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# Márton Csapodi
# Individual constitutional complaints through the lens of political salience

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**Individual constitutional complaints through the lens of political salience**[1]

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*Abstract*

*Since the 2012 constitutional reforms, the Hungarian Constitutional Court (HCC) has undergone a significant functional transformation. The introduction of the "full" constitutional complaint shifted the focus of constitutional adjudication from the abstract review of legislation to the review of individual judicial decisions, effectively moving the weight of constitutional oversight from the legislature to the judiciary. This shift occurred parallel to substantial personnel changes, resulting in a bench where the vast majority of judges were elected by the governing parliamentary majority without compromise with the opposition. Despite the fact that individual complaints now constitute the overwhelming majority of the HCC's caseload, existing quantitative research on the Court's political orientation has focused almost exclusively on abstract review cases. This creates a notable gap in the literature: while the review of individual judicial decisions is traditionally regarded as a depoliticized function centered on fundamental rights protection, it remains empirically underexplored whether and how political salience manifests in this specific domain. This study aims to fill this gap by providing a systematic quantitative analysis of politically salient individual complaints adjudicated between 2012 and 2024. Utilizing a novel dataset of 136 cases identified through national media coverage, the research categorizes HCC rulings based on their political salience and the alignment of case outcomes with the interests of the governing majority or the opposition. The analysis examines the frequency with which the HCC annuls or upholds judicial decisions in politically charged contexts. The results suggest that while political orientation is a relevant factor in case outcomes, its influence is complex and varies significantly depending on the subject matter and the time period.*

## Introduction

The framework of constitutional review in Hungary has been fundamentally reshaped since 2010, an evolution that has drawn extensive attention from legal scholars both domestically and internationally. The cornerstones of this transformation were the enactment of a new constitution – the Fundamental Law – and the passage of the new Constitutional Court Act (Act CLI of 2011 on the Constitutional Court, hereafter: ACC), both taking effect in 2012. Rather than detailing every aspect of these reforms, this paper begins with the broad observation that these changes generally diminished the mechanisms available for the constitutional control of the legislature. At the same time, the introduction of the so-called "full" constitutional complaint under Article 27 of the ACC has enabled the Hungarian Constitutional Court (hereinafter HCC) to annul ordinary court decisions in individual cases. Consequently, a substantial part of the HCC's activity has shifted within the system of the separation of powers from "negative legislation" toward serving as a reviewer of individual judicial outcomes.[3]

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[2] Pázmány Péter Catholic University; MCC Center for Constitutional Politics

[3] Fruzsina Gárdos-Orosz and Kinga Zakariás, 'Organisational, Functional and Procedural Changes of the Hungarian Constitutional Court 1990–2020' in Fruzsina Gárdos-Orosz and Kinga Zakariás (eds), *The main lines*

This functional shift has run parallel to significant changes in the Court's composition. Since 2010, Parliament has elected 23 new constitutional judges, with the governing parties, leveraging their two-thirds parliamentary supermajority being able to nominate and elect 19 judges without requiring cross-party compromise. Although four judges were selected through compromise with the opposition, the HCC remains characterized by considerable political and ideological homogeneity in its composition. This prompts an important inquiry: how does the HCC's relative political homogeneity impact the resolution of Article 27 complaints, particularly those carrying significant political weight? This paper investigates the rate at which the HCC, between 2012 and 2024, annulled or sustained ordinary judicial decisions that aligned with or opposed the government's interests in politically salient cases.

**The "full" constitutional complaint**

Starting in 2012, the HCC was empowered to "review the conformity with the Fundamental Law of any judicial decision".[4] According to Article 27 of the ACC, a "full" constitutional complaint may be lodged against a judicial decision on the merits of a case or the decision adopted in conclusion of the court proceedings if it violates the rights of the person or organization making the complaint as guaranteed by the Fundamental Law, provided all other legal remedies have been exhausted (or if none existed).[5] Although for a time the ACC also introduced the possibility for bodies exercising public authority to lodge such a complaint with the HCC, at the request of the European Commission, in order to access EU funds under the Recovery and Resilience Plan, this possibility has been explicitly excluded by the law since May 2023.[6]

The introduction of constitutional complaints against judicial decisions has largely been praised as a vital enhancement for individual rights protection. It was also perceived as a partial substitute for the abolished *actio popularis*, which previously allowed any citizen to challenge the constitutionality of legislation. The HCC itself likely bolstered this narrative during the drafting of the new Fundamental Law, implicitly supporting the strengthening of individual fundamental rights protection while reducing the scope of abstract norm control accessible to the general public.[7]

Regarding the political relevance of the "full" constitutional complaint procedure, it is interesting to note that Péter Paczolay, then President of the HCC explicitly believed that a this kind of procedure "distances the Constitutional Court from the daily political struggles, and brings it closer to the depoliticized judicial branch, which values its neutrality and stability".[8] Earlier, Béla Pokol had also written that the review of individual judicial decisions is generally

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*of the jurisprudence of the Hungarian Constitutional Court* (Nomos Verlagsgesellschaft mbH & Co KG 2022); Fruzsina Gárdos-Orosz, 'The Hungarian Constitutional Court in Transition — from Actio Popularis to Constitutional Complaint' (2012) 53 Acta Juridica Hungarica 302; István Stumpf, 'The Hungarian Constitutional Court's Place in the Constitutional System of Hungary' (2017) 13 Civic Review 239; Gábor Spuller, 'Transformation of the Hungarian Constitutional Court: Tradition, Revolution, and (European) Prospects' (2014) 15 German Law Journal 637.

[4] Article 24 (2) (d) of the Fundamental Law

[5] Article 27 Section 1 of the ACC

[6] Article 27 Section 2 of the ACC, amended by Act X of 2023, Article 13

[7] András Varga Zs., '27. § Bírói Döntés Ellen Irányuló Alkotmányjogi Panasz' in Kinga Zakariás (ed), *Az alkotmánybírósági törvény kommentárja* (Pázmány Press 2022) 317.

[8] Péter Paczolay, 'Megváltozott Hangsúlyok Az Alkotmánybíróság Hatásköreiben' (2012) 2012 Alkotmánybírósági Szemle 67, 69.

the least politicized task of any constitutional court.[9] Endre Orbán, however, noted that the HCC can also decide on individual decisions, where the underlying debate is legalistic, but at the same time has political relevance.[10]

As the data will demonstrate, the initial years following the introduction of the "full" constitutional complaint saw few Article 27 cases, likely because the HCC required a transition period to adapt to its altered caseload.[11] The HCC's attitude to the admissibility of individual complaints during this time also drew criticism.[12] Over time, however, the "full" constitutional complaint has become absolutely dominant among all cases before the HCC.[13] In 2023, 82% of the cases decided by the HCC were individual constitutional complaints under Article 27 of the ACC.[14]

**Empirical research on judicial politics and the HCC**

As judges nominated by the ruling right-wing coalition (Fidesz-KDNP) attained a majority on the HCC, academic debates over the Court's political neutrality – and potential capture – intensified. Yet, most analyses have relied on qualitative assessments of isolated cases, limiting their capacity to evaluate the Court's broader political trajectory.[15] Recently, empirical and quantitative methodologies have been increasingly applied to this topic. Szente, employing quantitative methods and analyzing the HCC's decisions in all abstract constitutionality review cases between 2010 and 2014, concluded that the Court's members generally ruled in accordance with their political affiliations. Notably, his findings indicated that this trend was not limited to judges appointed by the political right after 2010 but also applied to those elected by the former left-liberal governing parties.[16] Kazai and Karsai, in their analysis of the fate of motions for abstract constitutionality review submitted by opposition MPs between 2012 and 2020, observed that the HCC rejected the vast majority of these motions.[17] However, this alone does not provide an accurate measure of potential bias within the HCC. Opposition MPs' motions are presumably often driven primarily by political considerations rather than genuine constitutional concerns. Moreover, the scope of their analysis remains limited, as most politically salient constitutional court decisions may not have originated from opposition MPs' motions. By contrast, Szente, in his study of abstract constitutionality review cases from 2010 to 2014, treated all such decisions as politically relevant when collecting data.[18] A more nuanced conclusion was reached by Boda-Balogh *et al.*, who examined the HCC's plenary decisions published in the Hungarian Gazette between 2005 and 2017. Their findings indicate that while

[9]Béla Pokol, 'A Magyar Parlamentarizmus Szerkezete (II. Rész). A „hatalmi Négyszög" Súlyeloszlásai' (1993) 48 Társadalmi Szemle 11, 15.
[10]Endre Orbán, 'A Bírói Döntések Ellen Benyújtott Alkotmányjogi Panaszok Tapasztalatai' (2016) 2016 Pázmány Law Working Papers 1.
[11]Zoltán Tóth J., 'A „valódi" Alkotmányjogi Panasz Használatba Vétele: Az Abtv. 27. §-a Szerinti Panasz Elsõ Két Éve Az Alkotmánybíróság Gyakorlatában' (2014) 69 Jogtudományi Közlöny 224, 238.
[12]Chronowski (n 5) 95.
[13]Orbán (n 9) 19.
[14] https://media.alkotmanybirosag.hu/2024/01/2023_12_31_ab_ugyforgalom.pdf
[15]Gábor Halmai, 'In Memoriam Magyar Alkotmánybíráskodás - A Pártos Alkotmánybíróság Első Éve' (2014) 18 Fundamentum 36; Bernadette Somody, 'Újmagyar Alkotmánybíráskodás - Újszerű Elvi Tételek a Határozatokban' (2014) 18 Fundamentum 77.
[16]Zoltán Szente, 'Az Alkotmánybírák Politikai Orientációi Magyarországon 2010 És 2014 Között' (2015) 24 Politikatudományi Szemle 31.
[17]Viktor Zoltán Kazai and Dániel Karsai, 'Ellenzéki Petíciók Az Alkotmánybíróság Gyakorlatában' (2020) 24 Fundamentum 60.
[18]Szente (n 15) 37.

