

**Original Scientific Article**

**UDK\ 323.285(100):343.9.02(497.6)**

**DOI: 10.5937/zurbezkrim2500002G**

## **EXAMINING THE POSSIBILITY OF RESTRICTING FUNDAMENTAL RIGHTS IN THE CONTEXT OF TERRORISM**

**Erika Gál<sup>1</sup>**

*University of Public Service, Budapest, Hungary*

### **Abstract**

Terrorism has a strong effect on the free practice of fundamental rights, from the right to life of victims, through the human dignity of arrested terrorists, to the freedom of movement of people living, studying or working at the scene of an attack. This study catalogues the fundamental rights affected by terrorism through a systematic review of the relevant Hungarian and foreign literature, viewing the subject from the perspective of the “average person.” It examines how ordinary persons are affected when the state restricts the practice of their fundamental rights in the fight against terrorism, either because of a growing threat or because of an attack that has already occurred. A further aim is to address how security can be guaranteed without undue and disproportionate violation of these rights, and to what extent certain fundamental rights may be restricted in order to protect national security or public safety. The author provides an overview of the Hungarian and international literature on the relationship between terrorism and fundamental rights from the perspective of state limitability.

**Keywords:** terrorism, terrorist attack, fundamental rights, human rights, restriction.

### **Introduction**

The starting point of this paper is the image of fundamental rights in the third phase of the development of domestic policing – the idea of the democratic rule of law after World War II – in examining the relationship between fundamental rights and terrorism. In this period the formal rule of law was complemented by the constitutionality of laws; the limitation of power applied to all branches of power, and human dignity and fundamental rights were recognised not as gifts from the state, but as the inalienable right of every human

---

<sup>1</sup>Corresponding author: Erika Gál, University of Public Service, Faculty of Law Enforcement, Department of Public Safety, Budapest, Hungary. e-mail: gal.erika@uni-nke.hu.

being. This was gradually incorporated into the legal order in the light of a transformation of social needs in which security and freedom had already become values.

The issue of the undefined nature of terrorism is not addressed in this paper, but it is worth recalling that “...a universal definition of the concept has not been given to date, which is not essentially a scientific but a political issue. Everyone is against terrorism, but terror can only be fought effectively if we know who and what it is” (Kis-Benedek, 2006: 5). Two definitions closest to the present research are used. The military approach, as defined by the North Atlantic Treaty Organisation, characterises terrorism as the unlawful use or threat of use of force or violence against persons or property in order to influence or intimidate governments or societies to achieve a political, religious or ideological goal (North Atlantic Treaty Organization, 2016). The Council of the European Union, in Council Framework Decision 2002/475/JHA on combating terrorism, defines terrorist offences as intentional acts which, by their method of commission or context, may cause serious damage to a State or international organisation when committed with the aim of seriously intimidating a population, unlawfully coercing a State or international organisation, or seriously disrupting or destroying its fundamental order (Council Framework Decision 2002/475/JHA, 2002).

Based on the theories of national and international research, the fundamental rights to which every human being is entitled and which are directly or indirectly threatened by terrorism can be identified and classified. The first point of connection lies in the impact of the state’s interventionist measures – aimed at combating the activities of the political and executive wings of terrorist organisations – on the human rights of individuals, groups and communities who are actually victims of terrorist acts. Secondly, the question arises whether one can speak of the rights of terrorists alongside the rights of victims, and if so, how these rights evolve. Thirdly, the relationship between terrorism and fundamental rights must also be examined from the perspective of the ‘ordinary person’, since the rights of those only indirectly affected by an act of terrorism may also be subject to restrictions, either as a preventive measure or in order to fully avert further harm.

Since the possibility to limit fundamental rights differs between normal and special legal order situations, the terrorist threat situation, as a special legal order situation, functions as a mediating channel. The structure of the study is as follows: terrorism as a threat to security; the limitation of fundamental rights in special circumstances; the categorisation of fundamental rights; the dilemmas related to the rights of terrorists and of other persons concerned; the proportionality requirement; and the conclusions.

