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**Examination of the modernization of defense and security administration and special
legal order regulations in the light of the objectives of the defense and security reform**

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INTRODUCTION

JUSTIFYING THE THEME AND DEFINING THE SCIENTIFIC PROBLEM

Today, security is greatly valued in all areas of life and plays a more important role than ever before in the lives of societies and individuals. The increasing scale of globalisation and the record-breaking information and communication revolution have also contributed significantly to this process. Some of the threats to our security have existed in the past, but their nature has changed recently and is currently changing. Events in recent years have proven that several negative factors often apply together at the same time. In many cases, globalisation leads to interconnections, interactions and mutually reinforcing effects, which can turn into complex challenges and unforeseeable, unpredictable, cascading processes. By crossing state borders, in our interconnected world, these can easily become regional or global in importance.

In recent decades, changes in the security environment have increased the importance of the non-military dimensions of security. In addition to the vertical expansion, similar growth can also be observed in the horizontal plane. Hungary's security perception also reflects the trends outlined above, which can be clearly seen in our national security strategy. In addition to the previous, predominantly military threats, the emergence of other types of security-endangering factors entailed the need for an *all hazards approach*. Complex management of hazards involves many governmental and non-governmental bodies, and therefore a whole-of-government approach is needed to deal comprehensively with the factors that threaten our security.

The foundation for ensuring protection and security can be laid by creating a coordinated system of protection and security¹, which requires a well-established framework of intergovernmental coordination and effective cooperation between sectors on a broader scale than ever before. Recent events and developments in the world have shown that we need to think in terms of defence and security on a societal scale, holistic approach. In line with these considerations, the reform of the defence and security regulatory framework was launched in 2019 with the aim of modernising the regulation, systematic renewal, and flexible applicability, of the domestic defence and security system. Due to the fact that the role of security has increased in value in our everyday life, the role of the reform and the issue of the realization of

¹ In my dissertation, I use the terms "defense and security system", "defense and security sphere", "field of defense and security" interchangeably, by which – sharing Pál Kádár's position – I mean a complex, multi-level and multi-component system. The system is based on regulation, which defines the framework of the operation covering all additional components. Management authority is enforced through the system of defense and security administration at different levels of public administration.

the objectives pursued², are also unquestionable, their importance may not even be sufficiently appreciated today.

The experience of the feasibility of regulatory innovations in practice is not yet available, therefore, in addition to the practitioners, the representatives of the scientific life are responsible for verifying their correctness by analysing the legal documents, or pointing out possible contradictions and shortcomings.

Formulation of the scientific problem

For research purposes, three basic problems have been formulated, which can cause problems for both the legislator and the law enforcement side. These include:

1. In the decades since the end of the last century, a number of fundamental changes have taken place in Hungary and in the international environment, which have had an impact on the security environment of our country. The two fundamental and inseparable elements of our defense system, the *special legal order and the system of defense administration*, have followed the changes, but in many cases the legislator reacted too late, afterwards or excessively, with overly specific responses or with parallel, sectoral or ad hoc regulatory solutions, which sometimes made the practical applicability of the regulation difficult.
2. In our changing and accelerated world, the defense and security system of our country must also be renewed. The defense and security regulatory reform launched in 2019 aims to make the system more modern and more adaptable to the changing security environment. However, no experience is yet available regarding the practical applicability of the changes of the regulation, so scientific research can be of great help in uncovering possible shortcomings and negative effects of the changes.
3. In the last decade, it has become increasingly important, and today the problem of national resilience has become a major issue. In our country, as a result of the reform, the concept of national resilience and the need to enhance it, which is an essential factor in the field of defence and security, have also appeared in substantive law. In this context, in addition to resilience at national, regional or sectoral level, the role of resilience at the level of communities, municipalities and local authorities should also be pointed out.³ A number of theoretical studies deal with the enhancement of resilience at different levels, but there are

² By the objectives of the reform, I mean the objectives identified and structured by me in the benchmark publications on the subject and in the explanatory memorandum to the Ninth Amendment to the Fundamental Law and to Act XCIII of 2021 on the Coordination of Defence and Security Activities (CDSA).

³ In my dissertation, I use the terms national resilience and resilience interchangeably.

few scientifically based and practical methods available for assessing, measuring, and specifically developing it at a specific level - for example, at the settlement level.

In relation to the above three scientific problems, further subproblems can be identified which are related to the three basic problems and whose research is also current and timely.

DESCRIPTION OF RESEARCH HYPOTHESES AND OBJECTIVES

In relation to the above scientific problems, I conducted research in domestic and foreign scientific literature, sources of law, other legal documents, on the basis of which I established the following research hypotheses.

Research hypotheses

1. I assume that the constituent, with a systemic approach, has comprehensively defined the objectives and means of constitutional reform, and that the objectives of the reform are also being achieved with regard to new regulatory solutions and certain amended provisions. I also assume that the changes in the framework of the domestic special legal order resulting from the change of regime, the direction of the changes and the characteristics of the special rules of order in force immediately before the reform, made it difficult to apply the rules of order, to deal with emergency situations efficiently and quickly, and necessitated a systemic renewal of the set of rules.
2. I assume that the basic provisions, the new regulatory approaches, and in particular the framework for coordinated defence action of the CDSA⁴, will achieve the objectives of the whole-of-government approach and the reform of the coordinated defense activity. I also assume that the legislator, in order to increase the efficiency of normal law and order crisis management, created the possibility of whole-of-government coordination, in relation to sectoral crisis management, and provided for the possibility of immediate response in the constitutional and statutory regulations.
3. I assume that from the change of regime until 2022, during the development of the national defense administration, its system of organization and tasks became more and more elaborate and expanded, moved towards complexity, however, the weaknesses and deficiencies of the regulatory system made it necessary to reform it. Furthermore, I assume that in the current legislation on the Defense and Security Administration (DSA), the new regulatory solutions introduced by the defense and security reform, as well as the provisions on the organisational structure, functioning and system of tasks, have been

⁴ Act XCIII of 2021 on the Coordination of Defence and Security Activities (CDSA).

defined by the legislator in a cross-governmental, cross-sectoral approach, but that the elimination of previous shortcomings, weaknesses and the achievement of the objectives of the reform have not been fully met.

