in the motions judged upon in CCDec2. and CCDec3 and regulated in the provisions in force before the entry into force of the Amending Act but which are also sanctionable by the legal consequences challenged in the present petition, contain statutory elements (use of expressions that are blatantly offensive to a person or group, in particular a national, ethnic, racial or religious community) which, under Article IX (4) to (5), cannot inherently be covered by the Fundamental Law's protection of the freedom of expression

[48] However, with regard to other provisions relating to conducts which seriously offend the authority or order of the National Assembly, or to conducts that breach the

rules of the Rules of Procedure Instruments relating to the order of deliberation or voting – by making a distinction, in respect of the freedom of expression of Members, between freedom of expression itself (limited by the protection of the rights to human dignity, honour and reputation, and the protection of the dignity of the Hungarian nation and of national, ethnic, racial or religious communities, as external constraints) and the form and manner of the external manifestation of the opinion – the Constitutional Court held that, in respect of the latter, the National Assembly is entitled to adopt (self-)restrictive provisions which may guarantee the dignity and smooth functioning of the body. It considered that provisions of this kind effectively set a "margin of tolerance" within which the substantive functioning of the body can still be ensured

{See: CCDec2, Reasoning [21] to [26], CCDec3, Reasoning [20] to [25]}.

This was summarised in the CCDec2 as follows:

"As provided for in Article 5 (7) of the Fundamental Law, the National Assembly may establish, by a majority of two-thirds of the votes of the Members of Parliament present, its rules of operation and the order of deliberation in the Rules of Procedure Instruments. The National Assembly enjoys a high degree of freedom in the drafting of the Rules of Procedure Instruments, and its self-regulatory autonomy is a power protected by the Fundamental Law, in which the Constitutional Court may intervene only on the basis of very serious arguments and grounds, in extreme cases, in case of direct violation of the constitution.

[...] Pursuant to Article 5 (7) of the Fundamental Law, and in order to ensure the smooth functioning of the National Assembly and to preserve its dignity, the Speaker of Parliament shall exercise powers of policing and discipline as laid down in the Rules of Procedure Instruments. The purpose of parliamentary disciplinary and policing powers is therefore to ensure the smooth functioning of the National Assembly and to preserve its dignity. In this way, the Constitution creates the constitutional basis for parliamentary disciplinary and policing powers, which necessarily restrict the rights of Members, including freedom of expression, in order to ensure the smooth functioning of the National Assembly and to preserve its dignity. The calm, uninterrupted and balanced functioning of the body [...] is a prerequisite for the definition and implementation of the National Assembly's tasks. [...] The efficiency and smooth functioning of the National Assembly, as well as the preservation of the authority and dignity of the National Assembly can therefore be a constitutionally justifiable limitation on the right of Members to speak." {CCDec2., Reasoning [28] to [29]; similarly see: CCDec3., Reasoning [28] to [29]}

[49] In view of all the above, it can be stated in the context of present case, too, that, in substance, as well as in the view of legislators in other countries, international organisations and in various international (legal) fora,

"every Member of Parliament may be expected to comply with the Rules of Procedure Instruments. Therefore, a Member must, from the outset, take into account the provisions of the rules of procedure which restrict his freedom of speech in the National Assembly." {CCDec2., Reasoning [27]; similarly see: CCDec3., Reasoning [25]}.

[50] This statement, therefore, while recognising the National Assembly's wide range autonomy of self-regulation, which is not free from limitations – and which is interpreted in the same way by the ECtHR [see e.g. ECtHR Judgement, paragraphs 142 to 143, 146 to 147] –, applies equally to the conducts of Members, which the ANA orders to be sanctioned by the legal consequences (levels of legal consequence) in the area of disciplinary law, as objected to by the petitioners.

[51] At the same time, however, while it is not primarily the legal consequences themselves, but in fact the provisions prohibiting the conducts they are intended to sanction, which may be understood as a restriction on the right of the Members to speak and their other rights, the Constitutional Court had to first examine two questions on the basis of the arguments put forward by the petitioners. On the one hand, whether the conducts of Members prohibited by the ANA were set out in sufficiently clear terms, so that they could be identified by each Member; and, on the other hand, whether the level of the sanctions attached to them could, by reason of the undoubtedly significant increase in the weight of the applicable legal consequences introduced by the Amending Act, or even by reason of the discretionary nature of the conditions for the application of the sanctions, lead to a result which might even lead to the emptying out of a provision of the Fundamental Law or to a breach of it.

[52] The Constitutional Court held that these questions (i.e. the prohibited conducts and the legal consequences attached to them) can be examined in close connection with each other, given that, due to the amendments introduced by the Amending Act, the disciplinary provisions of the ANA provide for a set of rules allowing for the application of (at least in most cases) progressively more severe legal consequences in respect of the prohibited conducts of the Members, where the conducts of Members to be sanctioned are set out in an abstract way; and the extent of the legal consequences which may be imposed in respect of such conducts is not specified in concrete terms, but is, in most cases, subject to a ceiling and a floor, with the exception of the period of immediate suspension. Consequently, the application of individual sanctions (to be imposed in a specific case) can only be based on a discretionary decision taken by the person (the Speaker) who assessed the conduct of the Member complained of and, where appropriate, attached to it the legal consequences

complained of by the petitioners. This requires a complex approach on the part of the Constitutional Court in the examination, bearing in mind the fact that the Constitutional Court has no jurisdiction to examine the constitutionality of individual decisions of the National Assembly or its Speaker. It is apparent from the petition that it does not challenge the sanctions which may be imposed by the chair of the sitting independently, but only the legal consequences which may be determined subsequently at the discretion of the Speaker, and the extent of those sanctions.

[53] 2.2.1. The Constitutional Court first examined the arguments relating to the definition of the prohibited conducts and the lack of their clarity, foreseeability and predictability, as claimed by the petitioners. In this context, it may be noted that, despite the fact that the petitioners expressly named only the "disruption of the sitting, the debate or the vote" as a conduct threatened with sanctions, as one "allowing an unduly wide discretion", they nevertheless formulated their argument concerning the violation of the normative clarity in general terms, using plural numbers, referring to several "statutory definitions" at the same time, as a legislative error resulting in disproportionate restrictions on the expression of the views of Members.

In addition, their petition also lists in a table, side by side with the contested levels of sanctions, the provisions of the ANA which, with the entry into force of the Amending Act, have been incorporated into a provision separate from the legal consequences and which set out in abstract terms all the prohibited conducts. In the light of all these considerations, the Constitutional Court, in the course of its examination, also took into account all the Members' conducts prohibited by the ANA

[54] The Constitutional Court emphasises, in relation to these arguments of the petitioners, that the mere fact that a statutory provision defines in an abstract way certain conducts regarded as undesirable and, in that context, threatened with sanction, does not in itself result in a breach of the clarity of the rules and legal certainty derived from Article B (1) of the Fundamental Law. Given that the range of possible conducts leading to a particular result or fulfilling a statutory definition may be quite varied, a certain degree of generalisation and abstraction is often unavoidable when defining the conduct threatened with legal consequences in legislation. Without this type of codification technique, it would be impossible to regulate not only disciplinary law (parliamentary or otherwise), but also other areas of law (e.g. criminal law, misdemeanour law, or even a large part of civil or administrative law) properly, so as to ensure that they are properly applied in practice. In this regard, as long as the degree of abstraction does not reach a level that would make the application of the provisions containing them impossible from an objective point of view, or even unpredictable and arbitrary, the use of this method is constitutionally permissible and even explicitly justified.

[55] By reviewing the disciplinary law provisions of the ANA, the Constitutional Court has come to the conclusion that in section 46 and sections 46/B to 46/H, the terms used to describe the prohibited conducts of Members [disturbance; using an insulting/blatantly offensive or intimidating term to a person or group, or committing other such act; violation of the Rules of Procedure Instruments on presentation; disturbing/hindering other persons participating in the sitting in exercising their rights or performing their obligations on the floor; exerting physical violence, threatening with or calling for physical violence, hindering the taking out of another person] cannot be regarded as general or uninterpretable to such an extent as to justify a finding on the violation of the clarity of norms. Some of these wordings (e.g. the use of abusive language, the exerting of physical violence, the calling for or threatening with physical violence) are also found in other areas of law, such as criminal law or civil law, and can be interpreted properly in the course of the application of law. The use and interpretation of such expressions in parliamentary disciplinary law is, as the ECtHR judgement indicates, determined and shaped by the practice of each national parliament. On the other hand, these rules are known to all Members of Parliament and, in the spirit of equality of rights and obligations, apply to all of them equally. And, as referred to in the CCDec2 and CCDec3 (see above), Members of Parliament are expected to comply with the provisions of the Rules of Procedure Instruments.

[56] According to the relevant case-law of the Constitutional Court, a fundamental requirement arising from the constitutional principle of the clarity of the rules is that provisions of the law prohibiting a certain conduct and, where appropriate, imposing sanctions in connection with its possible commission should be capable of enabling the potential participants to foresee, to the extent that may be expected, the expectable (possible) consequences of their conduct. Since, according to the Constitutional Court, due to the diversity of possible conducts, a completely precise or exhaustive definition cannot be expected from the legislation in the case under examination, it is necessary that the statutory definitions should contain a certain degree of generality, the interpretation and "filling in" of which can be done by practice. (Cp. CCDec2, Reasoning [36]; CCDec3, Reasoning [38]). In addition, Members of Parliament, as persons who, by virtue of their mandate, are required to act with due care in the performance of their functions and in carrying out their duties, may be expected to assess with particular diligence the risks and consequences of committing any conduct. (See similarly: ECtHR judgement, Reasoning, paragraphs 124 to 127).

[57] In connection with the Members' specific conducts thus defined, the Amending Act introduced, in section 47 (1) and (2) of the ANA challenged by the petitioners, a sanction level for the disciplinary sanctions of reduction of honorarium and suspension, established individually in several stages, with lower and upper limits specified in points (a) to (d) of the respective paragraphs. This regulatory solution makes it possible, on

the basis of a case-by-case discretion, to individually determine the relevant legal consequence to be imposed, according to the gravity of the infringement actually committed by the Member. In addition to being not unknown in the legal system, this type of setting a sanction is also typical in certain cases (see, for example, criminal law), and therefore makes it possible to impose a sanction proportionate to the seriousness of the infringement committed. In the light of the above, the Constitutional Court considers that, in relation to the petitioners' complaint, it cannot be held that there has been an infringement of legal certainty or of the clarity of the rules on the basis of the applicants' complaint that the contested legislation is not only too general in terms of the dispositions, but also does not contain a sufficiently objective (coherent and possibly exhaustive) criterion for the level of the sanctions to be applied.

[58] In the light of the foregoing, the Constitutional Court held that the arguments put forward by the petition in relation to the contested provisions in the context of the infringement of legal certainty were unfounded.

[59] 2.2.2. With regard to the provisions containing the legal consequences applicable to disciplinary offences, the petitioners complained, on the one hand, of the extent of the sanctions (the possible range thereof) and, on the other hand, of the lack of criteria for determining the specific sanctions, as previously judged upon. They argue that the contested provisions constitute a disproportionate restriction on Article IX (1) of the Fundamental Law on both grounds.