## **Terrorism as a threat to security**

The relationship between terrorism as a threat and security as a value to be protected is the starting point for this analysis. Since terrorism is a threat to the security of the person and to other fundamental rights, the state may fulfil its duty to protect constitutional values by restricting fundamental rights in order to prevent, deter and counter the consequences of terrorism – but only if terrorism is genuinely regarded as a clear threat to social security. The basis for the restriction of a fundamental right is therefore the answer to the question: what does individual and social security mean today?

Security has always meant something different in different historical times, but it has always expressed the level of comfort that determines the existence and quality of life of the individual, of communities and of humanity itself. Today, security reflects situations varying between conditions of life accepted as comfortable and those still acceptable (Hadnagy, 2008). In Sallai's interpretation, "*security is a complex concept, the main components of which are political security, economic security, environmental security, public security, defence security and sustainable development*" (Mátyás & Sallai, 2015: 335). From a law-and-order perspective, security expresses the state of the interests and values of the state and society, the territory and population of the country, free from external and internal threats (Boda, 2019: 66). Terrorism is clearly a threat affecting security, and following the classification proposed by Barla (2001), the sources of threats can be social or natural in origin, with terrorism falling among the violent hazards within the social group (Hadnagy, 2010).

It is therefore up to the state to curb terrorism. Restrictions on freedoms may be imposed, but only where justified and proportionate. The law must clearly specify the conditions, cases and methods of interference with fundamental rights, ensuring that the individual is adequately protected against the arbitrary exercise of power. The interests underlying the restriction of rights should be weighed only after the links between the purpose and the means have been fully examined, and it has been demonstrated that the restriction is a suitable and indispensable means to achieve its purpose.

An inescapable question is whether the fight against terrorism can be regarded as a war. The attacks of 11 September 2001 shed new light on the nature of terrorism, since from that date onwards terrorist action could no longer be clearly explained in terms of demands for a local conflict or the withdrawal of occupying troops. The lack of a clear justification meant that the feeling of threat among members of society became dispersed, and the 'clash of civilisations' schema could be used to interpret the situation, creating an ideological basis for characterising the fight against terrorism as a war. The Bush administration used this rhetoric and introduced severe restrictions on freedom: the creation of an internal security organisation (the Terrorist Threat Integration Center, TTIC) to improve the collection and

analysis of information, and the extension of governmental powers to detain and convict suspected terrorists without the usual procedural guarantees. The restrictions imposed on constitutional norms in these two areas have raised long-term concerns (Miklósi, 2004). Terrorism, however, is part of crime, and counter-terrorism is therefore not a matter for defence but for law enforcement; terrorists are criminals who must be detected, apprehended, investigated, prosecuted and tried by the competent authorities. Military action against terrorists increases the possibility that peacetime criminal substantive and procedural law will be replaced by martial law; in such a case, it is not the criminal nature of the terrorist that comes to the fore, but the person to be treated as the enemy, with military instruments and rules prevailing both for capture and conviction. As Rada and Varga (2010: 151) observe, *“in peace, the declaration of a state of war thus becomes inevitable, with the permanent presence of the army and the excessive state power that it brings”*, and the tragic question becomes whether society should serve the state or terrorism.

To consider the fight of states against terrorism as a war is therefore a misconception, confirmed by events on the European continent. The conflict in Northern Ireland, of both national and religious character, gave rise to numerous terrorist attacks; the British Government followed the rhetoric of war and deployed military forces with law enforcement powers. Bigo and Guittet (2011) pointed out the importance of assessing the relationship between suspicion and radicalisation, and emphasised that *“efforts to curb the unpredictability of the future are self-defeating”* (Bigo & Guittet, 2011: 494).

### **Limitation of fundamental rights in special “circumstances”**

Fundamental rights have a two-sided nature: on the subjective side, the entitlement of the individual; on the objective side, the obligation of the state to protect them. They are thus formulated in opposition to public authority in order to protect the freedom of the individual. The Fundamental Law of Hungary states that *“Hungary recognises the fundamental individual and community rights of man”* and that their protection is the primary duty of the state. A specific legal recognition is only the beginning of effective protection; the limits of state intervention must also be precisely defined to guarantee that restrictions do not lead to arbitrary deprivation (Benda, 2016).