4. I assume, that by defining the framework for the establishment and strengthening of national resilience in CDSA – as one of the most important innovations in the reform of defense and security – the legislator intended to achieve the strengthening of resilience at national level, which they consider feasible in the framework of the DSA, and of which the establishment and strengthening of settlement resilience is an integral part of. I also assume that the effectiveness of the implementation would be increased by the method I recommend for measuring the exposure and protection of settlements, which can also provide means to identify the level of resilience.

In order to answer any questions that may arise, after establishing the hypotheses, I defined the research objectives.

Research objectives

1. I examine the fundamental stages of the defense and security reform, its main features, the policy considerations behind the reform, and define the framework of objectives and means of the constitutional reform. I analyse the basic purpose and characteristics of the domestic special legal order, as well as the changes in its system of rules from the change of regime to the effective regulations that emerged as a result of the reform, the process, direction, and root causes of the changes. I also examine the applicability of the special rules of law which were in force immediately prior to the present legislation and, by means of a comparative analysis, the changes in the legislation in force. All of this is done in order to explore and identify the main causes, characteristics that may have made it difficult or impeded the effective and rapid response to emergencies and necessitated the reform of defense and security. Furthermore, to verify the achievement of the considerations of principle and objectives of the reform in terms of new regulatory solutions and specific provisions, and to make proposals to eliminate any deficiencies, inconsistencies or problems that may arise.
2. I examine the most important features of CDSA, the principle considerations behind its regulation, I define its goal and portfolio of instruments. Analysis of key provisions, regulatory solutions, notably the regulation of coordinated defense action (CDA) of the CDSA, and a set of rules to enhance the efficiency of normal law and order crisis

management, with a view to establishing whole-of-government coordination and the possibility of immediate response. All this in order to verify the achievement of the considerations of principle and objectives of the reform, in terms of regulatory solutions and specific provisions of the CDSA and the regulatory framework enhancing the effectiveness of the normal legal order crisis management, and to make proposals for the eliminate any deficiencies, inconsistencies or shortcomings that may arise.

3. I examine the development of the domestic defense administration system from the change of regime to 2022, the direction and trends of changes in its regulation. My goal is to identify the characteristics and weaknesses of its regulatory system, which have necessitated its reform. I also examine, whether the new regulatory solutions introduced by the reform and certain provisions in force concerning the organisation, operation and remit of the DSA system, are based on a comprehensive, cross-sectoral approach, and whether the objectives of the reform are being achieved. All this in order to make a proposal to eliminate any deficiencies, inconsistencies or contradictions that may arise.
4. I examine the meaning of resilience from a defense perspective and the existing domestic legal framework for the system and strengthening of national resilience. I also examine the role of the DSA actors in establishing resilience. I analyse the concept of resilience at the settlement level, its relationship with national resilience and the possibilities for increasing the resilience of settlements to defense and security events, in particular disasters, including the role of exposure and protection determination in defense and security assurance. All this in order to propose a methodology for a new technique of measuring the exposure and protection of municipalities, as well as their level of resilience to extraordinary events, which can also provide a basis for determining the level of national resilience.

In order to achieve the above research objectives and to verify or reject hypotheses, I used the following research methods:

Description of research methods

I used a so-called *mixed research method* to respond to research questions, verify or reject hypotheses and achieve objectives. On the one hand, I used a relational strategy aimed at exploring connections, and on the other hand, I used a descriptive strategy. Due to the nature of the subject, my main research method was the analysis of legal sources and documents, and the exploration of the interrelationships between them, using the *branched research method*.

The new system of rules introduced by the reform has been examined by means of a *comparative analysis* along the lines of a *special system of criteria I developed*. The

conclusions drawn from the interpretative analysis of the various legal documents were drawn logically, mostly by the *method of induction*. When drawing up the conclusions, I also took into account the experiences of my colleagues working in the defense and security administration, as well as those active in legislation and law enforcement, as well as what was said at conferences related to this topic. In the course of my research, I studied the literature on the subject, both electronic and printed, the relevant sources and interpretation of law. In some cases, I have examined and evaluated the same legal documents, but in different relationships. I have tried to respect the principle of “one source, no source”, to treat the selected source documents with source criticism and to maintain cohesion. In the dissertation summarizing the research and its results, I have developed the following chapters:

CHAPTER 1

THE DEFENSE AND SECURITY REFORM AND ITS EFFECT ON THE REGULATION OF DOMESTIC SPECIAL LEGAL ORDER

In this chapter, I present the fundamental stages of the defense and security reform, its main features, the policy considerations behind the reform, and define the framework of objectives and means of the constitutional reform. I examine the innovations and regulatory solutions of the reform from the point of view of reaching the objectives pursued. I present the basic purpose and characteristics of the domestic special legal order, as well as the process of changes in its regulation from the change of regime to 2022, and examine the applicability of the special legal order regulations that were in force immediately before the reform, with the aim of revealing what factors and characteristics necessitated the system-level renewal of regulations. A comparative analysis of the changes in the system of rules is done, and I examine the achievement of the objectives of the constitutional reform in respect of each provision.

