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PROFESSIONAL AND SCIENTIFIC PERIODICAL OF THE MINISTRY OF INTERIOR

JUDIT SZABÓ – GYÖRGY VIRÁG: Love in the Time of Pandemic.
Domestic violence during the first wave of COVID-19 in Hungary

DÁVID LUDÁNYI: Regulation of Advancement and Salary Systems in the Hungarian Public Administration

ZSÓFIA IVANICS: Conceptual issues and theoretical considerations regarding the study of prison labour

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its development from the point of view of national security, counter-terrorism, and private security

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GÁBOR STEINER: The issue of limitation in the context of transitional justice

BOOK REVIEW: Collaborative Society. The MIT Essential Knowledge Series

volume

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PREFACE

'Knowledge is worthless if you do not apply it in practice.'
Anton Chekhov

Dear Reader,

Theoretical knowledge and practical knowledge are like two sides of the same coin, which are equally important. To combine them effectively and efficiently, you need to be able to apply both. Practical techniques take longer to learn. At the same time, in order to increase efficiency, we also need to take the time to understand how these practical solutions fit and work within a larger system. Theoretical knowledge, complemented by practical solutions, helps to understand why one technique is successful and another is not. Because theoretical knowledge builds on the experience of others, by applying it properly, we can gain a deeper understanding of the concept by examining it in the context of the underlying causes.

The members of the editorship of Belügyi Szemle have taken decisive and significant steps over the past three years to acquire relevant theoretical knowledge to facilitate the development of Belügyi Szemle in the domestic and international academic arena. With the foundation of theoretical knowledge, our editorship has achieved its short-term goals, as a result of which we have been able to become a respected member of the international scientific community. We believed in ourselves at every moment and in the significance of our results, and at every moment we strive to expand and deepen both our professional and practical knowledge in order to achieve further success of the scientific journal Belügyi Szemle. In the year 2022, our editorship planned to implement a number of great and valuable developments, for the implementation of which we will continuously increase our theoretical knowledge, which, in the words of Anton Chekhov, we want to apply effectively in practice.

Please welcome the scientific thoughts appearing in the 1st English-language special issue of Belügyi Szemle 2022, which will serve as a scientific resource to answer any professional and scientific questions that may arise.

the Editorship

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Love in the Time of Pandemic
Domestic violence during the first wave of COVID-19 in Hungary

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Abstract
In accordance with the different research data published worldwide on the effect of the COVID-19 pandemic on domestic violence, a significant rise could be detected in the number of the registered cases in Hungary as well. The aim of the article is to present the relevant available data during the first wave of the pandemic (March – June 2020), to outline the important provisions of Hungarian legislation, and to summarize the main psychological factors that contribute to the link between pandemic restrictions and the increase in domestic violence. The questions on management and treatment of the problems emerging from the pandemic situation regarding violence at home are also addressed. Besides the method of literature review the research was based on the analysis of statistical data acquired from different sources on the studied phenomenon. Both international and national data confirmed the conclusion that pandemic circumstances and necessary restrictions inevitably increase the prevalence and seriousness of domestic violence. Further research is needed to find specific tools and methods to adjust to the challenges of the new situation.

Keywords: domestic violence, COVID-19, psychological factors, intervention, prevention

Introduction

Putting 'COVID-19' to the Google web search engine, the result returned is about 6,000,000,000 (!) hits in 0.73 seconds.[1] Coronavirus 2019, an infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), was first identified in December 2019 in Wuhan, Hubei, China, and has resulted in an ongoing pandemic. In Europe the third wave of the pandemic[2] with new mutant variants of the virus is just behind us, moreover, the imminence of the fourth wave is of high probability. It would not be an exaggeration to say that in a sense the health crisis - and the related socio-economic effects - developed on a scale as never before in this century. Apparently COVID-19 impacted not only people's physical condition but had a strong effect on their mental health as well. Partly due to this fact and partly because of other factors, circumstances of the pandemic situation, the incidence of domestic violence (DV) dramatically increased all around the world (URL29). Is the experienced phenomenon important enough to be worth dealing with, or can social science simply ignore it as of only some temporary significance? The question may sound odd, but we should keep in mind that only about a hundred years ago, right after World War I, some 21 million people died of the deadly pandemic, known as Spanish flu, and we did not find any source of the time raising the problem of increasing violence at home[3]. However, since then the world has become much more sensitive towards violence than it was ever before. The mainstream Western culture of the 21st century does not tolerate violence, neither at home hiding between the benevolent cover-up of the domestic walls and not even in the time of a pandemic. Therefore the experienced incidents must not pass over in silence, regardless of where in the world they may occur; they should be in the focus of public discourse and scientific interest as well.

In April 2020 the United Nations Population Fund (2020) predicted the increase of gender-based violence during the lockdown in all 193 United Nations member states, estimating an additional 15 million cases for every three months the lockdown continues. This prognosis was later confirmed worldwide (URL29) by scientific and news reports from different countries. In China, for example, where domestic violence has always been a widespread problem, cases have risen dramatically after quarantine orders were issued. In Jingzhou, a city located

1 Just to compare: it is almost twice as much as the number we get for 'sex', a word of very high 'hit value', and where the search result is about 3,200,000,000 hits in 0.41 seconds.
2 In Hungary the third wave lasted roughly from February to May 2021.
3 Actually even dealing with this phenomenon, or to realize or accept its existence was unknown and untouchable until the '70s of the last century.

in the province of Hubei, the number of domestic violence cases reported to police had tripled in February 2020, compared to the same period of the previous year (URL25). Similar alarming trends were seen in other parts of the country, often worsened by the reluctance of the police and the weakening of the victim support system (URL41). The aggravation of the problem was reported from European countries – e.g. the Balkan states (URL26), Belgium, Spain, Ireland, the Russian Federation (URL1), Portugal (Gama et al., 2020) –, from the United States (URL30), Canada and several Asian and African countries (United Nations Women Headquarters, 2020), e.g. Turkey (URL40), India (Pal et al., 2021), Kyrgyzstan (URL2), Japan (Ando, 2020), Pakistan (URL27), Tunisia (URL38), Singapore (URL5) and Kenya (URL34) as well. In the United States, even though crime rates have been reported to have declined during the months of the first lockdown, evidence suggests that serious crimes which are usually committed without co-offenders - e.g. homicide and intimate partner violence - have either remained constant or increased (Boman & Gallupe, 2020). In France a 30 percent rise in family violence was detected after the first lockdown in March 2020 (URL3). In the United Kingdom during the first three weeks of the lockdown, between 23 March and 12 April sixteen suspected domestic abuse killings were identified, which is more than twice as much as it was in the same period over the previous 10 years (URL31). In the World Health Organization Europe member states a significant increase in emergency calls to domestic violence hotlines had been reported during the first lockdown in 2020 (URL4).

Hungary was no exception; an increase of domestic violence cases was experienced in the country right at the time of the first lockdown in the spring of 2020 (URL28, URL36). The first reports identifying the problem came from the National Crisis Management and Information Telephone Service (OKIT) and civil society women's organizations like PATENT and NANE, and were since confirmed by official statistical data. This time period partly coincided with the 'Year of victim support' declared by the Ministry of Justice in January 2020, right before the pandemics.

COVID-19 impacts on mental health

Based on experiences from previous, almost worldwide pandemics like SARS-CoV[4] in 2003 and Ebola[5]e.g. in 2014, it was not unexpected that measures meant

4 Severe Acute Respiratory Syndrome.
5 Ebola virus disease (EVD).

to slow the spread of COVID-19 would have an adverse effect on mental health. For instance, negative psychological outcomes like anxiety, insomnia and depression have been found to be common among patients, relatives and medical personnel affected by SARS-CoV in 2003 (Tsang, Scudds & Chan, 2004; Sim & Chua, 2004; Wu et al., 2008). Thus the occurrence of similar serious psychological consequences caused by the stressful circumstances, the need to rapidly adapt to a new and dangerous situation and the uncertainty and low predictability of the future was foreseeable in case of COVID-19 pandemics.

The very first reports came from China, the origin country of the pandemics. Research, analysing the Weibo posts from 17,865 active Weibo[6] users, showed that COVID-19 influenced the psychological states of people across China. According to the results '*negative emotions (e.g., anxiety, depression and indignation) and sensitivity to social risks increased, while the scores of positive emotions (e.g., Oxford happiness) and life satisfaction decreased. People were concerned more about their health and family, while less about leisure and friends*.' (Li, Wang, Xue, Zhao, & Zhu, 2020). Holmes et al.'s (2020) survey carried out in the UK general population also revealed widespread concerns about the effect of social isolation or social distancing on wellbeing, increased levels of anxiety, depression, stress, and other negative feelings, and concern about the practical implications of the pandemic response, like financial difficulties. Further research findings indicate that being quarantined can be an aggravating factor in mental health problems (Brooks et al., 2020), and that COVID-19 pandemic resulted in high prevalence rates of depression, anxiety and acute stress symptoms in the general population (Wang, Xu & Volkow, 2021). In their article Brooks and colleagues (2020) reviewed 24 papers meeting their inclusion criteria from three electronic databases on the psychological impact of quarantine, concluding that the latter is wide ranging, substantial, and can be long lasting. Longer quarantine duration, infection fears, frustration, boredom, inadequate supplies, inadequate information, financial loss and stigma are stressors that cause negative psychological effects like post-traumatic stress symptoms, confusion, and anger in the people affected. Further adverse effects of social isolation identified by research are – among others – different psychosocial problems (Usher, Bhullar & Jackson, 2020), changes in health-risk behaviours like alcohol and tobacco use (García-Álvarez, Fuente-Tomás, Sáiz, García-Portilla & Bobes, 2020), and increased suicide risk (Reger, Stanley & Joiner, 2020). Pre-existing psychiatric or substance use problems are likely

6 Sinai Weibo is China's most popular microblogging website. It is one of the biggest social media platforms in China with over 400 million monthly active users.

to increase the chance for adverse psychosocial outcomes (Pfefferbaum, Boulware, Klompas, Beigel & Department of Psychiatry and Behavioral Sciences, 2020). Hungarian data also underpin the link between the coronavirus pandemic and psychological factors like anxiety and depression (Szabó, Pukánszky & Kemény, 2020), and the increased vulnerability of psychiatric patients already dealing with mental health issues (Kulig et al., 2020).

COVID-19 impacts on domestic violence

Along with the news indicating the worldwide exacerbation of domestic abuse during the COVID-19 pandemic, research on the causal background of this relationship has also boomed. Interest toward previous research results on the growth of family violence in times of natural and humanitarian catastrophes (Parkinson & Zara, 2013) increased as well. According to Peterman and colleagues (Peterman, O'Donnell & Palermo, 2020; Peterman & O'Donnell, 2020) work based on the results of numerous studies, COVID-19 pandemic and associated policy response measures increase on violence against children and women across contexts, and also shed light on the possibility that under-reporting may account for mixed or decreasing trends that have appeared in a few reports.

In their article Moreira and da Costa (2020) summarize the potential causes for the change, stressing that knowledge on the dynamics of violence and on risk factors associated with it can help to establish an understanding on the link between pandemics and the exacerbation of intimate partner violence (IPV). Stress-inducing factors like social isolation, the restructuration of the regular household routine, increased time with the partner and the fear of the disease can significantly contribute to the precipitation of IPV episodes. Other circumstances assumed to be related to the exacerbation of DV are unemployment, decreasing income, increasing gun and ammunition sales, the closing of bars and restaurants and the mass release of prisoners to reduce the risk of spreading COVID-19 in confinement (Campbell, 2020). Along with the rise in the magnitude of the problem of DV, measures and policies adopted by the states to reduce the spread of the virus may also considerably limit victims' access to specialized services.

The main psychological factors that contribute to the link between pandemic restrictions and the increase in DV are 1. isolation, 2. loss of control, and 3. fear and anxiety caused by the new situation.

1. As a consequence of the pandemic restrictions like social distancing, school and work closures and travel restrictions, family members are locked together

with strictly limited outside contact possibilities. Isolation, forced closeness and the lack of privacy not only induce and generate tension and conflicts in the domestic environment, but at the same time are favourable for the potential family violence perpetrator. To isolate the victim as an act of control or to reduce opportunity for disclosure of the violence committed is quite common for DV abusers (Campbell, 2020). Judith Lewis Herman pointed out in her widely cited paper already in 1992 the general effects of the prolonged isolation '*where the victim is in a state of captivity, under the control of the perpetrator. The psychological impact of subordination to coercive control has many common features, whether it occurs within the public sphere of politics or within the private sphere of sexual and domestic relations*' (Herman, 1992). Isolation also means less option to find help or safety, to get support from a friend or a family member, to flee to a shelter or safe house, or to get protection from the police. Actually, even to get medical aid or to get into an emergency room is strongly obstructed by the circumstances and restrictions. It is worth to mention that the phrase 'trapped at home' was frequently used in the media to describe this situation, reflecting that the victim is caught in a hopeless and unpleasant situation from which s/he cannot escape, and using an expression for it with unquestionable animal connotation.

2. Crises which are definitely over the control of the individual – like natural disasters, financial or economic crises with unemployment and everyday economic difficulties and pandemics – have a fear and anxiety generating character. Loss of control is inherent: individuals are confronted with their helplessness and losing the power to influence or direct their life. Life seems to be out of control and this raises an intense and robust need for regaining the lost control. The need to get back at least some semblance of control can trigger or increase the controlling behaviour towards the closed or cohabiting members of the family, or can much worsen the already abusive or violent relationship.
3. The outbreak of a global pandemic focuses people's attention to the life threatening danger of the new or unknown disease. They generally experience stress and uncertainty, and are faced with the low predictability of the foreseeable future. This occurs as an elemental and profound feeling, a danger signal that inevitably triggers and provokes deep fears and anxieties. Thus this emotional state could lead to a look for union, support or solidarity, but most likely elicit aggression in order to try to re-establish the balance and defence of the endangered self.

Law: Legislation on domestic violence and restraining orders

Until 1 July 2013, when the Act C of 2012 on the Criminal Code entered into force, DV was not a sui generis criminal offence in Hungary. Within the frames of the former criminal Code, Act IV of 1978, cases of DV were prosecuted under other 'general' (i.e. non relationship specific) offences, e.g. battery, harassment and abuse of a minor. Section 212/A of the new Criminal Code has introduced the novel offence of 'relationship violence' (RV), which development was preceded by extensive debates in parliament and civil society.

The first subsection of Section 212/A penalizes violent behaviours that harm human dignity and are degrading, and also acts of the misappropriation or concealment of any assets from conjugal or common property resulting in serious deprivation, if these are committed on a regular basis against a relative. These offences are considered to be subsidiary in nature, that is they are only applied if the act did not result in a more serious criminal offence. The prosecution of these criminal acts is only possible upon a private motion. According to the second subsection of Section 212/A, certain cases of battery (assault), slander, violation of personal freedom and duress (coercion) against a relative are considered to be more serious and thus more harshly punishable, so-called qualified cases of RV. Regarding this section, the concept of relatives includes the parent of one's child, former spouses, former life-partners or other relatives living in the same household or dwelling at the time of commission or previously, one's conservator, persons under one's conservatorship, one's guardian or persons under one's guardianship. Pursuant to the ministerial reasoning of the Criminal Code, the criterion 'regular basis' means at least two separate instances of relationship violence.

