Checks and Balances

The Position of the Head of States in Hungary and the European Union

AN ANALYSIS BY THE REPUBLIKON INSTITUTE

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INTRODUCTION

According to Article 9, Paragraph 1 of the Fundamental Law of Hungary, "The Head of State of Hungary shall be the President of the Republic who shall embody the unity of the nation and be the guardian of the democratic functioning of the state organisation." Although Fidesz incorporated this quoted passage into its own constitution, the most common criticism leveled against the four Presidents from the NER[1]-era is that they failed to live up to this ideal. It is telling that out of the four presidents elected by the Fidesz-KDNP parliamentary majority, two have resigned, and according to Prime Minister Péter Magyar's promise, Tamás Sulyok will not complete his third year in the Sándor Palace either. Following the presidencies of Pál Schmitt, Katalin Novák, and Sulyok, it is almost understandable that János Áder's 10-year tenure as head of state appears relatively positive in the eyes of many, despite the fact that Áder had previously been rightly considered the "fist of Fidesz".

Now that the news predicts that the sixteen-year era of NER presidents may come to an end within weeks, it is worth examining just how seriously these four presidents took their role as defenders of democracy and embodiments of national unity. Furthermore, our analysis looks ahead to the future, as Péter Magyar has increasingly suggested introducing the institution of direct presidential elections. Consequently, we will also examine how heads of state are elected in the European Union, how widespread direct presidential elections are, and how the transition from an indirect to a direct electoral system took place in the Czech Republic in the early 2010s.

THE ENGINES OF LEGISLATION

The performance of the four NER presidents is summarized below:

President	Political vetoes	Constitutional vetoes	Clemency petitions	Pardons granted	Ratio of pardons granted

[1] Abbr. for the *System of National Cooperation*, the primary political framework established by the Orbán-governments after the 2010 elections.

Pál Schmitt	0	0	1.057	24	1,59%
János Áder	37	8	6.374	138	2,17%
Katalin Novák	2	1	446	40	8,97%
Tamás Sulyok	2	0	1.683	4	0,24%

In August 2010, László Sólyom's presidential mandate expired, but Fidesz did not wish to re-elect the president, whom they themselves previously also voted for. Instead, they nominated Pál Schmitt, who had been closely associated with Fidesz since the early 2000s. In 2002, he ran in the Budapest mayoral election as an officially independent candidate, backed by Fidesz. He then joined the party in 2003, and won a seat in the European Parliament on the Fidesz list in 2004. He was re-elected in 2009, but thereafter gained a parliamentary mandate in the 2010 national elections, thus trading his seat in the European Parliament for one in the National Assembly. However, his parliamentary career only lasted a few months: on 29 June 2010 he was elected head of state by a two-thirds majority in the first round, taking office on 6 August.

That Schmitt would not transform from a Fidesz front-line politician into an actor standing above parties could already be sensed when he declared his desire to be "not a brake, but an engine of legislation." He remained true to this promise. During his presidency of just over a year and a half, he did not return a single legislative draft to Parliament for reconsideration, nor did he refer any laws to the Constitutional Court for preliminary review. Laws that many have since rightly considered the first steps in dismantling the rule of law passed through the ex-Olympian-turned-president without obstacle. Among others, Schmitt did not veto the Media Act that enabled the transformation of public media into a propaganda apparatus, the nationalization of private pension funds, or the Church Act that deprived dozens of religious communities of their legal status. Naturally, he raised no voice against the Fundamental Law, in fact, he actively wished to participate in the constitution-making process.

During Schmitt's presidency, the institution of the presidency became a frequent subject of ridicule, particularly after he wrote the following in the guestbook of the Paprika Csárda restaurant in Hegyeshalom: “My first stopp on my first visit as head of stete[2].” The irony was heightened because Schmitt, although unable to spell his own position correctly, considered the constitutional protection of the Hungarian language a top priority as president; he even succeeded in getting the passage "Hungary shall protect the Hungarian language" elevated into the Fundamental Law. During his brief presidency, Schmitt approved only 24 out of 1,507 clemency petitions, i.e. approximately 1.6 percent of all applications.