Examining the necessity of the defense and security reform, it can be concluded that there was complete professional consensus, that it is necessary to reform the defense and security system, which is divided on a sectoral basis and often competes rather than cooperates. In addition to professional considerations, there was also an increasingly strong demand from governments for the development of a system, that is more flexible and provides increased room for manoeuvre and greater intervention opportunities for the quick and efficient handling of individual extraordinary situations. In addition to the global processes that have occurred since the end of the last century, the specific events and phenomena of the previous decade, increased the timeliness of the reform, which began in the second half of 2019, and which was given further stimulus by the appearance of the coronavirus pandemic in Hungary in the spring of 2020, as well as the domestic experience of epidemic management.

Partial conclusions

With the *reform of the defense and security regulations*, which is implemented in several stages, the legislator wanted to lay the foundations of a coordinated defense and security system capable of implementing whole-of-government coordination and cooperation. In the first stage of the reform, the Ninth Amendment of the Fundamental Law renewed the *constitutional rules of the special legal order*. The new regulatory solutions introduced by the constituent serve the main objectives of the reform, i.e. to increase efficiency and to create modernisation and better

adaptability to the dynamic changes in the security environment. My analyses show, that the goals and the regulatory solutions (tools) for achieving the goals were determined by the legislator with a systemic approach.

The *basic purpose* of the special legal order is that in situations which threaten the most important values of the state or society, or in the event of a hazard to those - within predetermined constitutional and legal frameworks - temporarily provide an opportunity to quickly and effectively deal with the extraordinary situations that have arisen, with an extraordinary system of tools different from the normal legal order, if the normal legal regulations are not sufficient for this.

Examining the applicability of the *special legal regulations that were in force immediately before the reform on the basis of the experience gained during the handling of the coronavirus pandemic*, it can be highlighted that in four areas – the possibility of declaring a state of emergency, the temporal effect and extension of the decrees, the scope and nature of the extraordinary measures that may be introduced, governmental coordination – constitutional concerns arose in connection with the applicability of the provisions on the state of emergency, which made it difficult for the Government to manage the epidemic.

Analysing the applicability of regulations on the basis of theoretical criticisms, it can be stated that, on the one hand, at constitutional level, the over-regulation, the complexity of the regulatory system (in this context, the applicability of the crisis management structure and mechanism), the static, casuistic nature, in some cases the obsolete wording, and the factors hindering the effective and rapid start of crisis management, may have constituted an obstacle to effective crisis management. On the other hand, when examining lower-level regulation below the level of the Fundamental Law, the hindering factors include the fragmented regulation, regulatory deficiencies related to the state of emergency and terrorist threat, as well as deficiencies in the draft legislation for emergency measures and the lack of development and coherence of the regulations for implementation.

On the basis of a *detailed comparative analysis of the constitutional framework in force*, I have concluded, with regard to the provisions of the special jurisdictional cases, that a more general formulation of the facts on which the notice is based, provides an opportunity to deal with non-conventional threats as well as with situations which are currently unknown. The relevant provisions thereby achieve the objective of more flexible applicability and, ultimately, modernization. An exception to this is the change introduced by the Tenth Amendment to the Fundamental Law, which expanded the range of events that establish the possibility of declaring

a state of emergency with a too specifically defined, basically national defense-type range of cases. The coherence of the previously established system of clear and generally stated facts, was thereby broken. With regard to the state of danger and the state of emergency, it should be noted that the time limit has been fixed by the constituent assembly in a uniform manner at 30 days, linked to the duration of the qualified period. With this solution transparency (simplification, standardisation), and ultimately the goal of increasing efficiency is achieved.

Based on the analysis of the *common rules for special cases of legal order*, an important change is that the constituent extended the powers of substitution of the President of the Republic in the event of obstruction of the Parliament to the case of a state of emergency, thus achieving the objective of increasing transparency (unification) and, ultimately, efficiency, however, the state of war the scope of the declaration was not clarified by the legislator, thus some deficiency can be observed in the regulation.

With the constitutional provisions of the transitional period framework, the legislator created a new legal instrument, that, after initiating the declaration of a state of war or a state of emergency, provides the Government with increased flexibility to respond immediately to a national defense or police emergency situation for a maximum of 60 days, in the normal operation of law and order, until the parliamentary declaration of these two qualified periods.

Based on the *comparative analysis of the legislative provisions of the special legal order*, it can be concluded that the previously fragmented, sector-specific, overly specific and detailed, and sometimes overlapping, rules on the exceptional measures that may be introduced have been incorporated by the legislator into the umbrella of the CDSA. By defining a comprehensive regulatory scope and an open regulatory solution, the CDSA has achieved its objectives of transparency (simplification), increased governmental flexibility, more flexible applicability and, ultimately, modernisation and increased efficiency. In order to compensate for the increased government flexibility, a comprehensive guarantee system was built into the regulation.

CHAPTER 2

ANALYTICAL PRESENTATION OF THE LAW ON THE COORDINATION OF DEFENSE AND SECURITY ACTIVITIES AND THE COORDINATED DEFENSE ACTIVITY, AS WELL AS THE EXAMINATION OF THE SYSTEM OF RULES INCREASING THE EFFICIENCY OF NORMAL LAW AND ORDER CRISIS MANAGEMENT

In this chapter, I present the essential characteristics of CDSA, the main objectives of the development of its system of rules, as well as the regulatory solutions and innovations for their implementation (system of goals and tools). I also examine the basic provisions and innovations of CDSA in terms of the realization of the goals. This is followed by the analysis of the basic purpose of the coordinated defense activity (CDA), its main characteristics, its link to the sectoral crisis management regulation and the system of rules to enhance the efficiency of normal law and order crisis management and to ensure immediate response. In this context, I examine the basic rules of the national defense crisis, the health crisis and the crisis caused by mass migration, and their connection to CDA. Furthermore, I analyse the provision of the possibility of an immediate response through the control of the transition period, the prevention of an unexpected attack and the extensive damage event.