the proportion of decisions declaring legislation unconstitutional did not decline significantly between 2012 and 2017 compared to the preceding period, the absolute number of such rulings was reduced by half.[19] However, they do not provide a definitive explanation as to whether this decline resulted from the political orientation of judges or from their general "anti-activism," though this distinction is arguably irrelevant when assessing the overall strength of constitutional review.[20] Nevertheless, their methodological choice to limit the analysis to plenary decisions published in the Hungarian Gazette – while practical for data collection – remains problematic when evaluating the political salience of cases. Perhaps the most comprehensive quantitative study on the strength of the HCC's decisions was conducted by Pócza *et al.*, who analyzed abstract constitutionality review cases between 1990 and 2020. Their research similarly concluded that after 2014, both the average strength and the number of HCC decisions followed a declining trend, indicating a weakening of constitutional oversight over the legislature. However, they also found that political orientation was not necessarily the primary factor determining the main dividing line among constitutional judges.[21] Another recurring observation in empirical studies is that in cases of high political salience, the HCC often employs alternative strategies to outright rejection or annulment. Instead, it frequently resorts to "soft tools" such as declaring a legislative omission or imposing a constitutional requirement.[22]

Ultimately, a glaring deficiency in the current empirical literature is the systematic exclusion of rulings based on full constitutional complaints, despite these forming the bulk of the HCC's work. This study seeks to address this gap by systematically identifying politically salient rulings based on Article 27 of the ACC, categorizing the judicial decision under review as favorable or unfavorable to the government (where applicable), and analyzing the proportion of cases in which the HCC annulled or upheld these decisions.

## Collecting the data

### *Selection of politically salient rulings*

Identifying political salience in abstract review cases is straightforward, as the HCC is directly scrutinizing the output of a political body. In contrast, measuring the political weight of individual complaints against judicial decisions is inherently tricky. While certain subjects – like election procedures or referendum certifications – are undeniably political, and cases involving high-profile politicians or parties are easily flagged, these criteria alone cast too wide a net. They would capture numerous cases lacking genuine political weight or public interest. A more reliable, objective proxy for political salience is the volume of public and media attention a decision receives.

The objective measurement of the political salience of judicial decisions has been primarily explored in American political science literature, often in relation to U.S. Supreme Court rulings. A foundational approach in this field is the method proposed by Epstein and Segal,

[19]Éva Boda-Balogh and others, 'A Magyar Alkotmánybírák Ítélkezési Gyakorlatának Változásai Az Autokratikus Fordulat Idején' (2021) 25 Fundamentum 75, 78–79.
[20]ibid 87–88.
[21]Attila Gyulai, Kálmán Pócza and Gábor Dobos, 'The Hungarian Constitutional Court' in Kálmán Pócza (ed), *Constitutional Review in Central and Eastern Europe* (1st edn, Routledge 2024).
[22]ibid; Petra Lea Láncos, 'Passivist Strategies Available to the Hungarian Constitutional Court' (2019) 79 Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 971.

which assesses political salience based on media coverage of a given judgment.[23] Since then, the dominant methods for assessing the political salience of judicial decisions have been based on media coverage,[24] with various attempts to adapt it to the European context.[25] In Hungary, Pócza *et al.*, in their analysis of dissenting coalitions within the HCC, identified cases as politically salient if they elicited public reactions from political actors.[26] Láncos classified cases as politically charged if they garnered attention from the media or the academic community.[27] While academic interest alone does not necessarily indicate political salience, public and media attention often serve as reliable indicators. Accordingly, this study will first focus on constitutional court decisions that have generated public interest. From this broader set, it will distinguish cases that attracted media coverage for non-political reasons – such as high-profile criminal proceedings – from those with clear political salience.

An HCC ruling can be considered of public interest if it has received substantial coverage in national media outlets. Reports appearing exclusively in niche, local or professionally and otherwise specialized media are not taken into account.[28] Likewise, a decision covered by only a single national media outlet does not meet the threshold for public interest. Consequently, the dataset comprises HCC rulings reported on by at least two distinct national online news portals.[29]

This approach does have limitations: search engine algorithms and archival gaps mean some relevant cases might be missed. Additionally, while some rulings dominate the news cycle, others barely cross the minimum threshold of two reports. Additionally, certain cases may have a relatively limited impact on the political sphere yet still attract significant media attention. Although this could justify weighting cases based on the extent of their press coverage or their political significance, the absence of an objective and quantifiable weighting system necessitated treating all rulings of public interest as of equal value in this research.

[23]Lee Epstein and Jeffrey A Segal, 'Measuring Issue Salience' (2000) 44 American Journal of Political Science 66.

[24]Tom S Clark, Jeffrey R Lax and Douglas Rice, 'Measuring the Political Salience of Supreme Court Cases' (2015) 3 Journal of Law and Courts 37; TA Collins and CA Cooper, 'Case Salience and Media Coverage of Supreme Court Decisions: Toward a New Measure' (2012) 65 Political Research Quarterly 396; Todd A Collins and Christopher A Cooper, 'Making the Cases "Real": Newspaper Coverage of U.S. Supreme Court Cases 1953–2004' (2015) 32 Political Communication 23; Richard L Vining and Teena Wilhelm, 'Measuring Case Salience in State Courts of Last Resort' (2011) 64 Political Research Quarterly 559.

[25]Julian Dederke, 'CJEU Judgments in the News – Capturing the Public Salience of Decisions of the EU's Highest Court' (2022) 29 Journal of European Public Policy 609.

[26]Kálmán Pócza, Gábor Dobos and Attila Gyulai, 'Dissenting Coalitions at the Hungarian Constitutional Court 1990–2018' in Martin Belov (ed), *The Role of Courts in Contemporary Legal Orders* (Eleven International Publishing 2019) 361–362.

[27]Láncos (n 21) 972.

[28] E.g. local news sites and media outlets with a special (e.g. economic, legal, financial) focus.

[29] The method used to identify rulings of public interest naturally has its limitations. Given the sheer volume of constitutional complaints, it is not feasible to manually verify whether each HCC ruling has received media coverage. Instead, a reverse approach had to be adopted: major news portal archives and search engines were used to first identify media reports, which were then traced back to the corresponding HCC rulings. It is also important to note that this research considers only press coverage explicitly reporting on the HCC ruling itself. Media reports discussing the underlying judicial decision before the HCC proceedings are not taken into account. Consequently, if the reviewed judicial decision attracted public interest but the subsequent HCC ruling did not, the case is not classified as being of public interest.

*Examined years*

The dataset spans a 13-year timeframe, beginning with the implementation of the "full" constitutional complaint in 2012 and concluding at the end of 2024. Notably, the inaugural year (2012) yielded zero public interest rulings under Article 27 of the ACC, and 2013 produced only one.

*Ruling types*

This analysis strictly isolates the *rulings* embedded within broader HCC decisions. This is crucial when a single petition challenges both a judicial decision and a piece of legislation. In such hybrid cases, only the HCC's ruling concerning the individual judicial decision is analyzed, while any other rulings within the decision are excluded from analysis. This distinction is also important when examining dissenting opinions, as it is necessary to determine whether a dissenting judge opposed the ruling on the "full" constitutional complaint (i.e., the decision to uphold or annul the judicial ruling) or another aspect of the decision, such as a declaration of legislative omission. However, it should be noted that in most cases, HCC decisions in the database contain only a single ruling, which directly determines the constitutionality of the individual judicial decision under review.

This paper refrains from a qualitative legal or doctrinal analysis of the HCC's reasoning. Instead, it only focuses on the fate of the original judicial decision that formed the basis of the constitutional complaint – specifically, whether the HCC annulled the judicial decision that was either favorable or unfavorable to the government. If the HCC did not annul the decision, the distinction between a rejection based on a review on the merits and a dismissal on grounds of inadmissibility is not relevant for the purposes of this research. In cases where media reports cover an inadmissibility ruling without a review on the merits, it is not meaningfully distinguishable from a rejection based on substantive grounds.

While most statistical breakdowns here include all relevant rulings, regardless of their outcome, in certain cases, HCC rulings that annul judicial decisions are examined separately. This is because annulments represent definitive moments where the HCC actively altered the final outcome of the ordinary judicial machinery – therefore changing an outcome that carried political consequences. The data on annulment rulings thus illustrate the extent and direction in which the constitutional complaint mechanism introduced by Article 27 of the ACC has diverted the outcome of ordinary court proceedings in politically salient cases.