His downfall was ultimately caused as a result of his plagiarism scandal, when it was revealed that at least 201 pages of his 215-page doctoral dissertation were a translation of a previously published French study.

Schmitt was succeeded in the presidential office by János Áder. Áder’s political bias requires no debate; the politician is a co-founder of Fidesz, served as Speaker of the House under the first Fidesz government from 1998 to 2002, was a Member of the Hungarian Parliament until 2009, and from then on, served as a Member of the European Parliament until assuming the presidency. Compared to Schmitt, Áder might appear to be a considerably more active head of state, vetoing 45 times over his 10 years in office: on eight occasions he referred legislation to the Constitutional Court, and on 37 occasions he returned bills to Parliament for reconsideration.

It is nevertheless revealing that during Áder's presidency, the chant "*Don't sign it, János!*" became a standard slogan at public demonstrations. In most cases, Áder chose to intervene only in relatively minor legislative matters, including changes to the powers of the Chief Medical Officer, amendments to regulations governing the construction of wind farms, and legislation establishing one-tier district administrative procedures. Yet, he signed off on matters of great gravity without issue, such as measures tying university students to Hungary after graduation, the law forcing the Central European University (CEU) out of the country, the so-called "slave law" on overtime, and legislation conflating homosexuality with pedophilia. In matters of presidential clemency, he accepted petitions at a somewhat higher

[2] The Hungarian text contained spelling mistakes in the words "head of state" and "stop." (The original read: „Első álamfői látogatásom első álomásán.”)

rate than Schmitt: of the 6,374 petitions submitted during his presidency, he granted 138, approximately 2.2 percent of all requests.

Áder completed both of his terms, making him the only President of Hungary besides Árpád Göncz to succeed in doing so. He was followed by Katalin Novák, who previously served as Minister without Portfolio for Families in the fourth Orbán government from 2020 to 2021. Just like her predecessors, Novák's political partiality was never really in doubt. It was evident not only because of her party membership and former ministerial position, but also through symbolic gestures that consistently signaled that Fidesz was her political community. Most memorably, she once appeared in public wearing earrings bearing the Fidesz logo, but even in November 2021, she could be seen wearing earrings labeled "OV’22". People could rightly fear once again that Novák would not embody the unity of the nation, let alone rise above party politics.

Novák followed what might be called the "Schmitt school" of presidency: during her two years in office, she exercised her right to veto only three times, generally on technical matters. On one occasion she referred the so-called Castle Act to the Constitutional Court, reportedly due to a personal conflict with János Lázár. However, drafts about making teacher strikes impossible or the state's partial withdrawal from the social sector were approved by Novák without hesitation.

Novák also distinguished herself through her extensive use of the presidential pardon power. During her two years in office, she approved 40 out of 446 clemency petitions. Memorably, her own downfall was ultimately caused by one of these pardons: namely, the clemency granted to Endre K., who had been convicted of complicity in child sexual abuse. Overall, Novák granted pardons in nearly 9 percent of all cases, and on the very same day that she pardoned Endre K., she also granted clemency to György Budaházy, the far-right activist convicted of terrorist offenses.

Following her resignation, Novák was succeeded by Tamás Sulyok, the only one among the four NER-presidents never to have formally been a member of Fidesz. Nevertheless, it would be difficult to describe him as entirely independent of the party. Fidesz appointed Sulyok as a member of the Constitutional Court in 2014, and upon László Kövér's recommendation, he served as President of the Constitutional Court from 2016. Even during his confirmation hearing as a constitutional judge, Sulyok focused on issues such as the perceived dangers of the unconditional supremacy of European Union law and the importance of protecting Hungary's national constitutional identity. During his more than two years as President of the Republic, Sulyok has exercised his veto power only twice, both times returning legislation to Parliament. One bill concerned international civil aviation, while the other dealt with the EU–Kyrgyzstan Partnership and Cooperation Agreement. By contrast, he signed the amendment to Hungary's Assembly Act, aimed at making the Pride events effectively impossible, without objection. His more active presidential role began only after the Tisza Party came to power, although he has typically continued to sign every law since then.

