ABSTRACT OF THE DOCTORAL (PHD) THESIS

LAWS OF ORDER IN INTERWAR HUNGARY

With a Special Regard to the Material and Procedural Analysis of Act III in 1921 on the More Efficient Protection of the Public and Social Order of the State in the Practice of the Royal Court of Budapest

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1. REASONS FOR THE THEME OF THE THESIS AND THE APPLIED METHODOLOGY

My objective is to demonstrate an extraordinary controversial, although scholarly hardly examined field in the history interwar Hungarian criminal law in my doctoral (PhD) dissertation. My research aimed to uncover the regulation with which Hungary tried to protect and due to this protection meanwhile strengthen her old/new constitutional settlement after the First World War and just after the alteration/restoration of her form of state. The solution for this problem was the so called laws of order brought by the legislation.

The research was of a great challenge due to the fact that after 1945, the Marxist historiography examined the regulation of the crimes against the state only according to the communist ideology, thus it reckoned to detect only the *'suppression of the movement of the working-class'*. This mark was branded especially on the Horthy-era, therefore, several questions remained unanswered in connection with the development of criminal law in the first half of the 20th century. What was the influence of the Hungarian Soviet Republic to criminal law? Was the *'red peril'* to be feared of really in interwar Hungary? Was the legislation for bringing the laws of order necessary? Was the Hungarian jurisdiction truly independent or by the political cases simply the opposition was to be silenced? Finally, one of the most important legal dilemma was that how the state could guarantee the protection of its own constitutional settlement so that the fundamental rights of the citizens would not be harmed. My intention was to give answers among others for all these questions raised in my dissertation.

Because of the complexity of the topic of this research, I hold it relevant to present my methods by which I examined the available resources.

The first part contains a theoretic introduction on how legal scholars tried to define crimes against the state in the 20th century, and what sort of turn took place in legal science in criminal law and which were the historic events that raised tension for the reform of these crimes. In the 20th century, this topic was dealt with French scholars like *Polydore Fabrequettes* and *André Lévi-Bruhl.* From the Hungarian literature, the academic works of *Jenő Balogh, Aurél Lengyel, Pál Angyal, Ferenc Finkey, János Tarnai, János Bárd, Mihály Perjéssy, Emil Erdősy* and *Ferenc Nagy* are to be highlighted. However, we ought not forget that in jurisprudence after 1945, the theoretic polemics concerning the crimes against the state came to light with the purpose that the legal title should be established for the show-trials laying the grounds of the dictatorship. Among others this was the intellectual background of *Vilmos Olti, Pál Horváth* and *Péter Barna*. Although my dissertation does not deal with the era following

the Second World War, for the purpose of completeness, I wanted to present the theoretic approaches concerning the political offences until the regime-change of 1989-1990. After this legal-historic summary, I touch upon what extent the scientific turn and the First World War, the overture of the 20th century, and the anarchic state of affairs, made an effect on an international level as well.

Since the majority of the following part of the dissertation is in connection with the analysis of the legal rules, it is worth to demonstrate its main aspects. Taking it into consideration that the re-regulation of the political crimes always occurred right after an actual internal political event, I held the description of these events important because these events can be regarded as legally relevant circumstances too. The reason for this is that I regard that the analysis of an act should not only mean the abstract interpretation of the norms and the text delivered by the legislation, but we must consider the historic environment and the challenges of the epoch for which the legislative bodies reacted. The necessity of a law can be judged only in the light of this approach. To reveal the events of this era, the works of the following historians were of great help like those of *Gusztáv Gratz*, *Ferenc Pölöskei, Ignác Romsics*, *Mária Ormos*, *Levente Püski, Balázs Ablonczy, Pál Hatos*, *Rudolf Paksa, Zoltán Paksy, Tamás Kovács* and *Áron Máthé.* Besides their works, in the footnotes, there are autobiographies and encyclopaedias dealing with the lives and activity of lawyers, politicians and convicts of which the detailed examination was not the purpose of the dissertation, however, the reference to them can be a hint for further and deeper studies. Furthermore, I must mention the work *Magyarország kormányai 1848 – 1992 [The Governments of Hungary 1848 – 1992]* by *László Bölöny* that enlists the governments and their members in chronological order in the 19th-20th century. In order not to get lost in time, there are several references in the notes for this volume.