*Determining the political orientation of the judicial decision under constitutionality review*

A core methodological hurdle is objectively classifying the political orientation of the challenged court decision. In cases of abstract constitutional review, the political implications are straightforward: if the HCC annuls a law, it is unfavorable to the parliamentary majority, whereas if it upholds the law, it is favorable. However, for complaints under Article 27 of the ACC, assessing whether an ordinary court decision was favorable or unfavorable to certain political actors is more complex and depends on multiple factors.[30]

[30] The distinction between "favorable to the government" and "unfavorable to the government" in HCC rulings is more precise than terms such as "pro-government" or "pro-opposition." This is because the government and the parliamentary majority as a political group are more clearly identifiable and easier to grasp than the opposition, which is often more fragmented and variable. However, to avoid overcomplicating some of the sentences, the

As noted, this study uses the labels "favorable to the government" and "unfavorable to the government" to categorize judicial decisions and HCC rulings. While these labels are simplifications, they are employed to avoid unnecessary complexity in the terminology throughout the paper. Therefore, it is important to clarify this dichotomy upfront. In this context, the term "government" refers not only to the executive or the cabinet and its members but also to the political parties constituting the governing parliamentary majority during the examined period (Fidesz-KDNP) and their associated interest groups. A decision deemed favorable to the government, for the purposes of this research, aligns with the interests of the governing political parties in the matter at hand. Conversely, a decision is considered unfavorable to the government if it negatively impacts the interests of the governing majority.

There are instances where, despite being of public interest, rulings have little to no political significance or impact, or at least such significance remains hidden to the lay observer (typically, for example, highly publicized criminal cases). These cases cannot be unquestionably placed within the "favorable to the government" versus "unfavorable to the government" dichotomy and should therefore be classified as "neither." For the purposes of this study, only those *rulings of public interest* that can be categorized within the dichotomic framework are considered *politically salient rulings*.

The classification of court decisions as "favorable to the government" or "unfavorable to the government" does not, of course, speak to their correctness as a matter of law. Moreover, this categorization should not be arbitrary and may, in some cases, require the consideration of several factors. Categorizations are derived from objective markers: media framing, reactions from political stakeholders, and the identity of the litigants (e.g., opposition parties vs. state entities). When these indicators are ambiguous, the case defaults to the "neither" category.

The primary contribution of this research is the ability to analyze how often the HCC annuls judicial decisions that are either favorable or unfavorable to the government, and to compare the proportions of such annulments. Of similar importance is the number of HCC rulings that uphold such judicial decisions, either by rejecting or dismissing the constitutional complaint. For this reason, the same categorization is applied to HCC rulings as to ordinary court decisions. Thus, an HCC ruling is "favorable to the government" if it *annuls* an anti-government judicial decision or *upholds* a pro-government one. Conversely, an HCC ruling is "unfavorable to the government" if it *annuls* a pro-government judicial decision or *upholds* an anti-government one.

*The collected data*

The database contains a total of 136 cases of public interest arising from the constitutional complaint procedure under Article 27 of the ACC. Following zero cases in 2012, volume generally trended upward, characterized by occasional lulls (e.g., 3 cases in 2020) and sharp spikes (e.g., 26 cases in 2022). Of the 136 decisions of public interest, 94 can be clearly classified as either favorable or unfavorable to the government, while 42 decisions were categorized as "neither." For each ruling, the database logs: 1) the HCC decision ID; 2) case keywords; 3) the ID of the reviewed judicial decision; 4) the political orientation of the reviewed decision; 5) the final HCC outcome (annulment/rejection/dismissal); 6) the deciding body

terms "pro-government" or "anti-government" will occasionally be used to refer to rulings favorable or unfavorable to the government.

(plenary or panel); 7) panel members (if applicable); 8) the rapporteur judge; and 9) dissenting judges.

**The data**

*Aggregated data*

As seen in *Figure 1*, the overarching distribution of politically salient HCC rulings skews clearly toward the government, with pro-government outcomes outnumbering anti-government outcomes by more than a factor of two and a half. In both columns, decisions upholding the lower court's ruling (via rejection or dismissal) were the most frequent. The distribution of annulment rulings follows a similar pattern: between 2012 and 2024, the HCC annulled 10 judicial decisions that were favorable to the government and 26 that were unfavorable. Expressed in percentages, across all politically salient cases under Article 27 of the ACC, the HCC's constitutional complaint procedure resulted in outcomes favorable to the government in 73% of cases. Likewise, in 72% of politically salient annulment rulings, the reviewed and annulled judicial decision had been unfavorable to the government.

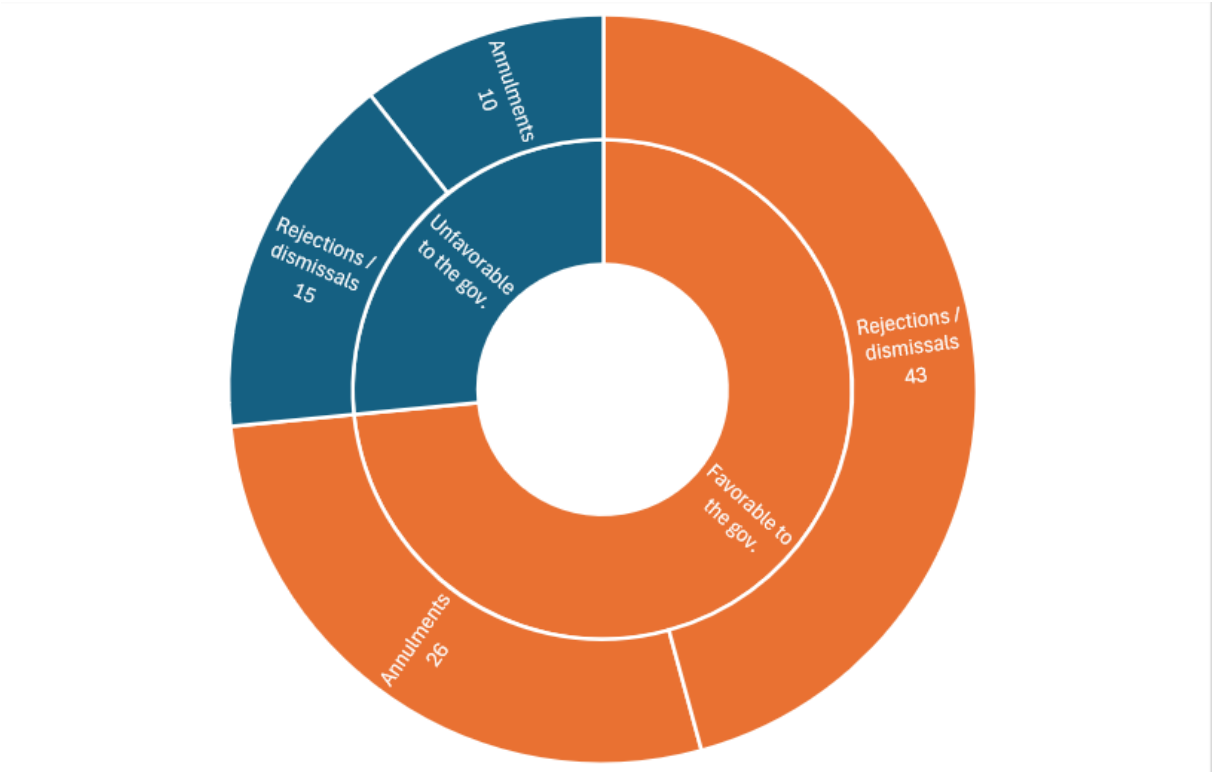


*Figure 1: Breakdown of all politically salient rulings under Article 27 of the ACC by political orientation from 2012 to 2024*

*Politically salient HCC rulings by year*

*Figure 2* tracks the annual distribution of HCC rulings categorized as favorable or unfavorable to the government since the introduction of the "full" constitutional complaint. Notably, although judges elected by the governing majority had already formed a majority in the HCC by 2014 – prompting critiques that the Court had become partisan – the yearly data for all rulings do not indicate a clear trend in political orientation before 2022. As depicted in *Figure 2*, the number of rulings favorable and unfavorable to the government remained relatively

balanced until 2021. However, in 2022, the number of rulings favorable to the government surged significantly. From that point onward, while the number of HCC rulings unfavorable to the government remained between 0 and 5 per year, the number of favorable rulings consistently exceeded 10, albeit following a slight downward trend after peaking in 2022.