His relationship with Viktor Orbán could be described as explicitly servile. On Orbán's birthday in 2025, Sulyok greeted him with the following words:

"Some people drift with history. Others shape it. Some say it is difficult to find balance on the waves of politics. Yet you have not merely maintained it, but built a ship, showed direction, and, when necessary, took up the oars yourself."

When asked about Orbán's notorious speech in which he referred to political opponents as "bedbugs," Sulyok commented:

"The Head of State does not comment on political speeches, except if it calls upon people to disrupt social peace or to divide the nation. No such thing happened in this case."

If Novák's nickname could be "the Merciful," then in Sulyok's case, "the Merciless" would be justified. Not because of his temperament, but because during his presidential reign, which is already slightly longer than Novák's, he granted pardons a grand total of 4 times out of 1,683 requests. This amounts to just 0.24 percent of all petitions. This means that János Áder approved clemency requests at a rate roughly nine times higher, while Katalin Novák did so at a rate approximately thirty-seven times higher. It appears that Sulyok drew a lesson from Novák's political downfall. Yet, an important question arises: by deliberately neglecting to exercise the presidential power of clemency, solely to avoid repeating Novák's mistake, to what extent does Sulyok fulfill the constitutional ideal of the President of the Republic?

International Perspectives

The office of the head of state displays a distinctly heterogeneous picture among European Union member states in terms of its institutional design, democratic legitimacy, and real political weight. Divergent interpretations of the presidential role produced varied practices and sharp differences with respect to the separation of powers, political stability, and the rule of law. Whether a head of state acts as a politically unbiased party, standing above political factions (as a so-called *pouvoir neutre*, or "neutral power") or as a politically active and defining player depends largely on the method of election and the consequently derived democratic legitimacy of the president. Fundamentally, it can be concluded that the indirect presidential election system currently used in Hungary represents a minority, and increasingly less preferred model within the European Union.

The member states of the European Union can be classified into three major categories, based on their systems of government and methods of selecting the head of state. The first and smallest group consists of constitutional monarchies. In these states, the position of head of state is acquired through hereditary succession rather than election; thus, the mandate of the heads of state is not derived from democratic consensus. Consequently, their functions are largely symbolic, and their legitimacy rests primarily on historical tradition and political impartiality.

In seven EU member states, including Hungary, the head of state is elected indirectly. In such systems, the role of the president is mainly ceremonial and representative, intended to embody the unity of the nation, and possesses real decision-making authority only under rare, extraordinary circumstances. Since presidential powers are so heavily limited, the process of appointing the head of state is not bound by exceptionally strict democratic principles, making indirect election possible. Even so, head of state election practices show some heterogeneity; in Hungary, Estonia, Latvia, Greece, and Malta, the next president is elected by the national parliament, whereas in Germany and Italy, the votes are cast by an electoral assembly convened specifically for this purpose. Victory generally requires a two-thirds majority of the electoral body. If this threshold is not achieved, multiple (typically two) rounds of voting are held. Greece constitutes an exception, where a five-round contest is conducted in all cases.

In the majority of Union member states, however, including numerous parliamentary democracies and all semi-presidential systems, direct presidential elections are held. Direct elections result in a much stronger democratic mandate and offer firmer guarantees that the presidency can genuinely fulfill its constitutional role. As a result, direct presidential elections have become the practice in many parliamentary democracies, where the ceremonial role of the head of state would not necessarily demand such a powerful popular mandate. The next head of state is chosen directly in all EU member states bordering Hungary, as well as in Ireland and Poland. Furthermore, every semi-presidential system (such as Romania and France) elects its president directly. In these member states, presidents exercise considerably broader influence and executive power, while they may possess important foreign policy and national security prerogatives. Such extensive constitutional powers and political influence inherently require a stronger democratic mandate than indirect election could provide. The direct presidential election procedures of parliamentary and semi-presidential systems are generally conducted in a two-round format (if no candidate secures an absolute majority of votes—meaning more than 50 percent—in the first round). A total of thirteen EU member states elect their heads of state directly, and among these, only Ireland holds a single-round, albeit preferential, vote. Furthermore, in most countries, the presidential tenure is often limited to two (consecutive) terms and the president's appointment is longer than the parliament's term, typically lasting five to seven years.