The process of legislature comes necessarily together with the debates in the parliament or in the national assembly therefore their detailed examination was also an inevitable task because the opposing and supporting arguments, concerns that accompanied the deliverance of the laws of order can be revealed with their help. Moreover, the intention of the legislation can be uncovered from the official reasoning of the bills. These resources can be uncovered from the *Országgyűlési/Nemzetgyűlési Naplók* [Journals of the Parliament/National Assembly], and the so called *Irományok* [Scriptures] appropriately. The situation is very similar in case of the publications and papers of the criminal lawyers published in the legal journals because the question of the regulation of the crimes against the state generated heavy debates among the lawyers of the practice as well. These kind of papers were published among others by *Alfréd*

Doleschall, Rusztem Vámbéry, Pál Angyal, András Szőke, Erik Heller, Mihály Perjéssy and *Béla Berend.*

I must mention the use of the memoirs as a separate category of the resources which come to light in connection with the People's Republic in 1918/19 in the third part of the dissertation. The reason for this is that the events of 1918/19 are not uncovered properly until today. Thus the criminal procedure that was initiated according to the *People's Act XI of 1919 on the Protection of the People's Republic* because of the siege of Népszava, a notorious crime of the time, I benefitted of the memoirs of the ministers of the *Berinkey* government and that of *Mihály Károlyi* as well so that I could reconstruct the events as properly as possible. When treating these works, besides the descriptive way of approach, I had to consider the circumstance that the authors did not stick to the reality in every time, thus their works had to be dealt with a rigorous critical approach, and even sometimes I had to face their contradictory statements too.

When examining the dogmatic of the criminal laws, *Pál Angyal's* œuvre is unavoidable. The series called *A Magyar Büntetőjog Kézikönyve* [The Handbook of the Hungarian Criminal Law] lists and examines all the laws in effect until 1945, and besides this, his many course books of criminal and criminal procedure law were guidelines when examining and interpreting the laws of order. Besides him, *Mihály Perjéssy* was the first person to write a paper and later a monography on the law of order of the Horthy-era. This topic was dealt further on by *Ferenc Finkey, Miklós Degré* and *Erik Heller*. In order to resolve the contradiction in the interpretation of the laws of order, the judicial practice of the Curia was of great help. In the analysis of the dogmatic of the laws of order, besides the course books of the interwar period, I treated the current course book of the general part of present day criminal law so that I could broaden the horizon of the examination as well. Therefore, I used the course book of criminal law, *Büntetőjog, Általános rész* written by *Ervin Belovics, Balázs Gellér, Ferenc Nagy* and *Mihály Tóth* several times. It is also important to mention another course book edition by *Balázs Gellér* and *István Ambrus*.

While composing my doctoral thesis, I intended to fulfil the requirements of connecting the crimes against the state with constitutional law. Although the entire uncover of the topic required a separate research, I refer to the constitutional law of that time both in the main text and in the footnotes, putting the interpretation of the laws of order in a broader public legal context. For this purpose, the works of *Móric Tomcsányi* and *István Csekey* were of great help, while in present day research, *István Szabó* worked on the constitutional problems of the interwar era. I treated the relation of the laws of order with other criminal laws, especially the

Csemegi code, the *Act XLI on the Protection of Honour of 1914* and the *Act XIV on the Press of 1914* similarly.

Another topic to be discussed is the use of archives when touching methodology. My doctoral thesis represents the judicial practice of the interwar period, the documents of which is available in the Budapest City Archives *(Budapest Főváros Levéltára).* Taking the fact into consideration that between 1921 and 1939 hundreds of final verdicts were brought because of political offences, the overall treatment of these two decades is not possible in a unique dissertation, therefore it was of high importance to narrow the field of research. To fulfil these requirements, I arranged the cases proportionally by political groups, being under criminal procedure i.e. persecuted, which were organizing activities. I paid peculiar attention to the criminal procedures of the epoch that established precedents. I completed my research with the resources available in the Institute and Archive of Political History *(Politikatörténeti Intézet és Levéltár).*

To supplement the hiatus of the primary resources, I used the press of the time because there were not just the above mentioned papers published but the reports and summaries of these political trials. Since these procedures were accompanied by a harsh echo in the media, which was willing to describe the events from different aspects, I held to cite the more articles possible as my special task in the dissertation. Therefore, among many others the articles of *Az Est*, *Népszava*, *Pesti Hírlap*, *Budapesti Hírlap* and *8 Órai Újság* appear in the work.