Even though the introduction of the new offence pertaining to DV could be seen as a positive development, its flaws were obvious already before the new provisions entered into force. Since then the criminal offence of RV and the legal practice based on it has attracted a lot of critical attention mainly – but not solely – from non-governmental organizations (NGOs) advocating women's rights. The US Department of State's Country Reports on Human Rights Practices (2019) and the United Nations Human Rights Committee's Concluding observations on the sixth periodic report of Hungary (2018) sum up the main reasons why the applicability of Section 212/A of the Hungarian Criminal Code is limited and thus does not offer adequate protection to victims of DV. According to Section 212/A of the Criminal Code, cohabitation or joint children and at least two separate instances of violence are required for the establishment of the offence. Thus, this provision does not protect those who do not have either

a common child or a common home with the perpetrator, and those who have only been abused once. The fact that sexual offences are not included within the conducts of the offence in question can be considered as a serious flaw of the provision, too. The private complaint of the victim is also a questionable requirement, even though it does not apply for the qualified cases.

A number of problems have been pointed out in the legal provisions and practice on protection orders as well. Act LXXII of 2009 on the Restraining orders applicable in case of violence among relatives introduced two forms of restraining orders. According to Section 6. paragraphs (3) and (4) a temporary preventive restraining order can be issued by the police at the scene of a domestic violence incident for a maximum of 72 hours if – based on the circumstances of the case – there is reasonable ground for the suspicion that violence between relatives has been committed.[7] The order needs to be reviewed by court within a 72 hours' time period. The court can either overturn it, or uphold it and impose a preventive restraining order for a maximum of 60 days without the possibility of extension. A preventive restraining order may also be requested by the abused or the relatives of the abused, as defined in Section 14. paragraph (1). These civil law protection orders temporarily limit the abuser's freedom of residence, right to choice of place of residence, parental rights and right to contact one's child.[8] The person against whom the preventive or temporary preventive restraining order has been issued is obliged to stay away from the abused, to stay away from the apartment serving as the habitual residence of the abused, to stay away from the person specified in the order and to refrain from any direct or indirect contact with the abused.[9] However, if the habitual residence of the abused is shared with the abuser, it only falls under protection if the abused has a title for the use of the apartment other than favour or is raising a child common with the perpetrator.[10] The main problem with Hungarian regulation – besides the fact that practice based on it is retroactive and not proactive – is that the circle of those protected by temporary preventive and preventive restraining orders is too restrictively determined and violence defined by the law has a too narrow scope (Taba, 2018).

Besides civil law protection orders, a restraining order can also be issued as a coercive measure during the criminal proceedings. This measure was incorporated into the former Criminal Procedure Code, Act XIX. of 1998 years before the introduction of civil law protection orders. Because of the numerous flaws

7 Act LXXII of 2009, Section 1 contains detailed definitions of 'violence among relatives' and relatives.
8 Act LXXII of 2009, Section 5. paragraph (1).
9 Act LXXII of 2009, Section 5. paragraph (2).
10 Act LXXII of 2009, Section 5.paragraph (3).

of this previous regulation (Taba, 2018), the new Criminal Procedure Code (Act XC. of 2017) has significantly amended the provisions on restraining order to be issued in criminal proceedings. According to the new regulation, if conditions in Section 276. are met, a restraining order can be issued upon the motion of the prosecutor or upon the request of the victim, in order to prevent the hindrance or frustration of the evidence or to prevent recidivism. The order may remain in force until the end of the criminal procedure. Its duration is tailored to the proceedings, and can be prolonged according to the rules specified in Sections 289–291. Under the effect of a restraining order the perpetrator is obliged to refrain from contacting the person protected by the measure and to keep distance from this person. The court may impose further obligatory behavioural rules, such as to leave and stay away from a specific house, or to remain distant from the residence, workplace, institutions and other places regularly visited by the person concerned by the restraining order.[11] Should the perpetrator violate the prescribed behavioural rules, he/she may be taken into custody and placed under criminal supervision, or a technical tool, tracking his/her movement, may be applied, or stricter behavioural rules may be imposed, or he/she may get arrested. General rules pertaining to coercive measures[12] are to be applied in the case of restraining orders as well, enforcing important legal guarantees like e.g. the principles of proportionality and gradualism.

Despite the significant improvements in Hungarian regulations on restraining orders, further development is needed in order to provide adequate protection for victims of DV (Tóth, 2019; Taba, 2018). The new Criminal Procedure Code establishes a link between civil law and criminal law measures, however only in the case of temporary preventive restraining order. The system of protection orders could function more effectively, if civil law and criminal law measures would constitute a more coherent legal framework for the protection of victims of domestic violence. Furthermore, some argue that restraining order may not be best regulated as a coercive measure under the provisions of criminal procedural law (Tóth, 2019). The issuing of such a restraining order has to be based on reasonable suspicion of having committed a crime, and so it can only be imposed upon a defendant. Thus, by the time of the court's decision the help provided for victims of DV may be far from being immediate and quick (Tóth, 2019).

Besides the flaws of legal regulations, a number of other problems have been pointed out recently regarding the treatment of DV in Hungary. According to the United Nations Human Rights Committee's Concluding Observations on the

11 CPC, Section 280.
12 CPC, Section 271.

Sixth Periodic Report of Hungary (2018), DV continues to be a persistent and underreported problem, police response to cases of DV and the mechanisms to protect and support victims are inadequate and access to shelters remains insufficient. The report of the Immigration and Refugee Board of Canada on domestic violence in Hungary (URL32) also refers to a number of sources indicating that numerous problems prevail in the country with regard to the application of laws and regulations and the responses of the police, courts and child protection authorities to the problem, among others. But the field with the greatest room for improvement with regard to DV in Hungary is the network of institutions and services available for victims.

Victim support: Institutional system of care provided for victims of domestic violence

Even though facilities are still far from being sufficient, there are growing number of services and institutions that provide help and support for victims of DV. The country's Victim Support Service started functioning on the 1st January 2006 as a government organization. Its offices are integrated into the County Government Offices, and provide advice and information, legal assistance and financial aid, among others. Under the goal of setting up a nation-wide network of victim support centres, in 2018 the Ministry of Justice started the establishment of Victim Support Centres that provide a wide range of tailored services in a centralized manner. Currently there are seven centres in the country, three having been opened in 2020 and one in 2021, and several more to be set up in the near future (URL15). As a recent development, regional crisis management ambulances have been established by the state in 2018, providing walk-in consultations without accommodation in DV cases, not only for women. Six of the nine existing services are operated by the Hungarian Interchurch Aid (URL11).

There are a number of helplines where victims of DV can turn to for help. Victim Support Line is a free-of-charge hotline that is accessible 24 hours a day for all victims of crime. A more targeted/specialized helpline is the National Crisis Management and Information Telephone Service (OKIT) that also operates 24/7 free of charge and provides survivors of DV, child abuse, prostitution and human trafficking with information and – if necessary – secures accommodation in an acute crisis situation (URL8).

Two other helplines for victims of family violence are also available, though only in a limited time frame, operated by civil society women's organizations. NANE (Women's Rights Association's Helpline) is accessible by phone and

e-mail free of charge for victims of gender-based violence, child abuse, sexual violence and incest (URL12). PATENT Association (Society Against Patriarchy), which provides emotional support, legal aid and psychological assistance for victims of violence against women and those whose reproductive rights are curbed, also operates a helpline, among other services (URL13).

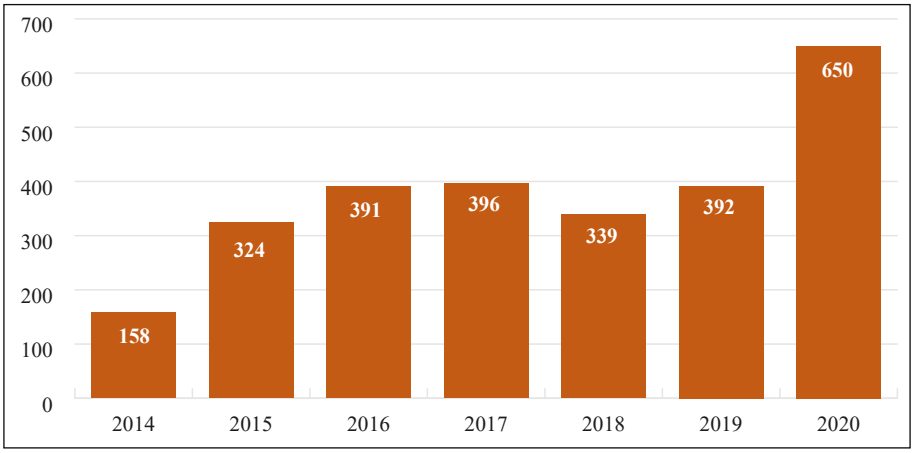
As for institutions providing accommodation, there are currently twenty crisis centres, eight secret shelters and twenty-one halfway-houses operating in the country, and according to the Ministry of Human Resources, the number of places available in these institutions has recently been increased (Körtvélyesi et al., 2020). The operators of these facilities – besides the state – are church institutions, civil society organisations and municipalities. Crisis centres offer accommodation and complex services to DV victims who have had to leave their home. Services include – among others – legal and psychological counselling, assistance through social work, mediation of health care services, etc. (CEDAW, 2019). These centres function with a capacity of six places and a caring time of four weeks which can be extended in certain cases for a maximum of another four weeks. Eight secret shelters with a maximum capacity of eighteen places each are also available for victims of DV and human trafficking in danger for a maximum period of six months. Those leaving the crisis management system can resort to halfway houses, which offer long-term accommodation and professional assistance.

Numbers, data: Domestic violence before and during the first lockdown

Being a seriously underreported crime, the magnitude of DV can only be estimated, and not measured, even when relying on official crime statistics. This question is further complicated by the introduction of the novel offense of RV mentioned above, which does not fully cover all crimes under the umbrella term of DV, but which, at the same time, is somewhat broader than the traditional concept of DV. Since the latter act has entered into force on the 1st July 2013, it is best to analyse official crime trends regarding domestic – relationship – violence from the year of 2014, as can be seen on figure 1 below. However, it should be noted that the database we have relied on, the Unified Statistical System of Investigations and Prosecutions, contains data on finished investigations (reflecting the time when decision on indictment or discontinuation has been made), so offenses are not registered at the time they were actually committed.

As can be seen on Figure 1, after the transitional year of 2014[13], the yearly number of registered cases did not change remarkably for five years, with numbers ranging between 324 and 396. However, data from 2020 reveal a sudden significant rise, which change is most probably a consequence of the worsening situation of family violence due to the lockdowns. Even though – as we have mentioned before – data from USSIP do not always reflect the actual time of commitment, they do call attention to the sudden significant change in numbers.

Figure 1: *The number of registered relationship violence cases in Hungary*



Note: Created by the authors based on USSIP database.

The effects of COVID-19 pandemics hit the country in March 2020. On 11th March, shortly after the announcement of the first confirmed case, Government declared a state of danger and introduced restrictions seriously limiting everyday life to slow the spread of the virus. Because schools closed and education moved online, many lost their jobs or started to work from home, and curfew restrictions were established, people started spending more time in their homes, locked up with family members. Meanwhile the adverse economic impacts of pandemics also started to show (Moldicz, 2020), among which the rise of unemployment rates can be mentioned as a crucial factor affecting mental health. This psychologically challenging situation brought about changes in the morphology of crime as well (Póczik, Sárik & Bolyky, 2020). During the first wave of COVID-19 pandemics a growing number of reports emerged about the rise

13 The low number of registered relationship violence in 2014 was probably due to the fact that many domestic violence acts were registered according to the previous Criminal Code, under a non relationship specific offence, as the previous law did not contain this 'specific' offense.

in violence, and more specifically on the increase of crimes considered to be DV. A women's rights association NGO (NANE)[14] experienced receiving more serious calls on their helpline in this period, concluding that pandemic restrictions may have worsened already existing domestic abuse in many families, turning it into physical or even life-threatening abuse (URL37). According to NANE associates, the situation was aggravated by the fact that because of the constant presence of their abuser, victims of DV were less able to seek help, and the access to shelters was also limited. Another women's rights defender NGO (PATENT Association)[15] also reported a rise in calls, despite the increase in their helpline's capacity (URL37).

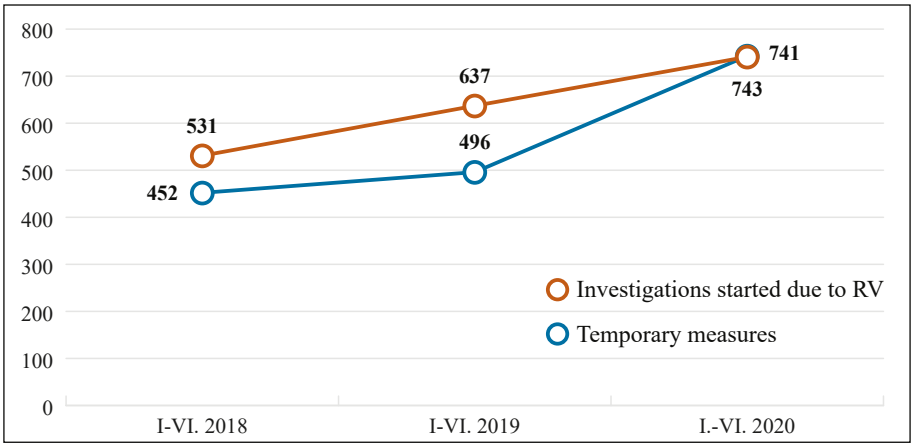
In the spring of 2020 several media reports were published on the substantial rise in crimes that are considered to be domestic abuse. According to data reported by g7.hu (URL28), even though crime rates dropped by a quarter in March 2020, DV increased by half during this time period. The statements of the article were based on change in the number of registered cases of RV,[16] so the author probably relied on data from USSIP (see Figure 1)[17]. Analysing crime data requested from the police, an independent MP, Bernadett Szél came to the conclusion that crimes committed against relatives rose by 11 percent, and specifically RV increased by 88 percent in 2020 compared to the previous year, with victims being mainly women, and a record number of temporary preventive restraining orders was issued (URL10).[18]

To provide a comprehensive picture of how COVID-19 affected DV, we present and analyse statistical data obtained from the Hungarian National Police Headquarters (NPH), the National Crisis Management and Information Telephone Service (OKIT) and Hintalovon Child Rights Foundation.[19] Because of the aforementioned shortcomings of USSIP data, we sought to rely on data that is informative on the time of commission. Figures 2 and 3 below depict the number of investigations started and the number of temporary measures issued by the police in the first six months of 2018, 2019 and 2020, based on data from the RoboCop system. Even though data provided by the police were not broken down by month, the figures illustrate that the number of investigations

14 Nők a Nőkért Együtt az Erőszak Ellen (Women For Women Together Against Violence Association).
15 Patriarchátust Ellenzők Társasága (Society Against Patriarchy).
16 With the Ministry of Interior Data being the data source.
17 As we have indicated before, USSIP data are not informative enough in this regard, since probably not all relationship violence committed in March 2020 were registered at the time they were committed, and a part of the registered offences may have been committed the previous months.
18 Contents of her Facebook post were published by different news websites, e.g. index.hu (URL35).
19 Acknowledgements: The authors would like to thank Hungarian National Police Headquarters, National Crisis Management and Information Telephone Service (OKIT) and Hintalovon Child Rights Foundation for providing data for the figures.