[60] The petitioners complained that the Amending Act had significantly increased the maximum amount of the reduction of honorarium that could be imposed as a sanction compared with the rules previously in force. Under the previous rules, the amount of the reduction could not exceed one month's honorarium of the Member. A sanction of this extent was applicable if, at the sitting of the National Assembly, a Member used, threatened or incited physical violence or hindered the taking out of another person; in all other cases, the maximum sanction ceiling was one third of one month's honorarium.

[61] The petitioners complained that, on the basis of the new legislation introduced by the Amending Act, the applicable sanction rate for “using a term that offends the dignity of the sitting” and other conducts considered by the petitioners to be less severe, is increased to several times the previous ceiling rate (2 to 4 months’ amount), while in the case of physical violence or threats of physical violence, the sanction may be increased from one month's honorarium to 4 to 6 months’. The Constitutional Court also found that, as the petition also refers to, in a given case, on the basis of section 49 (2) of the ANA, as amended by the Amending Act, the maximum rate of the reduction of honorarium to be ordered may be doubled; that is, in the case of applying the most

severe sanction, the honorarium of Members may be reduced by up to twelve months' amount.

[62] With regard to the determination of the maximum level of the applicable sanctions, the amendment, in contrast to the provisions previously in force, has introduced a graduated system of applicable sanctions, in accordance with the law-maker's reasoning, in order to meet the requirements of proportionality and differentiated sanctions for different types of conduct, as laid down in the ECtHR judgement. It is undoubtedly true that, in principle, the legislation in force makes it possible to impose much more severe sanctions than in the past.

[63] Under the new provisions, in the case of the least serious conduct which is already punishable by a reduction in the honorarium [see section 47 (1) (a) (disturbance by interjection – despite a warning], the applicable sanction is the same as was the maximum sanction rate (one month's honorarium) under the previous rules (only in the case of conducts considered to be serious). The amount that can be taken away has been increased in two further steps: a minimum of two months' and a maximum of four months' amount [see section 47 (1) (b)] and a minimum of four months' and a maximum of six months' amount [see section 47 (1) (c)]. If a Member, who is also subject to immediate suspension, fails to leave the sitting hall when requested to do so, the maximum amount of the reduction in the honorarium to be imposed on him or her shall be doubled – in respect of the amounts already increased [section 49 (2)]. This is a significant increase, which – in the context of the fundamental right enshrined in Article IX of the Fundamental Law – could in principle give rise to the need to examine the proportionality of the contested legislation. In this context, the Constitutional Court emphasises that, with regard to the permissibility of this type of sanction, the findings made in its earlier decisions (CCDec2, CCDec3.) on the necessity of such sanctions remain applicable.

[64] In the light of the provisions of the Amending Act, which are generally more restrictive, but also introduce certain procedural guarantees, and the legislative reasoning attached to them, which, in addition to the ECtHR's findings of principle, also refers to recent events, it is evident that the law-maker considered the level of sanctions contained in the previous legislation as not being a sufficient deterrent for Members to behave in a manner that would respect the order and dignity of National Assembly and not hinder its smooth and efficient functioning. In view of this, the law-maker has decided not only to define the scope of the offences that are contrary to disciplinary law, but also to differentiate the seriousness of each of them, in order to promote the aforementioned constitutionally justifiable objectives and in accordance with the ECtHR judgement, and to increase the rate of financial sanction that may be imposed for each of them, and to introduce suspension as a legal sanction.

[65] It may be noted that this tightening up (precisely by way of the discretionary power of the Speaker of the House, also challenged by the petitioners, and the legislative technique of determining the minimum and maximum possible levels) does not necessarily mean that the applicable sanctions are applied at or near the maximum level. On the other hand, however, this is not theoretically excluded. Therefore, the Constitutional Court made its findings in the course of its examination with these facts in mind.

[66] 2.2.2.1. In the context of the petitioners' claims in relation to Article IX (1) of the Fundamental Law and the aspects of the examination of the possible violation of the said fundamental right – in view of the fact that the petitioners asked for establishing a conflict with the Fundamental Law by and the annulment of section 47 (1) of the ANA, which contains the legal consequences, but no such application was made in respect of sections 46 to 46/H, which lay down the specific prohibited conducts – the Constitutional Court had to rule first on the question of whether the alleged infringement of a fundamental right could be interpreted and examined in the context of the provisions challenged. If it can be established that only sections 46 to 46/H of the ANA contain restrictions with regard to the conducts which may be engaged in by Members of Parliament and thus with regard to the freedom of expression (or the right of speech of Members of Parliament) which may be associated with them, but the provisions of section 47 (1) [and (2)] of the ANA cannot be linked to this restriction, it would not be possible to conduct an examination on the merits of the latter provisions, which are also specifically mentioned in the application as the petitioned provisions, because of the lack of a substantive connection between the constitutional argument put forward and the provisions challenged, and this element of the petition would have to be dismissed.

[67] In formulating its position on the above issue, the Constitutional Court took into account, in its interpretation, the findings of its own previous decisions; the changes in the regulatory method introduced by the amendments to the Amending Act in the relevant provisions of the Act under review, and the most important findings of legal theory on the legal nature of sanctions and the structure of legal norms (together: the method of historical and systematic interpretation); and also the fact that in point III/1 of the petition, the contested disciplinary provisions were expressly held to be disproportionate with reference to and in the context of the statutory definitions on which they were based, and which the petitioners described as "allowing for an unreasonably wide range of discretion". [Therefore, in the relevant point of the petition, in the table listing the contested sanction levels – although without indicating the corresponding section numbers – the sanctionable conducts (the dispositions) were also indicated in detail.]

[68] According to the consistent case-law of the Constitutional Court, petitions are examined on the basis of their content. The petitioners did not seek annulment of the dispositive provisions containing the prohibited conducts, despite the fact that they were also concerned about these provisions in terms of legal certainty, because of what they considered to be an excessively wide margin of discretion. In the Constitutional Court's view, this means, in substance, that the petitioners do not dispute, as supported by the reference to the CCDec3 in their argumentation, that the prohibition and sanctioning of certain conducts of Members [which, as already explained in point IV/2.1 (Reasoning [37] et seq.), cannot be defined in detail] may be constitutionally acceptable. However, in order to be sufficiently dissuasive, the current legislation, in conjunction with the system of sanctions (rates) introduced by the Amending Act, already results, in the petitioners' view, in a violation of the fundamental right invoked, because of the disproportionate level of the sanctions. This argument of the petitioners thus also aims, even in the absence of a petition for the annulment of sections 46 to 46/H of the ANA, that the Constitutional Court assess the provisions containing the dispositions and the sanctions together, in conjunction with each other.

[69] In relation to the possibility of doing so, the Constitutional Court, on the basis of a historical and systemic interpretation, points out the following.

[70] Even before the changes introduced by the Amending Act, the ANA already contained rules of a disciplinary nature; and in the event of prohibited conducts on the part of Members, they contained adverse legal consequences similar in nature (albeit considerably less severe) to the rules under challenge. In this context, the Constitutional Court has already carried out examinations on the merits (see CCDec2, CCDec3) and has made findings which are also relevant to the present case. It can be concluded that the disciplinary rules of the ANA in force prior to the entry into force of the Amending Act (before 1 February 2020) and examined in the CCDec2 and CCDec3, were enacted using a codification solution that differed from the current one, since they contained provisions on disposition and sanctions within the same structural unit. However, the differentiated system introduced by the law-maker with the Amending Act was, precisely because of its nature, adopted in a different way of drafting the legislation. The essence of this is that the prohibited conducts of Members (sections 46 to 46/H) and the legal consequences associated with them by means of a so-called rigid (internal) reference [section 47 (1) (a) to (d) and (2) (a) to (d)] appear in separate provisions, pursuant to section 18 of the Decree No. 61/2009 (XII.14) IRM on the drafting of legislation. In the Constitutional Court's view, the mere fact that, in the course of an amendment to a law, the disposition and the sanction are set out in a separate structural unit by the necessity and application by the law-maker of an otherwise permissible codification technique does not, in itself, allow it to refuse the substantive examination of the legal norm(s), which in the case of the earlier version of

the text were also examined as a whole by the Constitutional Court, on the ground that the petitioners did not specifically challenge in their petition the provisions setting out the prohibited conducts of Members.

[71] The relevant and prevailing legal theories also regard the disposition and – where the law-maker attaches a sanction to it – any sanction attached to it as closely related. It does so irrespective of whether the legislation contains them in a single structural unit (section or paragraph) or in a separate structural unit(s) within the law in question.

[72] In view of the above, the Constitutional Court held that the petitioners' argument in relation to Article IX (1) of the Fundamental Law – similarly to the petitions examined in the CCDec2 and CCDec3 – is suitable for review on the merits despite the fact that the petitioners did not seek a declaration that the legislative provisions laying down the prohibited conduct – which, due to the application of a codification solution different from the previous one, were placed, after the entry into force of the Amending Act, in sections separate from the provisions that contain the challenged sanctions – were contrary to the Fundamental Law, and the annulment of those provisions. Since the provisions mentioned would not, in theory and in themselves, be capable – because of the legal constraint which the sanctions seek to impose, that is to say, the lack of enforceability – of causing a breach of the fundamental right in question; and even the provisions themselves on the sanctions, on the one hand, refer to the disposition rule by means of a rigid internal reference and, on the other hand, they would not be interpretable or applicable in themselves without the necessity of applying the disposition rules referred to, the Constitutional Court considers that the correctness of the petitioner's argument can only be assessed in the light of a complex examination of the closely related provisions of sections 46 to 46/H and section 47 (1).

[73] 2.2.2.2. In the context of the petitioners' arguments in relation to Article IX (1) of the Fundamental Law and the criteria for examining the possible violation of the relevant fundamental right, the Constitutional Court had to rule, secondly, on the question whether the examination should be based on the necessity-proportionality test in accordance with Article I (3) or on the so-called “reasonableness test”, which is based on different criteria.

[74] The reason for this is that, in the case of Members of Parliament, freedom of expression – where expression of opinion takes place in the National Assembly – has, in addition to the general principles governing that fundamental right, further specific characteristics deriving from the (public) mandate of the Member, and the Member himself or herself also has rights as a Member of Parliament which are laid down in the Fundamental Law or can be derived directly from it. This stems precisely from the fact that in such a case political opinion is expressed not as a private individual, but as an elected representative, and not anywhere (on any platform and in any way), but in the

most important venue for public debate, the session of the supreme representative body, i.e. the National Assembly. This is the reason why the right of Members to speak, also known as the speech right of Members of Parliament, although linked to freedom of expression, and in a certain sense, through immunity, it enjoys enhanced protection as compared to the expression of opinions articulated by those who do not have immunity (e.g. in terms of liability under civil or criminal law); on the other hand, however, as already mentioned above, it may also be subject to restriction beyond the general limits laid down in Article IX (4) and (5) – even by the construction of disciplinary liability – for the constitutionally justifiable purpose of preserving the dignity, authority and functioning of the National Assembly, as recognised by the Constitutional Court.