The subchapter 5.5 in chapter 5, which examines the libel against the nation both in the norms of the laws and their judicial practice, needs a special detailing. For being able to examine the state of affairs in these cases as a legal historian, I had to analyse each conduct of the perpetration to reveal whether the accused committed libel or just behaved in the level of freedom of speech. To answer this question, I compared the statements being the object of the criminal procedure to the facts treated in the monographies of historians of the Horthy-era. Therefore, the true elements of the statements being the object of the criminal procedure can be uncovered precisely. Being aware that these conducts were carried out in the foreign press, I had to examine and cite them too like *Californiai Magyarság*, *Bécsi Magyar Újság*, *Magyar Tribune* or *Keleti Újság*.

2. THE SUMMARY OF THE ACHIEVEMENTS OF THE RESEARCH AND THEIR USE IN PRESENT DAY CRIMINAL LAW

The historic events in the beginning of the 20th century had decisive effect worldwide on criminal jurisprudence of which effect one of the leading field was the new initiatives in the crimes against the state. The primary aim of the debates in connection with the political offences intended to draw a more precise description of the crimes. Though these theoretic controversies went through the entire past century, it can be declared that the framing of a clear definition is still encountering into difficulties until this very present. The reason for this is that the crimes against the state is in strict connection with the constitutional settlement of the given state not even mentioning the social and moral evaluation of that state too. Finally, it has to be emphasized that defining the common characteristics of these legal norms was successful on an abstract level i.e. the sanctions are very rigorous because besides imposing the principal punishment, the legislator made it possible to levy supplementary punishments too. Regarding the phases of the political offences, the preparatory phase is to be sanctioned in every case, and besides that the failure to report a crime means that the given person has criminal responsibility too. These criminal actions assume the intentional and wilful conduct in every case, moreover, *'the principle of the self-defence of the state'* is in effect as well. According to this, in case of crimes against the Hungarian state, irrespective of the place of the conduct and the nationality of the accused, the Hungarian law shall be applicable in every single case. When classifying these crimes, another common feature is that all the legal norms are crimes except for the above mentioned failure to report a crime, which is an offence.

In the past century of the Hungarian legal history, the above summarized legal issue of criminal law drew the attention of legal scholars even before the burst out of the First World War. Reflecting on the principles of the *Csemegi code* of the 19th century, these scholars expressed their arguments for the necessity of the reform of the crimes against the state in academic papers and other publications. In the first place, they stressed the importance of the prevention and criticized the lenience of the punishments. Furthermore, they criticized that the preparative phase of the conduct remained unpunished, and the narrow spectre of conducts in the legal norms. Last but not least, they criticised the importance of the prosecution of the unlawful behaviour that were carried out in the reality not by an apparent aggression but in other, i.e. *'intellectual way'*.

The legislator intended to fill the hiatus of the legal norms of the crimes against the state with the *Act XXXIV on the Insult against the King and the Offence against the Kingdom* in 1913 (further: the Act IKOK) in the dualism. Besides the problems being present in the branch of criminal law, another antecedent of the legislation is the newly formed National Republic Party *(Országos Köztársaság Párt)* (further: NRP) in the public life led by *György Nagy*. The Party used such radical and insulting allusions and adjectives against the king in its own official journal that it raises a retrospective question whether the members of the party did not breach the principle laid down in section 1 in Act III of 1848, namely, that the king is sacred and invulnerable. Regarding the theme of the dissertation, the arguments in favour of the importance of the Act IKOK can be supported with the fact that this act constituted so many new legal forms that were decisive for the interwar laws of order. The criminalization of the groups intending to change the form of the state, the framing of the legal terminology to describe the conduct of each member in these group, the same sanctioning of these members and the compulsory imposing of the supplementary punishments were the measures that determined the sanctioning of the political offences since 1919. The reform in the criminal procedure is to be highlighted too, namely, that these cases were put into the authority of the courts instead of the former juries so that the lay persons' subjective political beliefs would not influence the outcome of the trial. Besides the significance of the reform in the regulation, there can be a hiatus mentioned as a critique too. Namely, although the unlawful and aggressive character is presumable from the conducts of *'sedition'* and *'attack'* in section 3 of the Act IKOK, it had been favourable to set some example in the text of the norm so that the crime could have been described more precisely.

The Act IKOK cannot be regarded as a law of order for several reasons. On the one hand, it aimed to protect the form of state that existed for decades with means of criminal law, and on the other hand, the NRP, whose activity raised the necessity of the reform, was not an extremist party. It is also to be highlighted that the regulation had numerous token in its parts from 19th century criminal law such as maintaining the jails of the state *(államfogház)* and, in connection with it, the definite but short period imprisonments were kept as sanctions too.

The hiatus of the system of criminal law were deepened by the communist agitation in the People's Republic of 1918 and it became even larger in the Hungarian Soviet Republic because the Hungarian society met a completely other type of political crimes against which the legislative branch had to find the appropriate measures. These circumstances led to the delivery of the laws of order.