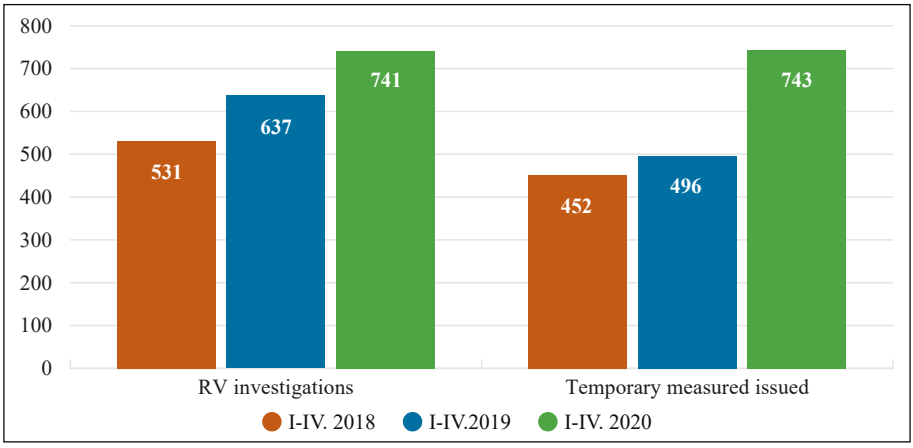
started and measures issued due to RV rose significantly in the first half of 2020, compared to the same period of the previous years. It is also true, however, that a modest increase was observed in 2019 compared to 2018, so the rise experienced in 2020 may not only be imputable to the pandemics. What can be acknowledged as a marked change is the coincidence of the numbers of investigations and measures in the year of 2020.

Figure 2: *The number of investigations started and temporary measures issued due to RV by the police in the first six months of 2018, 2019 and 2020*



Note: Created by the authors based on data provided by NPH.

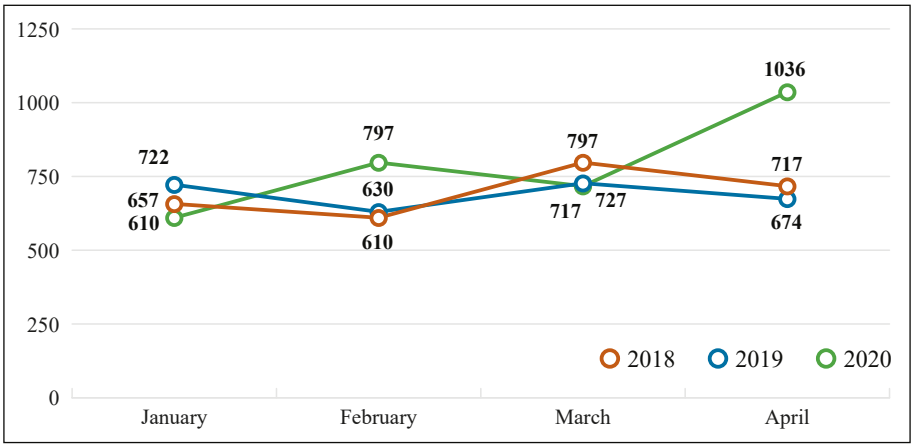
Figure 3: *The number of investigations started and temporary measures issued due to RV by the police in the first six months of 2018, 2019 and 2020*



Note: Created by the authors based on data provided by NPH.

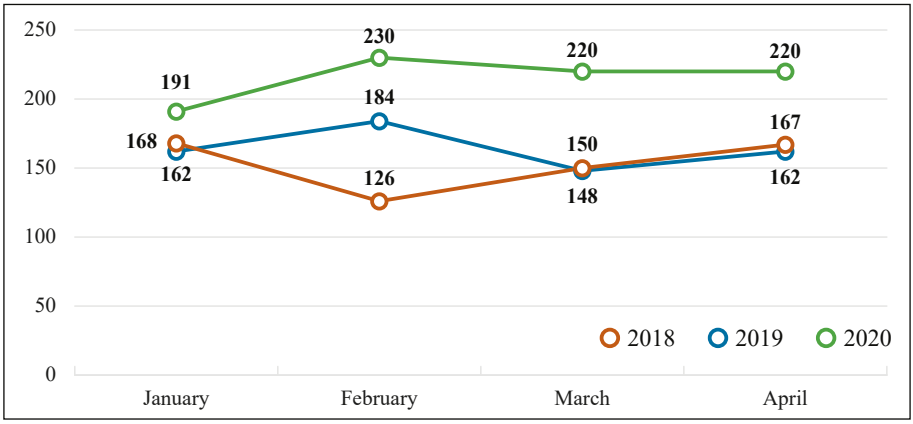
Data provided by the National Crisis Management and Information Telephone Service (OKIT) also appear to corroborate the increase in DV during the first months of the lockdown. About a quarter of the calls to the helpline pertain to DV (Boglacsik, 2017). Figure 4 below shows the monthly distribution of calls received by OKIT in the first four months of 2018, 2019 and 2020. The graph depicts clearly that not only the number of calls coming to the helpline increased in the first months of 2020 as compared to the previous two years, but their distribution also shows a different pattern than before. The tendency of rise appears to be most pronounced in April, with the number of calls almost doubling in comparison with the data of the previous two years, and we can only presume that this trend continued in the following months. Figure 5 provides further evidence to support the presumption that restrictions brought about by COVID-19 had an unfavourable effect on DV. The number of calls received by OKIT specifically with regard to DV shows a marked increase in 2020, even though the initial rise turned into stagnation in March and April.

Figure 4: *The monthly distribution of calls received by OKIT in the first 4 months of 2018, 2019 and 2020*



Note: Created by the authors based on data provided by OKIT.

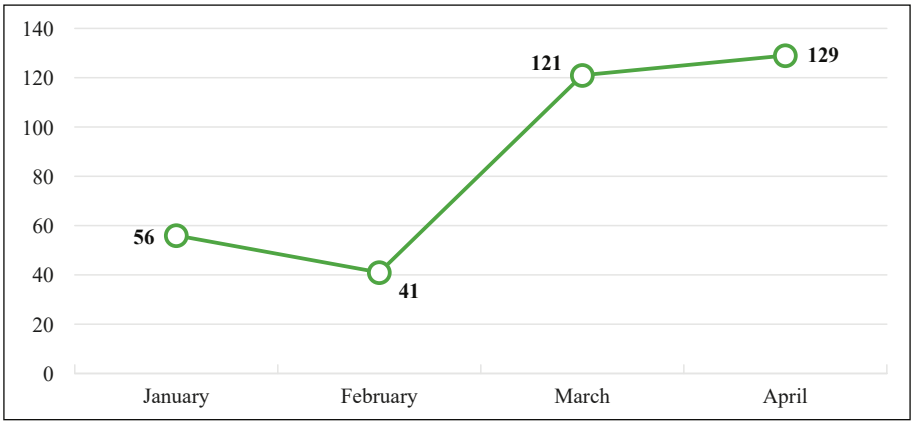
Figure 5: *The monthly distribution of calls pertaining to domestic violence received by OKIT in the first 4 months of 2018, 2019 and 2020*



Note: Created by the authors based on data provided by OKIT.

We also requested data from Hintalovon Child Rights Foundation. Even though the Foundation does not specifically deal with cases of DV, it provides nationwide assistance to children, receiving inquiries on several channels. Figure 6 shows the number of requests and inquiries coming into the Foundation in the first four months of 2020. The numbers fit into the general picture as they show a rise in March and April compared to the first two months of the year, partly due to the legal aid chat initiated in March and yielding further requests.

Figure 6: *The number of requests and inquiries received by Hintalovon Foundation in the first months of 2020*



Note: Created by the authors based on data provided by Hinatlovon Foundation.

Reaction: State and civil response to the increase of domestic violence cases during the first lockdown

The fight against DV is a difficult task itself, but in the new situation brought about by COVID-19 it seems to be almost invincible. Counter-pandemic measures not only caused an increase in the level of DV, but also posed a challenge for prevention and treatment efforts. Because of the restrictions, service providers faced serious difficulties in continuing their prior activity in supporting victims of gender-based and family violence.

To tackle the problem more effectively a number of measures have been taken by countries (Pearson et al., 2021; EIGE, 2020; Mittal & Singh, 2020). The European Institute for Gender Equality (EIGE, 2020) has reviewed reactions given by member states to the new challenge, identifying 228 individual measures undertaken in the 27 EU Member States, most implemented by governments and many by NGOs. The Institute classified several measures as promising, mainly from Belgium, Ireland, Spain and Slovenia, partly linked to national action plans or to legislative or judicial interventions. Communication and support tools like instant messaging services and helplines, as well as awareness raising campaigns were also implemented in different states. Madrid, for instance, established a new counselling messaging service with a geolocation function and an online chat room that provides immediate psychological support for victims (URL14). Several countries adopted a messaging system, using a specifically designated code, 'Mask 19' for victims of domestic abuse to get help, e.g. in a pharmacy (Su et al., 2021). A good example for providing emergency shelters for victims is that of France, where hotels were utilized as safe houses (Su et al., 2021). Obviously increased demands on services call for increased funding, so effective fight against DV during the lockdown assumes adequate financial resources. According to the results of the EIGE (2020) survey,[20] nine respondents from seven EU member states indicated to have received government funding and three further respondents from another three states received local government funding, Hungary not being among them.

Hungarian government knew little about what the new year would bring due to COVID-19 world pandemics in January 2020, when the 'Year of victim support' was declared in the country (URL9). Although this period coincided with the breakout of COVID-19, and thus developments achieved according to this plan and the state reactions given to the pandemics are somewhat entangled,

20 An online survey was sent to 196 support services across the EU, but there were only 35 responses received in total (an 18 % response rate), from 17 Member States.

we attempt to give a short overview below on the changes that occurred in this field in 2020.

With the package of measures planned to be undertaken in the 'Year of victim support', the main goals of the Ministry of Justice were the development of the national victim support and victim protection system, the increase of its efficiency, and the buildout of a nationwide network of Victim Support Centres. Having faced the consequences of the first lockdown, in May 2020 the Minister of Justice promised strong action against domestic and intimate partner violence and the effective protection of victims by cooperating with women's rights groups and by establishing more support centres, helplines and awareness-raising campaigns (URL33). These goals have been mostly, though not fully met. The most important achievement was the opening of three new Victim Support Centres in 2020 and another one in 2021 (URL15), thus doubling the system's capacity. A new victim support information website (vansegitseg.hu) was started and a video podcast series called 'Ordinary stories' on victimization was also launched, though not addressing specifically the problems of family violence.

Following the Dutch example, the opt-out victim access system was introduced in the country on 1st January 2021, meaning that victims of violent intentional crimes can now be contacted directly by the state's victim support service in order to offer them assistance.[21] Further changes are the cancellation of the need-based evaluation of compensating victims of violent crimes and the increase of time limit of compensation claims and of applications for financial aids in case of crisis (URL16). To keep services functioning during pandemic, disinfectants, soaps, masks, vitamins, COVID-tests and other supplies were provided by a non-profit government organization for crisis centres and secret shelters helping victims of DV.

Other measures like a campaign and helplines have also been implemented to combat – inter alia – DV. Apparently the state relied heavily on civil and religious organizations in this field as well. The Ministry of Human Capacities and the Hungarian Interchurch Aid have recently launched a national campaign with the slogan '*L*ove does not hurt' to raise awareness about DV and to provide information about the recently opened regional crisis ambulances. The campaign has been financially supported by Vodafone Hungary Foundation and Avon. (URL18). Hungarian National Police also started an awareness-raising

21 In an opt-out system victims are automatically referred from the police to victim support services, ensuring quick access to help. Victims are informed of the referral process and can at any time decline the referral (Victim Support Europe, 2013).

campaign on the World Day for the Elimination of Violence against Women with the slogan 'Look behind the smile, look under the makeup' (URL22). Vodafone's Bright Sky HU application that provides support and information for those in an abusive relationship or those concerned about someone they know is also to be mentioned here as an important development (URL19). Within the frames of 'Kapcsoljegyből' project, OKIT has initiated a chat service for victims of domestic violence, child abuse, prostitution and human trafficking, who have difficulties in acquiring help quickly via other channels. Since during the lockdown the constant presence of abusers at home hindered victims in seeking help e.g., via telephone, NANE also started a chat service operating one night a week (URL39). Hintalovon Foundation initiated an easily accessible chat helpline service in spring and a chatbot for child's rights in December 2020 (URL20).

To summarize the above, the alarming growth of DV was recognized during the first wave of COVID-19 pandemics, and different measures were taken to tackle the problem. These were mostly implemented within the frames of the 'Year of victim support' program though, and not as a specific reaction to the pandemics. Albeit the Minister of Justice evaluated the results achieved in 2020 as exceeding the requirements of the EU victim support strategy (2020-2025) adopted last year (URL16), Hungarian government's policy on violence against women and children still remained to be criticized by NGOs and opposition parties. The main ground for condemnation in 2020 was the fact that on 5th May the Parliament rejected the ratification of the Istanbul Convention (URL23), perceiving it as a threat to traditional family values and arguing inter alia that the protection of women from gender-based violence is already ensured by the provisions of Hungarian national law. Opposition parties disapproved of the decision and came up with a joint seven-point package of proposals to tackle violence against women, urging – among other things – the creation of a special fund for the cause and the insurance of adequate training for law enforcement personnel (URL33). As regards the time period of the lockdowns – according to the head of an NGO, which runs a shelter home for small children and their mothers (Borostyán Foundation), and to the director of OKIT – Hungarian victim support system managed to provide services at a maintained level, despite the pandemic situation. (URL17; URL21). The representative of PATENT, however, reported negative accounts coming from victims of domestic violence regarding state help. According to their experiences, victims often did not get adequate information and extra assistance from state organizations regarding the newly raised issues of the pandemics, and so they usually tried to seek help from the under budgeted civil organizations (URL39).

Conclusions

War, natural disaster, famine, pandemic – we regard these phenomena as 'abnormal' incidents in our life. They disrupt the usual standards and order; they cause confusion and turmoil in our 'normal' way of living, and disturb the accustomed behaviours in a negative way. Analysis drawing a parallel between natural disasters and pandemics usually refers to the similarity of the negative outcomes, which may include extreme social failure, numerous psychological consequences and even loss of life. (Gearhart et al., 2018) As far as violence in the family is concerned, multiple studies have found a relationship between natural disasters and increased rates of interpersonal violence (op.cit. 88). After the global outbreak of the COVID 19 several studies examined the effect of pandemic and the related lockdown on DV and IPV. The results are unequivocal: almost all surveys known for us found increased occurrence of DV and confirmed the rise of DV / IPV during the COVID-19 related lockdown in different countries (Campbell, 2020; Gama et al., 2020; Pal et al., 2021; URL3; URL5; URL14; URL26; URL28; URL34; URL40). Our research on the available Hungarian data fits into this pattern: a significant rise could be detected in the number of registered cases of DV in Hungary as well, and relevant data available from NGOs on the field also show a tendency of increase. We assume it is not a capital error to attribute this change clearly – or at least with a high degree of probability – to the worsening situation of family violence due to the lockdowns.