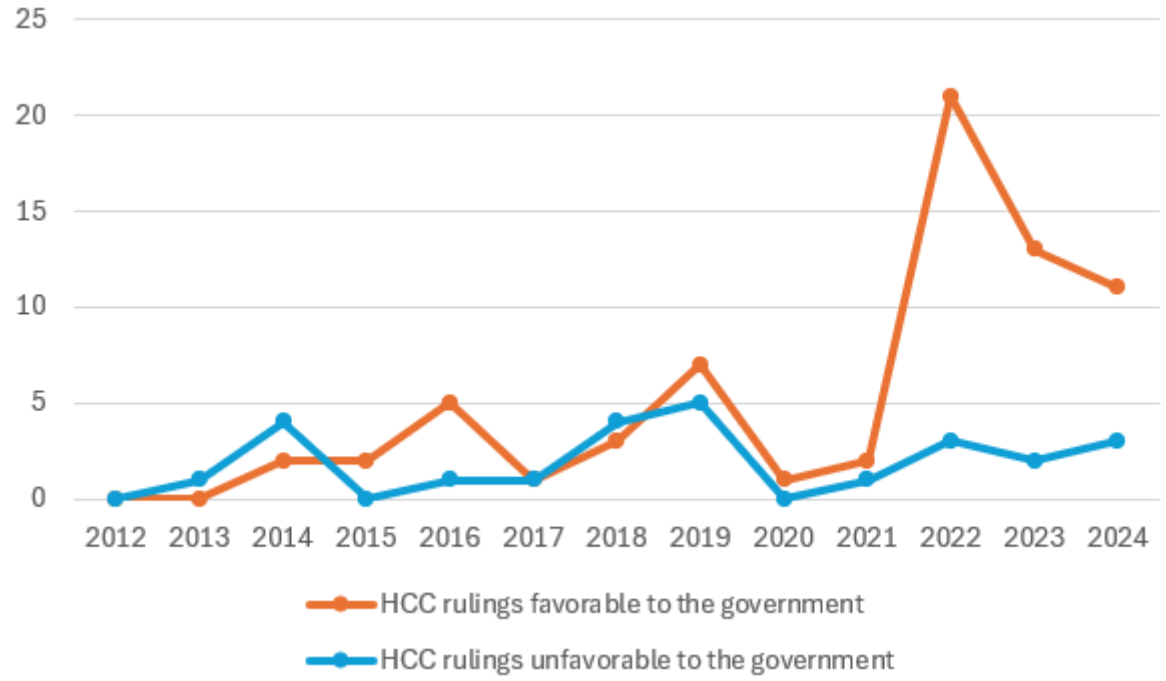


*Figure 2: Yearly distribution of all politically salient HCC rulings 2012-2024*

This paradigm shift is partly driven by a spike in pro-government *annulments* (explored further below), largely linked to specific case topics (see *Figure 3*), a trend partly attributable to the subject matter of the cases, as detailed later in the analysis of annulment rulings. Equally significant is the rise in rulings that reject or dismiss complaints against judicial decisions favorable to the government. One possible explanation for this trend is increased media attention on such rulings, although this study cannot confirm or refute such hypothesis. In this context, the subject matter of the cases may again provide a partial explanation, albeit less clearly than for annulment rulings. During the 2022–2024 period, among the 30 HCC rulings that upheld a judicial decision favorable to the government, 10 concerned the certification of a referendum question, 7 involved cases related to an election or electoral/referendum campaign, and 6 dealt with freedom of expression. These findings justify a separate analysis of the two distinct periods (2012–2021 and 2022–2024), as well as a focused examination of cases pertaining to the dominant subject matter areas: certification of referendum questions, elections and campaigns, and freedom of expression.

*Yearly distribution of annulment rulings*

Isolating annulment rulings reveals an identical historical trend. Up to 2021, the number of HCC annulments overturning judicial decisions favorable and unfavorable to the government fluctuated between 0 and 2 or 3, with a difference of only one in most years. However, during the last three years, the distribution shifted markedly: the number of annulments unfavorable to the government remained relatively stable – or even showed a slight decline – while annulments favorable to the government increased substantially, reaching between 4 and 6. Consequently,

from 2022 onward, the data confirm that the HCC is much more likely to annul judicial decisions that are unfavorable to the government. However, it is also noteworthy that the political homogeneity of the HCC did not appear to significantly impact the outcome of annulment rulings before 2022.

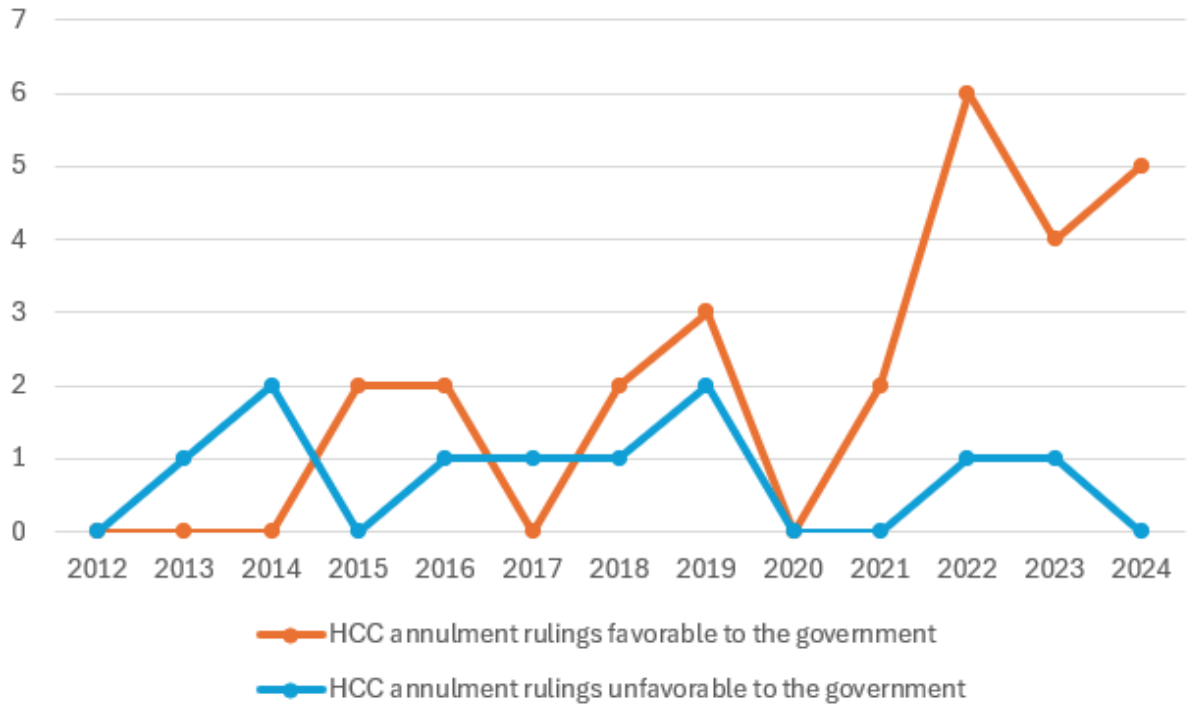


*Figure 2: Politically salient annulment rulings 2012-2024*

This recent divergence is heavily influenced by case topics. Out of the 15 rulings during the 2022–2024 period in which the HCC annulled a judicial decision originally unfavorable to the government, 8 concerned the certification of a referendum question, 6 were related to elections/campaigns, and 1 pertained to the violation of personality rights. Therefore the significant increase in such annulments is primarily driven by the sudden rise in pro-government annulment rulings associated with the certification of referendum questions – in contrast to only 2 such annulments during the 2012–2021 period. Although annulments concerning political campaigns (electoral or referendum) also exhibit an upward trend, the increase is less pronounced. The rulings related to the certification of referendum questions and to campaigns/electoral proceedings will be discussed in further detail.

*Outcomes of politically salient rulings before and after 2022*

By contrasting the periods 2012-2021 and 2022-2024, the differences in the outcome of politically salient cases are striking (see *Figure 4*).

| | | | | | | |
|---|---|---|---|---|---|---|
| 2022-2024 | HCC rulings favorable to the gov. | Annulments | 15 | 45 | 28% | 85% |
| | | Rejections / dismissals | 30 | | 57% | |
| | HCC rulings unfavorable to the gov. | Annulments | 2 | 8 | 4% | 15% |
| | | Rejections / dismissals | 6 | | 11% | |
| | | | | | | |
| 2012-2021 | HCC rulings favorable to the gov. | Annulments | 11 | 24 | 27% | 59% |
| | | Rejections / dismissals | 13 | | 32% | |
| | HCC rulings unfavorable to the gov. | Annulments | 8 | 17 | 20% | 41% |
| | | Rejections / dismissals | 9 | | 22% | |

*Figure 4: Distribution of politically salient rulings during the periods 2012-2021 and 2022-2024 (overall number and percentage)*

During the 2012–2021 window, 59% of politically salient HCC rulings favored the government, while 41% were unfavorable. This relatively balanced ratio challenges the assumption that the Court's political makeup uniformly dictated case outcomes during that decade. However, this equilibrium shifts radically from 2022 onward, with the HCC ruling in favor of the government in 85% of politically salient cases during the last three years. Notably, while the *percentage* of annulments overturning anti-government decisions barely moved (from 27% to 28%), the *absolute volume* jumped from 11 in the first decade to 15 in just the last three years. Conversely, the percentage of HCC rulings overturning pro-government judicial decisions plummeted from 20% down to a mere 4%. Simultaneously, the proportion of cases where the HCC upheld a pro-government ruling surged from 32% to 57%.