During the process of introducing the defense and security reform, I noted that the CDSA is one of the foundations of the reform, a cross-sectoral framework that extends the umbrella over the area of defense and security. In the second stage of the reform, it was announced that the legislative objective was to create effective crisis management and thus strengthen security, in line with the spirit of the change in approach initiated by the Ninth Amendment to the Fundamental Law, along the lines of a comprehensive approach and a whole-of-government approach.

Partial conclusions

The CDSA is a cross-sector, complex framework legislation that implements a comprehensive approach. The legislator has developed its regulatory solutions aimed at increasing the efficiency of normal law enforcement crisis management as well as special law enforcement operations, in a comprehensive manner, with a whole-of-government approach.

Based on the examination of the basic provisions of the CDSA, I have concluded that they have achieved the overall approach and the objective of transparency (uniformity), but that

there are certain inconsistencies in the provisions relating to defense and security organisations and obligations and to the principles of defense and security.

The new legal institution introduced by the CDSA, with the development of the CDA rulebook, has created an institutionalised framework for whole-of-government coordination and cooperation through a comprehensive legislative approach. The CDA bridges the border between the normal and special legal order and fulfils the role of a "connecting link" in accordance with the principle of gradualness. It is implemented under the normal legal order, however, in terms of its content, it includes some elements of the special legal order. Provides the Government with increased flexibility to deal effectively with crises in cases where sectoral activity is not sufficient, but the introduction of a special legal order can be avoided.

Based on the examination of the provisions relating to the CDA, I found that – with one exception – all of the objectives of CDSA, are achieved and ultimately serve to increase the efficiency of normal law and order crisis management, however, the regulation needs correction and further development. Instead of an ad-hoc appointed minister or body authorized to provide whole-of-government coordination, it would be reasonable to install this authority in the Defense Administration Office (DAO) – considering its basic function – and it would also be appropriate to develop a system of professional criteria for the order of the CDA related to all types of defense and security events in the regulation for the implementation of CDA.

The aim of creating the possibility of *whole-of-government* coordination through the crisis of defence, health and mass migration, and analysing their link to the CDA, it can be seen that the first two provide the possibility of creating whole-of-government coordination, but the crisis of mass migration does not provide the means to achieve this. It would be reasonable to provide the opportunity in the latter case as well, and further development of the regulation appears to be appropriate.

During the examination of the *purpose of the immediate response*, I found that the relevant system of rules provides this possibility under normal operation of the law and order. In the event of an unexpected attack, at legislative level, even before initiating the declaration of martial law/state of emergency, while in national defense and law enforcement emergency situations at the constitutional level, provisions of the transitional period framework, they enable the Government to take immediate action after initiating the declaration of martial law/state of emergency. In the event of a disaster prevention type defense and security event, this possibility is provided by the sectoral law, to the Director General of the National Disaster

Management, Ministry of the Interior (Kat.2.⁵). However, in connection with the regulations concerning extensive damage events, the revision of the provisions is justified.

CHAPTER 3

THE EFFECT OF THE DEFENSE AND SECURITY REFORM ON THE DEFENSE ADMINISTRATION SYSTEM

In this chapter, I analyse the development of the National Defense Administration after the change of regime, the direction and trends of the changes in its regulations, and by comparative analysis examine the current regulation of the DSA, the new regulatory solutions introduced by the reform, as well as the specific provisions on the organisational structure, operation and system of tasks in terms of the considerations of principle behind the reform and the achievement of its objectives. I present the background to the emergence of the defense management system and then examine its development in three time intervals, in terms of its linkage to the defense system, its appearance in legislation, its organisational structure, its tasks and responsibilities, its central coordination, and the main causes and trends of the changes. All this in order to be able to examine in greater depth, the current state of the defense and security management system established under the current legislation, and to identify the factors and problems that required the reform, in order to better understand it.

Partial conclusions

An examination of the stages of development of defense administration and its legal background shows, that it developed within the system of national defense, it was considered as a subsystem of national defense. After the change of regime, its organizational and task system was continuously expanded, and its regulations were broadened. After the turn of the millennium, defense administration became a two-pillar structure, then increasingly moved towards complexity. However, a number of factors – such as the predominance of national defense, the fragmented nature of the regulation, which is linked to two sectors (national defense, disaster prevention), and the lack of whole-of-government coordination – have interfered with the cross-sectoral function of the defense administration, necessitating the reform of the relevant regulatory framework.

Based on *comparative legal analysis of the existing system of rules on the DSA*, I concluded that the legislature had abolished the previous parallel, fragmented, sector-specific

⁵ Act No. CXXVIII of 2011 concerning disaster management and amending certain related acts.

approach, and set out the basic rules in a single place, in a separate chapter of the CDSA. Accordingly, it defined the concept of the DSA cross-sectorally, and also defined the purpose of the DSA at the level of legislation, filling a previous gap. Furthermore, the DSA system was complemented by the creation of a centralised body, DAO, by which the legislator created the organisational conditions for the implementation of whole-of-government coordination in addition to sectoral – national defense, disaster response – governmental coordination.

Based on my analysis of the regulation of the DSA system, I determined that no significant changes have occurred beyond the creation of DAO. An analysis of the DAO regulation shows that the CDSA does not contain a framework on this subject, but is covered by lower-level legal sources. Analysis of the provisions of the lower level of regulation shows that DAO operates in a permanent, defined organisational structure and has been set up in the organisational system of the central government. The DAO was created as a body under the control of the Minister of the Cabinet Office of the Prime Minister – and not directly under the control of the Government – therefore I formulated a proposal for placing it under the control of the Government and above the sectors, as well as for the formation and operation of the NEMC⁶. There have been no major changes in the composition of the *Defense Committees*, which were already characterised by complexity and the ability to deal with all types of crisis before the reform.