We consider the psychological factors discussed above as contributors to the link between pandemic restrictions and the increase in DV (isolation, loss of control, stress, fear and anxiety caused by the new situation) as factors of appropriate explanatory power for the experienced phenomenon. However, having knowledge on the possible causes of a phenomenon is only the first step to a more comprehensive understanding, treatment and prevention of the problem. The fight against DV is an endeavour hard enough in itself, but the specific consequences of the lockdown measures in the world pandemic situation posed new challenges, like the increased prevalence of mental health issues among (potential) victims and abusers, the increased risk of child abuse because of the temporary inactivity of the child protection detection and signalling system, and the fact that (potential) victims of DV faced more difficulties than ever in seeking help. For instance, the modification of relevant legal provisions or the increase in the number of beds in secret shelters alone does not solve these problems. Therefore we should also examine thoroughly whether those who are responsible for preventing the deterioration of the situation implemented sufficient policy measures aimed at mitigating the effects of the COVID-19 pandemic on

DV, and whether handling of the consequences and help provided for actual and potential DV victims were satisfying and adequate (UN Women Headquarters, 2020; WHO, 2020; URL6; URL7).

In Hungary a contradictory, double-faced nature of the treatment of DV can be observed generally and in the context of the pandemic situation as well. On one hand there is no doubt about the recent efforts of the government to provide more aid, support and services for DV victims. As a result of this purpose Hungarian victim support system apparently seems to have developed recently, at least in means of capacity. Some further progress was also made in the victim protection system by the introduction of the opt-out victim access system and changes pertaining to the compensation and aid of crime victims. However, shortcomings of legal provisions and practice based on relationship violence and restraining orders mentioned in our article remained intact, implying that the protection and support for victims of domestic and gender-based violence still appears to be deficient in several ways. There are stumbling blocks of ideological nature that hinder the comprehensive handling of the problem. The Istanbul Convention on Domestic Violence and Violence against Women has not been ratified, being '*interpreted as an attack on the value of the traditional heterosexual family and marriage*' (Roggeband & Krizsán, 2018). The latter step can be conceptualized as a polar opposite to the declaration of the 'Year of victim support' along with the progress made under its scheme, reflecting an ambivalent and double-faced attitude towards the problem of DV.

As for the changes brought about by the pandemics, besides the similarity in data with the published international trends of increase, only some special policy measures were taken to mitigate the effects of the pandemic on DV and to handle the consequences. Awareness-raising campaigns by the government, the police and NGOs via social media, television or print media are of course important steps, as are newly initiated chatlines and mobile application, however the magnitude of the problem exceeded what these forward-looking but small changes could achieve. The extreme isolation of DV victims during the lockdown would have demanded a broader spectrum of remote services with significant capacity increase and a greater financial support of NGOs struggling to keep services at a maintained level. But above all, more deeply-rooted changes were necessary in order to enhance the operation of the victim protection system, implying a deeper understanding of the phenomenon of gender-based and a more comprehensive knowledge on the dynamics of DV, e.g. by operators of the criminal justice system. And last but not least, the state of the psychiatric health care system should also be mentioned, strongly linked to the problem of DV in the time of COVID. The effect of the pandemic on mental health is tremendous,

and – as we have implied before – psychological factors play an important role in this relationship. COVID-19 has resulted in dramatic changes in the operation of health care systems all around the world, and mental health services were no exception either. Along with the increase of the prevalence and seriousness of psychiatric problems, the capacity of the system dropped considerably in Hungary, too (URL24), affecting both victims and (potential) perpetrators. Needless to say, this was not a specific Hungarian problem, but more or less a global one, however the long-standing shortcomings of our mental health care system have surely exacerbated the situation. The flaws of the child protection system and the temporary inactivity of the child protection detection and signalling system is also feared to have had a negative effect on DV committed against children.

Our data analysis and evaluation of the Hungarian situation is of preliminary nature, and further research is needed to get a more comprehensive understanding of the effect of COVID-19 pandemic on domestic violence and its policy treatment. As far as 'numbers' are concerned, a more thorough and extensive analysis of criminal statistical data and data on the caseload of crisis centres, shelters and other institutions that play a role in tackling domestic violence is necessary. On the other hand, qualitative research methods should also be applied to obtain information on authentic experiences of the problem, coming directly from victims of domestic violence, helpers and stakeholders in the field.

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Regulation of Advancement and Salary Systems in the Hungarian Public Administration

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Abstract
In this study, I examine the advancement and salary systems within the content of the legal relationship. Civil service acts are based on a wide range of personnel policy solutions in the Hungarian public administration. While one act prefers public law and centralized regulatory methods, another tends to focus on labour law and decentralized solutions, while the third seeks to mix them. Thus, in all cases, a similar legislative intention can be identified, yet a completely different approach is reflected behind the regulation of one or another legal relationship. Based on all this, a number of issues can be identified. Which personnel policy system solution is better in line with international trends in civil service legislation? What legal and personnel policy solutions characterize the advancement and remuneration of one or another civil service status? Can differentiation or fragmentation contribute to the modernization of civil service careers? At all, can we talk about solutions in this case or are we currently witnessing some 'post-bureaucratic' search for a way?

Keywords: civil service law, civil service career, personnel policy trends, salary systems, advancement systems

The aim of the study

In my previous study, I examined the differentiation of the civil service relationship (Ludányi, 2020). I have identified that differentiation primarily affected the scope of the Kttv (2011 CXCIX. Act on Civil Service Officials), that could ultimately lead to its emptying. It was also shown that differentiation is not

always consistent. Regulatory inaccuracies and contradictions have emerged due to the accelerated legislative practice. The analyses of the scope of the legal relationship have shown that there are several government administrative bodies for which it is difficult to determine exactly, on the basis of the legal regulations, what type of legal relationship the officials have there. An analysis of the scope of the legal relationship has shown that it is difficult to determine the type of legal relationship of officials in several government administrative bodies. Based on these, I concluded that differentiation is neither an advantage nor a disadvantage in itself. In order to take advantage of differentiation, a combination of two conditions is required (Ludányi, 2020). On the one hand, the rules and principles of law-making must be observed (György, 1998). On the other hand, it is expedient to regulate the content of each civil service legal relationship according to similar principles and solutions. Otherwise, the regulation may lead to problems of interpretation or professionally unjustified differences in content between the various civil service legal relations (Petrovics, 2018). At the same time, in order to find deeper connections, it is necessary to examine the legal relations in terms of content. In this study, within the content of legal relationship, I specifically examine the advancement and salary systems.

Civil service acts are based on a wide range of personnel policy solutions in the Hungarian public administration. While one act prefers public law and centralized regulatory methods (for example Kttv), another tends to focus on labour law and decentralized solutions (for example Kit), while the third seeks to mix them (for example NAV szjtv). Thus, in all cases, a similar legislative intention can be identified, yet a completely different approach is reflected behind the regulation of one or another legal relationship. Based on all this, a number of issues can be identified. Which personnel policy system solution is better in line with international trends in civil service legislation? What legal and personnel policy solutions characterize the advancement and remuneration of one or another civil service status? Can differentiation or fragmentation contribute to the modernization of civil service careers? At all, can we talk about solutions in this case or are we currently witnessing some 'post-bureaucratic' search for a way (Demmke, 2019)?

In this study, I classify the bodies as 'administrative'[1] due to the administrative work carried out in the offices and I consider them comparable (György, 2014). The methodology of my article is a legal comparison and analysis. The

1 István György points out that this problem arises mainly in the offices of state authorities, and according to him, it should also be approached on a theoretical level, based on the principle of the division of powers.

comparison covers the sectors of the Hungarian public administration. The comparison covers the civil service regulations of local government administration bodies, the Office of the Parliament, the State Audit Office, government administration bodies, special status bodies, law enforcement bodies and the National Tax and Customs administration. To interpret the Hungarian legislative processes, I will also briefly address the main findings of an international EUPAN[2] comparative study.

The main civil service salary trends in an international perspective

Before examining the advancement and salary systems of legal relationships, it is worth briefly reviewing international trends of civil service law and personnel policy in these issues. The Slovak EU Presidency compared the salary systems of the central administrations of the Member States and of the European Commission in 2016-2017 in the framework of the EUPAN cooperation (Mikkelsen, Števove & Dlesková, 2017). After identifying methodological and research issues, the comparative study examines many aspects of the salary systems. It deals with the characteristics, predictability, flexibility and the role of performance in salary systems (as well as various non-salary benefits, but I will not deal with this issue in detail).

The comparative study on the characteristics of salary systems concludes that there are several practices for calculating salary/basic salary in each civil service staffing system. Among of countries participating in the EUPAN cooperation, the least (3 Member States) use competency-based remuneration in central public administration. According to the research, the position (post, job)-based remuneration is second in line (6 Member States). The third most commonly used solution is grade-based remuneration (9 Member States). This solution is based on the idea that there are several salary grades within each grade, which offers additional career opportunities. The second most commonly used solution is fixed (grade-based) remuneration (10 Member States). The starting point for this is the salary base, which is set out in the budgetary rules. Most EUPAN Member States have a band-based remuneration system (16 Member States). The essence of this is that the exact amount of the salary is determined by the employer within the

2 The European Public Administration Network (EUPAN) is an informal network of cooperation between the Member States of the European Union and other observer states, which often deals with various international issues in civil service personnel policy.

framework of the civil service law rules (between lower and upper salary bands). The nature of the solutions used also depends on whether the staffing systems of the EUPAN Member States are based more on labour law (such as Italy or the United Kingdom) or mainly on civil service law (for instance France). Moreover, there are staffing schemes where officials are subject to both labour law and civil service law rules (such as the Netherlands or Poland). In conclusion, nowadays flexible salary scales close to labour law institutions are becoming more common in European civil service systems, and there are a large majority of staff systems where remuneration is not necessarily based on fixed rules. At the same time, we can clearly conclude that we cannot talk about the 'monopoly' of any type of salary system, which corresponds to the grouping used in the comparative study (for more grouping options see for example György, 2019).

Regarding the predictability and flexibility of salary systems (thus with the criteria, conditions and factors that can be taken into account during the determination and increase of the salary), the findings of the comparative study can be summarized as follows. Most EUPAN Member States still use seniority as the main principle of salary increase (15 Member States). In other staffing systems, the amount and increase of salary are mainly influenced by the characteristics of the post, position, job (8 Member States) or the competencies required to fill the post, position, job (9 Member States). According to the comparative study, we can also find EUPAN Member States where quite different criteria and conditions dynamize salary growth (8 Member States). For instance, such criteria or conditions may be individual or organizational performance appraisal, customer satisfaction or various merits etc. These criteria and conditions simultaneously shape the mechanism of operation of each salary system in practice. There are Member States where several such criteria may be present to a greater or lesser extent at the same time when determining and increasing salary. Thus, for example, in the Polish civil service, [3] by decree of the head of the civil service, the director-generals of public administration bodies (employers) have to take into account the results of the job evaluation, the results of performance appraisal (assessment of work performance and competencies),[4] furthermore the labour market conditions when determining the exact amount of basic salary (Itrich-Drabarek, 2015).[5] The comparative study points out that although

3 See the rules of the Polish Civil Service Act. Act of 21 November 2008 on civil service.

4 In the regulation of performance appraisal, the Polish legislators have certainly also been influenced by the solutions of the Kttv. See: Regulation of the Prime Minister of 4 April 2016 on the terms and procedure of periodical evaluations of civil servants and civil service employees.

5 Ordinance no 1 of the Prime Minister of 7 January 2011 on the rules of preparing job descriptions and job evaluation in the civil service; Ordinance no 57 of the Prime Minister of 24 July 2015 amending the ordinance on the rules of preparing job descriptions and job evaluation in the civil service.

remuneration is based on the rules laid down in most Member States, there is scope for some derogations from the general rules in many Member States. According to the terminology of the Kttv such a legal institution is 'basic salary diversion' or 'personal salary'. There are Member States where derogations only apply to political actors, but there are also Member States where they apply to the entire civil service. The dysfunctions of the derogations can be seen in the example of the previous Slovak legislation. Although the amount of the basic salary in the Slovak civil service was fixed,[6] the scope and determination of the various salary supplements, benefits and allowances became untraceable. To highlight just one example, the amount of the individual allowance specified with discretionary power could have reached 100 percent of the basic salary according to the grade specified in the law (Staroňova, 2016),[7] but even exceeded it in some cases (Nemec, 2018).

With regard to individual performance and its evaluation,[8] the study highlights that of the 30 Member States surveyed in the research, only 19 have formally defined rules for the performance-based salary component. However, there are significant differences between Member States with a performance-based component. There are a few of them where the performance-based salary of officials is determined in a particularly complex way. This means, among other things, that the evaluation does not take place at the individual level, but at the group or project level, for instance in the German or Dutch civil service (Staroňova, 2017). In these systems, the role of the performance-based salary component in remuneration is smaller. On the other hand, we can also find staffing systems where performance-based salary is a regular element of the remuneration. This study cites the Swedish or Finnish civil service as examples (Staroňova, 2017).

Advancement and salary systems in Hungarian civil service law

Following the presentation of international trends, I compare the salary and advancement systems of public administration, looking for the answers to the questions asked in the introductory thoughts. In the comparison, I focus on a

6 Enforcement practice is based on the previous Civil Service Act. See: Act No. 400/2009 Coll. on Civil Service. Since then, this act has been replaced by a new one in 2017. See: Act No. 55/2017 Coll. on Civil Service.

7 In the case of a civil servant with lower grades, this was limited to 40 percent.

8 A comparative study on performance appraisal practices was also carried out under the Slovak EU Presidency (Staroňova, 2017).

brief description of the systems, including the examination of the role of criteria, conditions and factors that ensure the advancement of officials in their salaries.[9]

Kttv's advancement and salary system

For the first time (because of the chronological order), I will examine the salary and advancement rules and major legal institutions of the Kttv. The Kttv is primarily applied to civil servants in local government administration bodies. Of the relevant civil service acts, the Kttv contains the characteristics of career systems the most detailed. According to the rules of the act, advancement can take place in grades, titles and manager positions. Salary increases are related to advancement in grades. The salary consists of three components; the basic salary, the salary supplement and the various allowances. The basic salary is the largest part of the salary. It is important that the basic salary creates a link between salary and advancement. This is explained by the fact that the amount of the basic salary is given by the product of the multipliers belonging to the salary grades (these are within the grades) and the salary base. The salary base of civil servants is a fixed amount, which is determined every year by the Budget Act and it is necessary to mention that it has been unchanged for more than ten years (HUF 38,650). Advancement between grades (in salary) is primarily influenced by two factors. One of the conditions is the official's education and the other is the official's length of service (that is, seniority). The level of education determines the classes of officials and the grades, salary grades depend mainly on seniority. Advancement between grades should also take into account the results of the performance appraisal and the other merits of the official. (Thus, for instance, if the official fulfills the in-service training obligations set by the employer.) The extent of the salary supplement expresses the role and weight of the administrative body in the hierarchy. With regard to this element, it is worth noting that its role has essentially lost its significance due to the emptying of the scope of the act. I refer here to the fact that the civil service acts on the strata of personnel took over the provisions from the Kttv concerning the legal institution (although not as a salary supplement, but it was built into the salary), but did not repeal the previous rules.[10] The combined amount of the

9 As a basis here I use the research aspects of Gábor Kártyás, already applied in previous research. My evaluation criteria along this are: education, length of service, identity of the employer, language skills, characteristics of the job/position/post held, the employer's discretion and the performance of the official (Kártyás, 2019).