The first of these laws was the *People's Act XI of 1919 on the Protection of the People's Republic* (further: the Protection Act of 1919), which the Council of the Ministers wanted to achieve a double aim with, i.e. the strengthen the republic as the form of the state and to suppress the Communists' Hungarian Party (KMP), led by *Béla Kun,* causing a very serious crisis in the government in January 1919. In this act, at first there appeared the legal principle already in the first section describing the main crime which was the subversion of the state *(államfelforgatás)*. The further facts of the norm regulated in the following sections could have been realized only in connection with this main crime, i.e. the subversion of the state. The subversion of the state, regulated in this first law of order, made a very broad space to hold the accused responsible because the facts of the norm could be realized with any conduct that made the overthrow of the form of the state possible. The lack of the conducts in the norms was replaced with the regulation of the methods of these conducts because the directness and the realization of the violence in section 1 became legally relevant facts of the conduct. The qualified form of this crime as a complex offence *(delictum complexum)* very characteristic for the laws of order. Thus, the conduct of the norm was a separate crime in the same time with the general facts of the case of the subversion of the state. In the Protection Act of 1919, this offence had a narrow sphere of realization because only the revolt in connection with section 1 realized the conduct in section 2.

Section 3 of the Protection Act of 1919 was drafted basically as the combination of paragraph 1 of section 2 and the whole section 3 of the Act IKOK. Therefore, compared to the general case, the conducts of the subcases were the realization of the conduct in public, the direct appeal, the incitement to revolt, the offence having a political intention and the initiation to form, organize and active participation in a group having the intent to subvert the form of the state. The failure to report the crime became a separate criminal offence. The act gave sphere for prevention too, i.e. when the accused committed the crimes but they had the opportunity to withdraw from the conduct or they informed the authorities of that crime.

The conspicuously rigorous system of sanctions is detectable in the Protection Act. Although the capital punishment was not a part of the regulation and the jury system was restored, the legislator did not differentiate between the offences therefore all the offences became crimes and the judges could impose only long lasting prison sentences. Parallel to this, the deprivation of office and the suspension in the practice of political rights were obligatory supplementary punishments. Furthermore, section 8 of the Protection Act placed the norms of *Act XVIII on the Financial Responsibility of Traitors*, therefore the state could claim damages against these criminals. This provision can be regarded very serious because this sanction was

to be imposed only in case of war and in precisely enlisted conditions. The courts in charge did not have any authority to consider the necessity of the punishment and its measure, but they had to impose the confiscation of the entire property of the convict. Thus the conclusion is that on an abstract level, the Protection Act of 1919 of the People's Republic was much severe than that of the Horthy-era.

Generally, it is detectable, that the Protection Act of 1919 made great emphasis on prevention and repression, however, its hiatus is that it did not react at all on movements of coup d'état which were carried out by not crimes but by sort of peaceful means. This was one of the reasons why the Communists' Hungarian Party (KMP) and the Socialdemocrat Party (SZDP) could seize power and subvert the form of state of the People 's Republic in 21 March 1919 without atrocities.

After the restoration of the legal continuity, the increased protection of the constitutional settlement by the means of criminal law came to the front again. Besides the change of the form of the state, the reasons for this can be traced in the criminal statistics which was presented in the first chapter of the dissertation. Examining the data, it is evident that between 1920 and 1939, the authorities uncovered hundreds of political conspiracies in each year. To reduce these high rates in political crimes, the National Assembly brought an act, namely *Act III on the More Recent Protection of the Order of the State and Society* in 1921 (further: Act of Recent Protection). The function to achieve stability of the act is obvious if we consider that the number of these crimes was reducing somehow in the 1920's. However, from 1929, the conspiracies against the state began to increase because of the Great Depression and the strengthening of the extremist political right groups.

The first version of the Bill of the above mentioned Act of Recent Protection contained very complicated and vague wording of the conducts that gave a chance to interpret the offences in very broad and extensive way. Therefore, the work of expressing opinions carried out by the *Committee of Justice* was of outstanding importance and it made a serious control for the legislator to guarantee the fundamental rights. According to the proposals of the *Committee*, the wording of the conducts and norms was more accurate and exact, so that the aim of not having peaceful conducts under the authority of the laws of orders. The legal work in this codification was influenced very much by the long-lasting debates on the National Assembly and by the opinions and arguments of the criminal lawyers and scholars of criminal law of the era.