Constitutionally, the rules governing fundamental rights and obligations must be laid down by law. This formal provision serves legal certainty and contains the safeguards associated with lawmaking. As regards substance, the Fundamental Law emphasises that fundamental rights may be restricted to enforce another fundamental right or to protect a constitutional value, but only to the extent strictly necessary, proportionate to the aim

pursued, and in compliance with the essential content of the fundamental right (Balogh, 2011).

Modern constitutional states represent a middle ground regarding the rules of limitability. As Kiss (2007: 403) observes, *“there are some human rights that are not subject to limitation, that can be considered absolute, and therefore impose significant restrictions on the state. Even in a constitutional state, however, the public authorities, the legislature, have the possibility of intruding into the realm of freedom in the public interest”* and thus of restricting certain rights under certain conditions. This possibility is particularly pronounced in qualified periods of special legislative and judicial circumstances which differ from the normal legal order.

The review of the issue is based on the constitutional dilemma of how to make the obligations of public power more flexible in special situations that threaten the constitutional order, while preventing the abuse of extraordinary powers. The basic rules and measures that may be introduced in the special legal order are laid down in a separate chapter of the constitutional provisions, and in detail by Act CXIII of 2011 on Defence and the Hungarian Defence Forces and Act CXXVIII of 2011 on Disaster Management. As a unique feature of Hungarian legislation, the measures applicable to the threat of terrorism are referred to under a separate heading as a terrorist emergency, alongside the state of emergency, state of crisis, unexpected attack, preventive defence situation and emergency situation. Under Article 51/A, Para. 1 of the Fundamental Law, *“Parliament shall, at the initiative of the Government, declare a state of emergency for a specified period of time in the event of a significant and imminent threat of terrorist attack or terrorist attack, and at the same time authorise the Government to introduce extraordinary measures as defined by a cardinal law.”* It is also important to note that on 22 December 2020 the Hungarian Parliament decided to amend Article 9 of the Fundamental Law, so that the complete reform of the special legal order entered into force after 1 July 2023. Instead of six periods of special legal order, three extraordinary periods are now named – martial law, state of emergency and state of danger. The only new category is martial law, which combines the former state of emergency and the pre-emptive defence situation; the grounds for the state of emergency and the state of danger were broadened to include the imminent and significant threat of a terrorist attack (Ungvári & Sabjanics, 2021).

The rules in force in the special legal order thus create the possibility for the empowered public authority to take exceptional measures in exceptional situations, even if they entail the suspension or significant restriction of certain fundamental rights, except absolute rights.

### **Categorisation of fundamental rights**

It is an inherent requirement for states to recognise and uphold human rights and freedoms. In constitutional democracies, constitutions are the legal documents through which a catalogue of fundamental rights can be established.

The most common classification of fundamental rights is by generations, based on the chronological order of their creation. The first generation dates back to the 18th century and was formulated as civil and political rights (right to personal liberty, right of assembly, right of association). The second generation, a product of the 20th century, includes economic, social and cultural rights, summarised as social rights (right to work, right to education, right to strike). Third-generation rights emerged in the second half of the 20th century as collective rights rooted in international community solidarity, such as the right to peace, the right to development and the right to humanitarian aid (Kiss, 2007).

Examining the possibility of limitation opens up a further classification. Since the life of every individual is largely determined by the limits imposed by community and state, neither natural nor legal persons can be entitled to the unrestricted and unlimited exercise of their rights and freedoms. Fundamental rights can be divided into three groups: inherently unlimited rights, known as absolute rights and prohibitions; rights that can be limited or even suspended in special circumstances different from the normal legal order; and rights which, although subject to strict conditions, can be restricted by law even without any qualified temporary legal order being in force.