[75] Although the speech right of Members as a part of the rights of representatives – in contrast to its "mother right", freedom of expression – is a right directly derivable from the Fundamental Law from the point of view of elected representatives and as such is also constitutionally protected, is not a fundamental right. Certain elements of the rights of representatives [right of questioning, right of interpellation; Article 7 (1) to (2)] are specified in the Fundamental Law, but not in the chapter on "FREEDOM AND RESPONSIBILITY" that lists the fundamental rights. In fact, the totality, all the detailed rules, conditions and the manner of exercising the Members' right to speak can be found in other legislation (ANA, RRPI), which are based on the authorisation of the Fundamental Law. In the light of the above, Article I (3) is not applicable when examining the legislative provisions restricting this right. A restriction on the speech right is deemed constitutional as long as it is imposed for a constitutionally justifiable reason and can reasonably be assumed to be suitable for achieving the aim or effect pursued; but the restriction is not intended to or does not lead to emptying out the speech right itself or to an unjustifiable infringement of another right of the representatives also enshrined in the Fundamental Law.

[76] This is why CCDec3 stated – with regard to the provisions in force before the entry into force of the Amending Act – [regarding the application of the types of sanctions (exclusion and reduction of the honorarium) and the level of sanctions (the remaining part of the sitting day and a maximum of one month's honorarium) provided for in section 48 (3) to (4) of the ANA in force at the time] that in addition to the terms in question ("blatantly offensive to a person or group, in particular a national, ethnic, racial or religious community"), which are not protected by Article IX (1) in the light of paragraphs (4) to (5), the prohibition and sanctioning of the use of expressions offensive to the authority of Parliament, i.e. such a restriction of the speech right in terms of content, is also to be regarded as constitutional. The CCDec2 took a similar position with regard to the provisions examined therein concerning conduct during

plenary sittings and committee meetings of the National Assembly [section 50 (1) and section 52 (2) (a) of the ANA in force before the Amending Act].

[77] The Constitutional Court recalls, however, that in the course of this previous proceedings initiated on the basis of the constitutional complaint, it also found that the petitioner was not affected by certain provisions of the contested provisions, since they had not been applied to the petitioner, and therefore dismissed the petition in respect of those provisions. Thus, it did not examine, among others, the previously applicable section 49 (4) and section 52 (2) (b) of the ANA. These paragraphs contained provisions on conducts (conduct seriously prejudicial to the authority and order of the National Assembly; infringement of the Rules of Procedure Instruments relating to the order deliberations or voting) which, in view of the fact that they are not, or not necessarily, manifested as speech within the limits of the rules of the Rules of Procedure Instruments on the order of speaking, or even as verbal communication at all, cannot be interpreted within the framework of the speech right of Members in the strict sense. The Constitutional Court has therefore not yet ruled on the constitutionality of the provisions restricting (prohibiting) and sanctioning such conduct, or its criteria of principle – not even in the context of the version of the text previously in force.

[78] In view of the above, as well as the repealing of the disciplinary rules assessed in the two previous decisions and the (partially) different content, concept and different levels of sanctions of the provisions challenged in the Members' petition examined in the present case and entered into force with the Amending Act, CCDec2 and CCDec3 does not result in *res iudicata*; however, the Constitutional Court has considered the statements of principle contained in those decisions, with the above restrictions, to be properly applicable in the present case as well.

[79] The petitioners challenged the whole of section 47 (1) of the ANA by referring to the disproportionate nature of the financial sanction that could be imposed for certain conducts sanctionable or to be sanctioned under disciplinary law, namely the disproportionate amount of the possible reduction of the honorarium, in violation of Article IX (1). The contested provision is composed of subsections (a) to (f), which introduced the aforementioned differentiated system of sanctions in conjunction with certain conducts of Members as defined in section 46 and sections 46/B to 46/G. As stated in paragraph IV/2.2.2.1 (Reasoning [66] et seq.), the Constitutional Court could not, by virtue of the application of the internal legislative reference as a regulatory solution, disregard those provisions in its examination, even though the petitioners did not seek a declaration that they were contrary to the Fundamental Law and their annulment.

[80] On the basis of the examination carried out in that way, the Constitutional Court found that the provisions at issue in the present petition impose sanctions on certain

types of conducts by Members which, as forms of expression, fall essentially within the scope of the speech right of Members, while others fall within the scope of the protection afforded by Article IX (1), as follows.

[81] Section 46 (1) (a) to (b) (unjustified deviation from the subject of the speech, repetition or blatantly disruptive interjection); the first turn of section 46/B (use of a term which is offensive or indecent to the authority of the National Assembly, the dignity of the sitting, a person or group, in particular a national, ethnic, racial or religious community); section 46/D (use of a term that blatantly insults or intimidates the authority of the National Assembly, the dignity of the sitting, a person or a group, in particular a national, ethnic, racial or religious community); and one of the scope of cases provided for in section 46/G (direct threats of physical violence or calls for physical violence during a sitting of the National Assembly) concern conducts that are necessarily or at least conceivably connected with the speaking of Members of Parliament on the floor, or at least with their verbal expressions used in the sitting hall, in accordance with or in breach of the order of speaking laid down in the Rules of Procedure Instruments.

[82] Other provisions, however, such as section 46/C (violation of the Rules of Procedure Instruments on demonstration); the second turn of section 46/B (committing an act, other than the use of an insulting term, which is indecent or offensive to the authority of the the National Assembly, the dignity of the session, a person, a group, including in particular a national, ethnic, racial or religious community); the second turn of section 46/D (committing an act, other than the use of an insulting term, which is blatantly offensive or intimidating to the authority of the National Assembly, the dignity of the sitting, a person or group, in particular a national, ethnic, racial or religious community); section 46/E (disturbing the course of the sitting, debate or vote, or the exercise of the rights or duties in the sitting hall of a participant of the sitting of the National Assembly); section 46/F (hindering the course of the sitting, debate or vote, or the exercise of the rights or duties in the sitting hall of a participant of the sitting of the National Assembly); and the second and third scopes of cases regulated in section 46/G (hindering the taking out of another person, use of physical violence) do not necessarily or obviously refer to conducts involving the verbal expression or communication of Members.

[83] The common feature of the provisions that can be included in the scope of the speech right of Members is that they relate to the speech of Members of Parliament in the form and according to – or, as a matter of fact, in violation of – the order of procedure specified in the respective Rules of Procedure Instruments. These rules (ranging from rules on speaking order and time limits to those on the right of interpellation and immunity) are primarily and overwhelmingly positive in nature. Their primary purpose is to provide Members of Parliament with the rights to express their

views or to have access to the information they need for doing so. Although, for example, the procedural rules guaranteeing speaking time and speaking order may in some (formal) respects also constitute restrictions in order to protect the rights of other Members and the functioning of the National Assembly (for example, to prevent obstruction), in principle, however, they are intended to ensure the constitutional objective that all elected Members of Parliament are able to exercise their right to express the views and opinions they wish to articulate, without fear and free from outside influence, on a public issue in the appropriate form and framework, both during and outside parliamentary debate (see, for example, the provisions of the law of immunity on exemption from liability); and to obtain the information necessary for the responsible performance of the Members' duties.

[84] The Constitutional Court has previously explained that "the freedom of speech in the Parliament is an essential component of the freedom of expression protected under Article 61 (1) of the Fundamental Law. The Parliament is a place of primary importance for the enforcement of the freedom of expression, where the Members of Parliament make decisions on matters directly affecting the future of the country, after asserting arguments and counterarguments in a debate. The publicity of parliamentary debate and the freedom of speech of Members of Parliament are indispensable for constitutional legislation. On the one hand, free parliamentary debate on public affairs is therefore an indispensable prerequisite for good legislation, while on the other hand, free parliamentary debate contributes to making it possible for voters to gain an adequate picture about the activities of the Members of Parliament and other important officials under public law, so that they can participate in political discussions and decision-making in possession of proper information." One of the National Assembly's tasks is to represent the opposing views in society. In doing so, it helps to defuse tensions in society, even if it often fails to resolve them. The stability of a pluralist society is enhanced when representatives of the political camps can clash in public in the National Assembly over the major divisive issues of society." (CCDec3, Reasoning [17] to [19]).

[85] Compared to all these, the restrictions on the content of the parliamentary right to speak, the rules with negative content (containing prohibitions), such as the rules at issue in the present case, are exceptional and constitutionally justified to the extent that they are intended and suitable to guarantee the promotion of a protected constitutional value or objective.

[86] Since speech right is not only a personal entitlement of the Member but also a fundamental element of parliamentary deliberation, it must be regulated from the point of view of the functioning of the legislature. These rules relate primarily to the order of deliberation and are designed to strike a balance between the rights of individual Members and the need to ensure the effective functioning of the National

Assembly. This is why the National Assembly has the autonomy, based on Article 5 (7) of the Fundamental Law, not only to lay down its own rules of procedure and order of deliberation, by a two-thirds majority of its Members, but also to expressly authorise the Speaker to exercise the powers of policing and discipline in accordance with the provisions laid down in the Rules of Procedure Instruments, in order to ensure the smooth functioning of the National Assembly and to preserve its dignity. In the Constitutional Court's view, disciplinary law applied to Members of Parliament is, both historically and by international comparison, essentially a matter of parliamentary self-government law; its application to specific cases, and the individual decision taken in such cases on the Speaker's proposal, are the responsibility of the Speaker and ultimately of the parliamentary majority in power. Under the Fundamental Law and the decisions of the Constitutional Court, the the National Assembly enjoys a high degree of freedom in the drafting of the Rules of Procedure Instruments under section 5 (7) of the Rules of Procedure Instruments, and its self-regulatory autonomy is a power protected by the Fundamental Law, in which the Constitutional Court may intervene only on the basis of very serious arguments and grounds, in extreme cases, in case of direct violation of the constitution. In the light of these considerations, the Constitutional Court, in CCDec2 and CCDec3, classified certain earlier rules in the field of disciplinary and policing law, which necessarily restricted the rights of Members, including their freedom of expression, as a constitutionally justifiable restriction on the right of Members to speak {cp. CCDec2, Reasoning [28] to [30] and [40] to [43], and CCDec3, Reasoning [26] to [30] and [41] to [45]}.

[87] The Constitutional Court also stated in connection with the present case that during the sitting of the National Assembly there could also be conducts of Members which may not be verbal at all, but in any event take place outside the framework regulated by the provisions of the Rules of Procedure Instruments [speaking on agenda items, the order of speeches (or questions, interpellations)]; therefore, they fall outside the rules pertaining to the speech right, but are within the framework of the expression of the views of Members. The Constitutional Court notes that, in accordance with its previous findings, this scope of protection may not, not even theoretically, include – on the grounds of Article IX (4) and (5) – physical violence or conducts implementing offensive or indecent acts, as seen in the contested legislation. At the same time, it also held that the contested provisions also apply to other conducts by Members of Parliament which may fall within the general scope of protection of freedom of expression which (also) extends to Members of Parliament.