Examining the issue of governance, the reform introduced a progressive change in the rules governing the exercise of the power of control over TDC's (Territorial Defense Committees), whereby the Government exercises this power through the central body of the DSA, with the exception of the tasks of sectoral defense and preparedness.

A very significant change is that, unlike in the past, the legislator has made the *exercise of powers and thus the distribution of decision-making power* between the defense committees and their chairs subject to the condition that the committees are obstructed to work. However, the relevant regulation is incomplete, a number of important issues have not been clarified, and it does not serve the objective of operativeness either, therefore I formulated a solution to the problem. I also extended the proposal to the distribution of tasks and powers between the mayor and the representative body of the municipality.

Having analysed the provisions on the *power of control*, I found that the change in the rules on control at central level, with the right of DAO to exercise that power, has removed the previous predominance of national defense, and the cross-sector character was further strengthened. I also found that another important power, the question of *exercising the*

⁶ National Event Management Centre.

supervisory power, was missing from the provisions in force, and I made a proposal to replace it.

The progressive change in the *operation of the defense commissions* can also be highlighted, based on which, the relevant provisions differ from the previous ones, and are not linked to a sector, but with a comprehensive approach, linked to the field of defense and security. In some cases, however – for example, in financial terms, in the appointment of a secretary – the commitment to national defense remained, and the comprehensive, cross-sectoral nature did not materialise.

A positive development is the extension of the provisions on *support for the decisions of the chairmen of Defense Committees*, which serve to strengthen the professional foundation of decision-making by chairmen, and to broaden cooperation, increase efficiency by promoting the whole-of-government approach.

Basis on the analysis of the *DSA's system of tasks*, I found that the legislator, with a comprehensive approach and a framework in the CDSA, basically installed coordination tasks in the central body, the DAO. In the case of the Defence Committees and the mayors, the CDSA defined their tasks uniformly, divided into two groups, preparedness and crisis management tasks. Overall, their tasks show that the legislator has created a complex, non-transparent and at the same time flawed system, particularly at territorial level. Thus the creation of a comprehensive, cross-sectoral regulatory framework has not been fully achieved.

It is important to point out that the CDSA introduced a significant change in the rules on *civil defense and the obligation to provide economic and material services* by giving the chairmen of LDC's (Local Defense Committees) the power to order the immediate performance of the temporary civil protection service. However, in respect of the use of economic and material services, the legislature did not confer the right to order, on the chairmen.

With regard to the Defense Committees and the mayors, I found that the tasks relating to national resilience, which appear in the CDSA as a fundamental objective, as well as those relating to strengthening security awareness and to recent events (with one exception) – the migration crisis, the pandemic, the wave of refugees affecting the country as a result of the war in a neighbouring country – do not appear in the regulation.

CHAPTER 4

STRENGTHENING THE NATIONAL RESILIENCE IN THE SYSTEM OF TASKS OF THE DEFENSE AND SECURITY ADMINISTRATION

The issue of national resilience is linked in many ways to the issues I have explored in the past. On the one hand, as a result of the reform of defense and security, the first system of rules on national resilience appeared in our substantive law, which can be classified as one of the most important innovations of the reform. On the other hand, national resilience is closely linked to the DSA, since the tasks related to its design and development are reflected in the DSA's system of tasks.

In this chapter, I examine the concept of resilience, its meaning in terms of defense, and the existing domestic legal framework for the system and improvement of national resilience. I also examine the role of the DSA actors in establishing resilience. I analyse the concept of resilience at the municipal level, its relationship to national resilience, and I propose a *methodology for assessing the exposure factors and the level of protection of a given area*, which can help the defense planning work of the Defense Committees and mayors. Based on previous research, I define the specific settlement tasks to be carried out in order to protect against hazards, and the factors which may increase or decrease exposure to hazards and how these can be measured. All this in order to provide a measurement methodology for indexing the level of defense in urban areas, which can contribute to increasing urban resilience. In addition, this method may be suitable, with appropriate corrections, for determining the level of national resilience.

Partial conclusions

The main feature of the CDSA's regulation on the system and development of national resilience is its horizontal and vertical *complexity, which reflects a whole-of society approach* and which reflect to NATO's resilience requirements. The legislator laid the foundations for a system of capabilities to respond effectively to complex security threats through the relevant provisions, achieving the objective of strengthening the preparedness and security awareness of society, and ultimately increasing the efficiency of normal law and order crisis management and special law enforcement operations.

Examining the regulatory framework, it can be seen that the specific task of developing resilience has only been set for the central body among the DSA actors, and therefore there is

a need to further develop the regulation. However, in examining the DSA system, I found that the tasks assigned to DSA actors include those preparatory tasks which provide an opportunity to establish national resilience at all levels of DSA, i.e. at the territorial, local and municipal levels.

It can also be seen that, as a result of changes in the security environment, states can only respond adequately and provide adequate protection to their population if they adapt their defense and security systems to this, at national, macro- and micro-community level, and develop resilience to the threats. International organisations and states are also increasingly focusing on building up national resilience, in which civil preparedness is becoming increasingly important. I found that local governments, and thus strengthening resilience at the local level, can play a key role in building national resilience. Therefore, the resilience of settlements can be considered as an integral part of the national resilience.