10 This is also a legislative problem with other legal institutions (Hegyesi & Juhász, 2021).

basic salary and the salary supplement must reach at least the amount of the guaranteed wage minimum [Kttv Section 131 (3)]. In the system of Kttv, the compensation for language skills and the value of the job held is mostly expressed among the salary supplements. The extent of this depends on the salary base depending on the language and the type of language exam (Kttv Section 141). It is necessary to mention that the rules on the job-based allowance were repealed by the legislator after the Kit entered into force. The act rewards the knowledge of the so-called priority and non-priority languages. It should be noted that, in the case of knowledge of priority languages, the official is entitled to the allowance. The employer's discretion and the performance of the official are decisive in several cases, despite the fact that the advancement and remuneration system of the Kttv is one of the most regulated. Employer's discretion also affects the determination of salary supplements, bonuses, basic salary diversions, and personal salaries, as well as the acceleration or deceleration of advancement. It should be pointed out that the employer's discretion does not appear at the time of classification only later (Kártyás, 2019). An official's performance has an impact on salary through performance appraisal. Performance appraisal is mostly related to basic salary diversion, as here the result of performance appraisal must be specifically taken into account to determine the legal consequences. For example, performance appraisal is needed for basic salary diversion, but also for career acceleration [Kttv Section 133 (3), 120 (1)]. (It is worth noting that we can also find rules for the ministry government officials' basic salary modification that are no longer applicable in practice, because these officials were transferred to the scope of the Kit.)

Ogytv's advancement and salary system

Secondly, it is recommended to examine the salary system of parliamentary civil servants. The Kttv states that, unless otherwise provided by law, its provisions shall also be applied to the civil service status of the Office of the Parliament and the civil servant of the Parliamentary Guard. The Ogytv (2012 XXXVI. Act on the Parliament) contains provisions different from the rules of the Kttv. The advancement of parliamentary civil servants can also take place in grades (salaries), titles and manager positions. However, most of the advancement and salary rules of the Kttv are not applicable to the legal status of parliamentary civil servants, for whom the Ogytv lays down its own rules. Thus, according to the rules of the Ogytv, a parliamentary civil servant must be classified in the appropriate grade of the relevant class on the basis of the level of

education required for his or her job and the time spent in civil service. As in the case of Kttv, it is mainly the educational level that decides, which class can the civil servant enter. The act separates four classes from each other. Two of these are linked to educational attainment and the other two are linked to special (manager position and title) forms of advancement. However, a significant difference compared to the Kttv is that in this case we can only find grades within the grade classes, not salary grades. Career conditions and mechanisms are very similar to those learned in the Kttv, so advancement between grades is primarily based on the length of service, supplemented by performance appraisal and fulfilment of statutory or employer-defined conditions. Unlike the Kttv, the salary consists of two salary elements; it consists of a basic salary and a foreign language allowance. In this case (in the absence of salary supplement), the amount of the basic salary must reach at least the amount of the guaranteed wage minimum. The grades of each classes have ascending multipliers, and the product of the grade multiplied by the salary base determines the basic salary for the grade. This brings us to the most significant difference between Ogytv and Kttv. The salary base is provided by an amount equal to the amount of the average monthly gross earnings of the national economy for the year preceding the reference year, officially published by the (Hungarian) Central Statistical Office.[11] Thus, the basic salary is not calculated on the basis of the salary base of civil servants set out in the Budget Act. The performance appraisal rules of the Kttv must be applied (but it is possible to create different rules in the Organizational and Operational Rules of the Parliament) and based on this it is also possible to modify (raise or reduce) basic salary (according to the specific provisions of the Ogytv). A parliamentary civil servant is entitled to an allowance on the basis of certain priority languages.[12]

Ásztv's advancement and salary system

The rules concerning the staff of the State Audit Office of Hungary (State Audit Office), including the rules on advancement and remuneration are contained in Ásztv (2011 LXVI. Act on the State Audit Office) and Kttv. The staff of the State Audit Office consists of a president, a vice-president, managers, auditors, and employees subject to labour law. Of the personnel categories listed, it is worth

11 In January – December 2020, the gross average salary was HUF 403,600.

12 As long as English, German, French, Russian, Chinese and Arabic are considered to be the preferred languages according to the Kttv; until then, according to Ogytv, only English, German and French can be assessed as such.

taking a closer look at the rules for auditors. First of all, we need to look at how Ásztv defines its relationship with Kttv. On the one hand, according to the Kttv, unless otherwise provided by law, its rules do not apply to employees of the State Audit Office. On the other hand, the Ásztv lists the provisions of Kttv that must be properly applied to the legal relationship of the managers and auditors of the State Audit Office. Based on these, the advancement rules of the Kttv in grades (salary), titles and manager position cannot be applied either. All this means that the special provisions of the Ásztv apply to these legal institutions. Among the rules on remuneration, rules of a labour law nature (such as rounding, payment of wages or protection of wages) should be applied (as we have seen in the relationship between Ogytv and Kttv). The auditor shall be assigned to one of the categories of auditor in his or her appointment. Further rules for the classification of the auditor are set out in the organizational and operational regulations of the State Audit Office (Instruction 3/2021 (VIII 13) of the President of the State Audit Office on the Rules of Organization and Operation of the State Audit Office). Advancement – that is not automatic and largely shaped by employer discretion – can be interpreted among auditor grades, at the manager and expert positions. Unlike the Kttv and Ogytv, an important difference is that the principle of seniority does not apply during advancement (for instance in salary). The auditor's salary consists of a basic salary (special rules apply to managers, who are entitled to manager salary supplement). The amount of the basic salary shall be calculated on the basis of the multiplication number of the auditor's grade and the product of the auditor's salary base. The Ásztv applies the same solution as the Ogytv to determine the amount of the salary base. So, the salary base is provided by an amount equal to the amount of the average monthly gross earnings of the national economy for the year preceding the reference year, officially published by the (Hungarian) Central Statistical Office. The performance evaluation of auditors is based on the definition of the Kttv.[13] An important difference from the rules of Kttv and Ogytv is that the President of the State Audit Office may increase the basic salary of the auditor by up to 60 percent or decrease it by up to 10 percent depending on the performance appraisal. For reasons of cutting red tape, the Ásztv Módtv (2019 XXXVII. Act Amending 2011 LXVI. Act on the State Audit Office) also abolished the foreign language knowledge and training allowance (these factors are included in the calculation of the basic salary amount).

13 Section 130 (1) of the Kttv says the following: The performance of the work of a government official shall be assessed in writing (performance appraisal) by the exercise of the employer's discretion.

Kit's advancement and salary system

The dynamics of advancement in the Kit (2018 CXXV. Act on Government Administration), as opposed to Kttv and Ogytv, are not shaped by the education and length of service of a government official, but by the characteristics of the position, such as the professional conditions for filling the position.[14] This also means that there are no horizontal advancement opportunities (grades) within the position and the advancement of a government official is not guaranteed either. Rather, advancement can only be interpreted vertically between individual positions (which are related to more complex tasks). Thus, the system of the Kit is similar to the classification system of auditors. From an international perspective, this salary system is primarily comparable to the Anglo-Saxon (such as the British) or Scandinavian (like the Swedish) civil service staff systems (Hazafi, 2019a). However, advancement between positions is also not automatic. Accordingly, in 2019, the Kit has introduced a new salary system, breaking with the seniority-based remuneration. Instead of length of service, the legislature focused on the performance and duties performed by the official. Thus, according to the legislator, the abolition of fixed salary and the creation of differentiated, performance-based salary can help attract and retain workforce to the government administration bodies (Hazafi, 2019b). By law, classification is made for a position/post, which is the basic unit of government administrative staff management. Six grades can be distinguished on the basis of positions. These are the administrator, the professional manager, the professional senior manager, the person with the status of a commissioner, the consultant and the political senior manager. The administrator category can be further divided into grades. Among these categories, salary advancement is not automatic (the employer decides into which grade a government official should belong, what position he or she should work in). The salary shall be set so as to remain within the salary band corresponding to the grade of the position. The Kit contains two salary scales: the first applies to government officials employed in ministries, while the second applies to government officials in government agencies, central offices, the capital and county government offices. With regard to the method of determining the salary, it is important to mention that when determining the exact amount of the salary, the parties have the option of a kind of wage bargaining (as opposed to all the wage-setting rules mentioned earlier). This is limited by salary bands. A further limitation (with the exception of general principles and labour law guarantees) of the employer's authority is the

14 The source of this chapter: Ludányi and S. Horváth (2021).

principle of professionalism, which stipulates that the salary of a government official must be determined on the basis of professional skills, qualifications, practice and performance. Salary is not made up of different components, but is made up of a single amount (in similar the Anglo-Saxon and Scandinavian system solutions already mentioned above). This also means that the calculation of the salary does not depend on the amount of the salary base and the multipliers related to the salary grades (considering that there are no salary grades and multipliers in the Kit). There are no salary supplements or allowances attached to the salary, so only the 'basic salary' can be found. Although the Kit does not use the legal institution of the salary supplement (as Kttv did), the differences can be deduced from the hierarchy of government administrations. I would point out that it is the employer's responsibility to determine the level of education associated with the bands, and it is not a mandatory content element of the salary system. The same can be said for salary allowances. The personal abilities or organizational characteristics of a government official may be incorporated into the remuneration as a result of an employer decision. Salary can be adjusted based on performance appraisal. However, the legal institution of basic salary diversion is not found in the Kit (but, very similar rules can be found). Though, my study does not cover the analysis of benefits in addition to salaries, I must briefly mention the merit recognitions as they are intended to replace the donation of titles and the opportunities for advancement in titles.[15]

Küt's advancement and salary system

The legislator developed the principles of the Küt (2019 CVII. Act on Bodies with Special Legal Status and the Status of Employees) classification and advancement system on the basis of the Kit. This means that the basic unit of work here is also job-based staff management. However, the Küt adapts to the requirements of independence and autonomy, so we cannot find centralized government positions. The Küt's salary, merit recognition and performance evaluation system reflects the solutions already presented in the case of the Kit. The salary system is divided into three types of salary scales based on the typology of special status bodies. The 'classic' differentiating role of the salary supplement is also expressed in this case by the band remuneration system.

15 Although civil service law previously has not contained the recognition of merit in this way, the legal institution is not entirely unknown in the broader field of public service law (it is enough to think about the Hszt's merit recognition system and its terminological features).

Accordingly, higher value bands are included in the salary scales of the Office of the President of the Republic and the Office of the Constitutional Court. The Küt establishes lower value bands for the following bodies: The Office of the Commissioner for Fundamental Rights, the Secretariat of the Hungarian Academy of Sciences, the Secretariat of the Hungarian Academy of Arts, the Historical Archives of the Hungarian State Security, the National Election Office, the Committee of National Remembrance and the Hungarian National Authority for Data Protection and Freedom of Information. In addition, these fall into a third category: Hungarian Energy and Public Utility Regulatory Authority, the National Media and Infocommunications Authority, Hungarian Competition Authority and the Public Procurement Authority. In the latter bodies, certainly for market and competitiveness reasons, the civil service relationship of civil servants is established by a civil service employment contract. It comes from the nature of the civil service employment contract and the Küt stipulates that the parties agree on the amount of the salary in the contract (regardless of the banded salary tables presented above). A similar solution characterizes the employment conditions of the Polish central administration. The Polish civil servant's employment is created by appointment for an indefinite period. In contrast, the civil service employee's employment is created by civil service employment contract for an indefinite or fixed period (Itrich-Drabarek, 2012). The characteristics of career systems (additional rights and obligations) are more pronounced for civil servants and less defined in the employment rules of civil service employees (Czaputowicz & Sakowicz, 2013). These differences can also be found in the case of the Küt, that is pointed out by the characteristics of the civil service employment contract, such as determination of the salary (Küt Section 98).

Riasztv's advancement and salary system

According to the Hszt, as amended by Riasztv, and its Chapter XXVIII/A, the advancement of law enforcement officials can take place in several ways. On the one hand, there should be an opportunity to advance in salary grades within a job category and on the other hand, to enter a higher job class or a higher job category.[16] Thus, classification is based on job class, job category and job concepts. Classification and advancement in every job unit is based on various factors. While advancement in the job class and between categories depends primarily on educational attainment and the nature of the job, advancement in

16 The source of this chapter: László, Orosz and Ludányi (2020).

salary grades depends on length of service. The jobs belonging to each job category, and that can be filled by a law enforcement official, are determined by the head of the law enforcement body. The general condition for advancement is the fulfilment of the conditions set for the next salary level (which I have already mentioned in connection with Kttv or Ogytv), the existence of practical experience, skills and competencies necessary for the performance of the job and the appropriate level of performance evaluation. Overall, the Riasztv has introduced a merit-based advancement system (that is not entirely devoid of automatisms and employer discretion), which combines the system elements of Kttv, Hszt, Kit and Küt. In addition to career advancement, we can also talk about special forms of promotion, such as the advancement of managers or higher education graduates to a key job category. The salary of a law enforcement official consists of a basic salary and other allowances. The exact amount of the basic salary must be determined between the lower and upper limits of the corresponding step in the job category. In terms of the remuneration practices Riasztv (like most of the statutory statutes examined above) is moving in the direction typical to more open schemes, as the decision on the amount of the salary is based on the discretion of the employer. It is possible to review the salary within the band on an annual basis, in the framework of which a higher or lower salary can be set for the law enforcement official. The principle, that the number of allowances is to be reduced, also applies to law enforcement officials. Thus, the foreign language proficiency allowance can only be considered for civil national security services.

NAV szjtv's advancement and salary system

The latest act of Hungarian civil service legislation is the NAV szjtv (2020 CXXX. Act on the Legal Status of Personnel of the National Tax and Customs Administration). The primary goal of the NAV szjtv was to implement the integration of the personnel after the organizational integration processes (Kiss-Hazafi, 2019). To this end, a new tax and customs service relationship has been established, which applies to both financial guards and (tax administration) government officials with attention to their specific requirements. The NAV szjtv uses a job classification and advancement system like Riasztv. The classification of each job is determined by the head of NAV in the employment regulations, similar to the concept of Riasztv. There are the job categories. Within this, we can find managerial positions, jobs in Class I grades, and jobs in Class II grades. The employee (financial guard and government official) must be provided with a

planned career opportunity in salary grade within the job categories and grades. However, it is also possible to progress to a higher value job grade or category. A special form of advancement for financial guards is promotion in the rank. The general conditions for advancement are very similar to those already mentioned in Kttv, Ogytv and Riasztv with the exception that the various conditions of aptitude (e.g., physical or psychological) are more important here. The employee's salary consists of a basic salary; and may consist of time allowances, job allowances and other salary allowances. All this suggests that the NAV szjtv returns to some extent to the foundations of the salary system 'laid down' by the Kttv. At the same time, it follows the 'innovative line' of the Kit, in which the exact amount of the basic salary is not given by a calculation based on some kind of salary base, but is determined by the employer. The employer's decision is made within the lower and upper bands belonging to the salary grade on the basis of experience, education, other qualifications, language skills and responsibilities related to the performance of the job. The length of service appears not only in advancement between salary grades, but also in the case of time allowances. The NAV szjtv is primarily similar to Kttv in terms of terminology and legal solutions. The NAV szjtv regulates the salary diversion, the legal institution of personal salary, but many types of allowances known in the Kttv can also be found in the provisions of this legislation (such as the night allowance). It is worth noting that the system of non-salary benefits is extremely wide-ranging. Unlike the Kttv, the act regulates professional titles and recognitions in this section. The latter are only partially consistent with the merit recognitions mentioned in the Kit and the Küt (e.g., the diploma of appreciation) and here we should rather identify some of the Kttv's career acceleration tools (e.g., reducing waiting time meanwhile the advancement). All in all, the new act retains the 'career' nature of the regulation (such as role of length of service, planned advancement) while at the same time significantly loosening previous constraints and introducing more flexible solutions (Magasvári, 2021). Thus, the act retains length of service during advancement, but breaks with the calculation of basic salary from the salary base.