[88] Because of the abstract wording of the rules containing the prohibited conducts, which, as explained in paragraph IV/2.1. (Reasoning [37] et seq.), is constitutionally justifiable, it is not always possible to determine clearly and in general precisely what conducts may be covered by the provisions on the sanctions challenged by the

petitioners. Among the types of conducts of Members which are not covered by the protection of the speech right, but which are theoretically possible, there are ways of expressing opinions for which the aforementioned rules certainly prohibit [such as shouting, interjecting (section 46 (1) (b) or the use of a demonstration which is not specifically authorised (section 38/A) (see section 46/C which sanctions this)]. Other conducts – because of the use of framework terms (e.g. "disruption", "hindering") – can only fall within the scope of the contested rules by means of a discretionary decision (by the Speaker, the Committee on Immunity and, ultimately, the plenary sitting), taken individually after the specific conduct in question has taken place. There are, however, also individual or group expressions of opinion by Members which, on the basis of domestic and international parliamentary case-law and customary law, cannot, or almost certainly cannot, lead to the application of the sanctions under review (e.g. applause, withdrawal, standing up, etc.).

[89] The contested legislation thus contains a system of sanctions which, on the one hand, because of the use of abstract legal concepts and, on the other hand, because certain sanctions can be applied to conducts falling within the scope of both the speech right of Members and other forms of freedom of expression, constitutes an extremely complex and complicated system.

[90] The Constitutional Court reiterates that the actual restriction of the fundamental right enshrined in Article IX (1) of the Fundamental Law or the speech right of Members is not contained in section 47 (1) requested to be annulled, but in fact in sections 46 to 46/H, which is also concerned in the petitioners' argumentation, but which is objected to primarily in the context of legal certainty in view of the wide range of discretionary power. Although the argumentation in the Members' petition links the latter provisions to the contested provisions, the petition does not contain a specific request for their targeted examination and annulment in the context of the right to freedom of expression. This also means that the petitioners do not consider sections 46 to 46/H of the ANA on the conducts subject to disciplinary liability, i.e. the provisions that primarily contain the restrictions on the rights of representatives, to be contrary to the Fundamental Law – beyond their arguments concerning their clarity, already assessed in paragraph IV/2.1. (Reasoning [37] et seq.). In essence, therefore, they themselves acknowledge that certain conducts by Members of Parliament may be prohibited, subject to disciplinary law and sanctioned in the interests of certain constitutional values and objectives. They argue that the alleged breach of the Fundamental Law arises from the fact that individual Members are threatened with extremely serious sanctions, which they consider disproportionate, and which are also at the discretion of the Speaker in terms of the specific level of sanction, if they engage in conducts – based on the Speaker's discretion to be "included" – falling within this category (which they consider unpredictable). In their view, the possible level of sanctions and the lack

of objective criteria for determining the level of sanctions, as claimed by the petitioners, may prevent Members of Parliament from exercising their parliamentary rights properly. Thus, certain disciplinary sanctions which they criticise may have the effect, first, of preventing Members from carrying out their duties and thus prevent the enforcement of the principle of the supremacy of the people and, second, by reason of their disproportionate potential severity, of making the Members themselves unable to make a living. Thus, the challenged provisions that contain the sanctions ultimately result in a disproportionate restriction on freedom of expression, despite the fact that, according to their submission, they do not consider the provisions of the ANA that contain prohibitions on conducts, which in themselves effectively restrict freedom of expression to be of concern from the point of view of this fundamental right – only from the point of view of Article B (1).

[91] For all these reasons, the Constitutional Court was also required to carry out its examination of the contested levels of sanctions in relation to Article IX (1) on the basis of a necessarily complex set of criteria. In that context, it examined, first, the question of proportionality, because of the theoretical implications of the possible conducts which could be interpreted in the context of the protection of the right of everyone to freedom of expression. On the other hand, given that a significant part of the potentially affected conducts could be linked to the speech right of Members, which is not a fundamental right, the Constitutional Court made its findings by applying a reasonableness test. As the final limit of the broader restrictions permitted on the basis of the latter, the Constitutional Court also took into account in its proceedings whether the challenged levels of sanctions result in a violation of other rights of representatives to which Members are entitled under the mandatory provisions of the Fundamental Law, or of other provisions or general principles of the Fundamental Law itself that may be related to the functioning of the National Assembly. In doing so, the Constitutional Court thus took into account, on the one hand, the provisions of the Fundamental Law relating to the smooth functioning of the National Assembly, the preservation of its dignity and the related parliamentary autonomy (the right of the National Assembly to self-regulation), and, on the other hand, the provisions relating to the rights of representatives as a whole, as well as the fundamental constitutional requirement of the supremacy of the people and the principle of representative democracy.

[92] The Constitutional Court has held that it continues to consider the findings of its previous decisions to be sufficiently relevant to the admissibility of the system of sanctions under examination. According to these decisions, the smooth and functionally intact operation of the National Assembly, the preservation of its dignity and authority are constitutional values which make it constitutionally justifiable to impose disciplinary liability on Members of Parliament and to determine what conduct is considered undesirable, as well as the financial and other sanctions attached to them,

which necessarily also affect the rights of Members, as long as they are not self-serving, can be considered proportionate and can reasonably be expected to be capable of achieving the intended effect (for more details, see CCDec1, CCDec2 and CCDec3). In general, therefore, it can be concluded that the Constitutional Court is of the opinion that the need for the rules under examination can be considered constitutionally justified; they may restrict the rights of representatives, while respecting other constitutional aspects.

[93] According to the applicants, it is essentially the indeterminacy of the criteria of the Speaker's discretion as to the extent of the sanctions applicable and, in part, as to the combinability of the various types of sanctions and their applicability, which causes and allows the disproportionate restriction of their fundamental right enshrined in Article IX (1) and of their other rights as Members; the alleged violation of the Fundamental Law is the result of the combination of those factors. Therefore, with regard to the permissibility of the restrictions in the specific rules (but not, or not exclusively, in relation to the right to freedom of expression as defined above), the Constitutional Court had to consider their nature and possible extent. In doing so, it has distinguished between the legal consequences of each of the contested measures, those relating to the remuneration of Members (reduction of their honoraria) and those relating to other aspects of the work of Members. The latter (suspension, exclusion) are dealt with in a separate section of this decision.

[94] The petitioners expressly referred to the fact that, in their view, the rate of reduction of the honorarium introduced by the Amending Act – in view of the inadequacy of the criteria of assessment – is capable of making the Members "financial existence impossible".

Of the other provisions of the Fundamental Law in connection with Article IX (1) which they also considered to be infringed, only Article 4 (1) was mentioned in the petition. However, the Constitutional Court has a long-standing case-law of assessing petitions, their individual elements and arguments according to their content, and therefore had to include paragraph (2) of this Article (right to remuneration guaranteeing independence, conflict of interest of representatives) in the context of the above-mentioned review.

[95] In the light of the foregoing, the Constitutional Court points out the following in relation to the petitioner's argument that the level of the possible reduction in the honoraria of the Members infringes their rights in a manner violating the Fundamental Law.

[96] In defining prohibited conducts of Members, the legislation uses general legal concepts and lays down a graduated scale of legal consequences, with increasing degrees of severity, for each type of conduct. In the view of the Constitutional Court,

that codification solution makes it possible for the Speaker – or, in the event of an objection by the Member concerned, ultimately for the National Assembly – to impose on the Member who has infringed the provisions of the Rules of Procedure Instruments, in respect of each conduct which, in the discretion of the Speaker (or, where appropriate, the chair of the sitting), is in breach of the disciplinary provisions, a sanction proportionate to its gravity. The Constitutional Court has found (see paragraph IV/2.1., Reasoning [37] et seq.) that the definition of "conducts of committing the breach" in general terms – but otherwise with concepts that can be interpreted in terms of content and applied in other branches of law – is suitable to cover the broad spectrum of possible conducts of Members of Parliament that may be prejudicial to the authority and dignity of the National Assembly or that may interfere with or hinder its functioning. The Constitutional Court also notes that, precisely because of this way of using concepts, the range could in theory extend from minor acts of disorder to very serious acts, which could even lead to the suspension of immunity, launching civil or public prosecution and, ultimately, the loss of a mandate, given that, as a result of the wording of the prohibited conducts, an "overlap" between the disciplinary rules of ANA and the criminal provisions of the Criminal Code cannot be ruled out. In such a case [i.e. in the case of acts that also give rise to the need for public (criminal) prosecution], the possibility of other legal consequences not covered by disciplinary law, as mentioned above, also arises. In the view of the Constitutional Court, exerting conducts that require consideration of these questions and which are punishable under disciplinary law (e.g. the use of violence) are disciplinary offences of such gravity that could justify, from the point of view of proportionality, the application of the most serious sanctions, and in extreme cases even the withdrawal of 12 months' honorarium of a Member under the rules currently in force. In the light of the above, the Constitutional Court considers that it is sufficiently justified that the upper limit of the possible levels of sanctions should include a level that can be considered as genuinely serious, as laid down in the legislation under examination.

[97] From the point of view of the sanction of reduction of the honorarium, the multi-stage, weighted, incremental determination of the sanction means that the statutory conditions are given, in terms of the method of application, for the deduction of a lower amount (of less months') of the Member's honorarium for less serious conduct, whereas a higher amount (several months') is deducted for a more serious disciplinary offence.

[98] The essential element and function of the statutory sanctions provided for in the legislation is to act as a sufficient deterrent to refrain from the conduct which they are intended to sanction. (At the same time, however, it is a general constitutional requirement, not only in the field of disciplinary law for representatives, that they should not exceed the maximum extent that is sufficient to achieve that objective and

that is even justified.) The law-maker considered that the levels of sanctions previously in force were not sufficient to prevent the various types of conducts prohibited by the provisions of the Rules of Procedure Instruments. Recent events have shown that, when the previous rules were in force, there have also been cases of "actions" by Members which, although they may be considered exceptional, have caused serious disruption, even a temporary inability to operate, of the main representative body of the people and the body responsible for making laws (see, for example, the case of hindering the chair of the sitting from accessing the chair and thus preventing the continuation of the work of the House, as referred to in CCDec1). In the light of these experiences (and the ECtHR judgement), the law-maker decided to reform the system of disciplinary sanctions and to tighten the applicable legal consequences, as introduced by the Amending Act. It is generally the responsibility of the law-maker to assess to what extent the tightening is appropriate and sufficient to ensure that the legal consequences constitute a sufficient deterrent to achieve constitutionally justifiable objectives. The right of self-regulation guaranteed by the Fundamental Law gives the National Assembly a particularly wide margin of discretion in this area, in order to ensure its own functioning and in relation to its Members, in which the Constitutional Court may intervene and declare an infringement of the Fundamental Law only in exceptional and extreme cases, in the event of direct constitutional infringement (see similarly: CCDec2., Reasoning [28]; CCDec3., Reasoning [28]).

[99] The Constitutional Court has thus held that the constitutionally permissible purpose of the challenged provisions is to guarantee a sufficient deterrent against conducts by Members that undermine the dignity and authority of the National Assembly, interfere with or impede its functioning. Accordingly, Members of Parliament do not enjoy complete freedom of discretion as to when, in what manner and with what content they express their views on a public matter or even an issue of personal concern; this is possible only within the limits of the statutory (Rules of Procedure Instruments) framework in force. The Constitutional Court has consistently held that, in this context, it is also permissible for the National Assembly to adopt provisions which ensure compliance with these rules by allowing the application of sanctions (necessarily) restricting the rights of representatives. Since a sanction can be considered constitutional in terms of the extent to which it may be applied if, in addition to the existence of a constitutional objective, it is justified that it can reasonably be assumed to be capable of achieving the desired (legal) effect, but it does not conflict with the provisions of the Fundamental Law. The Constitutional Court continued with examining this question.

