The Constitution Always Speaks in the Present

On Hungary's Constitutional Amendment Limiting the Prime Minister's Term to Eight Years

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The newly elected Hungarian Parliament – the National Assembly – approved the Sixteenth Amendment to the Fundamental Law of Hungary on 15 June 2026, now awaiting the President's signature before entering into force. The Amendment forms part of a broader effort to restore liberal democracy in Hungary and to dismantle entrenched Fidesz Party influence within the state (discussed here). Specifically, it limits the prime Minister's term of office to eight years, calculated from 1990 onwards. Effectively, this change prevents Orbán from returning to the office and aims to limit long-term concentrations of executive power, given his 16 years in office and his extensive restructuring of Hungary's legal system during that time. While comparatively speaking term limits for prime ministers is rather an exception than a rule, I argue that the Amendment may be justified in the specific Hungarian context to prevent the consolidation of power of one-man. Moreover, I contest that the Amendment is retroactive and, for that reason, *ad personam*: the temporality of constitutional law implies that its prohibitions apply in the present, even when they have backward-looking effects.

The Term Limitation for a Prime Minister in Comparative Constitutional Law

In constitutional law theory concerning institutional systems, prime ministers – heads of government – do not generally face term limits imposed by legal provisions. Their office depends entirely on the will of Parliament (ranging from active support to reluctant tolerance). The duration of their tenure is therefore subject to political considerations, not legal ones. For the Venice Commission (Opinion No. 908/2017), imposing term limits on a prime minister does not seem justified (§73). A successful political leader, insofar as he or she is able to muster a majority in Parliament, can serve as prime minister for a very long time and through multiple terms in office (for example, Blair, Merkel, and for what it is worth, Orbán).

This feature of parliamentary democracy (whose defining characteristic is precisely that the executive has no independent mandate and is instead dependent upon Parliament) stands in deliberate contrast to presidential (and semi-presidential) systems, which exhibit constitutional term limits for executives not dependent upon Parliament's goodwill (in presidential systems: United States, Art. II, Sect. 1; Brazil, Constitution, Art. 82; Nigeria, Constitution, Sect. 137(1)(b); in semi-presidential systems: France, Constitution, Art. 6; Senegal, Constitution, Art. 27; Peru, Constitution, Art. 112). The Venice Commission (Study No. 908/2017) regards such limits as necessary to avoid the danger of creating a republican monarch (§89) and to preserve a system of checks and balances (§90).

The desire to relocate the term of office of a prime minister from the world of politics to the world of law – by subjecting it to term limits – makes sense when one considers changes in parliamentary democracy. In particular, the now-established fact that the government dominates the legislature rather than vice versa. Key factors driving this shift include the personalization of political leadership, the concentration of power in the executive branch, and the growing media visibility of prime ministers, thereby strengthening their authority. In the absence of legal constraints such as term limits, a prime Minister may accumulate a degree of power comparable to, or even greater than, that of a president in a presidential system, while remaining formally unconstrained by presidential-style checks

and balances. Particularly in contexts where this dynamic contributes to, or coincides with, democratic backsliding, calls to impose term limits on prime ministers have therefore gained attention as a preventive mechanism against prolonged executive dominance.

As a matter of practice, however, constitutional term limits for prime ministers remain exceptional in parliamentary democracies: most still do not seek to prevent the concentration of power through fixed temporal limits on the office. There are few exceptions that, as in the case of the Hungarian constitutional amendment, set a limit of eight years in total for the office of prime minister (Thailand, Constitution, Sect. 158(4)) and in which members of the government cannot hold that position for more than two consecutive terms (Laos, Constitution, Art. 71). Other constitutional amendments providing limits on the terms of prime ministers have remained on paper: in Israel, a bill approved in 2021 would have capped service at eight consecutive years over two terms (discussed here); in Malaysia, a 2026 constitutional amendment would have limited service to an aggregate of ten years. In any case these provisions should not be confused with those which merely link the duration of the prime minister's office to parliamentary cycles (Cuba, Constitution, Art. 141; Mongolia, Constitution, Art. 40), which do not provide for a fixed number of terms.

The need to provide a term limit for the powerful office of prime minister therefore underlies this uncommon practice, which in the context of Hungary can be explained by two factors: its character as a prophylactic measure, adopted to prevent an authoritarian (re)turn after a period of democratic backsliding; and the current institutional architecture: namely, a unicameral parliament, with an electoral law that formally predetermines a (strong) majority and substantially determines even the premiership.