Conclusions

I began my examination of advancement and salary systems by exploring international trends. On this basis, I have come to the conclusion that flexible salary scales close to labour law institutions are becoming more common in European civil service systems nowadays and there are a large majority of staff systems

where remuneration is not necessarily based on rigid, fixed rules. I also pointed out that there are many types of salary systems in the international dimension. As I have shown, this kind of 'variety' in the application of remuneration criteria, conditions and factors can also be seen.

Following the presentation of international trends, I analysed the last years of Hungarian civil service legislation. In the comparison, I focused on a brief description of the advancement and salary systems. I have identified a number of regulatory solutions within the Hungarian public administration (although it should be emphasized that in this case we are talking about the public administration of a single state and not the trends of the EUPAN Member States). The comparison clearly showed that almost none of the status acts apply the same advancement and salary system. While there are acts that link remuneration to classic civil service legal advancement, other acts leave the decision to the discretion of the employer. One system distinguishes between several forms of advancement, while the other does not regulate advancement in this way. One act applies a multi-component salary, the other a lump-sum salary. There are acts where a fixed salary base gives the amount of salary/basic salary, but there are also acts where the salary base does not play a role in determining salaries. While in one sector the salary base is determined by the Budget Act, in another case the salary base is linked to the gross average earnings. We can find an act where the basic salary is linked to grades and salary grades, but we can also find an act where it is linked to job classes and categories. It is also clear that banded salary systems are becoming more widespread in the Hungarian public administration. Finally, civil service sectors can be identified where a mixed salary system operates. The list could go on for a long time, but the point is that these legal and personnel policy solutions apply to one branch or another of the public administration. This raises the question of whether there are so many differences between the characteristics of each branch of public administration that justify this wide variety of regulations. In my view, this is more a 'poetic' issue. The variety of regulations is important not only for the 'ideal of a civil service', but also for legislative and enforcement purposes. The consequence of the regulation is that there may be significant differences in the wage conditions of the sectors and it may not be justified by the differences in the tasks performed.

In conclusion, as in the context of European civil service systems, we cannot talk about clear solutions in the case of the Hungarian public administration. In other words, as many branches of public administration can be identified, as many advancement and salary systems can be found. Integrating international trends and the solutions of the Hungarian legislation, it is possible to propose a system in which the achievements of public service law (thus mainly the merits

and the main guarantees) can be mixed with the possibilities provided by more flexible legal institutions (thus, the dangers of flexibility can be eliminated). This system would be based on the same principles and a common methodology, but would also allow the necessary distinction between administrative sectors, administration bodies and layers of officials (however, the detailed proposal should already be developed in another study).

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2012 XXXVI. Act on the Parliament (Ogytv)
2015 XLII. Act on the Service Relationship of the Professional Staff of Bodies Performing Law Enforcement Tasks (Hszt)
2018 CXV. Act Amending 2015 XLII. Act on the Service Relationship of the Professional Staff of Bodies Performing Law Enforcement Tasks (Riasztv)
2018 CXXV. Act on Government Administration (Kit)
2019 CVII. Act on Bodies with Special Legal Status and the Status of Employees (Küt)

2019 XXXVII. Act Amending 2011 LXVI. Act on the State Audit Office (Ásztv Módtv)
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Conceptual issues and theoretical considerations regarding the study of prison labour

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Abstract
The present paper attempts to explore the conceptual challenges in the research of prison labour and to sketch the contours of a proposed theoretical framework, which can highlight the connection between penal policy tendencies, labour market dynamics and organizational practices of prison labour regimes. Based on a literature review, it is argued, that besides market dynamics on which many of the existing prison labour narratives are focused, the state is also a key agent in generating, maintaining, or relieving the potential tensions between the two main objectives of prison labour: rehabilitative purposes on the one hand and economic efficiency on the other. It is assumed that through the conceptualization of prison labour as one of the most radical manifestation of state-imposed unfree labour, it is possible to shed new light on state-labour relations. By doing so, the research on prison labour could be enriched with some new aspects.

Keywords: prison labour, state, political economy, imprisonment, unfree labour

Introduction

The present paper argues that the state is not only an actor that reacts to labour market issues (such as unemployment) through criminal policy – as it is known from political economic accounts on the prison system – but also a crucial actor in shaping the political-economic context of prison labour. Therefore, prison labour is conceptualized as a specific form of state-imposed unfree labour. Throughout the paper, prison labour is conceived as a specific form of

state-imposed unfree labour, where the work is performed by inmates, persons who are deprived of liberty at penal institutions.

Contemporary prison labour practices in advanced economies

Unfortunately, there are only a few systematic comparative studies available on prison labour, since data collection regarding criminal justice and prison systems is a rather demanding task, and the comparability of such data due to the diversity of different national legal frameworks may also cause difficulties. Comparative reports on prison systems issued by international organizations (such as the European Institute for Crime Prevention and Control or International Penal and Penitentiary Foundation) in most cases include sections or chapters on prison labour as well (Walmsley, 1996, 1997, 2003; Dünkel & Van Zyl Smit, 1999; Tak & Jendly, 2008). Furthermore, a comprehensive edited volume on prison labour was recently republished (Dünkel & Van Zyl Smit, 2018), but without recent data or major revisions of the original case studies compiled in 1999.

As a rule of thumb, prison labour for sentenced inmates is mandatory (with a few exceptions, e.g., those who are medically unfit, pregnant, or elderly). This is the case amongst other countries in Switzerland, Austria, Japan, Israel, England and Wales, Poland, the Czech Republic, Denmark, Sweden, Germany or in the Netherlands (Kövér, 1993, 1994a; Lőrincz & Nagy, 1997; Pallo, 2010).

Working while serving time in prison is a common experience for many prisoners, but the conditions of prison labour vary significantly. Despite the legally mandatory nature of prison labour in many countries, the duty to work is not enforced in many cases, due to the shortage of job opportunities and to limited production capacities within prison walls. Therefore, access to labour (and thereby to income) in prison is often a privilege, and thus a means of control used by prison officers (Nutall, 2000) (Dünkel & Van Zyl Smit, 2018). The 'right to work' approach behind bars is often criticised because of its ambiguous relation to the open labour market, especially in cases when unemployment rates are high. In Finland and Germany inmates have the opportunity to choose between work and other activities such as education. Disciplinary measures are not applied in Finland, France, England and Wales, if inmates refuse to work, which is not the case in The Netherlands, or in Germany (Kantorowicz-Reznichenko, 2015).

According to two studies from 2015, employment rates in prisons were 21% in Turkey, 27% in Romania, 35% in Portugal, 40% in Finland and 45% in Belgium (Kantorowicz-Reznichenko, 2015) (Neves-Reis-Leitao, 2015). A few years

earlier this ratio was 19% in Latvia, 20% in Italy, 28% in France and 30% in Poland (Maculan, Ronco & Vianello, 2013). In this period, the rate of working inmates reached 45% in Hungary (HPS, 2015). However, the interpretation of these numbers is not straightforward. It strongly depends on whether working in prison is a duty or a possibility, on the number of those obliged to work, on the number of pre-trial detainees, on the external labour market dynamics, and on the operational logic of the prevailing prison labour regimes.

Besides the issue of duty or right to work, other crucial aspects of prison labour are the legal status of working inmates, the remuneration they get for their work, and the disposition over the money they earn. In most countries working inmates do not fall under the jurisdiction of labour laws, which, among others, has the consequence that the remuneration paid for prison work is far below the minimum wage. Additionally, prisoners are not, or not entirely, included in social security measures (Kantorowicz-Reznichenko, 2015). In many countries there is a mandatory contribution to the prison costs as well, which also reduces the sum over which the inmate has the right to dispose (Lőrincz & Nagy, 1997; Dünkel & van Zyl Smit, 2018).

The history and political economy of prison labour

Most studies addressing the issue of prison labour are either too descriptive or overly one-dimensional regarding their thematical focus and analytical framework. In criminological accounts, prison labour is mainly discussed only through its relation to correctional practices, rehabilitation, or post-release possibilities. In the meanwhile, in political economic analyses privatization and marketization of the penal field are frequently overemphasized, and the governing principle of profit logic dominates the interpretations (Scherrer & Shah, 2017).

A rich body of literature exists on certain dimensions of prison labour, including but not limited to the relation of prison labour to slavery or forced labour, international labour standards and labour rights (Armstrong, 2012; Bair, 2007; Gilmore, 2000; Kang, 2009); the effects of prison labour on post-release chances on the labour market (Cox, 2009; Flanagan, 1989; Maguire, Flanagan, & Thornberry, 1988); or the logic and operation of the prison-industrial complex (Parenti, 1999; Chang & Thompkins, 2002; Thompson, 2012). At the same time, there are only a few examples of analyses, which are connecting the historical, economic, political, ideological, and organizational aspects of prison labour (Conley, 1980; Whitehouse, 2017). Even the current literature of critical political economy fails to treat the issue of prison labour according

to the importance it deserves, since an in-depth historical analysis is missing from these accounts (LeBaron, 2008). The complex nature of prison work as a labour relation is underemphasized, especially in the context of other labour relations outside the prison.

Though such a holistic and structuralist approach is reflected in recent analyses of the punitive turn to some extent, since these accounts offer thorough examinations of the socio-economic embeddedness of changes in the penal field, they rather use the issue of prison labour as an illustration, and not as an integral part of their explanation. Not even the most well-known political economic narratives of the punitive turn (Bell, 2011; Harcourt, 2009; Wacquant, 2010) pay sufficient attention to the issue of prison labour: they do not treat it as an integral part of the social-economic changes they analyse. In the following subsections two fields of studies will be described, which could serve as a potential basis for the construction of a research framework outlined in the introduction of this article: the (1) insights of the work of Rusche and Kirchheimer (1939 [2003]) and the revisionist school of history on prison labour, and (2) lessons learned from radical criminology and the literature on the political economy of imprisonment.

The work of Rusche and Kirchheimer and the revisionist historiography

Although labour as a form of punishment has a long history (Kabódi & Mezey, 1990), and also, the combination of isolation and the use of work for correctional ends appeared already during the 16th-18th century in the form of the house of correction (Spierenburg, 2007; Mezey, 2018), prison labour gained significance with the emergence of the modern prison system in the 18th century, when imprisonment became the dominant mode of punishment for major criminal offences (Foucault, 2012 [1975]). Forms of punishment are primarily dependent on social and economic relations of the prevailing historical era. Therefore, the emerging role of industrial production was an essential condition to the expansion of prison labour. According to the central idea of Rusche and Kirchheimer, each era has a penal system, which is best suited for the prevailing regime of accumulation. The expansion of the modern penal institution and prison labour is an inherent part of the establishment and operation of the capitalist order (Rusche-Kirchheimer, 1939 [2003]).

In this view, imprisonment is a form of punishment, a regulative measure of social control, in which the criminal individual is neither primarily a victim of deterrent corporal punishment, nor a mere subject to exclusion from the society anymore, but the embodiment of exploitable labour power (Rusche-Kirchheimer,

1939 [2003]). Prison labour had a constitutive role in the making of the capitalist social order, and still has its political and economic significance as an important part of state strategies aiming at the enforcement of social and labour discipline (Lebaron, 2012).

The work of Rusche and Kirchheimer had a limited impact before 1945, but a notable revival of their ideas occurred in the 1960s. Along with the social movements of the 1960s and 1970s, the social legitimacy of many institutions, that were previously taken for granted, was questioned. Prison riots occured, and the dysfunctions of closed institutions (such as the prison itself) became more and more apparent, the rights of detainees and patients came to the fore (Rothman, 2002 [1971]); Rubin, 2019).

During this period the thoughts and theoretical premises of the work of Rusche and Kichheimer infiltrated into the narratives of revisionist historiography of the penitentiary and radical criminology (Melossi, 2003). Revisionist historian accounts stated that the dominance of imprisonment within the penal field can hardly be explained exclusively on a philosophical or ethical basis or can be tracked back to a humanist turn or to specific reform endeavours, as the classical narratives of prison history claim (Rothman, 2002 [1971]; Foucault, 2012 [1975]; Ignatieff, 1979). Rather, these historians studied the social and economic dynamics behind the formation of this total institution and claimed that the prison fulfils a function to strengthen and maintain formal social control. As such, it also supports the reproduction of the capitalist order (Gibson, 2011).

Literature on the political economy of imprisonment

Another important school of thought regarding structural explanations of the function of prison and prison labour is radical criminology, which is also closely connected to the Rusche-Kirchheimer tradition. Radical criminologists – mentioned in the following sections – mainly focused on the connection between the use of imprisonment and the conditions of the labour market. Many researchers tested and adapted the original Rusche-Kirchheimer hypothesis in many different contexts, and most quantitative studies of the political economy of imprisonment confirmed that relational changes amongst capital, labour and the state are reflected in the relationship between the rates of unemployment and imprisonment (Lynch, 2010). Jankovic (1977), for example, attempted to test the applicability and adaptability of the original hypothesis to the settings of post-industrial societies. Through the analysis of US national statistics between 1926 and 1974 he found that the relationship between unemployment and imprisonment was mostly positive and statistically significant, regardless of the changes

in the volume of recorded criminal activity. However, this correlation could not be observed during the years of the Great Depression between 1930 and 1940.

Later on, in the context of the neoliberal punitive turn, Western and Beckett (1999) observed the US penal system as a labour market institution through which the U.S. state has intervened into the labour market. They argue, that *'while incarceration conceals unemployment from conventional jobless statistics in the short run, it increases the chances of unemployment among ex-convicts in the long run'*. (Western & Beckett, 1999). Western and Beckett exemplifies the way, in which the state coercively intervenes into the labour market. Weiss complements the study of Western and Beckett (1999) by adding that prisons have a great importance in the management of the reserve labour of convicts, since through the operation of the penitentiary and the prison labour system in particular, convicts can be reclaimed for the market. However, Weiss only highlights the potential profit of private companies, and does not mention the state neither as a mediating agent, nor as an actor with some market-like characteristics (Weiss, 2001). Many of those researchers, who studied the changes in the imprisonment rate, concluded that there is a close connection between the number of prisoners on the one hand and income inequalities, poverty and conservative politics on the other (Barlow, Barlow & Wesley, 1996; Hochstetler & Shover, 1997; Jacobs & Helms, 1996).

Michalowski and Carlson (1999) combined the work of Rusche and Kirchheimer with more recent theories of social structures of accumulation. According to the authors, there is a statistically observable relation between how capital, labour and the state relate to each other on the one hand, and unemployment and imprisonment rates on the other. The statistical analysis of Michalowski and Carlson was based on national US time-series data on imprisonment, crime, and unemployment. Their data suggested, that *'the relationship between punishment and social structure is indeed historically contingent as Rusche and Kirchheimer originally proposed, particularly if one considers the ways social-structural arrangements can change within a given mode of production.'* (Michalowski & Carlson, 1999). According to their conclusion alterations within a particular production regime, including the modifications of state interventions, can cause changes in the unemployment-imprisonment relation.