*Annulments by subject matter*

Interestingly, the subject matter of cases in the HCC's annulment rulings varies markedly depending on whether the annulled judicial decision was favorable or unfavorable to the government. As illustrated in Figure 5, rulings that annulled judicial decisions unfavorable to the government were predominantly related to elections and campaigns[31] (15 cases) or to the certification of referendum questions (10 cases), with only one case concerning freedom of expression. In contrast, annulments of judicial decisions that were originally favorable to the government typically involved matters of freedom of expression (4 cases), freedom of public information (3 cases), and interestingly, three cases related to the collection of citizens' signatures (referendum/election). Across the entire dataset, the HCC struck down 26 anti-government decisions and 10 pro-government decisions.[32]

[31] The wording "election and campaign-related cases" is appropriate because this category encompasses both cases concerning the electoral process itself (distinct from the campaign) and those involving political campaigns (including not only electoral but also referendum campaigns). Nonetheless, the majority of cases in this category pertain to electoral campaigns, whether parliamentary, municipal, or for the European Parliament.
[32] These figures do not include HCC rulings that were of public interest but not politically salient (18 rulings).

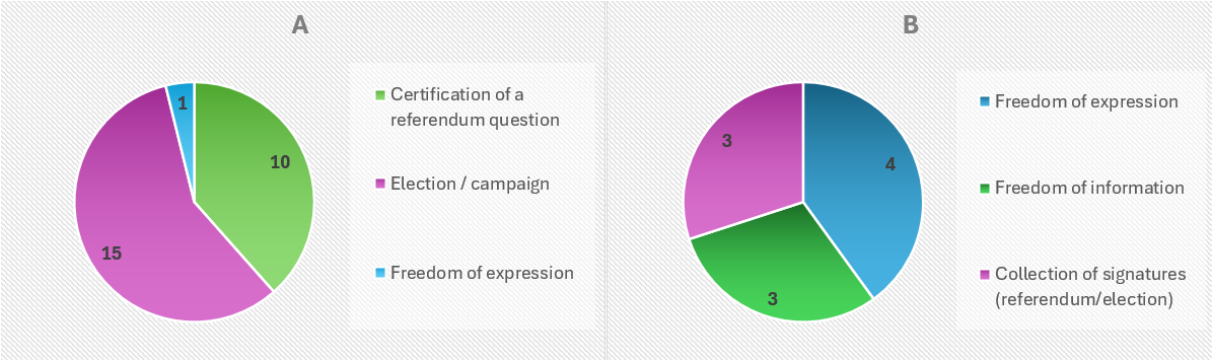


*Figure 5: Politically salient annulment rulings by subject matter 2012-2024 - A: annulment of a judicial decision unfavorable to the government; B: annulment of a judicial decision favorable to the government*

**Rulings relating to electoral proceedings and campaigns (election/referendum)**

Rulings on issues related to electoral campaigns, referendum campaigns, and electoral proceedings make up a significant proportion of all cases of public interest from 2012 to 2024, with a total of 42 such rulings included in the database. This category is defined as cases related to elections and campaigns because, in four instances, the underlying political campaigns were associated with national referendums rather than elections. Among the rulings in this category, 28 pertained to electoral campaigns, while 10 were based on electoral procedures. These election-related cases – whether campaign- or procedure-related – comprise a mixture of parliamentary and municipal election cases (see *Figure 7*). As depicted in *Figure 6*, of the 42 election and campaign-related HCC rulings of public interest, 25 were favorable to the government, 11 were unfavorable, and the remaining 6 were classified as "neither."

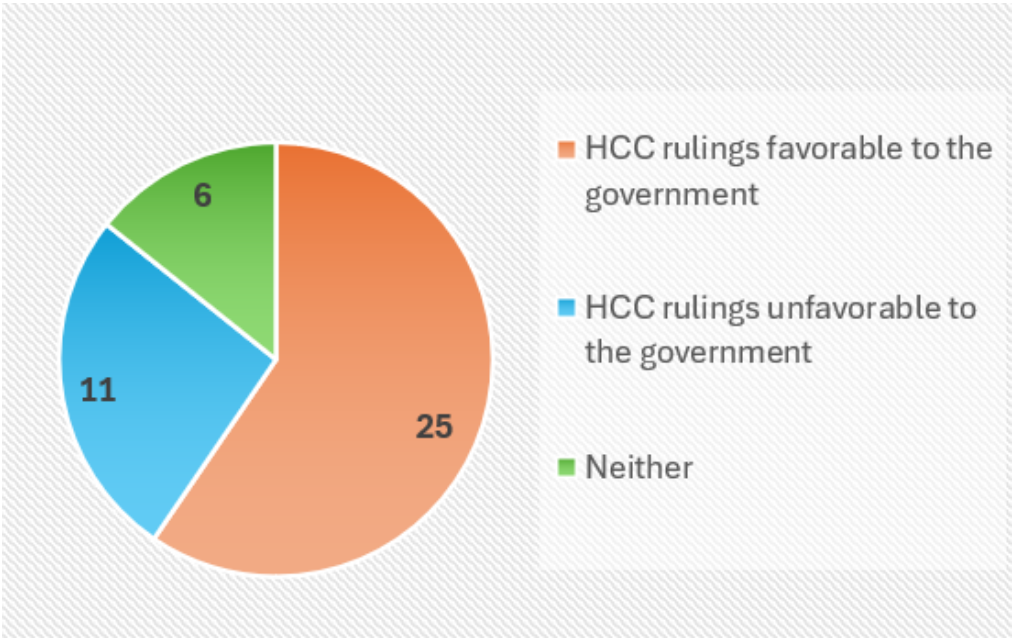


*Figure 6: Outcome of election and campaign-related rulings of public interest 2012-2024*

Within this category, the HCC handed down 18 annulments. Isolating these reveals heavy skewing: in 15 cases, the HCC annulled a judicial decision unfavorable to the government, while the annulment of a judicial decision favorable to the government occurred only once (with

the remaining two cases classified as "neither"). This suggests that in the realm of elections and campaigns, pro-government HCC outcomes are largely achieved by *striking down* lower court decisions, whereas anti-government HCC outcomes almost exclusively result from *refusing to intervene* against lower court decisions that were already unfavorable to the government.

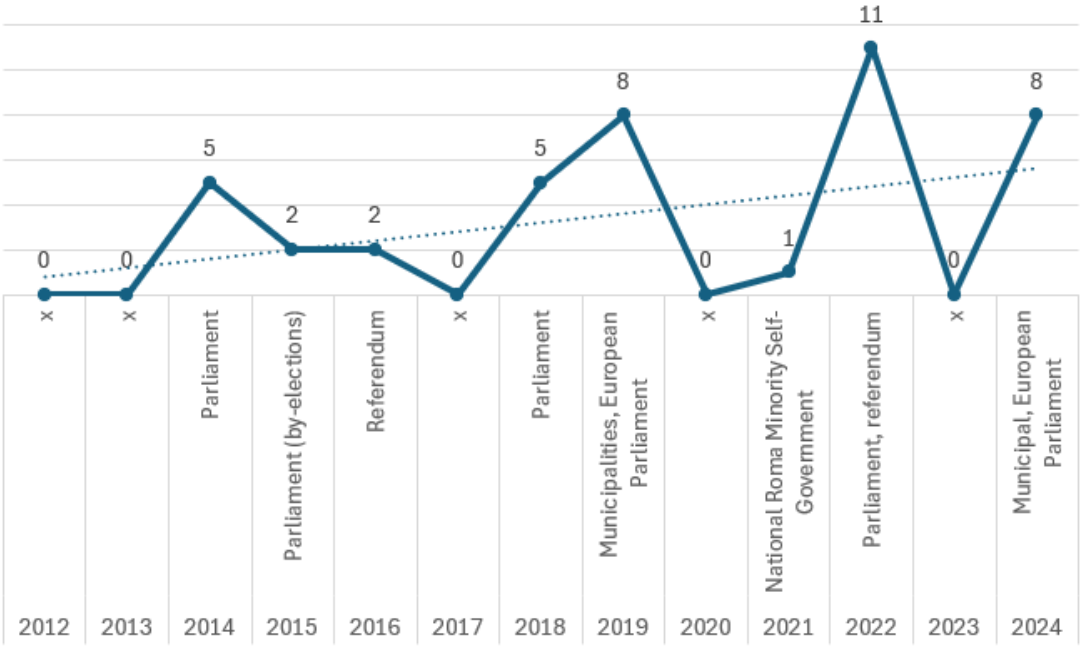


*Figure 7: Yearly number of HCC rulings on cases related to elections and campaigns (with type of election/referendum) 2012-2024*

*Figure 7* shows a continuous climb in election-related litigation, peaking in 2022 when parliamentary elections and a national referendum were held concurrently. This trend may indicate that political actors are increasingly resorting to judicial remedies in election and campaign-related matters, although it might also reflect heightened media interest in such HCC rulings.

The pre/post-2022 dividing line is highly visible here. Among politically salient rulings in this category, 12 rulings during the 2012–2021 period were favorable to the government, compared to 8 that were unfavorable. In contrast, in the 2022–2024 period, the HCC issued 13 rulings favorable to the government and only 3 unfavorable. Consequently, while only 60% of politically salient election and campaign-related rulings were favorable to the government before 2022, this proportion increased to 81.3% between 2022 and 2024.

**Rulings relating to the certification of a referendum question**

The dramatic post-2022 spike in politically salient cases is heavily tied to referendum certification disputes. Out of a total of 27 rulings on the certification of a referendum question, only 6 were delivered before 2022, and the remaining 21 were delivered between 2022 and 2024.