In analysing the consequences and the tasks to be carried out through a chemical disaster situation that I selected, I found that an important criterion of resilience at the settlement level, is to have all the conditions, forces, and tools available for the tasks of prevention, defense and recovery. It is important to emphasise that, in addition to risk analysis, knowledge of the area's exposure indicators and the resulting protection level is needed to establish the appropriate level of resilience, but no methodology or metrics are available to identify these. As a result, *I developed a protection measurement method*. In this context, I identified the expected hazards, the possible effects associated with them, and then the main tasks of defense against them. From these, I logically identified the exposure factors, and then cast the attributes that characterized them into the form of questions. The responses to these questions provide indicators of the level of protection in the settlement. This method is used to calculate the disaster protection index of the settlement, from which the exposure index of the settlement can also be determined. Therefore, the protection of the settlement is inversely proportional to the exposure. This will help the DSA actors to have a more accurate picture of the situation in their area of competence, and become more effective in decision-making on defense issues in all three periods of defense work, but especially in the area of future regulation and development.

With the help of the protection measurement method I developed, the protection level of each area and their exposure can be determined in relation to the task performance areas of national resilience, which in turn is the basis of their resilience level. Finally, the sum of the individual resilience levels for each task area can be used to *determine the level of national resilience*.

Given that at the end of my research there was not yet sufficient experience and data to assess the practical implementation of the new regulatory framework for defence and security reform, one of the outcomes of the research carried out in this chapter may be to provide scientifically based, innovative proposals for practical defense work.

SUMMARY

Summary of findings

In the first chapter, an examination of the reform of defense and security and its impact on the domestic special legal regulations show that the reform was intended to lay the foundations for a more modern and efficient, coordinated defense and security system, with a higher degree of adaptability to changes in the security environment. The *complexity* of the reform is shown by the fact that the changes cover the entire spectrum of defense and security, both horizontally and vertically. The need to renew the special legal order was justified by several factors. Immediately prior to the reform, the relevant regulatory framework had a number of features and shortcomings that made it complex, inflexible and, in some cases, obsolete, thus making it difficult to apply, which could have constituted an obstacle to effective and rapid crisis management.

A comparative analysis of the renewed *constitutional regime* reveals a systemic approach to the objectives pursued and the regulatory solutions developed to achieve them. New regulatory solutions have brought systemic changes, achieving the objectives of the constitutional reform. An examination of the changes in the specific constitutional provisions shows that the objectives of the reform have been achieved in principle, but in some cases – in relation to the prolongation of the state of emergency and the declaration of a state of war – deficiencies, inconsistencies can be observed. It is important to emphasise the *change introduced by the Tenth Amendment to the Fundamental Law* in relation to the emergency situation, which is contrary to the objectives of the constitutional reform by breaking the coherence of the regulation established by the Ninth Amendment, which contains general and clear facts, and thereby making it difficult to establish the framework for implementation. In the context of the *legislation* on the special legal order, it can be stated, that the whole-of-government approach applies to the provisions on the exceptional measures that may be introduced and to the special legal preparation frameworks for public actors, the legislator has included the relevant provisions under the umbrella of the CDSA.

On the basis of the foregoing, the hypothesis put forward for the chapter has been substantially confirmed by the fact that the legislature, with a systemic and whole-of-government approach, has developed the relevant regulation in a comprehensive manner, achieving the objectives of the reform, and it has been established that the regulatory framework in force, immediately before the reform, was complex and inflexible, no longer meeting the

requirements for effective and rapid crisis management. However, in some specific provisions there are gaps and inconsistencies which I suggested should be eliminated.

In the second chapter, I examined the basic provisions of the CDSA, the most important new regulatory solutions, in particular the framework for coordinated defense activity (CDA) and the framework for enhancing the effectiveness of normal law and order crisis management. I found that as a cross-sectoral framework legislation, the CDSA upholds the whole-of-government approach, provides a comprehensive umbrella over defense and security regulation, and the new regulatory solutions it introduces serve the objectives of the reform. In the context of its basic provisions, the overall approach and the achievement of the objectives of the reform can be demonstrated, but contradictions can be observed in the provisions on defense and security organisations, obligations and the bases of defense and security, which I formulated proposals to resolve.

Analysis of the rules on the CDA shows that this new regulatory approach is an institutionalised representation of coordination and cooperation at the level of government, with the normal functioning of the legal order. By bridging the gap between the normal and the special legal order, it achieves all the objectives of the reform. However, it would be appropriate to review the legislation on the entitlement to provide intergovernmental coordination and to further develop the implementation of the legislation on the provision of CDA.

In analysing the objective of creating the *possibility of whole-of-government coordination*, I found that the possibility of whole-of-government action was not fully provided for, in the schemes examined, and that two of the three types of sectoral crises show a link with the CDA. It is desirable to eliminate this shortcoming and to further develop the regulation by clarifying the provisions underlying the connection to the CDA, and to extend the improved system of rules to all sectoral malfunctions and crisis and emergency situations laid down by law. An analysis of the intent of immediate response shows that the provisions under examination provide for immediate action in the normal course of law. In the case of national defense and law enforcement type emergencies, for the Government, while in the case of disaster-type defense and security events, for the Director General of the National Disaster Management, Ministry of the Interior. However, in the case of extended damages, it would be appropriate to amend, develop these provisions.

On the basis of the above, my hypothesis concerning the research topic of this chapter has been confirmed by the fact that the fundamental provisions of the CDSA, the new regulatory approaches, and in particular the framework for coordinated defence action of the CDSA, will

achieve the objectives of the whole-of-government approach and the reform of the coordinated defense activity. Furthermore, the legislator, in order to increase the efficiency of normal law and order crisis management, created the possibility of whole-of-government coordination, in relation to sectoral crisis management, and provided for the possibility of immediate response in the constitutional and statutory regulations. In some cases, however, regulation requires correction, further development.