All these works have a great importance in establishing the interrelations between the dynamics of the labour market on the one hand, and the penal field on the other. Though both the revisionist school and the radical criminological thought brought essential theoretical insights into the study of prison labour, they have some serious shortcomings, which must be addressed. First of all, both fields have been frequently criticized because of their deterministic schemes

of explanation, and their inability to tackle the diversity of penal regimes and practices (Garland, 1990). This is mainly because they predominantly studied the advanced capitalist economies of the Global North and mostly neglected those societies, which went through a rather different historical trajectory. Furthermore, political economic accounts on prison labour are often focused exclusively on the exploitation of prisoners' labour power by private economic actors, even if state actors are also massively involved in the process, both in their regulatory and economic roles. According to Scherrer and Shah (2017) even if the commercial exploitation of prison labour is growing in the United States, it still only affects parts of the prison population, while the state remained an active agent as well, especially on the federal level. To unfold the role of the state and locate it in the analysis of prison labour, in the following sections conceptual issues of and potential goals behind prison labour systems will be explored.

Slaves of the state? – conceptualizing prison labour

Prison labour is the work performed by inmates: those persons, who are detained in penal institutions. It is a widely recognised practice in the field of criminal justice, generally perceived as a standard element of the execution of prison sentences. It is widely accepted that convicted prisoners must work, which has never really been challenged or seriously debated (De Jonge, 1999). Even though it is a widespread practice, both public discourses and scientific accounts on prison labour cover a quite wide spectrum regarding the goals and justification of such labour, and the extent of its coercive nature. Therefore, to capture the main characteristics of prison labour, it is necessary to take a closer look on the concept itself, and on its relation to other types of labour, in which different levels of coercion or involuntariness is explicitly involved (such as slavery, involuntary servitude or forced labour).

Though it is a much older phenomenon, the generally accepted definition of slavery in international law was developed in the 1926 Slavery Convention of the United Nations. It states that *'slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.'* The concept of forced or compulsory labour was introduced in the first half of the 20th century to differentiate between slavery, which was meant to be abolished without exception, and other forms of coerced labour (Allain, 2012). Legally, freedom from slavery has been declared as an internationally recognised human right and forced labour has been prohibited according to several international human rights treaties. The International Labour Organisation's

(ILO) Forced Labour Convention no. 29 (Article 2) adopted in 1930, the European Convention of Human Rights and Fundamental Freedoms (Article 4) adopted in 1950, and the International Covenant on Civil and Political Rights (Article 8) adopted in 1966 alike, prohibit forced or compulsory labour. Yet, prison labour, which could be seen as a form of forced labour, is legally in use within most prison systems. As far as international human rights instruments and national legislations are concerned, prison labour is neither regarded as a form of slavery, nor as an internationally reprehensible version of forced labour or involuntary servitude. Therefore, regardless of the prohibition of slavery or forced labour, a state is still allowed to impose compulsory labour on their convicted inmates, since all the relevant international legal treaties highlight that making prison labour compulsory for sentenced inmates is an exception to forced labour (De Jonge, 1999).

Despite the relative clarity of the concept on legal grounds, which makes prison labour a legally acceptable practice, these strict conceptual boundaries should not be accepted without critical scrutiny in social research. Systems of prison labour show a great variety in the extent of coercion mobilized. The spectrum ranges from slavery-like forms of prison labour on the Southern prison farms of the United States (Armstrong, 2012) to the 'Hamburg Model' in Germany, where prisoners are nearly recognized as free workers (DeJonge, 1999). Therefore, thorough analysis of different prison labour practices requires theoretically grounded conceptualisation, which is sensitive enough both to capture the different aspects of prison labour, and to shed light on the complex relations between broader socio-economic dynamics and local prison labour practices.

Such theoretical narratives, which differ significantly from the conceptual framework set by international human rights standards, do exist. Bair, for example, claims that the definition of slavery should not be reduced to cases where legal ownership is present. He argues that inmates in the U.S. prisons are enslaved, even though they are not the property of the state, and even if they receive renumeration for their work. In his economic analysis he attempts to demonstrate this statement by analysing the 'slave fundamental class process' prevailing in the U.S. prison system (Bair, 2007).

Labour systems, in which coercive aspects are involved, had been expanded and diversified by the late twentieth century (Brown & van der Linden, 2010). In line with this tendency, there is also a growing body of literature, which seeks to describe and analyse the role of unfree labour relations in the contemporary global economy (Lebaron, 2013). However, the term of unfree labour is still a highly contested one. Competing ideas about the defining elements of the concept coexist in the literature. Some emphasize a diverse continuum

between free and unfree labour relations (Barrienthos, Kothari & Phillips, 2013, Lebaron & Ayers, 2013), while others question the analytical and methodological accuracy of such an approach (Brass, 2014), based on the principles of the original Marxian analysis. Unlike Bair, Brass puts the notion of control into the centre of his conceptualisation, which is exercised over someone's labour power, rather than focusing on the legal relation of ownership. He argues for the conceptual extension of unfreedom in order to include labour relations beyond slavery and proposes the analytical category of unfree labour to define cases *'where the labouring subject is prevented from entering the labour market under any circumstances'.* He also states, that '*it is precisely these kinds of unfreedom which arise in the case of convict, bonded, contract and indentured labour.'* (Brass, 1994).

Since the definitions used in international agreements do not entirely help to grasp the real nature of and dynamics behind prison labour, and also conceal the way in which state actors are ideologically and economically involved in the operation of prison labour systems, in the present paper, prison labour is rather conceived as a specific form of state-imposed unfree labour, where the work is performed by inmates, persons whom are deprived of liberty at penal institutions.

Goals behind prison labour systems

Questions related to the objectives of prison labour have been present since the very beginning of the modern prison system, although the answers are still contested. Guynes and Grieser (1986) created a detailed model on the goals of prison labour, including three different dimensions depending on scales where the specific goals are realized. On the individual level they defined objectives such as the promotion of good work ethics, participation in vocational trainings, and gaining income and work experience. On the organizational level reducing idleness, structuring daily activities, and reducing the cost of imprisonment were the main objectives. On the macro level, at the same time, it was symbolic repayment for the society that was highlighted. Although the authors set up a goal structure based on the most widely acknowledged purposes behind the prison industry, and also stated that potential tensions between these goals may exist (e.g., between inmate-focused and institutional goals, or between institutional and societal objectives), they did not analyse the potential conflict between these goals, and neither the competing interests behind the operation of such a system.

The idea of prison labour originates from two notions of limited compatibility: rehabilitation of the prisoners on the one hand and the economic utilization

of their workforce on the other (Scherrer & Shah, 2017). Historical research suggests that the role of prison labour has been characterized by different emphases at different stages of history, while interests and objectives have often interfered with each other. As Tóth (1886) stated as early as the second half of the nineteenth century, the question of prison labour, its regimes and goals behind, could only be examined substantively, if the interests of the different actors (the penal institution, private industry, the state and the society) are taken into account. Melossi and Pavarini (1981) also emphasize, *'that each of these models represented at different times a compromise, sometimes even between opposing approaches, in the existing juridical system depending on the external economic- political situation'*. (Melossi & Pavarini, 1981).

One example related to the competing interest regarding the use of prison labour and the conflicting goals of rehabilitation purposes and profit pressure is the competition of prison labour systems with the free labour regime. Historically, there are three most decisive forms of prison labour from the second half of the nineteenth century onwards. The first is the state-use system, in which labour is organized by the penitentiary and the goods are utilized by the prisons or by other public authorities. The second is the contract system based on a close cooperation between private companies and the prison. The third is the lease system, in which the management of prison labour is fully outsourced (Melossi & Pavarini, 1981).

Concerns regarding the competition of prison labour systems with the free labour regime was a central topic already at the first International Prison Congresses inthe second half of the nineteenth century. In the period concerned, complaints were made on behalf of the industrial lobby from all over Europe (Tóth, 1886). Although the main directions of conflict resolution were outlined at the second and third International Prison Congresses in London and Rome (Finkey, 1930), these claims have regularly re-appeared at several points in history, especially in the form of local resistance. For instance, a good deal of articles was published in the last third of the nineteenth century in Hungarian journals of crafts and professions such as those of carpenters', pressmen's, or shoemakers', which complained about the fact that prison industry is taking away their jobs and markets. Furthermore, debates regarding the supposed and actual goals of prison labour regularly arose in Hungarian political discourse at the turn of the nineteenth century. Experiences of local craftsman and experts of the penal field were in conflict, which frequently appeared in the columns of national newspapers or in the form of parliamentary debates (Ivanics, 2020).

Similar tendencies occurred in the United States as well, where protests of craftsmen were widespread against the competition of prison-made goods

throughout the mid-19th century, however the contract system was flourished at that time (Gill, 1931). After all, both in Europe and the United States the solution meant to be turning to the direction of the state-use system, which *'in theory, the state-use model creates an enormous market for prison-made goods and services and provides protection for private sector manufacturers against competition from prison industries with artificially deflated wage structures'* (Flanagan, 1989).

The logic of profit and the pressure of economic rationality within the penal system is not necessarily an inherent logic, but it appears primarily through state actions. The fact, that the lease and contract systems have been replaced by the state-use system in many contexts, does not mean that the tension between the goals of rehabilitation and economic efficiency would have been resolved.

Concluding remarks

In the present paper conceptual and theorical issues of prison labour have been discussed. The paper explored the ways through which the role of the state could be strengthened regarding the theorization of prison labour as a specific form of state-imposed unfree labour.

Rusche and Kirchheimer, the revisionist historians, and recent researchers inspired by the Rusche-Kirchheimer tradition alike provided a fresh look on the birth of the prison and its connections to broader socio-economic processes. Many of these accounts observed the criminal justice system as a means of labour market regulations and highlighted its interconnectedness with state policies and labour market dynamics. This logic directs our attention to approach the study of prison labour as an integral part of such a system but based on their criticism we are also warned that deeper layers of this relation should be explored more carefully, by observing how different organizational logics are negotiated through organizing prison labour. The logic of profit and the pressure of economic rationality within the penal system is not necessarily an inherent logic, but it appears primarily through state actions.

Even though mainstream forms of prison labour are – in legal terms – clearly excluded from the core labour rights according to landmark international treaties and labour standards, empirical and theoretical research on prison labour should not be limited to the framework assigned by these legal documents. According to the unfree labour literature, utilization of coerced forms of labour is not merely a pre-capitalist phenomenon, it also occurs in many different contexts and settings of the capitalist system. Unfree labour is not only compatible

with capitalist production; is inherent in its very logic of accumulation (Brass, 2014). Prison labour has undoubtedly been an extreme form of state-imposed unfree labour, but its coercive elements and their structural and ideological background have been shifting considerably over times. As Brown and van Der Linden (2010) stated: *'There are varying degrees of freedom within unfree labour and of bondage or coercion within free labour'*. Regarding the issue of prison labour, this complexity could only be captured if the analysis expands far beyond the prison walls and includes the role of the state as a key actor, which is involved not just on the regulatory side, but in the active construction and management of different forms of unfree labour relations (Lebaron & Phillips, 2019).

The operation of prison labour systems has been always characterized by the tension between rehabilitative purposes and budgetary pressure. These objectives have often interfered with each other. But the logic of economic rationality within the penal system is not necessarily an inherent logic, but it appears primarily through state actions. This paper attempted to demonstrate that the significance and the logic behind the operation of prison labour cannot be understood if this process of restructuring is not included in the analysis. State involvement is a key factor in the functioning of prison labour regimes, which can be observed on different scales. The state is not only a crucial actor in setting up the political-economic context of prison labour, but it also actively shapes the 'new market' for the products of prison labour, and on the lower scales it manages the ways in which different organizational logics are negotiated through organizing prison labour.

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Limitations of Brain-based Lie Detection[1]

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Abstract
Brain-based lie testing methods are still very much in the experimental phase, and it is not yet proven whether there is any method that directly examines the human brain that is suitable for lie testing. Even if a method works, it is necessary to clarify the concerns and doubts that it raises. What would be the procedural and forensic limitations of such a method, and at what stage of criminal proceedings would it be appropriate? There are many questions and doubts, yet there are criminal cases overseas in which some methods considered suitable for lie detection, such as brain fingerprinting, have been used. These attempts were premature, and the method should have been validated before it was tried in a criminal case.

Keywords: lie detection, brain fingerprinting, brain, fMRI, fNIRS

Introduction

Brain fingerprinting, fMRI (functional magnetic resonance imaging), and fNIRS (functional near-infrared spectroscopy) are the three methods used for lie detection. The expectation of these methods is that they have greater validity than other lie detection methods (e.g. polygraph, grafomether, e layered voice analysis, thermal camera), because they directly examine the human brain. The polygraph channels are also related to the human brain, but only indirectly. Experts measure with the polygraph:

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- changes in respiration (abdominal wall deflections and the characteristics of the flow of expired and inspired air);
- changes in the electrical resistance or conductivity of the skin (with electrodes placed on the fingers or palms);
- changes in blood pressure/pulse rate (using a blood pressure cuff on the upper arm).
- it is also possible to measure the following parameters:
- the volume of blood flow through the periphery (plethysmography) is recorded with a photoelectric sensor attached to the fingers;
- the activity of the subject's movements is detected using sensors placed under the legs, on the armrest, or the cushion of the test chair. (Budaházi, 2015)

The physiological changes are related to brain processes, but only indirectly because the polygraph does not directly examine the human head or the brain activity.

Brain-based lie detection techniques are primarily carried out in the United States, but some methods are becoming more widely known in Europe and Asia. Brain fingerprinting and fMRI has also been used in criminal cases, but their use is infrequent, only in a few cases. We will discuss the reasons for this and the concerns and limitations of each method in this paper.

Brain fingerprinting

In the 1980s the American neuroscientist Larry Farwell has developed a lie-detecting technique that directly examines the brain. The brain fingerprinting detects whether specific information is stored in the human brain or not (Moenssens, 2002). The examinee is shown photographs flashed on a computer screen, amongst which some critical crime-related visual images appear. Should the brain react to the picture or word relevant to a crime, giving a so-called 'ah' signal (Farwell, 2012), the examiners consequently indicate that they are testing the perpetrator. In fact, the 'ah' or 'yeah' signal is 'MERMER' response, namely, Farwell has discovered a 'MERMER' signal in the brain, and the larger brain frequency component of that is known as P300 (Póczos, 2006). EEG (electroencephalogram) sensors are used in the analysis to detect the electric brain functions of the subject generated by various external stimuli. In case of a MERMER response the examiner concludes that the information connected to the effect is stored in the subject's memory. On the contrary, the irrelevant stimulus does not result in a MERMER response (Stoller & Wolpe, 2007).

Rosenfeld and colleagues (Rosenfeld, Nasman, Whalen, Cantwell & Mazzeri ,1987; Rosenfeld, Hu, Labkovsky, Meixner & Winograd, 2013) concluded that the P300 brainwave might be suitable for revealing concealed information stored in memory. Even the subject denies that this information (e.g., a particular object, environment, person) is known. However, the appearance of the P300 potential alone does not indicate a lie, only the recognition of information. Verbal denial of this may mean direct misrepresentation. The technique measurably shows whether the concealed information is present in the subject's consciousness (Littlefield, 2009). The detection of 'concealed' memory traces in the brain, the possibility provided by the P300, was recognized by another research group in the United States (Farwell & Donchin, 1986) contemporaneously with Rosenfeld and colleagues.