According to Act CCXXXVIII of 2013 on Initiating Referendums, the European Citizens' Initiative and Referendum Procedure, all questions submitted as proposals for a national referendum must be certified by a resolution of the National Election Commission to ensure the question fulfills all necessary criteria. Appeals against such resolutions must be submitted to

the Curia (the supreme court of Hungary), which either upholds or alters the resolution.[33] While the Act on Initiating Referendums states that the this decision shall not be subject to any further legal remedy, it seems like it does not exclude the possibility of a constitutional complaint before the HCC – and this possibility is now also formally acknowledged by the same section of the Act as amended in 2022.[34] When it comes to not national but local referendums, the procedure looks similar except it is a local election commission that has to certify the question, and its resolution may be appealed before a county court.[35] National referendums can be initiated by the government or the President, and the so-called citizens' initiative also allows citizens, political parties and other associations to put forward a question for referendum.[36]

The surge in cases within this subject matter warrants a more in-depth qualitative analysis. However, the available data suggest that a combination of factors may be responsible. One plausible explanation is that political actors have increasingly tried to employ the tool of direct democracy, submitting more questions for referendums than in the past, which in turn has led to a rise in cases. Citizen-initiated referendums account for the majority of these cases, and the topics of the proposed questions indicate that opposition or non-government actors have frequently initiated national or local referendums on current political hot topics. Additionally, constitutional complaints were filed with the HCC regarding a government-initiated referendum held concurrently with the 2022 general parliamentary election. These factors, supposably along with increased media attention to these cases, may collectively explain the substantial increase in the number of rulings in this group.

Another possible explanation is that cases concerning the validation of referendum questions are now more frequently brought before the HCC via constitutional complaints than in the past. Empirical confirmation of this hypothesis would require a qualitative analysis of the relevant decisions, particularly to determine whether the HCC's admissibility criteria for establishing the petitioner's involvement have changed.

According to Article 27 of the ACC, a constitutional complaint against a judicial decision that violates constitutional rights may be lodged by a person or organization "affected by a specific case." When a court refuses to certify a citizen-initiated referendum question, the initiator is clearly negatively affected. However, the situation differs if a court refuses to certify a referendum question initiated by the government, as public authorities are not entitled to submit constitutional complaints under Article 27 of the ACC. A different issue also arises when the court certifies a referendum question: in such cases, the initiator of the referendum is not negatively affected and therefore has no reason to challenge the certification. Consequently, a constitutional complaint against certification can only be filed by a third party not originally involved in the procedure.

For such a complaint to be admissible, the petitioner must demonstrate that they are affected by the specific case – potentially by arguing that the referendum itself (or its potential outcome)

[33] Section 29 of the Act Act CCXXXVIII of 2013 on Initiating Referendums, the European Citizens' Initiative and Referendum Procedure

[34] Section 30 of the Act Act CCXXXVIII of 2013 on Initiating Referendums, the European Citizens' Initiative and Referendum Procedure

[35] Section 40

[36] If the proposed question is certified, the parliament can decide whether or not to order the referendum. However, if a citizen-initiated referendum is supported by 200.000 voters' signatures, then the parliament is obliged to order the referendum.

violates their fundamental rights. If such an argument is deemed valid, it would suggest a particularly broad interpretation of the concept of being "affected by a specific case." Given that, in the majority of HCC rulings on referendum question certification within the database, the petitioner was not involved in the initial court proceedings (i.e., was not the initiator of the referendum question), a qualitative analysis of how the HCC determines whether a petitioner is affected in referendum cases would be valuable. However, such an analysis falls beyond the scope of this study.

As Figure 8 illustrates, HCC rulings on referendum certifications overwhelmingly favored the government (23 cases), with a mere 2 cases classified as unfavorable. Because unfavorable rulings are practically nonexistent here, splitting the data pre- and post-2022 yields little analytical value, though it is worth noting that the two unfavorable rulings occurred in 2024.

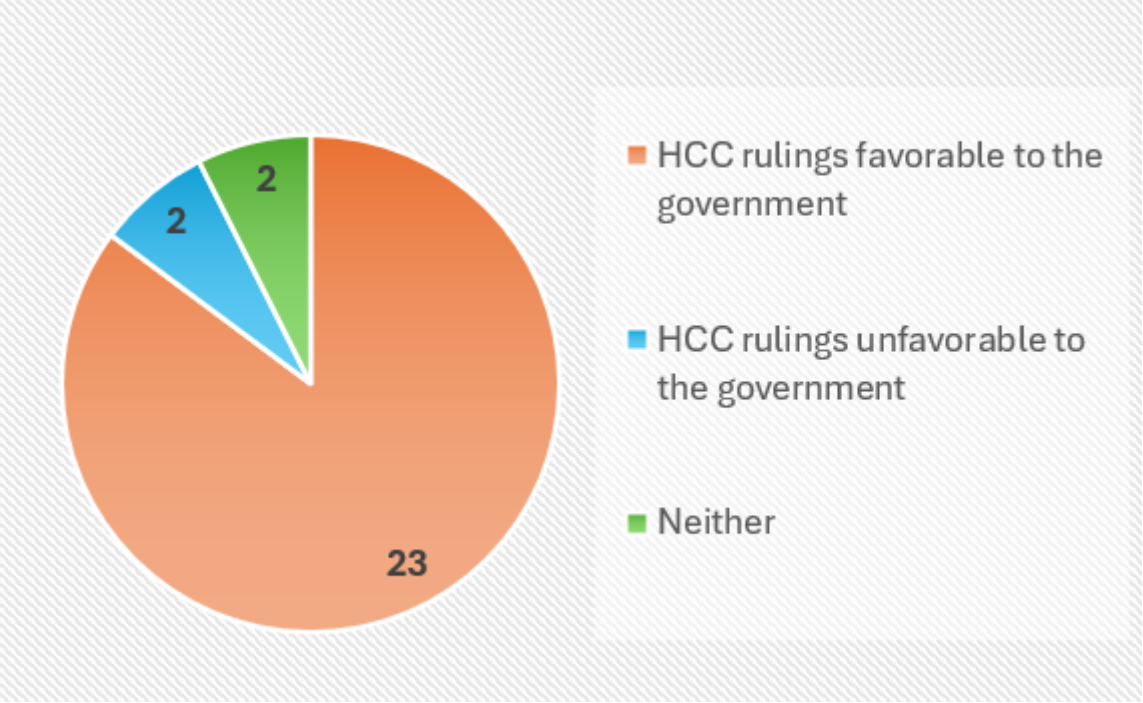


*Figure 8: Distribution of HCC rulings of public interest related to the certification of a referendum question 2012-2024*

Why such a lopsided pro-government outcome? One plausible explanation for the overwhelmingly pro-government nature of HCC rulings in this category could be that the HCC tends to apply a generally more restrictive approach to the admissibility of referendum questions than ordinary courts. Since opposition political actors have attempted to initiate referendums far more frequently, this generally restrictive interpretation has led to rulings that are largely unfavorable to them and, consequently, favorable to the government. However, this theory has flaws: when the Curia rejected a *government-initiated* referendum, the HCC intervened, annulled the Curia's decision, and allowed the question. Moreover, the HCC has consistently rejected complaints challenging the Curia's certification of government-initiated referendum questions. This pattern suggests that the HCC's restrictive approach primarily applies to citizen-initiated referendums, while government-initiated questions receive more favorable treatment. That said, this is not an ironclad rule, as evidenced by the HCC's 2024 rejection of two complaints against judicial decisions that certified opposition-initiated

referendum questions. Given these complexities, a qualitative analysis would be necessary to fully unravel this dynamic.

**Rulings related to freedom of expression**

Cases involving freedom of expression demand specialized analysis due to their high frequency (24 cases) and their unique status as the primary driver of HCC annulments *unfavorable* to the government. (Note: Four of these cases overlap with the election/campaign category).

As shown in *Figure 9*, the distribution of HCC rulings favorable and unfavorable to the government in constitutional complaints concerning freedom of expression appears to have remained relatively balanced throughout the 2012-2024 period. Additionally, a relatively high proportion of cases (7) fell into the "neither" category.