In the third chapter, on the basis of a comparative analysis of the effects of the reform of defense and security on the system of defense administration, I concluded that in recent decades the system of organisation and tasks of the defense administration have been continuously expanded, the relevant system of rules has become more elaborate, the scope of the defense administration has been broadened, and the role of the defense administration has been strengthened. Defense administration became a two-pillar structure and then increasingly moved towards complexity. However, the weaknesses of the system, the fragmented regulation with sectoral characteristics, the number of contradictions arising from the sectoral approach and fragmentation, as well as the predominance of national defense, and the lack of whole-of-government coordination, have necessitated the reform of the regulation to strengthen the capacity to deal with all types of crisis.

Among the *most significant innovations of the reform in relation to the DSA* is the fact that the legislator has laid down a framework of rules for the DSA in the CDSA. As a result, the regulation of the DSA as a cross-sectoral scheme also came under the whole-of-government umbrella of the of the CDSA. In addition, the legislator created the central body of the DSA, the DAO, which established the organisational conditions for the implementation of whole-of-government coordination. With the above and other new regulatory solutions – the cross-sectoral definition of the concept of DSA, the statutory definition of the purpose of DSA – the legislator validated the whole-of-government approach and achieved the objectives of the reform.

Analysing the DSA's organizational system and operation, as well as the system of rules regarding management, leadership and competence, in particular the provisions relating to the DAO, it can be concluded that the legislator only defined the task system of the DAO with a framework nature in the CDSA. Based on the examination of the lower-level regulation concerning DAO, it deserves to be highlighted that the reform established the central body of the DSA, as a body located in the organizational system of the central state administration, with

a permanent character and a defined organizational structure, operating under ministerial control.

The Government's exercise of its *management powers* over TDC's, with the exception of sectoral tasks, through DAO, and the installation of *central control powers* for DAO can be regarded as a progressive change. Both changes are a validation of the whole-of-government approach, which reinforces the cross-sectoral nature of DSA. A positive development is that the provisions for the *functioning of the Defense Committees* have been introduced with a whole-of-government, cross-sectoral approach, linked to the area of defense and security, but in some cases – e.g. appointment of a secretary, and in financial terms – the commitment to national defense has remained. The regulation of the *exercise of powers between the Defense Committees and their Chairs and thus the distribution of decision-making powers*, as well as the question of the exercise of supervisory powers, which are absent from the provisions in force, can be considered a matter of concern.

Analysis of the DSA's system of tasks shows that the legislator has implemented cross-sectoral tasks with a whole-of-government approach to DAO, but has not followed the uniform grouping of tasks at the lower levels of the DSA. In many cases, the definition of the tasks of the TDC's is too specific, detailed and sectoral. The cross-sectoral regulatory framework has not been fully implemented, creating a complex and non-transparent system. As far as the tasks of the LDC's are concerned, it has mostly been possible to build a cross-sectoral capacity to deal with all types of crises, but in the context of the preparedness task system, as well as in the relevant provisions of in the context of the Implementing Regulation 1 of CDSA, deficiencies can be identified. By adopting the previous regulations, the duties of the mayor were incompletely defined, partially realizing the determination of the tasks with a whole-of-government approach and cross-sector nature.

My hypothesis about the research topic of this chapter has been confirmed, because I proved that the organization and task system of the domestic defense administration continuously expanded during its development and moved in the direction of complexity, however, the weaknesses and shortcomings of the rule system made it necessary to reform it. I demonstrated that in the current regulation of the DSA, the new regulatory solutions introduced by the reform and the individual provisions were defined by the legislator in a whole-of-government, cross-sectoral approach. However, the whole-of-government approach and the achievement of the reform objectives have not been fully met, therefore I made proposals to address the shortcomings and contradictions identified.

In the fourth chapter , *examining the strengthening of the national resilience in the task system of the defense and security administration*, I came to the conclusion that this goal was well founded as one of the most important innovations of the defense and security reform by the legislator by enshrining the relevant system of rules in the CDSA. This is the first time that the question had been regulated in substantive law. A complex set of rules within the DSA mission framework incorporates NATO's resilience requirements, reflecting a whole-of-society approach. Given the complexity of security perception, the legislative effort was aimed to lay the foundations for an efficient response capability system by strengthening the state-social immunity system, thus achieving the objectives of the reform. Under the rules, the legislator considers it feasible to coordinate governmental tasks related to strengthening national resilience in the DSA system, but the specific task related to this has only been installed in the DAO. In addition, in the framework of the tasks of the DSA actors, preparatory tasks can be identified that provide the framework for action to fulfil the resilience tasks at all levels of the DSA.

In my research, I also found that it is essential to strengthen resilience not only at national, but also at macro- and micro-community level, and that municipal governments can play a key role in developing national resilience and thereby contribute to strengthening resilience at the municipal level. Therefore, the resilience of settlements is an integral part of the national resilience. In addition to the risk analysis, information on the exposure factors in the area, their characteristics and the level of protection that can be determined on the basis of these factors is essential for establishing an appropriate level of resilience at the municipal level. In view of the lack of a scientifically based and practical solution for identifying and measuring the above, I ***developed and presented in detail in this dissertation, a method for measuring vulnerability*** which can help the actors of the DSA to carry out their tasks, contribute to enhancing the efficiency of decision-making on protection issues and serve as a basis for the subsequent development of the relevant regulation and for future developments. In addition, it can be used to determine the level of resilience for the task delivery areas of national resilience, the sum of which ultimately determines the level of national resilience.

My hypothesis related to this chapter was confirmed, because I demonstrated that one of the important objectives of the reform is to strengthen national resilience, which can be achieved within the framework of the DSA mandate, and which the development and enhancement of urban resilience is an integral part of.