[100] With regard to the financial sanctions provided for in section 47 (1), the petitioners complained that the significant increase in the level of the sanctions compared with the previous rules was excessive, that the rules at issue "allow the

person imposing the sanction an unduly wide discretion" and that they "in fact serve to make the Member's livelihood impossible, not to maintain order in the House".

[101] The rules for the application of the reduction of the honorarium as a sanction allow for a reduction in steps, fixed in months. In this context, the Constitutional Court found that the legislation creates a differentiated system which allows for a higher reduction in the monthly honorarium of Members in the case of a more serious breach of the rules, and a lower reduction in the case of a less serious disciplinary "misdemeanour". Since it is only possible to determine all of those matters after the specific conduct has been committed and in the light of the knowledge of that conduct, the Constitutional Court considers that neither the wide discretion granted to the Speaker of the House nor the fact that, as the application states,

"the minimum rate for the reduction of honorarium shall always be imposed" result in the violation of the Fundamental Law by the rules challenged.

[102] The decisions of the National Assembly or of the Speaker are necessarily taken in individual cases on a discretionary basis, in the light of the specific features of the particular case in question, taking into account all the characteristics of the conduct giving rise to the disciplinary proceedings in question. In addition to this being the primary responsibility of the law-maker, it would also be impossible to determine in general the ceiling expressed in months of the reduction of the honorarium still to be regarded as constitutional, due to the types of conduct of representatives actually engaged in and subject to disciplinary sanctions, the criteria for their assessment and the obligation to individualise the disciplinary sanctions ultimately imposed. (This is also true for the minimum level as well.) In this context, the Constitutional Court may only make the law-maker accountable for offering proportionality within the possible range of sanctions that can be imposed, i.e. to adjust the level of the sanction to the seriousness of the disciplinary offence committed, and that the conditions for this are granted by the legislation under review. On the other hand, it is a constitutional requirement that the disciplinary penalty imposed should not be an end in itself or be of such a nature as to empty out the mandate of the Member.

[103] With regard to the latter requirement, the Constitutional Court notes that the mere fact that the financial sanction may, depending on the gravity of the infringement committed, affect up to six months' honorarium of a Member of Parliament, or in exceptional cases

{according to the contested legislation: if the excluded Member fails to comply with the request to leave the sitting hall, the chair of the sitting shall order his or her immediate suspension [section 48 (2)]; but the Member (now) immediately suspended still does not comply with the (repeated) request to leave the sitting hall [section 49 (2)]} up to twelve months' honorarium, does not in itself reach the aforementioned

level; therefore – in view of the variety of possible conducts and their potentially blatantly serious nature in terms of the constitutional values to be protected – it cannot be considered to be contrary to the Fundamental Law.

[104] In the Constitutional Court's view, the question of possible arbitrariness (being unjustified) does not in general arise on the basis of the examined legislation either, as the ANA allows the possibility of imposing sanctions in cases of conducts that are clearly contrary to the objectives and values (functioning, dignity, etc.) to be protected, which are considered to be constitutionally justifying the introduction of disciplinary rules. It is the duty and responsibility of those who administer the law, i.e. the Speaker of the House, the committee on immunity and the plenary sitting, to ensure that the sanctions imposed are justified in the light of the specific conducts of the Members concerned and proportionate to the seriousness of the offence, within the limits set by the law. The compliance with that constitutional requirement – except in the case of a totally absurd rule, which is not the case now – can/could be interpreted primarily not in the light of the law which lays down the framework, but in the knowledge and in the context of the specific, individual decisions taken; the normative review procedure is not, by its very nature, suitable for that purpose. The Constitutional Court emphasises in the present case as well that it has no jurisdiction to conduct an investigation of this nature in relation to parliamentary disciplinary decisions, i.e. not even under the constitutional complaint procedure. Constitutional complaints may be lodged against decisions taken in court proceedings, but (individual) disciplinary decisions taken by the National Assembly do not constitute a decision giving rise to such constitutional court proceedings.

[105] With regard to the petitioner's argument concerning the obligation to impose a minimum level of reduction of honorarium, the Constitutional Court points out that the fundamental characteristic and purpose of laying down such provisions in law is, in general, to ensure that in certain cases the sanction of reduction of honorarium cannot be imposed at a level lower than the minimum rate prescribed by law. In fixing the minimum rate, the law-maker must have regard to the criterion – and in that regard it also has a wide range of discretion – that the rate thus fixed is (already) suitable for fulfilling its function. In view of the fact that, prior to the entry into force of the Amending Act, the rate fixed in the ANA was not, in the law-maker’s opinion, suitable for achieving the desired objective (deterrent effect), it opted for a regulatory solution which also includes a minimum level. This was set at the rate of one to four months' honorarium under the weighted system introduced by section 47 (1). Given that the exceptional case provided for in section 49 (2) only allows the maximum sanction to be doubled, the minimum amount of the reduction in remuneration to be applied remains unchanged even in that case. The Constitutional Court did not consider the setting of

this limitation to be so blatantly high as to justify an exceptionally permissible interference in the self-regulatory autonomy of the National Assembly.

[106] However, in the context of assessing the constitutionality of the level of the sanction that could be imposed, the petitioners' arguments relating to deteriorating the person's livelihood could not be ignored either. In addition to the fact that the deduction may concern several months' remuneration, under section 47 (1) and section 50,

"the full amount of the honorarium, without deductions, payable to the Member in the month of the conduct serving as grounds for ordering the measure shall be taken into account for determining the amount of the reduction of the honorarium"; that is to say, the sanction shall cover the total amount of the honorarium of the Member of Parliament for the months concerned.

[107] Pursuant to the provisions of section 107/B, the amount of the reduction of honorarium ordered on the basis of the provisions of the ANA shall be deducted from the honorarium paid to the Member following the ordering of the reduction of honorarium becomes final and binding [paragraph (1)]. The reduction of honorarium shall be implemented in a way that, taking into account all reductions of the Member's honorarium according to this Act, the amount of the honorarium paid to the Member may not be less in any month than the amount of the mandatory minimum wage established for an employee employed full time (minimum wage), as applicable in the month in question [paragraph (2)]. If, taking into account all the above, the remaining amount is insufficient to cover the implementation of honorarium reduction(s) ordered – possibly under various legal titles –, the remaining part shall be deducted from the honorarium/honoraria of the Member to be paid in the subsequent months. [paragraph (3)]. If the amount of the honorarium reduction ordered cannot be deducted due to the termination of the mandate of the Member, it shall qualify as public dues collectible as taxes to be collected by the state tax and customs authority in accordance with the applicable enforcement rules [paragraph (4)], with the exception of the case where the mandate of the Member terminates upon termination of the mandate of the National Assembly, when it shall be deducted from the allowance due to the former Member referred to in section 119 (1) (three months' honorarium).

[108] As a result of its overview of the rules governing the reductions of the honorarium which may be ordered under the ANA, the Constitutional Court has concluded the following.

[109] Pursuant to Article 4 (2), a Member of Parliament is entitled, in addition to immunity, to a honorarium which guarantees his or her independence. This is a Members' right guaranteed by the Fundamental Law.

[110] Based on the new regulation introduced by the Amending Act, the reduction of the honorarium may affect not only one month's honorarium of the Member, but also several, in extreme cases up to twelve months' honorarium. The Constitutional Court has already previously found that, in view of the diversity of possible conducts and the varying degrees of seriousness of such conducts in terms of the constitutional values to be protected, this does not in itself give rise to an infringement of the Fundamental Law.

[111] Minimum wage is the smallest amount of wage payable on the basis of a statutory obligation to a full-time worker, the amount of which, under the rules in force at the time of the review, is HUF 232,000, which is lower by approximately HUF 65,000 than the amount of the statutory minimum wage payable to a worker with at least a secondary education, employed in a job requiring such level of education. In terms of its function, the minimum wage is the smallest amount which, in the opinion of the law-maker, is currently necessary and sufficient for the subsistence of an individual working full-time in Hungary. In that regard, the Constitutional Court also considered – by comparing the regulation with the purpose of disciplinary rules – that the petitioners' reliance on the argument about the deterioration of livelihood, which they relied on exclusively in connection with the sanction of a reduction in the remuneration, in the light of the objectives of the disciplinary provisions, was unfounded.

[112] In the light of the foregoing, the petitioners' arguments alleging that the disciplinary sanction of a financial nature, imposing the reduction of honorarium as provided for in section 47 (1) of the ANA is disproportionate and infringes Article IX (1) of the Fundamental Law are unfounded.

[113] 3 The petitioners challenged section 47 (3) and section 49 (3) of the ANA on the grounds of infringement of the right to a legal remedy. In essence, they argue that the difference in those provisions, namely that the former provides for an obligation to state reasons in the event of a reduction of the honorarium, whereas the latter merely provides for giving a written notification of the decision in the event of a suspension, in the petitioners' view, in fact deprives Members of the right to a legal remedy, because the Member who is sanctioned may not obtain knowledge of the reasons for the decision, the criteria for determining the level of the sanction or the precise conduct he or she should refrain from in future.

[114] In relation to this argument, the Constitutional Court found the following. On the one hand, it can be seen from the content of the argument that the petitioners in fact only challenge section 49 (3), since section 47 (3) contains precisely (also) the obligation to state reasons which they miss. On the other hand, it can also be concluded that the alleged failure to state reasons does not apply to the legal consequence of "suspension" in general, but only in the case of "suspension with immediate effect".

The former sanction is regulated in section 47 (2), while the latter in section 48 (2). Given that, according to the wording of section 47 (3), the obligation of the Speaker to state reasons laid down therein also applies to the application of the sanctions imposed under section 47 (1) and (2), namely the reduction of the honorarium and the suspension, the petitioners' argument cannot be interpreted in the first place in relation to the latter legal consequence. In view of all this, the Constitutional Court, keeping in mind the principle of the examination of petitions on the basis of their content, considered the petitioners' argumentation as being related only to the case of immediate suspension.

[115] The Constitutional Court then examined the relationship between the disciplinary decisions of the National Assembly and Article XXVIII (7) of the Fundamental Law invoked by the petitioners.

[116] In that context, it noted that it had already taken a position on that relationship in CCDec2 and CCDec3. With regard to the petitioners' claim under examination, in its most relevant finding in those decisions, "the Constitutional Court points out that, according to Article XXVIII (7) of the Fundamental Law, everyone shall have the right to seek legal remedy against any court, authority or other administrative decision which violates his or her rights or legitimate interests. The Fundamental Law therefore imposes an obligation to ensure the right to a remedy against court, authority and other administrative decisions. Under Article 4 (2) of the Fundamental Law, a Member of Parliament is entitled to immunity. One of the elements of immunity is the lack of accountability (immunity, exemption from liability), means that during and after the term of office of a Member of Parliament, he or she may not, with certain exceptions, be held liable before a court or a public authority for votes cast or for facts or opinions expressed in the exercise of his or her mandate. However, the Fundamental Law provides for the obligation to guarantee the right to legal remedy – in addition to administrative decisions – only against the decisions of courts and authorities, in respect of which decisions exemption is granted to Members of Parliament by the right of immunity itself. [...]