One of the distinguished point of the legal and political debates was the interpretation of the protected legal interest in the Protection Act of 1919. The reason for this is the following. While the Act IKOK and the Protection Act of 1919 aimed to protect the form of the state when

these acts were delivered, the Act of Recent Protection intended to 'protect the legal order of the state and society'. According to the critics, this latter wording meant a very broad term, making it possible for the authorities to launch criminal procedures against innocent people. Examining the text of the norm in an abstract level, the critical approach is justifiable, however, we must add that both the literature of the criminal jurisprudence, and the judicial praxis regarded it as their task to define the legally protected interest thoroughly. Thus, the hiatus of the legislature was solved by the judicial praxis.

It is important, however, to add, that to define the legally protected interest in this way can be regarded very advantageous because as the Act of Recent Protection, contrary to the Protection Act of 1919, did not phrase the current form of the state as the legally protected interest, emphasized that the constitutional settlement of Hungary is generally to be legally protected irrespective of the specific form of the state and of the political elite. Therefore, this act could have remained in effect if the form of the state changed because it always protected the legality of the actual time. This conclusion can be proven by the fact that after 1945, the majority of the National Assembly could not express any relevant critic against the Act of Recent Protection, so they intended to lay the foundations of a new law of order on the grounds of ideology. The other important aspect is that by the means of this legal term of arts, not only against the communists but against any groups of extremist ideology the criminal procedure could have been started. Thus, on the grounds of the charge of subversion of the state, besides the bolsheviks, the national socialists were condemned by the court as well.

In connection with the legal norms of the Act of Recent Protection, the general conclusion is that those norms were the modernized versions of the first law of order i.e. the Protection Act of 1919. This fact is very noteworthy because section 9 of the Act I of 1920 declared the years between 1918 and 1920 legally as an *ex lex* period. According to this, the legal norms of the subversion of the state in interwar Hungary meant the modification of the last part of section 3 of the Protection Act of 1919. Therefore, section 1 made the initiators, the leaders or the active participants and the promoters of groups having radical political ideology punishable as separate perpetrators. The importance of this regulation is that in contrast with the first laws of order, it reduced the spectre of the facts of the case by defining the conducts of the norm accurately and besides that the legislator differentiated between the perpetrators according to the severity of the criminalized conducts.

It can be regarded as a further innovation that the violent way of perpetration of the crime was not a legal fact of the norm attached to the criminal conduct but it had to be realized in connection with the movement and the organizing activity. Thus, the lawmaker did not

punished the violent conducts but it punished the form of groups having violent character. Therefore, after 1921 the jurisdiction had opportunity to take steps against groups having political ideology against the state even if according to the facts of the case no violent conduct was made. Thus, the arguments of the counsels for the defence were not approved, namely, that the accused were carrying out only non-violent political agitation, and therefore, they did not commit any crime. As a conclusion, it can be stated that with this legal form, in contrast with the serious hiatus of the laws of order of 1919, a solution for punishing the political offences *'having the grounds of a speculation'* was found.

The spectre of the crimes connected to the offence of subversion of the state was similar to the Protection Act of 1919. Sections 3-6 ruled the failure to report the crime, the appeal for the action in section 1 and the different cases of exemption where the authorities took into consideration the general known facts in favour of the accused i.e. positively besides the withdrawal and the family relations too. Moreover, it is to be highlighted that in comparison with the *Csemegi code*, the Protection Act of 1919 contained two new ways of incitement, namely, one referred to commit the crime in section 1, and the other was the antimilitary incitement.

The examination of the qualified cases worth mentioning because there was significant changes in the codification procedure. One of the qualified cases was the conduct carried out with a bigger amount of guns, ammunition, explosive or any means appropriate for cease human life. Just as the Protection Act of 1919, section 2 of the Act of Recent Protection preserved the complex offence *(delictum complexum)*, however, the lawmaker gave another content of the offence. Namely, in the interwar period, any crimes in connection with or the supporting the subversion of the state were evaluated as complex offences. According to the severity of this crime, all the members who were aware or should have been aware by due caution of the conducts of section 2, had strict liability, which was called as '*avalanche liability'* by *Pál Angyal*. Though this regulation can be considered as strikingly rigorous, its supplementary character must be highlighted as well. Namely, that the criminal responsibility was decided against only those who committed the conduct of the general case. In the judicial praxis, section 1 was usually coupled with the offence of the forgery of official documents because the use of a false passport by the members of the Communists Hungarian Party was a repeating action when they returned home.