Following this grouping, the analysis covers the fundamental rights of individuals directly affected by terrorism, the perpetrators of terrorist acts, and individuals otherwise indirectly affected by crimes committed by terrorist organisations or persons.

#### *Dilemmas related to the rights of terrorists*

The classic Luhmann example is a useful starting point. Luhmann (1993) sketched the fiction that an extremist religious group had hidden a timed explosive device in a subway station which, if detonated, would release infectious germs into the public transport system. The location is unknown to the authorities, but the leader of the group has been arrested and remains silent. The question is whether it is acceptable to use torture to obtain a confession in order to save the lives of many innocent people. In terms of fundamental rights, the right

to life of every human being is in conflict with the constitutional prohibition of torture and inhuman or degrading treatment. As Mill (1859) put it, *“the right of every individual extends so far as it does not limit the freedom of any other individual.”*

Two different theories may be distinguished here: traditional citizen-criminal law and enemy-criminal law. Nagy (2007), drawing on Jakobs (1985), formulated the distinction thus: *“In the former, the offender must be guaranteed the enjoyment of human rights and freedoms to the fullest extent possible, apart from the necessary restrictions resulting from his situation. Enemy criminal law, however, operates according to different principles: the accused should not be considered as a ‘person’ with rights at all, but should be treated as an object”* (Nagy, 2007: 65). Brugger (1996) similarly argues that the absolute prohibition of respect for human dignity does not apply in certain extreme situations, and that this dilemma can only be resolved by allowing the authorities to waive the absolute prohibition of torture in order to prevent terrorism. After the Second World War, however, states adopted international conventions prohibiting torture and enshrined them in national legislation. Today, Hungary’s legal system contains three levels of legal norms prohibiting torture: the international documents of the United Nations and the Council of Europe, and national domestic legislation (Haraszti, 2008).

An internationally significant decision is the European Court of Justice’s judgment in the case of Yassin Abdullah Kadi. UN Security Council Resolution 1267, adopted on 28 September 2001, called on all UN member states to act against terrorism and its financing, including by freezing the funds of persons and organisations that commit or attempt terrorist acts, with the identification of the persons concerned left to consideration by member states (Curia of Hungary, n.d.). The European Court of Justice clarified that Community law and its fundamental values take priority for the member states over any international obligation, which also requires the proper interpretation of UN Security Council decisions. Persons subject to UN sanctions must also have access to judicial review as an effective guarantee for the protection of their fundamental rights (Lavranos, 2009).

### *Rights of other persons concerned*

The third group concerns individuals indirectly affected by terrorist acts. The indirect nature of this involvement does not, however, imply a small number of natural persons. A much larger number of individuals – and even organisations and their fundamental rights – are affected indirectly by terrorism than directly. Intimidation of the public appears as a motive and purpose in existing criminal law, indicating that the number of persons involved in this category of offence is not precisely quantifiable but is certainly significant. This is

particularly true when the population of a State is considered as a whole, both in terms of intimidation and in terms of the scope of the State's preventive and protective measures.

Non-discrimination, fundamental freedoms and other human rights are central to open, tolerant societies that respect the rule of law. Their core values – respect for human dignity and equality – are also central to many critical aspects of the fight against terrorism, including international efforts to counter violent extremism. The way in which states and the international community respond to the erosion of the rule of law can create tensions between counter-terrorism and the free exercise of fundamental rights.

It is critical that states respond to terrorist threats in accordance with the rule of law in order to protect the rights and freedoms that underpin the integrity of their societies. In the case of terrorism, victims become victims only by accident; their link to the actual purpose of the violence is symbolic. At the same time, the fight against terrorism affects all citizens, since the measures taken by the state necessarily entail restrictions on human rights and freedoms (Csányi, 2017). The International Covenant on Civil and Political Rights of 1966 explicitly enumerates the fundamental rights that may not be restricted even in an extraordinary legal regime: the right to life; the prohibition of torture and of cruel, inhuman or degrading treatment; the prohibition of slavery, slave trade and servitude; the prohibition of deprivation of liberty based on inability to pay contractual obligations; the principle of legality in criminal law; the right to recognition as a person before the law; and freedom of thought, conscience and religion.