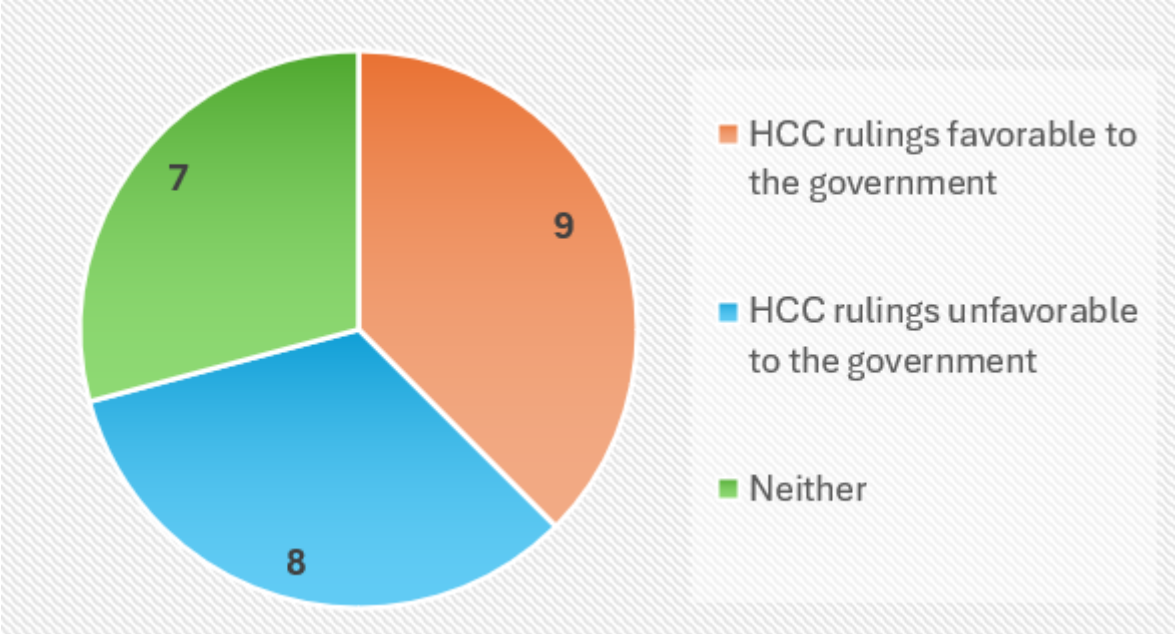


*Figure 9: Distribution of HCC rulings of public interest related to freedom of expression 2012-2024*

Fascinatingly, almost half (11) of these free speech cases resulted in annulments. This is a much higher intervention rate than seen in campaign cases (18 of 42) or referendum cases (10 of 26). Even more striking is the political direction of these interventions. While 94% and 100% of annulments in campaign and referendum cases (respectively) benefited the government, only 30% of free speech annulments were favorable to the government. Instead, 40% of free speech annulments were unfavorable government, with the remaining 30% neutral.

However, the pre/post-2022 divide is also visible in the freedom of expression category. In the earlier period, nearly half (6) of the 13 decisions reviewed were classified as neither favorable nor unfavorable to the government. Among the remaining 7 politically salient HCC rulings, the majority (5) were unfavorable to the government. In contrast, during the 2022-2024 period, only 1 out of 11 cases fell into the "neither" category. Of the remaining 10 politically salient rulings, the majority (7) turned out to be favorable to the government, including 3 annulments and 4 rejections/dismissals. Therefore, while 70% of politically salient free speech rulings went *against* the government's interests prior to 2022, the script flipped in the last three years, with roughly 70% favoring the government.

In conclusion, the divide between the periods before and after 2022 is evident in freedom of expression cases as well. However, political alignment was clearly *not* the primary driver of HCC free speech jurisprudence for the first decade of the "full" constitutional complaint – a sharp contrast to electoral and referendum cases. This is particularly evident given that until 2021, 70% of HCC rulings in freedom of expression cases were unfavorable to the government.

*Different approaches to Article IX of the Fundamental Law?*

The HCC has clearly treated free speech disputes differently. While around 70% of rulings in this category were favorable to the government in the 2022-2024 period, this figure still remains lower than the overall average for the same period (85% l – see Figure 4). Notably, despite post-2010 judges forming a majority on the HCC as early as 2014, the HCC issued rulings unfavorable to the government in 70% of politically salient freedom of expression cases up until 2021. Another key factor to consider is the relatively high proportion of annulment rulings in this category. This suggests that the HCC has interpreted Article IX of the Fundamental Law – protecting the "free dissemination of information necessary for the formation of democratic public opinion" (therefore the freedom of the press and the right to freedom of expression) – differently from ordinary courts, but seemingly for reasons beyond political orientation, particularly in the 2012-2021 period.

Combining cases related to freedom of expression and the press, both protected by Article IX of the Fundamental Law, reveals additional interesting trends. In this category, which includes 33 rulings, more than half (52%) of the HCC rulings of public interest were annulments – visibly higher than the 40% annulment rate across all cases of public interest. There are two possible explanations for this higher proportion: a) annulment rulings in this category may have greater news value for the press than rejections or dismissals, and b) the HCC might have adopted a fundamentally different approach to freedom of expression and the press compared to ordinary courts, leading to a higher proportion of annulments. Of these two possibilities, only the latter can be examined based on the available data, specifically whether the HCC has favored a broader or narrower interpretation of the "free dissemination of information" compared to ordinary courts in cases of public interest included in the database.

The individual judicial decisions reviewed can be categorized based on whether the expression of opinion or press coverage involved in the legal dispute was deemed lawful or unlawful by the ordinary court. For the sake of simplification for the sake of quantitative analysis, judicial decisions that deem the particular expression of opinion or media report lawful are referred to as "pro-free speech" decisions, while those that find them unlawful are considered "anti-free speech." Accordingly, the relevant HCC rulings can be classified into these two categories, depending on whether the pro- or anti-free speech judicial decision was annulled or upheld by the HCC.

Categorizing the judicial decisions and HCC rulings accordingly, the data reveals that two-thirds (67%) of the HCC's rulings in this group were pro-free speech throughout the 2012-2024 period. Among the pro-free speech rulings, nearly two-thirds (64%) were annulments, meaning that the HCC annulled an anti-free speech judicial decision in 14 cases. In contrast, during the same period, the HCC annulled a pro-free speech judicial decision only three times.

It can therefore be reasonably argued that the HCC was mostly consistent in promoting a more permissive approach to freedom of expression and freedom of the press than ordinary courts

and consequently has often overturned judicial decisions restricting free speech. Arguably, this permissive approach to free speech was more decisive on the outcome of the rulings than political orientation.

However, it is also worth examining how this trend has changed over time. By the last years, the number of HCC rulings annulling an anti-free speech judicial decision had decreased significantly: while two such rulings were issued every year between 2014 and 2019, only two were issued overall in the following five years (both delivered in 2022). If, as before, the periods 2012-2021 and 2022-2024 are compared, significant differences can be observed. In the 2012-2021 period, 77% of the relevant HCC rulings were pro-free speech (17 out of 22 decisions), while between 2022 and 2024 this proportion dropped to only 46% (5 out of 11 decisions). Strikingly, the proportion of pro-free speech annulments in all relevant rulings dropped from 55% to 18%. The detailed distribution of free speech-related HCC rulings is shown by *Figure 10.*

| | | 2012-2024 | | 2012-2021 | | 2022-2024 | |
|---|---|---|---|---|---|---|---|
| **Pro-free speech rulings** | *Annulments* | *14* | **22** | *12* | 17 | *2* | 5 |
| | *Rejections / dismissals* | *8* | | *5* | | *3* | |
| **Anti-free speech rulings** | *Rejections / dismissals* | *8* | **11** | *4* | 5 | *4* | 6 |
| | *Annulments* | *3* | | *1* | | *2* | |

*Figure 10: HCC rulings of public interest relating to freedom of expression and freedom of the press 2012-2024*

Overall, it can be reasonably argued that the HCC's approach to broadening the scope of free speech has been a key factor in shaping the outcomes of rulings concerning freedom of expression and the press. However, while this tendency was particularly pronounced in the period up to 2021, this liberalizing momentum has largely dissipated in recent years.

**Dissenting opinions and rapporteur judges**

Analyzing dissents and rapporteurs offers a window into the HCC's internal political dynamics. As a preliminary note, it is important to emphasize that this analysis focuses exclusively on constitutional complaint proceedings initiated under Article 27 of the ACC. While these "full" constitutional complaints constitute the majority of cases before the HCC, other types of proceedings – such as abstract constitutional review – are likely overrepresented among politically salient cases. Conversely, individual constitutional complaints may be underrepresented in this category. As a result, the following data does not provide a comprehensive overview of the voting behavior and political or ideological orientation of HCC judges in all politically salient rulings. However, extensive research has already been conducted on HCC judges' behavior in abstract constitutional review cases (though only up until 2020).[37] Therefore, the findings presented here should not be interpreted in isolation but rather as a complement to previous studies on judicial decision-making within the HCC.

Despite the HCC's reputation for political homogeneity, dissents appeared in 43% of all public interest rulings. This jumps to 61% when looking exclusively at annulments, and 58% for politically salient annulments. Notably, dissent was more common in annulments unfavorable

[37] Gyulai, Pócza and Dobos (n 20); Pócza, Dobos and Gyulai (n 25); Zoltán Szente, 'The Political Orientation of the Members of the Hungarian Constitutional Court between 2010 and 2014' (2016) 1 Constitutional Studies 123.

to the government (70%) than in those favorable to the government (54%). This data does not depict a fully homogenous court or one striving to display unity, and suggests that internal fractures are most likely to rupture when the HCC decides to actively overturn a ruling.