Among the penalized legal norms in the Act of Recent Protection, the crimes in sections 7 and 8 i.e. the crimes and offences against the appreciation of the Hungarian state and the Hungarian nation were an important innovation compared to the previous laws of order, the

Protection Act of 1919. The reason for the regulation of the offences libel and slender as offences against the state was definitely the isolation in diplomacy as a consequence of the Trianon Peace. The difference between the libel against the nation and the slender against the nation was the following. While the norms of the case in section 7 were about the telling or spreading lies, untrue facts or rumours, the norms of section 8 were about the expressions of insulting and disgracing character or real actions both of which could have been based on true facts or events. Though the necessity of the second part of the Act of Recent Protection can be subject of scholar debates, we must conclude that the regulation of these political crimes, which were committed by words and expressions i.e. orally, made it possible to refute the public arguments of that time, namely, the aim of the lawmaker was to suppress the freedom of speech, because the libel and defamation previously existed as offences insulting the dignity of a human being.

In connection with the interpretation of the norms of the case in section 7, their distinction from other crimes emerged in the jurisprudence. According to the criminal jurisprudence of the time, the libel and defamatory cases had to be differentiated on the direction of the action, i.e. which actions were insulting to the Hungarian state and which to the government. The reason for this was that in the latter case, the provisions of *Act XLI on the Protection of the Honour* in 1914 (further the Act of Honour) had to be applied in the procedures, because the false statements were phrased against the persons in the government and not against the nation or the country. Yet, this argumentation was not accepted by the judicial praxis at all.

The other problem to be solved aroused in the cases when the facts of the case were carried out in the press. In the relating chapter, the two different legal approaches is presented. According to the first, on the grounds of section 32 of the Act on the Press, the offence regarding the press was when the perpetrator realized all the conducts of the case in the press. Thus, if there were any elements outside the press in the realization of the conduct, the Act on the Press was not applicable. Therefore, the libel against the nation by the means of the press belonged to this latter category. However, according to the opposite arguments, if the false or defamatory statements were published in the press, it was and had to be defined as an offence by the press irrelevant of the appearance of the other elements of the case. This hiatus was solved by the Curia by declaring the domestic, i.e. internal application of the sections 5 and 33-35 of the Act on the Press. In other words, when the offence of the libel against the state was carried out in the foreign press, only the laws of order was applicable. Observing, that this offence was

committed without any exception abroad, the application of the Act on the Press was impossible.

When wording the case libel against the nation in section 8, the lawmaker used the norms of the defamation in the *Csemegi code* in opposition with the more severe norms of the offence in the Act of the Honour. The reason for this regulation was that the judiciary should start criminal procedure only in case of strikingly serious defamatory expressions.

Examining the sanctions of the Protection Act of 1919, the following important question is that on what extent was the Act of Recent Protection rigorous. Considering the main and the supplementary punishments, the two acts were quite identical. The exception was section 2 because according to this section, the court could impose even capital punishment to the convict. However, regarding the qualified case of the subversion of the state, not just the possibility of this sanction was the novation, because the lawmaker, similarly to the Act of the Press, construed a system of gradual responsibility depending on the severity of the general offence committed together with the one in section 1, the initial point of this system of sanction was in the sanctions in the *Csemegi code*. As a consequence of this regulation, the courts had possibilities to impose proportionate sanctions considering the proofs of the case. This was the process typical of the political trials in the interwar period when not a single capital punishment was delivered between 1920 and 1939. The exception was the *Sallai-Fürst case* when to impose the most severe sanction was obligatory for the judge because of the summary jurisdiction and according to par. 2 in section 38 of the order 9550/1915 I. M. E.

According to the archive resources, we can express that though the courts had possibility to impose prison sentences of long term besides the capital punishment, the sentences failed or were simply not executed. This phenomenon can be traced back to several circumstances. In the 1920's the courts of first instance imposed severe prison sentences against the communist defendants, but on the grounds of the Hungarian-Soviet agreement on the change of war prisoners, these convicts emigrated to the Soviet Union, so they got exempted from the execution of this sentence. A part of these people, being the members of the Communists' Hungarian Party, who survived the Stalin purge, returned to Hungary only after 1945.

Another circumstance to be highlighted can be traced back to the legal proceedings. Generally speaking, the suspects were in pre-trial detention and custody of inquiry during the proceedings of the subversion of the state cases. Considering the long duration of these cases, the court of first instance applied section 94 of the *Csemegi code* consistently, therefore, the time spent in these custody and inquiry must be calculated into the time of the prison sentence. Therefore, in numerous cases, the convict could leave free on the day of the judgement because

during their detention, they passed the time for the prison sentence imposed by the courts. These judgements usually occurred when the accusation was for the failure of report the case of the subversion of the state. Furthermore, the general tendency was that in the 1920's more severe prison sentences were imposed than in the 1930's. There were only two exceptions. One was the *Sallai-Fürst case* and the other was the criminal procedure initiated because of the attempt against the synagogue in Dohány Street.