### **The proportionality requirement: to what extent can the state restrict fundamental rights in the interests of national security and public safety?**

Following the terrorist events of 2001, there was a need for international cooperation and for the European arena to initiate a single set of internal rules. This need has been reinforced by subsequent terrorist acts in EU Member States and by migratory pressures on European countries. The continuing and growing threat of terrorism has shifted the focus from the normal legal order to the special legal order. As Kelemen (2019: 12) notes, *“these special legal regimes increase the operability of the rule of law in times of need, and it is important to stress that they are perhaps the only guarantee of the rule of law in times of emergency.”* In international cooperation, organisational measures have come to the fore – coordination, regularised information sharing, and fusion centres for emergency services – while a second group of measures has broadened the scope of powers of law enforcement and national security services, entailing greater restrictions on freedoms (Hetesy, 2012).

Hungarian legislation responded to the events of 2001 with the amended criminal-law regulation of the terrorist act in 2003, introducing the three EU-accepted objectives: coercion of a state body, another state or an international organisation; intimidation of the population; and disruption of the constitutional, social or economic order of another state or of an international organisation. At that time, the legislation on the operation of national security services and the activities of the police remained unchanged, and these organisations were not given greater powers in the fight against terrorism. No new instruments were introduced in the field of covert intelligence, nor were the rules for their use laid down. These shortcomings are of particular importance in analysing disproportionality, since operational intelligence is among the counter-terrorism instruments whose relationship with fundamental rights is closest, affecting the rights to privacy, human dignity and informational self-determination, and where appropriate the rights to a fair trial and to a defence (Hetesy, 2012).

On 7 June 2016 the Hungarian Parliament amended the Fundamental Law for the sixth time, supplementing the chapter on the Special Legal Order with a new type of special period: the terrorist emergency. Under this provision, in the event of a significant and imminent threat of a terrorist attack, or of an actual attack, a state of terrorist emergency may be declared in Hungary, allowing the Government to introduce measures defined in the cardinal law (Fundamental Law of Hungary, 2011). As Simicskó (2016: 100) explains, *“the legislative objective was to enable the Government to respond adequately to the new types of security challenges”* when peacetime means are insufficient but the levels of legal restraint of existing special legal orders are not yet justified. Simicskó (2016: 105) also concluded that the state of emergency *“is clearly directed at the imminent threat of war, the state of war, conventional war, which is not suitable for dealing with the terrorist threat and would allow the restriction of citizens’ rights... to an extent that is excessive in relation to the security situation”*. He takes a similar view of martial law, holding that its legal protocol is not suitable for preventing an imminent terrorist attack and would allow excessive restrictions on citizens’ rights (Simicskó, 2016: 106). The Hungarian regulation bears the greatest resemblance to the emergency measures introduced in France after the Paris attacks.

The powers of authorities acting in the interests of public order and national security in times of terrorist threat have been regulated by law and transposed into sectoral legislation. Act XXXIV of 1994 on the Police was supplemented with special security measures (Art. 37/A) that may be taken in the event of a terrorist act or its preparation committed on the territory of Hungary, capable of seriously disrupting public order and the national economy or the functioning of a vital system element. The Hungarian Defence

Forces may also be involved in protecting designated installations in the event of the proclamation of a special legal regime (Act XXXIV of 1994 on the Police, 1994). The impact on fundamental rights is most evident in priority security measures in the area affected by the terrorist act: entry and exit controls and identification of persons restrict the right to freedom of movement and residence; searches of clothing, luggage, buildings and vehicles affect the rights to non-degrading treatment and to physical and mental health; the seizure or removal and destruction of objects raises questions about the right to property; and, depending on the nature of the event, police measures may also restrict the right of assembly, freedom of expression and freedom of religion.