Since the disciplinary decisions of the National Assembly – the constitutional basis of which is provided by Article 5 (7) of the Fundamental Law – are neither court, nor authority, nor administrative decisions, the absence of legal remedy against such decisions does not in itself create a situation contrary to the Fundamental Law." {CCDec2, Reasoning [38] to [39]; the same as: CCDec3, Reasoning [40] to [41]} In its two previous decisions, the Constitutional Court has also held, in the light of historical and international considerations (similar rules in the English and German parliaments), that the requirement of a right of appeal laid down in the Fundamental Law against a decision of the chair of the sitting under the ANA or against a parliamentary decision which ultimately decides on the matter cannot be derived from Article XXVIII (7) of the

Fundamental Law {see: CCDec2, Reasoning [40] to [44]; CCDec3, Reasoning [42] to [47]}. These findings are also relevant in the present case. On that basis, the Constitutional Court rejected the element of the petition relating to the infringement of the right to a remedy in the present case, too.

[117] The Constitutional Court notes, however, that the petitioners' argument is not correct, not least for the reason that, although section 49 (3) does not provide for the obligation to state reasons in the case of an immediate suspension, the proposer's reasoning attached to the Amending Act contains the following in that regard:

"The rules on immediate measure require a detailed written statement of the reasons for the decision communicated orally and its communication within three working days in order to enforce the right to an effective remedy." In other words, the law-maker itself, when drafting the rules, took it for granted that the written communication within three working days shall include, as a necessary element, a statement of reasons as well.

[118] It is also necessary to emphasise that, although, as stated above, no specific (additional) right of to legal remedy can be derived from the Fundamental Law in respect of parliamentary decisions which are final in disciplinary matters, the decisions themselves – in so far as the Members concerned wish to exercise their (statutory) right to a decision made this way in their case – are in fact considered as the closing of a legal remedy procedure [an internal one, not related to and not deductible from Article XXVIII (7) of the Fundamental Law]. In fact, against the contested disciplinary decision of the Speaker, the Members concerned may have legal remedy in accordance with the rules of procedure laid down in sections 51 to 52 of the ANA, similarly as under the practice in other countries, within the parliament. An application may be submitted to the Committee on Immunity against the decision complained of; if the committee grants the application, the contested measure shall not be implemented and the disciplinary procedure is terminated. If the Committee on Immunity fails to take a decision within the prescribed time limit or if the application is not granted, the Member concerned may request that the plenary session of the National Assembly adopt a decision declaring that the exclusion or immediate suspension was not justified and that the disciplinary measures imposed should be annulled, or that other disciplinary decisions taken by the Speaker (reduction of the honorarium, suspension) should be annulled. Thus, in parallel with the introduction of disciplinary rules within the framework of its internal self-regulatory autonomy – which were undoubtedly subsequently tightened by the Amending Act – the National Assembly also established a (multi-stage) internal system of legal remedies, similar to the parliaments of many other states.

[119] 4 The petitioners challenged from two points of view the legal consequence of suspension set out in section 47 (2), which can be imposed in connection with the conducts regulated in sections 46/B to 46/G. First, together with and similarly to the reduction of honorarium provided for in paragraph (1), they considered the level that could be imposed in each case to be an unconstitutional restriction because of what they considered as a disproportionate rate (duration), and therefore held it to be a disproportionate restriction on the right to freedom of expression. On the other hand, the petitioners see a disproportionate restriction of the rights of Members (temporary *de facto* deprivation of the mandate of a representative) and a violation of the principle of representation of the people in the fact that a suspension, compared to the rules in force before the Amending Act, may not only be imposed for a longer period of time, but may also extend to other areas, to the entire area of the House of Parliament and the buildings accommodating the Office of the National Assembly, in addition to the sitting hall (and the location of committee sittings). Thirdly, the petitioners also challenged suspension in connection with and in the context of the institution of voting by proxy in plenary sittings as introduced by the Amending Act (for more details, see paragraph IV/5, Reasoning [145] et seq.).

[120] As the Constitutional Court has already pointed out in the present decision in its historical and international overview, legal consequences of disciplinary nature similar to suspension (exclusion, suspension of Members' rights, etc.) could also be found in the Hungarian legislation prior to the entry into force of the Amending Act and in the standing orders of other parliaments. It is conceivable that there may be conducts on the part of Members of Parliament, or situations that threaten the proper functioning and dignity of parliaments, which may justify or even necessitate the existence of such a sanction. Therefore, the mere fact that Members of Parliament may temporarily be unable to exercise, in whole or in part, the rights and obligations conferred on them by their mandate does not in itself constitute grounds for a finding that there is an infringement of the Fundamental Law, as long as the detailed rules are such as to ensure that the application of such a sanction is proportionate to the conduct (in time and space) actually displayed by the Members.

[121] The Constitutional Court held that, accordingly, the petitioners did not challenge the possibility of the institution of suspension itself, as provided for by the legislation, but alleged the violation of the Fundamental Law by the amended legislation on the grounds of its temporal (duration) and spatial (area covered by the suspension) scope, that is to say, due to the possible consequences of what they considered to be the excessive nature of this scope.

[122] With regard to the arguments put forward by the petitioners in relation to the infringement of freedom of expression, the Constitutional Court held as follows.

[123] In the Constitutional Court's view, suspension may only be applied exceptionally. Presumably this is the reason why – as the petition also refers to –, although suspension may in principle be applied alongside the reduction of the honorarium, despite the fact that the latter legal consequence has been applied several times since the entry into force of the Amending Act, the former one has not been applied – to the Constitutional Court's official knowledge.

[124] In light of the above, in the Constitutional Court's view, suspension is more remotely connected to the freedom of expression in the National Assembly as compared to the legal consequence of the reduction of the honorarium, while it is more closely connected to other rights and obligations of Members. However, recognising that the possible threat of such a sanction may also constitute a deterrent to conducts which – unlike most of the conducts which may give rise to suspension – may (also) be interpreted in the context of the expression of opinion, the Constitutional Court held that some of its findings made in paragraph IV/2 (Reasoning [35] et seq.) concerning the number of months to which the reduction of honorarium applies to be relevant also in relation to the possible duration of the suspension.

[125] Accordingly, as regards the possible duration of the suspension, it may be stated that, on the one hand, the types of conducts of Members which are theoretically conceivable and which could also justify the application of suspension as sanction – and which are in principle more serious than other conducts or manifestations of Members "only" sanctioned by a reduction in the honorarium – may be diverse and it is not possible to list them exhaustively. However, they may vary in severity in relation to one another, therefore the legislation would satisfy the requirement of reasonableness if a possibility is created for adjusting the level of the sanction actually imposed to these. The multi-stage system introduced by the Amending Act meets this requirement. Among the possible conducts of Members of Parliament, apart from ones that offend or endanger the dignity and functioning of the National Assembly to a relatively minor extent, there may also be conducts which are blatantly serious in respect of the above or the work or person of other Members – but do not reach the level of conducts which are prosecutable on public charges and therefore may result in the suspension of immunity, the initiation of (criminal) court proceedings and, depending on the outcome of such proceedings, possibly even the loss of the mandate [see section 101 (1) (b) to (e) of the ANA]. This may justify that the maximum duration of the legal consequence of suspension may even be a long period; however, the Constitutional Court does not have the power to determine the concrete extent of this limit. This is a matter of self-regulatory autonomy – as are the rules on the reduction of honoraria – in which the law-maker has a wide margin of discretion and in which the Constitutional Court may intervene only exceptionally. The Constitutional Court did not see any such possibility with regard to the rates laid down in the legislation at issue.

[126] The situation is different, however, as regards the territorial scope of suspension. The Constitutional Court found that the legislation that was in force prior to the Amending Act allowed for a considerably shorter period of time for Members to be partially or totally deprived of the possibility of exercising their rights as Members as a consequence of disciplinary sanctions [see in this context: the provisions of sections 48 (3) to (4), section 49 (4) to (6) and section 50 of the ANA in force before 1 February 2020 regarding exclusion and the suspension of exercising Members' rights]. Exclusion for the remainder of the sitting day or, under the new rules, of the sitting itself, shall evidently apply only to the day(s) of the sitting and shall not, in fact, constitute a complete inability to exercise the rights of Members or to perform their duties during this period [during this period, Members may also table bills, resolutions, amendments, questions, interpellations (parliamentary papers) and enter the offices necessary for the above, but may not attend committee meetings or plenary sittings]. The rules on exclusion have also changed under the Amending Act as, under the current provisions, an excluded Member may return to the sitting hall also during the period of exclusion for the purposes of voting and may take part in voting.

[127] The possible suspension of the rights of Members under the previous rules was in fact a temporal extension of the disciplinary sanction of exclusion and, in connection with that, an extension of it to the right to vote as well. It was possible to impose it under section 50 (5) if the Member concerned repeatedly continued the violent conduct or conduct directly threatening with violence referred to in paragraph (1) within the same session. The level of this could be extended up to six meeting days for the second time and up to nine meeting days for the third and each subsequent time. Although the name would suggest otherwise, the Member concerned could (if these provisions were applied) have exercised part of his or her rights as a Member to the same extent as the Members excluded under the current rules, since the disciplinary sanction of suspending Members' rights under section 50 (6) in force before the entry into force of the Amending Act "only" provided for compulsory absence from plenary sessions and committee meetings (including, therefore, voting) and that the Member concerned was not entitled to receive any honorarium during the period of suspension; however, the wording of that provision (nor the law-maker's reasoning attached to it) did not affect Members' rights which were not related to the above.

[128] The legal consequence of suspension introduced by the Amending Act and replacing the previous sanction mentioned above, not only contains a tightening regarding the possible periods of suspension – recognised above as constitutionally justifiable – but also, in line with the law-maker's intention (cp. the proposer's reasoning), a mitigation in the sense that it also intends to allow suspended Members to take part in the vote by way of voting by proxy. {The Constitutional Court examines

this legal institution separately in paragraph IV/5 of this decision (Reasoning [145] et seq.)}.

[129] In parallel with this, however, the amendment has also introduced a tightening of the territorial scope compared with the previous legislation. The suspended Member "shall leave the premises of the House of Parliament, and the buildings accommodating the Office of the National Assembly and – with the exceptions referred to in section 49/A (7) [secret ballot] and section 51 (4) [meeting of the Committee on Immunity in the appeal procedure requested in the case] – shall not stay in, or enter these during the period of suspension. The petitioners objected to this restriction introduced by the Amending Act in connection with the principle of equal rights for Members and, together with the introduction of the possibility of voting by proxy, the principle of popular representation and the infringement of the duty of Members to perform their duties in a personal capacity.

[130] The Constitutional Court made the following observations in relation to this element of the petition.