Section 10 of the Act of Recent Protection ruled the claim for damages made by the state, however, this claim was very moderate compared to the first law of order. Namely, the court had discretionary powers to consider the extent of the deprivation of the convict from his/her property according to the severity of the crime. Furthermore, the courts had right to impose penalty too. Irrespectively of this, the courts refused strictly to imply section 10 presumably in order to hinder imposing disproportionately severe punishments.

The aim of the rules of procedures of the political cases in the efficacy of the Protection Act of 1919 was that these criminal proceedings could have been initiated more easily. One of this means was to put section 11 into the law that extended the territorial and personal authority of the Act of Recent Protection so that the trials against the so called October's politicians, i.e. the ones agreeing with the event of 1918 October, who emigrated abroad could have been initiated. Section 12 had the very same purpose, when it put the so called *in contumaciam* trials into the recent criminal jurisdiction. Although the criminal proceedings with the absent defendant violated the criminal principle that the accused had the right to appear and defend him/herself in the trial, the lawmaker set numerous guarantees to the Act that made the correct delivery of the sentence even in these special circumstances. Par. 2 of section 12 made it obligatory to summon by public notice, to assign a counsel and in case of a condemning decision to avoid imposing the sentence. Besides that, if the convict gave notice for the authorities about the returning to the country or the police caught him/her, a new main trial had to be held.

On the bases of the archive resources, we can conclude that the *in contumaciam* procedures took place only in case of the libel against the nation. The court implied the rules of the special trials in every case. Examining these sentences, we can observe that the *'intellectual value'* of the sentences finding the convict guilty in the proceedings of libel against the nation was significant, because the court communicated to the society through these judgements that the Hungarian state defends herself against the false statements. However, besides the appropriate application of the Act of Recent Protection, the practice of the discontinuation of the procedure in the absence of the accused developed, therefore, the lapse of the significant proportion of the trials initiated against the October's took place.

Section 13 of the Act of Recent Protection made it possible to apply summary jurisdiction with the restriction that it could have been applied only exceptionally and in case of the general and qualified cases of the subversion of the state. Thus, the operation of the summary jurisdiction was not arbitrary because besides the Act of Recent Protection, the lawmaker set the legal basis for this special form of the court on the grounds of Act XXXVIII on the Extension of the Summary Jurisdiction in 1920. The government declared the conditions for summary jurisdiction in numerous occasions, however, the courts avoided from these procedures in the political cases, and referring to the lack of authority, turned these proceedings to the general courts. However, the extremist groups that were strengthening because of the effect of the great depression and the attempt of Biatorbágy in 1931 and as its consequence the extension of the summary jurisdiction all brought a change in the trials of the members of the Communists' Hungarian Party. That is the reason why *Imre Sallai* and *Sándor Fürst* as its result were sentenced to death in the summary jurisdiction.

In my thesis, I made the general description of the operation of the authorities taking parts in the political proceedings in interwar Hungary, by which the question whether the jurisdiction was impartial or not in these cases can be answered in connection with the thorough attention made by the press of the time. With the help of the archive resources, the following conclusions can be made. The rigorous behaviour of the authorities was a general tendency because apart from a slight exception, the accused could not defend themselves free during the procedure. Therefore, the accused made numerous objections to the judge of inquiry and after that to the council of persecution where they demanded to be let free on the grounds of the lack of crime or being sick, however, these objections were all dismissed. Furthermore, the aspect of the phase of the trials is to be highlighted when the chief judge of the council of the judges in charge took measures against the accused or made several times remarks meanwhile their confessions. This latter is to be regarded as the solely subjective element that could have happened in these trials. The reason for this was the following. The behaviour of the accused in the court room slowed down the work of the court significantly. However, irrespectively of this, the court of the first instance applied sections 92 and 94 of the *Csemegi code* regularly, and applied numerous mitigating circumstances, therefore, the happenings in the court room did not influence the judges in the delivery of the sentence.

In this topic, it is important to mention the statistics of the first chapter, because from those numbers we can made conclusions on the work of the judiciary too. It is apparent that although the number of the launched criminal procedures was high, the number of the cases finished by final and legally binding verdicts represented a more moderate proportion. From

this it is evident that the authorities worked in accordance to the rules, therefore, the arbitrary application of the Act of Recent Protection was out of question.