Concerning national security authorities, the Counter-Terrorism Information and Criminal Analysis Centre (TIBEK) was established on 17 July 2016 by amendment of Act CXXV of 1995 on the National Security Services. TIBEK explains that the analysis and evaluation of information from national security services, police forces and other sources is essential for the prevention of terrorism, and that an integrated, fusion information centre is indispensable for identifying and responding in a timely manner to threats to external and internal security. From May 25, 2022 – as the full legal successor of TIBEK – the National Information Center (NIK) will perform the tasks of the fusion center.

It is clear that the fight against terrorism necessarily entails restrictions on human rights. The relationship between intelligence and information is captured in a central paradox associated with Charles Townshend (Encyclopaedia Britannica, 2025): special counter-terrorism measures can only be used without abuse if law enforcement authorities have adequate and accurate data, but such data can only be obtained by deploying surveillance and intelligence tools and by setting up systems that provide information on society as a whole, thereby restricting human rights not only of the individuals targeted but of society at large (Rada & Vajda, 2010). Finszter (2002) similarly warns that treating crime as a declaration of war makes retaliatory measures unlimited, and that the principles of the rule of law and the requirements of necessity and proportionality cannot meaningfully limit the scope of covert interventions in such a framework, leading to a breach of civic integrity.

Halász (2013: 186) observes that “*fundamental rights may inevitably come into conflict with each other and with other constitutional values and objectives*” and that it is the duty of the state, the legislator, to resolve these natural conflicts. The legislator is primarily entitled and obliged to do so, while the Constitutional Court, charged with protecting the rights guaranteed by the Fundamental Law, is ultimately responsible for their examination, and its operation cannot be restricted even in a special legal order.

## Conclusion

Gesztei (2019: 30) emphasises the possibilities of state limitation of fundamental rights when he writes that “*the state may use the means of limiting fundamental rights when the protection of another fundamental right or freedom cannot be achieved in any other way, and must examine whether the limitation is proportionate to the values or objectives it seeks to enforce.*” In examining the relationship between fundamental rights and terrorism, this study has concluded that state restrictions can be categorised along four phases: a period of threat prior to a terrorist event; a period immediately following an event; a period to eliminate, deter and prevent further events; and a period to deal with long-term consequences and restore order. This classification can be further broken down by the effects of the restrictions.

A marked trend emerges from both Hungarian regulatory developments and international examples: legislation is becoming increasingly flexible in order to combat terrorism and to enhance public security and the subjective sense of security of the population. Ultimately, this has led to the subordination of fundamental rights, which are seen as a hindrance to the state’s purpose, and thus to the supremacy of the state’s objective. The boundaries between necessity and proportionality, however, are often difficult to discern, and crossing them can easily lead to restrictions on fundamental rights for their own sake.

## References

- Act XXXIV of 1994 on the Police. (1994). *Magyar Közlöny*. [Rtv. - 1994. évi XXXIV. törvény a Rendőrségről - Hatályos Jogszabályok Gyűjteménye](#)
- Balogh, Z. (2011). *Alapjogok korlátozása az új alkotmányban* [Restrictions on fundamental rights in the new constitution]. *Pázmány Law Working Papers* (No. 2011/19). Pázmány Péter Catholic University. <https://plwp.eu/docs/wp/2012/2011-19.pdf>
- Barla, I. (2001). *The domestic and international system of disaster management* (Research Report No. 2001/45). Strategic Defence Research Office.
- Benda, V. (2016). *Restricting fundamental rights – Techniques in practice*. <https://jogero.hu/benda-vivien-alapjogok-korlatozasa-technikak-gyakorlatban/>
- Bigo, D., & Guittet, E. P. (2011). Northern Ireland as metaphor: Exception, suspicion and radicalization in the ‘war on terror’. *Security dialogue*, 42(6), 483–498.
- Boda, J. (Ed.). (2019). *Rendészettudományi szaklexikon*. Dialóg Campus.
- Brugger, W. (1996). Darf der Staat ausnahmsweise foltern?. *Der Staat*, 35(1), 67–97.

- Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, *Official Journal of the European Communities*, L 164/2002.
- Csányi, C. (2017). Terrorizmus és az emberi jogok. *Belügyi Szemle*, 65(2), 55–57.
- Encyclopaedia Britannica. (2025). *Charles Townshend, British statesman*.  
<https://www.britannica.com/biography/Charles-Townshend-British-statesman>
- Finszter, G. (2002). Az alkotmányos jogállam esélyei a terrorizmus elleni küzdelemben. *Belügyi Szemle*, 51(6–7), 156–166.
- Fundamental Law of Hungary (Magyarország Alaptörvénye), promulgated 25 April 2011, Magyar Közlöny No. 43/2011.
- Gesztei, L. (2019). The restriction of fundamental rights for national security purposes and the Constitutional Court's interpretation of the restriction of fundamental rights II. *Nemzetbiztonsági Szemle*, 7(3), 28–39.
- Hadnagy, I. J. (2008). How secure or insecure is security today. *Hadtudomány*, 18(1), 1–15.
- Hadnagy, I. J. (2010). *A modern interpretation of security – or security today is more uncertain than ever before*. Védelem.
- Halász, I. (2013). Remarks on the Changing Concept of Nation in the New Fundamental Law of Hungary. *Journal on European History of Law*, 4(1), 128–132.
- Haraszi, M. K. (2008). The prohibition of torture and inhuman or degrading treatment or punishment in the most important documents of the UN and the Council of Europe and in the work of the Commissioner for Citizens' Rights. *Acta Humana*, (3), 47–63.
- Hetesy, Z. (2012). Counter-terrorism and the restriction of fundamental rights in Hungary. In *Terrorism and democracy in the 21st century: International scientific and professional conference (Budapest, 29–30 September 2011)* (pp. 47–58). Hungarian Law Enforcement.
- Jakobs, G. (1985). Kriminalisierung im Vorfeld einer Rechtsgutsverletzung. *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*, 97(4), 751–785.
- Kelemen, R. (2019). A critical review of the state of emergency provisions of the Fundamental Law in the light of the constitutions of the EU Member States – with special reference to the constitutions of the Visegrad countries. In R. Bartók (Ed.), *Current issues in the fight against terrorism in the 21st century* (pp. 9–34). Gondolat Kiadó.
- Kis-Benedek, J. (2006). European security and strategy: The EU and NATO facing new challenges with a Central European perspective. *Hungarian Quality*, 15(7), 2–7.
- Kiss, B. (2007). Limitation of fundamental rights and the public interest. *Acta Universitatis Szegediensis: Acta Juridica et Politica*, 69(1–48), 401–416.
- Lavranos, N. (2009). *The impact of the Kadi judgment on the international obligations of the EC Member States and the EC*. *Yearbook of European Law*, 28(1), 616–625.
- Luhmann, N. (1993). *Gibt es in unserer Gesellschaft noch unverzichtbare Normen?*. Müller Verlag.
- Mátyás, S., & Sallai, J. (2015). Objective and subjective security in some Hungarian cities. In H. Hegyi (Ed.), *Question marks of statehood at the dawn of the 21st century* (pp. 335–407). Kodolányi János University.
- Miklósi, Z. (2004). The “war” against terrorism and human rights. *Fundamentum*, 8(3), 43–49.

- Mill, J. S. (1859). *On Liberty*. Longman, Roberts & Green.
- Nagy, F. (2007). On enemy-criminal law and the erosion of criminal law under the rule of law. *Magyar Jog*, 54(2), 65–75.
- North Atlantic Treaty Organization. (2016). *Military concept for defence against terrorism (MC 472)*. [MC/0472/1/FINAL/ENG/NU](#)
- Rada, M., & Vajda, V. (2010). The fight against terrorism, or the trap of the 22. *Foreign Affairs Review*, (1), 139–170.
- Simicskó, I. (2016). Enhancing protection against terrorism by expanding the categories of special rights. *Hadtudomány*, (3), 100–106.
- Ungvári, Á., & Sabjanics, I. (2021). Pandemic and special legal order in Hungary. *Scientia et Securitas*, 2(3), 284–291.

Paper received: 17 May 2026

Paper accepted: 15 June 2026

ONLINE FIRST