Why the Constitutional Amendment Is Not Retroactive

The critique that this constitutional change is *ad personam* with regard to Orbán – backed by the proponents' declarations and by the objective fact that it responds to his 16 years in power – finds reinforcement in the temporal structure of the norm. The amendment calculates the eight-year limit by taking into account terms in office since 2 May 1990, when the first elected Parliament of Hungary held its inaugural session after the end of communist rule. This date marked the beginning of Hungary's parliamentary system. At that time, Hungary was still operating under the 1949 Constitution – although extensively revised in 1989 to establish democratic institutions – which was repealed by the Orbán 2011 Constitution. The starting date chosen by the amendment is therefore both functional, in that it covers the entire temporal span in which Hungary operated as a parliamentary democracy in which Parliament should be at the centre, and emblematic, as a reference to the constitutional moment of Hungary, obscured by Orbán's rule and his constitution.

By setting the starting date of the new rule in the past, the constitutional amendment clearly adopts a backward-looking perspective, meaning that the prohibition on holding more than two terms as prime minister does not apply only to terms held from the moment of enactment but also to terms held before it. Is this problematic from a constitutional law perspective? Surely, the idea of the rule of law – one of the key elements of modern constitutional law – generally rejects retroactive measures. Combined with the fact that only Orbán has held more than two terms (four in total) as prime minister, the backward-looking effects of the law might add the taint of an *ad personam* measure. However, three internal and interconnected lines of reasoning (focused on the temporal mechanism rather than on the desirability of the law) can contribute to de-escalating the problem.

First, this is a constitutional amendment which will become part of the constitution. The principle of non-retroactivity is generally of legislative rank, and of constitutional rank only in (substantive) criminal law. The Hungarian Constitution accordingly provides for the principle of non-retroactivity only in substantive criminal law matters (Art. XXVIII, Sect. 4 of the Fundamental Law), while the general prohibition of retroactive legislation refers only to the statutory level

(Art. 2(2), Act CXXX of 2010 on Legislation). The prohibition on holding more than eight years of office is clearly not a matter of criminal law; accordingly, also supranational provisions, such as Art. 7 ECHR and Art. 49 EU Charter, will not pose an obstacle to it. This is a clear example of how constitutional law determines its own temporality (understood as the scope of principles such as retroactivity).

Second, in determing its own temporality, a constitution always speaks in the present tense. Its principal function is to ensure that what was true yesterday remains true today and continues to be true in the future (see here). Its temporal orientation is therefore at once backward and forward looking: it sets rule for the present and for the future, but these rules naturally regulate as well what has already been (the past). In this case, the Amendment encompasses the whole contemporary history of Hungary since the first session of the Parliament, which inaugurated the system of parliamentary government. Once part of the Constitution, the provision will simply mean that in Hungary no one can serve more than eight years in office, no matter whether this occurred in the 1990s, in the 2010s, or in any future decade, insofar as this provision remains in force.

Third, because of this temporal orientation of constitutional law, the provision per se should not be labelled as retroactive: it does not change the legal status of what was (in this case, Orbán's four terms in office). It merely holds that past events will be taken into account in the present and the future. The prohibition on serving more than two terms runs from the day of enactment, without any impact on legal entitlements acquired in the past; however, it does consider them for the present application of the provision. Although the constitutional amendment clearly looks to the past, that alone does not make it retroactive. More modestly, it is retrospective, counting past events – anyone who may have served as prime minister for two terms before the amendment, counted from the entry into force of the parliamentary system – for the sake of the present.

Evidently, the boundaries between retroactive and retrospective norms might be blurred: backward-looking limitations of political rights because of criminal convictions are classic topics of constitutional law debate in national and supranational courts. However, this case does not appear to be a restriction on political rights – and therefore subject to protection under Art. 3 of Protocol No. 1 ECHR – but simply a (re)arrangement of a national framework in light of democratic backsliding.

Conclusions

Competing considerations both support and oppose provisions such as those in the constitutional amendment. On one side are government stability, political rights (including both the right to vote and to stand for election), and the effective functioning of parliamentary democracy. On the other are checks and balances, rotation of power, and the renewal of political leadership. Considering the Hungarian parliamentary system and its recent history, setting term limits for the prime minister is part of a broader project aimed at restoring conditions for alternation of power after a prolonged period of one-man rule. This measure does not carry the stigma of retroactivity; rather, it reflects the inherent temporality of constitutional law.

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