A judge's dissenting behavior is a purer metric of their personal ideology than the rulings they author as a rapporteur, since the rapporteur must write for the majority. *Figure 11* maps these dissents.[38]

| Name of Judge | Total number of dissenting opinions | Dissents favorable to the government | Dissents unfavorable to the government | Outcome in total |
|---|---|---|---|---|
| Balázs Schanda ● | 11 | 0 | 11 | -11 |
| Ágnes Czine ☒ | 10 | 1 | 9 | -8 |
| Ildikó Hörcherné Marosi ● | 9 | 1 | 8 | -7 |
| István Stumpf ☒ | 7 | 0 | 7 | -7 |
| Marcel Szabó ● | 5 | 0 | 5 | -5 |
| Péter Szalay ☒ | 5 | 0 | 5 | -5 |
| László Kiss ◊ | 4 | 0 | 4 | -4 |
| Miklós Lévay ◊ | 4 | 0 | 4 | -4 |
| András Bragyova ◊ | 3 | 0 | 3 | -3 |
| Béla Pokol ☒ | 7 | 3 | 4 | -1 |
| Attila Horváth ● | 3 | 1 | 2 | -1 |
| Elemér Balogh ☒ | 1 | 0 | 1 | -1 |
| Péter Kovács ☒ | 1 | 0 | 1 | -1 |
| Péter Paczolay ● | 1 | 0 | 1 | -1 |
| Tünde Handó ☒ | 1 | 1 | 0 | 1 |
| András Varga ☒ | 1 | 1 | 0 | 1 |
| Tamás Sulyok ☒ | 1 | 1 | 0 | 1 |
| Barnabás Lenkovics ☒ | 1 | 1 | 0 | 1 |
| Imre Juhász ☒ | 7 | 5 | 2 | 3 |
| László Salamon ☒ | 11 | 7 | 4 | 3 |
| Mária Szívós ☒ | 8 | 7 | 1 | 6 |
| István Balsai ☒ | 6 | 6 | 0 | 6 |
| Egon Dienes-Oehm ☒ | 8 | 8 | 0 | 8 |

☒: right-wing – ●: consensus – ◊: left-wing[39]

*Figure 11: Distribution of HCC judges' dissenting opinions in politically salient rulings 2012-2024*

Naturally, the table in *Figure 11* does not fully reflect the actual preferences of individual judges, as many have authored few or no dissenting opinions, or have only served on the HCC for a limited period between 2012 and 2024. However, the figures in the upper and lower segments of the table may suggest whether a judge regularly dissents from HCC rulings that are favorable or unfavorable to the government. These patterns largely align with the trends identified in detail by Pócza *et al.* regarding the HCC's dissenting coalitions, as well as the findings of Szente. It is evident that three constitutional judges appointed in 2010 by the then

[38] A dissenting opinion is favorable to the government if it expresses disagreement with a majority ruling that is unfavorable to the government, and vice versa.
[39] Categogorization by Gyulai, Pócza and Dobos (n 20).

new parliamentary majority after expanding the HCC bench from 10 judges to 15 (Egon Dienes-Oehm, István Balsai, and Mária Szívós) frequently dissented from HCC rulings unfavorable to the government. Conversely, three of the four judges elected through a compromise with an opposition party (Balázs Schanda, Ildikó Hörcherné Marosi, and Marcel Szabó) often issued dissents that took a position unfavorable to the government.[40] This could suggest a straightforward partisan break: ruling-party nominees dissent against anti-government outcomes, while compromise judges frequently dissent against pro-government outcomes. (This is bolstered by the anti-government dissents of three pre-2010 left-wing appointees: László Kiss, Miklós Lévay, András Bragyova). However, the narrative is not flawless: Ágnes Czine, István Stumpf, and Péter Szalay – all appointed solely by the governing majority – rank among the most prominent authors of anti-government dissents.

| Name of the Judge | Number of rulings as rapporteur | Proportion of rulings favorable to the government (%) |
|---|---|---|
| Tamás Sulyok ☒ | 23 | 100% |
| Balázs Schanda ● | 19 | 68% |
| András Varga ☒ | 9 | 56% |
| Zoltán Márki ☒ | 5 | 80% |
| István Stumpf ☒ | 5 | 20% |
| Péter Szalay ☒ | 5 | 20% |
| Tünde Handó ☒ | 4 | 100% |
| Mária Szívós ☒ | 4 | 100% |
| Imre Juhász ☒ | 4 | 100% |
| Ildikó Hörcherné Marosi ● | 3 | 33% |
| Péter Paczolay ● | 3 | 33% |
| András Patyi ☒ | 3 | 67% |
| Attila Horváth ● | 2 | 100% |
| Miklós Juhász ☒ | 2 | 50% |
| Ágnes Czine ☒ | 1 | 100% |
| Egon Dienes-Oehm ☒ | 1 | 100% |
| Mária Haszonicsné Ádám ☒ | 1 | 100% |

☒: right-wing – ●: consensus[41]

*Figure 12: Proportion of rulings favorable to the government by rapporteur judges 2012-2024*

Rapporteur data only partially aligns with the patterns observed in dissenting opinions, likely because rapporteur judges are responsible for drafting rulings that reflect not necessarily their personal but the majority view. Additionally, given the relatively small number of politically

[40] The election of HCC judges requires a two-thirds parliamentary majority, and the Fidesz-KDNP governing coalition has generally had this majority in parliament since 2010 with few exceptions and therefore has been able to elect constitutional judges without compromise. However, four constitutional judges (Attila Horváth, Balázs Schanda, Ildikó Hörcherné Marosi, and Marcel Szabó) were elected in 2016, at a time when the governing Fidesz-KDNP did not hold a two-thirds parliamentary majority. Their election was made possible through a compromise with the opposition party Lehet Más a Politika (LMP, Politics Can Be Different).

[41] Categorization by Gyulai, Pócza and Dobos (n 20).

salient cases overall, and some judges with very few rulings taken as rapporteur, even a single additional ruling could significantly shift the proportion of decisions favorable to the government.

Tamás Sulyok (President of the HCC from 2016 to 2024) and Balázs Schanda dominated the politically salient docket as rapporteurs. However, their rulings show a notable contrast in outcomes: while 100% of rulings where Sulyok was the rapporteur judge were favorable to the government, this proportion was lower for Schanda at 68%. This is largely contextual: over half of Sulyok's cases dealt with referendum certifications, while nearly two-thirds of Schanda's caseload as rapporteur involved freedom of expression disputes. Tamás Sulyok was the most frequent rapporteur judge in cases where the HCC annulled a judicial decision originally unfavorable to the government, overseeing eight such rulings. In contrast, when the HCC annulled a judicial decision originally favorable to the government, Balázs Schanda and István Stumpf each served as rapporteur in four cases, while the remaining two were assigned to Ildikó Marosi and András Varga.

**Conclusions**

The core aim of this paper was to evaluate "full" constitutional complaints (Article 27 of the ACC) through the lens of political salience. Reviewing individual court cases is historically viewed as the most politically insulated of the HCC's duties. Because prior quantitative analyses focused heavily on abstract norm control, this research addresses a critical void, analyzing the mechanism that now forms the vast majority of the HCC's caseload. It must be stressed that politically charged disputes represent only a fraction of Article 27 complaints – the bulk of the Court's docket consists of mundane fundamental rights reviews completely devoid of political intrigue.

By separating annulments for special analysis, this study highlighted exactly how and when the full constitutional complaint disrupts the standard judicial machinery to alter outcomes that initially carried political consequences. Over the 13-year period covered by this paper, the HCC issued 26 annulment rulings overturning judicial decisions that were unfavorable to the government – a number that arguably does not suggest that this was a systemic phenomenon throughout the years covered by the research. However, some level of imbalance can still be observed overall, as 72% of all politically salient annulment rulings were favorable to the government. A similar pattern emerges when considering all rulings, including rejections and dismissals, with 73% of politically salient HCC rulings resulting in an outcome favorable to the government.

The most striking revelation, however, is the severe statistical rupture between the 2012–2021 and 2022–2024 timeframes. Although governing-party appointees have controlled the bench since 2014, political orientation did not appear to dictate outcomes until 2021, with only 59% of rulings favoring the government during that first decade. Yet, from 2022 onward, the pro-government rate skyrocketed to 85%, lending considerable support to the thesis that political orientation could have played a decisive role. This shift was driven overwhelmingly by cases involving referendum certifications and, to a lesser degree, electoral disputes.

Significant differences emerged across various subject matter areas. In cases concerning the certification of referendum questions, HCC rulings unfavorable to the government were exceptionally rare, and the majority of rulings related to elections and political campaigns also

favored the government. By contrast, in freedom of expression cases, there was a relative balance of rulings favorable/unfavorable to the government, and the outcome of rulings did not appear to be determined by political orientation but by the HCC's markedly pro-free speech approach – although this approach also seemingly waned after 2022.

Ultimately, this empirical overview isolates critical targets for future qualitative research. One key avenue for exploration is the HCC's changing approach to freedom of expression cases – specifically, whether any shifts in its reasoning can account for the apparent decline in its previously strong pro-free speech stance in assessing individual complaints. Furthermore, regarding referendum certifications, qualitative scrutiny is required to determine whether the recent flood of pro-government rulings is merely a byproduct of political actors testing the limits of direct democracy, or whether it has also been influenced by changes in the HCC's admissibility criteria for individual complaints challenging judicial decisions on referendum certification. Answering these questions will provide a vital, comprehensive understanding of the modern HCC's true role in the separation of powers.

**Database:** **https://airtable.com/appGxutakufOvR1pT/shrr0ImTLcW1rwalw**