[131] The work of Members of Parliament requires or may require the performance of a number of partial acts directly connected with the exercise of their rights as Members of Parliament which, unlike, for example, the expression of political opinions or participation in votes and meetings, are not, or not always, carried out by Members of Parliament in person, but by persons, office premises and equipment who assist them in their work within the framework of the relevant rules of the ANA. In order to assist the work of Members of Parliament who have obtained a mandate either from an individual constituency or a party lists, the ANA seeks to ensure the necessary personal and physical conditions. Within this framework, the work of individual Members is assisted by an office in the constituency of the Member, which is provided and financed by the Office of the National Assembly (hereinafter referred to as the Office), together with the necessary office equipment, and the Member is assisted by persons also financed by the Office [see Part Four, "Remuneration of the Members of the National Assembly", Title 37, "Benefits of Members and allowances connected to their activities", in particular section 111 (1) and (3) and section 112 (1) to (9) of the ANA]. The ANA also contains provisions on the conditions for the operation of parliamentary groups ("38 Securing the conditions for the operation of parliamentary groups"). The work of Members who have obtained a mandate from the list (and of independent Members) is likewise facilitated by the Office providing office space and professional staff (securing material and staffing conditions) as for parliamentary groups under this chapter (sections 113 to 117 of the ANA).

[132] Since the work of Members does not consist solely of attending sittings of the National Assembly and its committees, the application of the disciplinary sanction of

suspension does not in itself – given that it covers the prohibition of access to certain places – constitute a complete impossibility of the performance of the Members' duties, which are based not only on their rights but also on their obligations under the Fundamental Law. There are, of course, certain rights of representatives which are not, or should not be, affected by the suspension. Although the suspended Member of Parliament may not be present at the sessions of the National Assembly and its committees during the period of the suspension, he or she may, for example, continue to articulate outside the sitting hall the (presumed) political will and position of the voters who gave him or her a mandate; he or she may continue to express his or her own opinion on public affairs in other forums. He or she may also enter the territory of public bodies (under the conditions laid down by law) in order to obtain information.

[133] The right to submit parliamentary papers (e.g. draft bills, resolutions and amendments) and to access other information available through the parliamentary (internal) system is, however, a particularly important part of the work of a Member of Parliament. This type of work – theoretically and by remote work – is not excluded during the period of the suspension either. However, becoming a Member is not conditional on having the requisite professional knowledge of information technology, IT, codification and word processing. For this reason too, in order to help ensure the proper performance of parliamentary duties of this nature, the above-mentioned provisions of the ANA also provide the necessary physical and personnel conditions both for parliamentary groups and independent members, in the form laid down by law. However, those conditions are provided by the Office in its own buildings outside the building of the House of Parliament, in particular in the Barankovics István (or "Members'") Office Building (hereinafter: "Office Building"), which are also subject to the scope of the suspension introduced by the Amending Act, as laid down the rules challenged by the petitioners.

[134] According to the Constitutional Court, the technical possibilities of the present day make it possible, or at least feasible, in principle, for Members to carry out the tasks referred to above (coordination, drafting, countersigning, submission, obtaining information, etc.) remotely or with the assistance of their assistants. However, even if this does not make the exercise of the Member's rights impossible, it would still make it considerably more difficult for Members to exercise their rights, because they are not allowed to enter the mentioned buildings either – other than the House of Parliament building – in which these offices are located. Moreover, in view of the fact that the Constitutional Court holds that the suspension does not extend to the constituency office space provided for individual representatives from the resources of the Office, but not in its buildings, concern about the violation of the equality of representatives enshrined in Article 4 (1) of the Fundamental Law may be raised with due ground in relation to the Members – potentially affected by suspension – who obtained their

mandate individually and the ones who obtained it on a party list, in connection with the fact that the former Members are able to make full use of the office space provided for them in their constituency by the Office in order to assist them in the performance of their duties, even during the period of the suspension, whereas the same cannot be said of the latter. In the light of the foregoing, the Constitutional Court had to examine separately, by applying the reasonableness test, whether the spatial restriction in the contested legislation was constitutionally justified.

[135] In this context, the Constitutional Court found that in the period of the rule of law since the change of regime, and in particular in the period since the introduction of disciplinary law, prohibited conducts which could be assessed under the rules in force in the context of disciplinary law were typically aimed at achieving a political (or obstructionist) objective or aim, or at expressing a position. Violent act(s) of self-serving motives, motivated by agitation or personal conflict (and possibly also punishable under criminal law, outside the scope of disciplinary proceedings), which in the spirit of prevention and in order to protect the physical integrity of Members would in themselves justify a total suspension from all premises of the National Assembly and the Office, have not been taken place so far – not even in the case of the conduct intended to be an obstruction to physically hinder the chairing of the sitting, examined in the CCDec1.

[136] All this is significant because the essential element of the conducts described first is the use of the publicity of the National Assembly to obtain the attention of the press and, indirectly, through it, the publicity of the electorate. In the context of these objectives, the rules governing the publicity of press and the order of press coverage are regulated by a special provision issued by the Speaker of the House (see Speaker's Order No. 8/2020; sections 12, 16; https://www.parlament.hu/ web/guest/a-sajtotudositas-rendje), which allows coverage and the press presence in general only in a certain order and places: they are excluded – or are subject to special authorisation – from most of the buildings belonging to the National Assembly and the Office, including the office (room) premises. In view of the foregoing, it cannot be assumed that suspended Members would engage in or continue the conduct giving rise to the suspension in these areas as well, or that, if they do so, it would be likely to jeopardise the constitutionally recognised objectives and values to be protected in the area of disciplinary law.

[137] In view of the all the above, in the Constitutional Court's assessment, no reasonably acceptable argument can be put forward in support of the contested legislation which would justify, in constitutional terms, the restriction of the enforcement of the principle of equality of Members and the restriction of the activities of Members, and which would justify the extension of the disciplinary suspension of Members to the entire area of the buildings of the Offices, in addition to the House of

Parliament. Such an argument was not even mentioned in the proposer's reasoning of the Amending Act. (The main point made there is that the suspension does not deprive exercising the right to vote by introducing the possibility of voting by proxy. The relevant part of the reasoning reads as follows: "The legal consequence of suspension replaces the suspension of the rights of Members under the provisions in force, but, by way of derogation from that, it entails only the suspension of the exercise of certain rights of the Members linked to the physical presence in the House of Parliament and its buildings that belong to it. Although the possibility of suspension, applied also to the right to vote, is not unknown in the regulation of other European countries, the proposal creates a situation in which a Member may exercise his or her right to vote, one of the most important of his or her rights, under certain rules, even during the period of suspension.") However, even the legislative reasoning fails to argue for the necessity or the justifiability of restricting the exercise of the rights of Members in physical presence in parts of the building(s) which are not intended for plenary or committee meetings or which are different from other rooms accessible to the press – a restriction, about which, contrary to its name, the Constitutional Court considers that even the previous sanction of "suspension of the rights of Members" did not actually impose [Considering that, according to section 50 (6) of the ANA in force before 1 February 2020: "If the rights of a Member of Parliament have been suspended, the Member may not participate in sittings of the National Assembly and in the work of parliamentary committees, and is not entitled to any honorarium, during the period between the first and the last day of the suspension." Furthermore, neither the ANA nor the RRPI contained any provisions regarding the limitation or exclusion of the rights of Members].

[138] While in the Constitutional Court's view, the constitutionality of the sanction in question can be established in relation to the prohibition of access to the building of the House of Parliament, which houses the plenary session and the majority of committee meetings, as explained above, the same does not apply to other buildings (essentially the Office Building), which are fundamentally different in their function.

[139] The disciplinary provisions under examination – in principle, moreover, by virtue of the wording of the ANA, exclusively – prohibit or impose legal sanctions only for conducts displayed by the Members in (plenary or committee) sittings. It also follows from the relevant provisions of the Fundamental Law that the application of disciplinary legal consequences may be justified from a constitutional law point of view in the context of the protected constitutional values, namely the protection of the functioning and dignity of the National Assembly and the order of the sittings, i.e. the guarantee that plenary and committee sittings can be conducted properly and with dignity.

[140] However, the Office Building, unlike the House of Parliament, does not (primarily) serve as a venue for the holding of sittings, but as a place for the accommodation of

the material (technical equipment and premises) and human (professional staff) conditions necessary to facilitate the work of Members, which are intended to support the exercise of other rights of Members not or not necessarily connected with the personal presence of Members at sittings of the National Assembly. Since the exclusion or (disproportionate) restriction of the exercise of those rights is not justified by the need to prevent the display of conducts at sittings, which may be subject to disciplinary law, as a constitutionally acceptable objective in the interests of the functioning and dignity of the National Assembly, the Constitutional Court considers that suspension, which extends to the entire area of the Office Building cannot be justified on reasonable grounds. Therefore, the wording "and the buildings accommodating the Office of the National Assembly" and "these" in section 49 (1) of the ANA are not constitutionally justified from the point of view of the principle of equality of representatives and the restriction of the activities of representatives, and the Constitutional Court therefore decided to annul them.

[141] In the course of its proceedings, however, the Constitutional Court also took into account the fact that, although that is not the primary function of the building, certain committees of the National Assembly hold their meetings in the Office Building on ad hoc or permanent basis. The above-mentioned constitutional concerns do not apply to the "restraining" from attendance at committee meetings, since it is the fundamental purpose of the sanction of suspension applied in order to and in the scope of protecting the values recognised as constitutional by the Constitutional Court. Such a sanction imposed on individual Members must therefore be capable of being enforced even if the committee meeting is held in the Office Building; the suspended Member may not attend the committee meeting in that case either. The Constitutional Court has already held, in general terms, that the application of suspension as a disciplinary sanction – excluding participation in plenary and committee sittings of the National Assembly – in order to protect the values enshrined in the Fundamental Law, is not in itself contrary to the Fundamental Law.

[142] There is a contradiction between the constitutionally unjustified nature – as established above – of suspension covering the entire area of the Office Building, including the areas which may not – by any chance – be affected by holding a committee meeting (the ban on entry as a manifestation of the suspension), and the justifiability of the need to keep the Member(s) subject to the suspension away from the committee meetings to be held in the Office Building. In the Constitutional Court's view, there are a number of possibilities available to the National Assembly (including tools that do not require legislation), both as a law-making body and as an entity which has discretion as to the scheduling and choice of venue of parliamentary proceedings, to resolve that contradiction. However, if it considers that this can best be achieved through legislation, it may require adopting a differentiated regulation. In view of this,

the Constitutional Court has decided, in relation to the legislation at issue, that – using the option granted to it by section 45 (4) of the ACC in order to protect the Fundamental Law, legal certainty or the particularly important interests of the person initiating the proceedings – it will annul the said texts not with *ex nunc* effect under the general rule, but (allowing the law-maker the time necessary to draw up any appropriate rules) with effect for the future.

[143] Accordingly, the Constitutional Court, having held that the wording "and the buildings accommodating the Office of the National Assembly" and "these" in section 49 (1) of the ANA violate the principle of the equality of representatives enshrined in Article 4 (1) of the Fundamental Law and the principle of popular representation laid down in Article 1 (1), annulled them with effect from 30 June 2023 on the basis of section 41 (1) of the ACC, by applying section 45 (4) of the ACC.

[144] Section 49 (1) of the ANA shall remain in force after the annulment with the following wording: "Section 49 (1) Suspended Members shall leave the premises of the House of Parliament and, with the exceptions referred to in section 49/A (7) and section 51 (4), shall not stay in, or enter its premises during the period of suspension."