However, there is a place for critics because of the atrocities made by the police during the investigation phase of the procedure. These were not a continuous practice, yet, in some cases it can be proven that there happened violence against the arrested.

In the first chapter of the dissertation, it was revealed that because of the radical political groups developing after the turn of the century and then the communist or far right coups, other countries made attempts with the means of laws of order to protect their constitutional settlement. By the examination of the regulations of these states, the articles of the Hungarian press became refutable which declared that the Act IKOK and later the Act of Recent Protection were 'so deterrent' that there occurred no regulation alike in the first half of the 20th century in any other countries.

After the counterarguments of the above mentioned statement, the next important question of the research is the comparison of the Act of Recent Protection with the laws of order of other countries. In the chapter about the international overview, the following conclusions were made. Compared to the Hungarian legislation, in all the countries except the Netherlands, Estonia, Switzerland and the new Serbian state, the parliaments decided in favour of the severity of the crimes against the state after a political terror attack. In contrary with this, Hungary regarded the delivery of the laws of order as part of the consolidation after the communist coup. As an effect, while all the foreign regulation had separate rules for the more severe punishment of the political attempts, the Hungarian National Assembly ignored this type of regulation. The reason for this could have been that the *Csemegi code* had sanctions for numerous crimes that made the attacks against the monarch or other officials be liable in criminal procedures. Among others, sections 126-138 on high treason, 139-141 on the injury against the king or the royal family and sections 163-170 on the violence against the authorities, members of parliament or functionaries.

The most similar regulation to the Hungarian one can be found in the first place in the member states of the US, where these member states held it important to make laws of this kind since 1902. The starting point of the regulation was that not only the behaviour mentioned in a law can be violent, but the political ideology as well, therefore, the actions avoiding aggression can lead against the state. This principle was at first codified in the New York Criminal Anarchy Act. After then in several member states, and in 1918 in the *Espionage Act*, the antimilitary incitement, which appeared in the Act of Recent Protection, was punished more severely. Furthermore, the general feature of these laws of order were that each of the accused were

punished as separate perpetrators, thus, the participation in the crime was excluded as all the subjects were regarded as perpetrators.

In Western Europe, the special act of the Weimar Republic showed the most similarity with the Act of Recent Protection. The most important goal of the German law of order was to sanction the political groups which were formed to commit crimes against the state. We can find the strict liability similar to section 2 in the Act of Recent Protection and the sanctioning of the libel and slender against the nation too.

The Central European nation states, being formed as the consequence of the forced Trianon Peace Treaty, intended to protect their newly set form of the state with the means of laws of order too. However, these regulations were the means by which the indigenous minorities could have been suppressed, therefore, the parties representing them and the press of that time made constant critics about the legislation of these states.

According to the Hungarian Act of Recent Protection brought in interwar period and the laws of order of other countries, a general difference can be detected. Namely, that in most states the severity of these acts were increased by the delivery of other laws of order. While in Hungary, the laws of order was not modified even once, even if the legislation brought slightly numerous criminal laws after 1920. This circumstance also proves that the anomalies in the text of the Act of Recent Protection were ceased by the judicial praxis, so that the legal certainty in the crimes against the state was promoted.

Finally, it is important to have a touch upon present day criminal regulation in order to answer the question whether there was any effect of the laws of order on the interwar period to the legal terms of the cases of crimes against the state after the regime change in 1989 or whether they were laws with effect only on the 20th century. The answer can be found in the actual criminal code, i.e. the *Act C on the Criminal code* in 2012. Section 254 regulates the violent alteration of the form of the constitutional order of the state, namely, *'A person who commits an act directly aimed at changing the constitutional order of Hungary by using or threatening to use force…'* commits a crime. Furthermore, this section punishes the preparation phase of this offence, however, the person shall not be liable if there is a voluntary abandonment of the offence. From the text of the act, it can be ascertained that the effect of section 1 of the Protection Act of 1919 with the difference that the legally protected interest has a character typical of the Act of Recent Protection though. The same can be concluded on section 255, which regulates the same crime committed in organisation. *'A person who establishes or leads an organisation the purpose of which is to change the constitutional order of Hungary by using or threatening to use force …'* commits a crime. Moreover, it punishes the participation in such

an organization as well. Therefore, it can be declared without any hesitation that this research theme has high importance not just in the eyes of legal historians, but is has had a true effect on our present regulation on the crimes against the state.

3. THE LIST OF PUBLICATIONS IN THE TOPIC OF THE DISSERTATION

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