Ország*	Választás módja	Mandátum hossza	Max. ciklusok száma	Megjegyzés
Austria	direct	6 years	2	

Bulgaria	direct	5 years	2	
Cyprus	direct	5 years	2	
Czech Republic	direct	5 years	2	
Estonia	indirect	5 years	2	elected by Parliament
Finland	direct	6 years	2	
France	direct	5 years	2	
Greece	indirect	5 years	2	elected by Parliament, in five rounds
Croatia	direct	5 years	2	
Ireland	direct	7 years	2	single-round preferential voting
Poland	direct	5 years	2	
Latvia	indirect	4 years	2	elected by Parliament
Lithuania	direct	5 years	2	modified two-round system
Hungary	indirect	5 years	2	elected by Parliament
Malta	indirect	5 years	1	elected by Parliament
Germany	indirect	5 years	2	elected by the Federal Convention
Italy	indirect	7 years	-	elected by an electoral college

*Constitutional monarchies are not included: Belgium, Denmark, the Netherlands, Luxembourg, Spain, and Sweden.

It is generally observable that direct presidential elections are becoming increasingly popular, therefore, discussions and public debates regarding electoral reform are more and more frequent in indirect systems. The Czech Republic, for example, has elected its president by direct popular vote since a constitutional amendment adopted in 2012. While the reform proved politically controversial, the circumstances surrounding the rise to power of the last indirectly elected president, Václav Klaus (marred by serious allegations of corruption and political bargaining) ultimately sealed the fate of the indirect electoral system. Amending the constitution proved to be a politically divisive, long-debated decision; it was first introduced to the Chamber of Deputies in September 2011, which passed it in December 2011. The Senate adopted the proposal in February 2012, while the implementing legislation was passed during the summer of 2012 (in June by the Chamber of Deputies and in July by the Senate). As a result, the presidential election held in January 2013 was already conducted under the new system of direct popular vote. Václav Klaus, who labelled the reform a "fatal mistake," was thus still able to complete his full presidential mandate.

Conclusion

The evidence presented in this analysis suggests that, over the past sixteen years, the office of the President of the Republic in Hungary has failed to fulfill the constitutional role assigned to it by the Fundamental Law. In the case of all four presidents examined, the way oversight was exercised over the legislative process reflected loyalty toward the governing party rather than a neutral head of state position standing above political factions. Furthermore, the extremely divergent approaches adopted by Katalin Novák and Tamás Sulyok with regard to the exercise of the presidential pardon power indicate a fundamental misunderstanding of one of the presidency's most important constitutional responsibilities.

The experience of the past sixteen years suggests that dependence on the government of the day should be regarded as a structural problem rather than an isolated phenomenon, closely intertwined with the method of election. Indirect, parliamentary presidential election, which already represents a minority practice within the European Union, provides only limited democratic legitimacy for the presidency. This, in turn, makes it easier for the governing majority to elect a person closely aligned with its own political interests. Naturally, the introduction of direct presidential elections would not prevent devoted party-liners from seeking the presidency. However, under such a system, their democratic mandate would derive directly from the people rather than political parties, and they would have to keep this in mind throughout their tenures. The Czech example demonstrates that reforming such a constitutional system is positively feasible and that major institutional changes are often prompted by a specific crisis of legitimacy. Precisely like the one currently present in Hungary.

In this context, Péter Magyar's proposal regarding direct presidential elections is not merely about institutional fine-tuning, but about the question of whether the Hungarian public law system is capable of finding a mechanism that actually enforces impartiality from the head of state. Since the conclusion of Tamás Sulyok’s term is also on the agenda, the question may soon shift from a theoretical debate into one with practical stakes.