[145] 5 In the context of suspension, the petitioners not only objected to the scope, duration and area of validity of the suspension; in their opinion, the institution of voting by proxy introduced by the Amending Act in order to allow the exercise of the voting rights of the members affected by suspension and therefore section 49/A containing it are also contrary to the Fundamental Law. Referring to the Commentary on the Constitution [Jakab András (ed.): Az Alkotmány kommentárja, Századvég Kiadó, Budapest, 2009], which also makes reference to the relevant position taken by the Constitutional Court, they explained that the possibility of voting in this way (by proxy) also violates the constitutional requirement of personal presence and performance of duties of representatives, which is derived from the principle of popular representation, Article 5 (6) of the Fundamental Law and section 28 (2) of the ANA, and which is manifested both a right and an obligation.

[146] Article 5 of the Fundamental Law, in the context of certain fundamental rules relating to the functioning of the National Assembly, expressly attaches importance and legal effect to the presence of Members of Parliament. According to paragraph (5), the quorum of the National Assembly is constituted when more than half of the Members of Parliament are present. Paragraph (6) provides that the National Assembly shall take its decisions by the vote of the Members present, in general by a simple majority, unless the Fundamental Law provides otherwise with regard to the proportions of votes required for public law validity, and taking into account that certain decisions may be taken by qualified majority under the provisions of the Rules of Procedure Instruments. Under paragraph (7), the provisions of the Rules of

Procedure Instruments may themselves be adopted by a two-thirds majority of the Members present. The Fundamental Law does not contain any specific provisions on personal participation in parliamentary committees, including the obligation to exercise the right to vote in person; the obligation to exercise the right to vote in person is laid down in the provisions of the Rules of Procedure Instruments (ANA and RRPI).

[147] None of the provisions of the Fundamental Law creates the possibility of exercising the right to vote by proxy in a plenary session voting of the the National Assembly.

[148] In this connection, it should be noted that the same is applicable with regard to work and decision-making at committee meetings as well, nevertheless, there has been (and still is) a decades-long tradition of the institution of substitution by proxy at parliamentary committee meetings, even before the possibility of suspension or the emergence of disciplinary law rules in general. The Constitutional Court considers, however, that voting in committee meetings is a fundamentally different matter from decision-making in plenary, in relation to which the legitimacy of voting by proxy – which is not even challenged in the present case – can be established and no breach of the Fundamental Law arises. This is primarily because, as mentioned above, the Fundamental Law does not provide for personal participation in the work of the committees, which is, as a general rule, only provided for by lower-level legislation; therefore, the establishment of an exception to that rule at the same level of legislation does not conflict with the Fundamental Law. On the other hand, there are also reasonable grounds for introducing this possibility for committee meetings, given that, on the one hand, committees (at least some of them) traditionally hold several meetings; moreover, a single Member may hold several committee seats and it cannot be ruled out that these committees may meet at the same time if necessary, therefore the Members concerned cannot attend all committee meetings in person in such a case.

[149] However, the Fundamental Law expressly makes the adoption of resolutions at sittings of the Parliament subject to the presence of the Members, and does not contain any provision for the exercise of voting rights by proxy as an exception to that rule. This is only provided for in the ANA, which is a lower-level legislation than the Fundamental Law.

[150] However, the Constitutional Court has found that paragraph (7) of the contested provision does not relate to voting by proxy but, on the contrary, in the case of secret ballots, provides for the possibility for suspended Members to exercise their right to vote in person in the room designated by the Speaker of the House even during the period of the suspension. For this purpose, section 49 (1) on suspension also allows – as an exception – suspended Members to enter the premises of the House of

Parliament (and the buildings housing the Office). In this context, the Constitutional Court held that section 49/A (7) of the ANA, which the petitioners sought to have annulled in its entirety, does not raise constitutional concerns similar to those raised by paragraphs (1) to (6).

[151] In the light of the above, the Constitutional Court found that the provisions of section 49/A (1) to (6) of the ANA are contrary to Article 5 (6) of the Fundamental Law and therefore decided to annul them on the basis of section 41 (1) of the ACC. The Constitutional Court included the scope of its considerations that, as a result of the annulment with immediate effect of the possibility of voting by proxy, a situation might arise in the future where a Member who might be subject to a suspension would not be able to participate in certain votes in the National Assembly if that sanction were applied. Therefore, in formulating its decision, the Constitutional Court examined the possibility of annulment with *pro futuro* effect in relation to the provisions concerned by this point.

[152] Section 45 (1) of the ACC provides, as a general rule, that the annulment of an annulled law shall take effect on the day following the publication of the decision of the Constitutional Court on the annulment of the law in the official gazette (*ex nunc* annulment). However, as an exception, section 45 (4) of the ACC provides (among others) for the possibility of annulment of the law at a future date (*pro futuro*) if this is justified by the protection of the Fundamental Law, legal certainty or the particularly important interest of the initiator of the proceedings.

[153] The activity of the Members of Parliament in the public interest [Article 4 (1) of the Fundamental Law] serves the realisation of the exercise of power of the people indirectly through their elected representatives [Article B (4) of the Fundamental Law]. Therefore, the restriction of the activity of representatives by disciplinary sanction – in respect of all the rights of representatives: the right to attend meetings, the right to speak, the right to make motions, the right to interpellate and put questions, the right to vote, etc. – also affects the indirect exercise of power by the people. On the one hand, the constitutionality of those restrictions is justified by the arguments set out above in the present decision and, on the other hand, the responsibility for the need to apply them, if any, lies with the Member who, by his or her conduct which has given rise to the disciplinary offence or the police measure, has brought about that situation. Consequently, making it the temporary impossible for the Member concerned to take part in the vote as a result of disciplinary action being taken against him or her cannot in itself be regarded as constituting a situation contrary to the Fundamental Law.

[154] The mere fact that a Member of Parliament is deprived of the possibility of exercising his or her right to vote as a result of the application of disciplinary sanctions against him or her is not unknown or without precedent in either domestic or

international regulations. In this scope, in the context of domestic legislation, the Constitutional Court also refers once again to the provisions of Articles 50 and 51/A of the ANA formerly in force and mentioned in the law-maker's reasoning attached to the Amending Act. On the basis of those provisions, in the period prior to 1 February 2020 it was possible ("if the Member used physical violence or threatened or called for direct physical violence or prevented others from exercising their rights during a sitting of the National Assembly") for the exercise of the rights of a Member to be suspended as a disciplinary sanction. This rule – which, to the Constitutional Court's official knowledge, has not been applied – also excluded the right to participate in votes and thus to exercise the right to vote for a certain period of time [since, if the rights of the Member had been suspended, the Member concerned could not (would not have) participated in the sittings of the National Assembly and the work of parliamentary committees, and would not (would not have) been entitled to receive honoraria, during the period between the first and the last day of the suspension]. It should also be noted that the examination of the constitutionality of this previous legislation had not been initiated by the persons entitled to do so before the Constitutional Court.

[155] In international practice, for example, the Rules of Procedure of the Spanish House of Commons provide for the suspension of the Member's rights if the disrupter Member does not leave the sitting hall despite being called on to do so; and in Britain the House of Commons Rules provide that if a Member deliberately continues his or her disorderly conduct despite a warning from the Speaker, the House may decide to suspend the Member (for 5 or 20 days, as the case may be, and if the Member continues to do so until the House decides to revoke it). (lásd: Szente Z.: Bevezetés a parlamenti jogba, Atlantis Kiadó, Bp., 1998, pp. 264 to 266). In this context, the ECtHR judgement cited in the present decision is also worth mentioning, which itself, in the context of an overview of the practice of the countries under examination, indicates that: "in most (28) Member States surveyed, the most severe sanction is temporary exclusion, which can range from suspension from the remainder of the sitting [...] to exclusion from several parliamentary sittings or sessions." (see: ECtHR judgement, Reasoning p 57). The latter (exclusion from several parliamentary sittings or sessions) may even mean, as a matter of fact, the inability to exercise the right to vote.

[156] An important circumstance in the assessment of the situation in question is that, as the Constitutional Court has pointed out above, the ACC allows, as an exception, the temporary maintenance in force of a law that is contrary to the Fundamental Law [section 45 (4) of the ACC]. The Constitutional Court also considered that, in this situation, a parliamentary decision where voting by proxy takes place, if not rendering the decision unconstitutional, could weaken its legitimacy in political terms, and if the decision depended on a proxy vote, this could explicitly call it into question. In considering the *pro futuro* option, the Constitutional Court also took into account the

fact that, in the absence of a disciplinary sanction requiring it, no vote by proxy has yet been taken place, although the possibility of such a vote cannot be excluded in the case of the temporary maintenance of the provision found to be in conflict with the Fundamental Law.

[157] In addition to all these, the Constitutional Court has also taken into consideration the fact that making the right to vote temporarily impossible affects the most sensitive point of the indirect exercise of power. In the Constitutional Court's view, the law-maker took this into account when, by adopting the Amending Act, it sought to allow the exercise of the right to vote by a Member subject to disciplinary sanctions, in a way that was different from the previous solution. The Constitutional Court therefore placed particular emphasis on that earlier legislative intention in its deliberations; it did not wish to be an obstacle to its continued, uninterrupted application.

[158] The indirect exercise of power by the people as a fundamental principle and constitutional institution is protected by the Fundamental Law. Even if the inevitable consequence of the relevant conduct of a Member is that the functioning of this exercise of power is sometimes not left untouched due to the conduct of the Member subject to disciplinary sanction, it is reasonable for the law-maker to seek ways to eliminate that effect, at least at the most sensitive point. The technical possibility of doing so (also taking into account the IT tools) is there, without the sanctioned Member having to enter the Parliament building. Of course, in the event of such unchanged legislative intentions, it is up to the National Assembly to decide on the ways to do this and to interpret the concept of presence in the sitting (see, for example, the institution of secret ballots, which do not take place in the sitting hall).

[159] In view of the above, the Constitutional Court, applying section 45 (4) of the ACC, ordered the annulment of section 49/A (1) to (6) of the ANA *pro futuro*, with a short term, with effect from 30 June 2023.

[160] 6 According to the first sentence of Section 44 (1) of the ACC, this decision shall be published in the Hungarian Official Gazette.

Budapest, 18 April 2023.

Dr. Tamás Sulyok, President of the Constitutional Court

Dr. Egon Dienes-Oehm, Justice of the Constitutional Court

Dr. Tünde Handó, Justice of the Constitutional Court

Dr. Imre Juhász, Justice of the Constitutional Court

Dr. Tamás Sulyok, President of the Constitutional Court on behalf of Justice dr. Attila Horváth unable to sign

Dr. Zoltán Márki, Justice of the Constitutional Court

Dr. Tamás Sulyok, President of the Constitutional Court on behalf of Justice dr. Miklós Juhász unable to sign

Dr. László Salamon rapporteur, Justice of the Constitutional Court

Dr. Tamás Sulyok, President of the Constitutional Court on behalf of Justice dr. Béla Pokol unable to sign

Dr. Balázs Schanda, Justice of the Constitutional Court

Dr. Marcel Szabó, Justice of the Constitutional Court

Dr. Péter Szalay, Justice of the Constitutional Court

Dr. Mária Szívós, Justice of the Constitutional Court