New scientific evidence

- 1.** On the basis of an examination of the legal framework for the reform of defence and security, its objectives and tools, by means of a comparative analysis of law sources, I **established** that the legislator has defined the legal framework in the areas I surveyed, in a comprehensive, system-wide and whole-of-government approach. Taking this into account, **I was the first to explore** the shortcomings in specific provisions, its contradictions, the elimination of which I **formulated** proposals in order to facilitate the realization of the goals, to modernize the regulation, and to make it more flexible and effective.
- 2.** Having analysed the regulatory framework for making normal law enforcement management more effective, including the regulation of coordinated defence action, I **demonstrated** that it essentially provides for the possibility of whole-of-government action and coordination, as well as immediate response, but that the link between coordinated defense activity and sectoral normal law and order management is not always realised. Accordingly, I **identified** the legislative provisions of concern which I **propose** to amend, and I also proposed further development of the regulation to facilitate legislation, in some cases by defining specific text of rules.
- 3.** On the basis of a comprehensive examination and a comparative analysis of sources of law, of the existing regulatory framework on defense and security management, I demonstrated that the existing regulation, under the umbrella of the CDSA, essentially ensures the cross-sectoral nature of the DSA, the achievement of the whole-of-government approach and the objectives of the reform. However, certain provisions concerning the functioning and structure of the various levels of the Defense and Security Administration require further improvement, for which, in addition to resolving the shortcomings and contradictions I identified, I have put forward solutions for placing DAO above the ministerial level and for the establishment and functioning of the NEMC.
- 4.** In my analysis and general examination of the domestic legislative framework for national resilience, I demonstrated that actors in the defense and security administration have a key role to play in establishing and strengthening national resilience, which the resilience of settlements is an integral part of. In this context, I was the first to develop a measurement method for determining the level of protection and exposure of a settlement, as well as its level of resilience, which can provide effective assistance to decision-makers in the

performance of their protection and security tasks and can also be used to determine the level of national resilience.

Recommendations and practical applicability of research results

Different parts of the thesis can be used effectively in the compilation of university lecture notes, educational aids presenting the system of domestic defense and security. Furthermore, in higher education institutions, especially law universities and various faculties of Ludovika University of Public Service, the training system of bodies, organisations involved in education and in defense and security education.

The conclusions and proposals I have drawn from my research on the DSA system, the special legal order and the analysis of the current regulatory framework for crisis management in the normal legal order, can serve as a starting point for the legislature in the further development of the relevant legislation.

In order to gain a comprehensive and deeper understanding of the reform of the defense and security regulation under consideration and, in this context, of the special legal order and the existing regulatory framework of the DSA, the information systematically developed in each chapter, can be of assistance to those who are engaged in law enforcement activities in the field of defense and security.

It can also be useful for defense and security planning and for defining developments and for the DSA actors.

LIST OF THE AUTHOR'S PUBLICATIONS IN THIS TOPIC

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PROFESSIONAL-SCIENTIFIC BIOGRAPHY OF THE AUTHOR

After completing my primary and secondary school studies, I obtained a doctorate in political science and law at the Faculty of Law and Administration of the University of Debrecen in 2003, then I became a specialist lawyer in European law in 2006. I passed my professional law examination in 2011, and also studied finance at the Faculty of Economics of the University of Debrecen in 2015-2016.

After obtaining my law degree, I worked as a legal practitioner. From 2005, I served as a legal officer at the legal and administrative headquarters of the 5th “István Bocskai” Rifle Brigade in Debrecen, and later, from 2009, as head of the legal and administrative department. From 2011, I worked as a prosecutor's clerk and then as a deputy prosecutor at the District Prosecution Office of Fehérgyarmat.

Since 2017, I have been a member of the staff of the Ludovika University of Public Service, as an assistant lecturer of the Department of Defence Law and Administration, of the Faculty of Military Sciences and Officer Training, and since 2020 at the Institute of Disaster Management, of the Faculty of Law Enforcement.

I started my studies at the Doctoral School of Military Science of the Ludovika University of Public Service in 2017, in the research area of defense logistics and defense economics.

I am the secretary of the Department of Internal Affairs of the Hungarian Association of Military Science, and a member of the Disaster Management Department of the Hungarian Association of Police Science.

In connection with my research tasks, I have published in various peer-reviewed journals and scientific study volumes, while my presentations have also been published in conference proceedings. Using my experience as a legal practitioner in my research, I have examined the existing regulations and their changes, on two inseparable elements of the defense and security system, the special legal order and the regulation on security and defence administration. I have examined security threats, their effects and future consequences, and the possibilities for domestic protection against the effects of climate change from the perspective of territorial, local-level defense administration.

My research also included an analysis of the changes in the system of rules for the defense administration in connection with the amendment of the National Defence Act that entered into force on January 1st, 2020, and an examination of the tasks of the defense committees that may arise during the crisis situation caused by mass migration.

I carried out a comparative analysis of special legal regulations in force after and immediately before the entry into force of the Fundamental Law, and I also examined the current system of regulations and the government measures introduced during the state of emergency declared during the first wave of the coronavirus epidemic.

The impact of the regulatory reform launched in 2019 on the special legal order and, in particular, on emergency regulation was explained in our joint article with my supervisor, Dr. Árpád Muhoray, and I also did research in independent publications. I also examined the impact of the reform of the defense and security regulation on the basic regulation on civil protection obligations.

I earned a total of 33 publication points. I have also published the results of my research at conferences and workshops.

I have incorporated the conclusions, findings and structured knowledge resulting from my research into the subject matter of the subjects I teach at the Ludovika University of Public Service and in my work as a consultant on the preparation of theses and dissertations.