In their study, similar to Rosenfeld and colleagues, the CIT (Concealed Information Test) paradigm was applied. Farwell and his team tested the P300 brainwave-based technique both under laboratory conditions and on actual perpetrators. About detection of concealed information during the P300-based procedure Farwell's team reported good results in this early study and subsequent studies. Specificity and sensitivity values generally exceeded 90% (Farwell & Donchin, 1991). The name 'brain fingerprinting' is also due to this working group. Brain fingerprinting was used in several criminal cases in the United States in the early 2000s. The techniques were considered suitable to orient the investigation. According to some researchers, the expert can use the method to answer whether the subject's brain responds to a photo or text related to the crime. If he does not respond, it is presumed that he did not commit the crime. The expert shows photos, such as the gun with which the perpetrator committed the crime. The expert shows him several guns and watch which gun the P300 brainwave triggers. Brain fingerprinting is a non-invasive yet safe and painless technique. (Fox, 2008) Although it has already been used in three criminal cases in the United States, there are doubts as to its suitability for a lie detection.

P300 MERMER response

The basis of the operation of the technique is the P300 MERMER response. If the photo is familiar, the brain gives a P300 MERMER response. The P300 brain wave is a group of cerebral bioelectrical signals. It can be examined by electroencephalography (EEG) methods used in medical practice, among others. The EEG signal – i.e., the electroencephalogram – is a continuously changing voltage fluctuation over time, which is the sum of the electrical activities from

billions of brain neurons. The EEG signal can be measured by the potential difference between a sensing electrode placed on the scalp ('scalp') and an electrically neutral point on the head (such as the earlobe). EEG is no longer registered from the scalp in case of scientific research and clinical trials using not one, but usually many, possibly hundreds, sensors so that the activity of each brain area can be monitored with high spatial accuracy. The P300 brain wave, which is important for brain fingerprinting, is an essential class of event-related evoked potentials. Sutton and colleagues first described the P300 brainwave in 1965 (Sutton, Braren, Zubin & John, 1965). In their experiment, subjects were presented with high and low tones in a ratio of 8: 2 in random order. Participants had to count the infrequent sounds. As a result of their study, they found that the P300 brain wave was always 'triggered' by rare sounds, regardless of whether the high or low sound was the rare stimulus. In which stimuli different in some respects from the series are used, this test situation is called the 'oddball' paradigm. The name P300 comes from the fact that after the stimulus is presented, it appears with a delay of about 300 milliseconds (hence 300) (typically lasts for hundreds of milliseconds), and the brainwave has a positive amplitude (therefore P) (Budaházi, Fantoly, Kakuszi, Bitter & Czobor, 2021). As a result of further studies, they described that the amplitude of the P300 wave is most significant in the midline parietal, central, and frontal brain areas. It grows in proportion to the 'rarity' of the stimulus and the subjective meaning and 'meaning' of the stimulus. 'Meaning in itself' can be certain stimuli, such as information about ourselves, name, birthday, phone number, or information about the crime. In other cases, a particular stimulus can be made 'meaningful' to the subject by augmenting it with a task (e.g., in a study to detect concealed information, pressing the appropriate response button after a particular image flashes) (Budaházi et al., 2021).

The study by Fabiani and his colleagues was an important milestone in exploring P300 brainwave memory (Fabiani, 1979). In their study, a list of words was taught to the participants. The P300 brain waves generated by the presentation of the 'familiar' words thus learned were studied. Specifically, the study involved presenting the subjects one by one with a long list of words, mainly consisting of 'new' words (not memorized words). However, one or two of the memorized 'meaningful' words were randomly and infrequently inserted into the new words, and the amplitude of the resulting P300 brain potential was analyzed. They found that the memorized, familiar words elicited a P300 potential, whereas the new words did not trigger a P300 brain wave.

Rosenfeld et al. (Rosenfeld et al., 1987; Rosenfeld et al., 2013) recognized that the appearance of the P300 potential might help to reveal confidential information

about the crime. The authors hypothesized that the P300 brain wave might reveal information stored in memory even when the subject denies that this information (e.g., a particular object, environment, person) is known to him or her.

In this situation, the appearance of the P300 potential does not indicate in itself lying but only recognition of the information; its verbal denial may indicate direct misleading. The authors initially used the term 'guilty knowledge' (which is not precise enough and involves value judgments, so the use of the terms 'concealed' information is more justifiable).

The laboratory study conducted by Rosenfeld et al. involved participants in a simulated crime. Subjects were 'pretended' to have stolen one of 10 objects in a box. The names of the objects were then shown to the subjects one by one on a screen.

Based on the analysis of P300 potentials, the objects that the subjects 'stole' (pretended to steal) – known as probes – triggered a P300 potential in 9 out of 10 subjects.

The other 'irrelevant' objects did not produce a P300 potential. In this study, another special stimulus (target) was also used, presented at random.

For each specific randomly presented stimulus, subjects had to respond by saying the word 'yes'. The authors used this method to confirm that the subjects were actually focused on the task during the testing and thus attended to the test stimulus's presentation (probe).

When presented with all stimuli other than the target ringers, the subjects had to give a negative response ('no'), i.e., they had to lie about the items that were 'stolen' in the task situation.

The P300 potential was also elicited by specific target stimuli (objects), as these stimuli were infrequent and meaningful to the subjects.

It should be noted that the task used by Rosenfeld and his colleagues was very similar in many respects to the Guilty Knowledge Test (GKT) paradigm developed by Lykken (Lykken, 1959), which was later called the Concealed Information Test (CIT), mentioned above.

The possibility of detecting 'hidden' memory traces in the brain, a possibility offered by the P300, was recognized by another group of researchers in the United States (Farwell, 1986) at the same time as Rosenfeld and his colleagues were investigating it. In their study, like Rosenfeld's, they used the CIT testing paradigm. Farwell and his team tested the P300 brainwave-based method in laboratory conditions ('mock crime scenario') and on actual offenders.

Farwell's team reported good results for the P300-based method in this early study and subsequent studies (specificity and sensitivity values generally exceeded 90%) (Farwell & Donchin, 1991; Farwell, Richardson & Richardson, 2014). The name 'brain fingerprinting' was coined by this working group.

Recent meta-analytical studies suggest that the P300 brain wave provides a higher power of detection in CIT tests to reveal hidden information compared to psychophysiological parameters (e.g. skin resistance, respiration, heart rate) (Budaházi et al., 2021).

Brain fingerprinting in criminal cases

In 1977, Terry Harrington, who was 17 at the time, was accused of the murder of John Schweer, a retired police captain. The victim worked as a security guard at a car dealership, where the offense took place (Hurd, 2012). In the criminal procedure, Harrington had alleged that he had been at a rock concert with friends in another town on the evening of the crime. Several witnesses corroborated the defendant's alibi. However, Kevin Hughes, a primary prosecution witness who was 16 at the time, testified in contradiction to the defendant's plea, upon which Harrington was found guilty and sentenced to life without parole. In 1997, Harrington petitioned the Iowa District Court for post-conviction relief for a new trial, and in March 2000, he amended his petition to include the results of Farwell's brain fingerprinting testing. The applicant alleged that the brain fingerprinting results enhance new evidence unknown to the first decree court and upon which the defendant should have been acquitted. Farwell concluded that Harrington's brain did not store critical details of the crime subject to his conviction; for example, his brain did not recognize the crime scene.

On the other hand, with regards to critical details on the alibi (he had been at a concert on the evening of the crime) Farwell concluded, that Harrington's brain stored such information. When confronted with the brain fingerprinting test results, Kevin Hughes, the key prosecution witness, recanted his testimony and admitted that he had lied in the original trial, falsely accusing Harrington. Hughes explained that he had lied, fearing that he might have been charged with murder himself if he was telling the truth (URL3).

In November 2000, the Iowa District Court held a hearing on the petition for post-conviction relief. Farwell has testified as an expert on the new method. Furthermore, two acknowledged professors, William Iacono of the University of Minnesota and Emanuel Donchin of the University of Illinois, have confirmed the efficiency of the Farwell research and stated that brain fingerprinting – as a scientific method – can recall any information stored in the human brain with a 99.9% accuracy. It enhances the technique to meet the legal standards for admissibility for the authorities proceeding in criminal cases as reliable evidence (URL3).

After an eight-hour session, the court ruled that brain fingerprinting testing met the legal standards for admissibility in court as unquestionable scientific evidence. It constituted new evidence in the case that could be the ground of a new trial opened upon the post-conviction petition. However, the court also ruled that along with other newly discovered evidence in the case would probably not have resulted in the jury arriving at a different verdict than at the original trial, and therefore it denied the petition for a new trial. In August 2001, Harrington filed an appeal on the Iowa District Court's decision to deny a new trial, resulting in the Iowa Supreme Court ordered a new trial (Harrington v. State, 659. N.W.2nd 509 (Iowa 2003, No.96-1232.). Although the Iowa Supreme Court has undoubtedly acknowledged Farwell's expert opinion on brain fingerprinting testing, the good closure of the case to Harrington was based on the injury of the Brady rule. Thus, the defendant was not confronted with the key prosecution witness since he recanted his testimony when confronted with the brain fingerprinting test results. In the light of the new evidence and the fact that the key prosecution witness of the original case recanted his testimony, the base of the conviction, in 2003 Harrington was released and his conviction was reversed. He has received USD 12 Million compensation for the years he had spent in jail (URL3). In connection with the Harrington case, Rosenfeld criticizes the fact that the concealed information was not found in the convict's mind more than twenty years after the crime was committed, so he believes the naive conclusion that Harrington did not commit the crime was not there (Rosenfeld, 2005). The suggestion is valid, and it is also questionable when the image of the concert serving as an alibi may have entered his brain. On the day the crime happened or at another time? Also, what photo did Farwell have of the concert? When was it made? Did it trigger a P300 brainwave because Harrington was actually there at the concert seen in the picture on July 22, 1977, or was it just his brain that responded to a photo taken of a concert?

The James B. Grinder case

James B. Grinder has been the prime suspect of the murder of 25-year-old Julie Helton, despite the defense's conviction that the evidence was insufficient to indict him and convict him in first-degree murder. In January 1984, the abduction of Julie Helton was reported in Macon, Missouri. The victim's body was found three days after near a railroad track outside Macon. The coroner discovered signs of rape and physical abuse on the body and also found a stabbed wound on the neck. During the 15-year long criminal procedure, Grinder gave

several different testimonies. He soon recanted his first testimony confessing his involvement and denied the offense. Some of his testimonies referred to other perpetrators of the crime. However, the testimonies were invariably contradictory to the available material evidence and to the testimony of an alleged witness of the defense. Even DNA tests did not bring favorable results since the blood samples taken at the crime scene were rather old. In 1999, Macon County Sheriff Robert Dawson – after approximately 10.000 man-hours of unsuccessful investigation – turned to brain fingerprinting testing to decide whether Grinder had committed the crime or not. Grinder, who had spent several years in prison before, agreed to the test. The Sherriff gave all significant information gathered during the investigation to Farwell, and Farwell completed the test with the cooperation of an FBI agent. He completed the examination at the correction institute where Grinder was held. During the analysis, he showed Grinder the murder weapon, specific methods of killing the victim, the object the perpetrator used to bind the victim's hands, the crime scene, and the victim's belongings found not far from the location of the offense after discovering the criminal act. Farwell concluded that all the critical information was stored and present in Grinder's brain. Following the principles of the method, the conclusion was that Grinder did commit the offense. Otherwise, his brain would not have enhanced MERMER responses to relevant information.

However, Grinder concluded a plea deal, pled guilty to rape and murder of the victim, and in exchange – instead of the death penalty – he agreed to a life sentence without parole. Uniquely, in this case, Grinder did not only confess to murdering victim Julie Helton, but after the brain fingerprinting examination, he gave a detailed confession to the murder of three more young girls. He first raped and then stabbed or beat his victims to death (URL4). As for now, there are two final and binding orders in a conviction of Grinder. Another procedure is still pending. Brain fingerprinting was essential both for confession and for the fact that Grinder committed 15 years before. The method could be used to detect that critical information was in Grinder's brain. The Grinder case dampens Rosenfeld's criticism of the Harrington case that years passed could remove concealed information from the brain.

The Jimmy Ray Slaughter case

In 2004, Jimmy Ray Slaughter, a death row inmate, had pleaded for a new trial referring to negative test results of brain fingerprinting (information not stored in the brain) and other evidence at the Court (of Criminal Appeals) of Oklahoma.

The appealer referred to the favorable results of brain fingerprinting and referred to the exempting results of DNS analysis and further evidence proving his innocence (Farwell, 2012).

Slaughter was condemned to death for the July 2, 1991 murder of his former girlfriend, the 29-year-old Melody Wuertz, and their child, the 11-month-old Jessica Rae Wuertz (URL5). He committed the killing actions in the victims' Edmond home. According to the ruling, Slaughter has shot both his victims in the head. In addition, he has hit his exgirlfriend in the neck. Moreover, he has stabbed the victim several times and then mutilated her body (URL2). Slaughter has claimed innocent of the crime all along, although investigation proved that he had a somewhat stormy relationship with his exgirlfriend, and they had numerous fights and furious quarrels over unpaid child support. In the end, Slaughter was executed. Denying the petition for a new trial, the court has also referred to brain fingerprinting. He stated the court did not recognize the results because the court did not receive a comprehensive and detailed method – neither on nature nor the application or the results of the technique. The brain fingerprinting 'evidence' would not have changed the balance of the scales before the jury – ruled the court. (Slaughter v. State, Oklahoma 2005, No. PCD-2005-77.) The Slaughter case also exemplifies that the result of brain fingerprinting alone is not sufficient to order a retrial because it is not the weight of evidence that would affect the judgment of the retrial court. Although the court justified disregarding the result of brain fingerprinting by not receiving information about the method, in our view, if Farwell had provided sufficient information about brain fingerprinting, the court would probably not have made any decision other than to dismiss the renewal request.

If the method works

While in two out of three cases in the United States, brain fingerprinting was performed on the accused to order a retrial, in Hungary, the legal regulations allow for the instrumental confession check during the investigation. According to the Hungarian Criminal Code (Act XC of 2017 on criminal procedures) '*During the investigation, the prosecution or the investigating authority may examine the testimony of the witness and the suspect using an instrumental examination of the testimony. The consent of the witness or the suspect is required for the examination.'* If brain fingerprinting were to become a validated method of examination and thus suitable for use in criminal cases, the Hungarian Criminal Code would not allow brain fingerprinting to be carried out either

in court proceedings or during extraordinary legal remedies, but only during the investigation phase of criminal proceedings.

If the method works, brain fingerprinting could be a screening tool similar to a polygraph examination. In the case of a witness, the test result should rule out the possibility that the person tested is the perpetrator of the crime, or on the contrary, the test result is another argument in favor of suspicion. In the case of a witness, the method could be used both at the investigation and inquiry stages. During the detection phase, it would be most helpful to identify the perpetrator in the witness's position or show that the witness under investigation could not have committed the crime because there is no concealed information in his brain relating to the case. In a case that has reached the investigative stage, the use of brain fingerprinting may also be justified when checking the witness's testimony to see whether he or she saw everything as he or she said in the testimony, because the witness may not be telling the truth, but his or her brain activity may be exposed by the testing method (Farwell, 2012). Brain fingerprinting can be used to test confessions more widely than polygraphs because it can test the part of the confession where the witness honestly denies having committed the crime or know who the perpetrator is and to test other parts of the confession. As there is usually no identification of the perpetrator at the investigation stage because the suspected perpetrator is already known, it may be more appropriate to carry out a brain fingerprinting of the witness to verify the confession. Confession checking may also be necessary during the detection phase, so the detection phase is the most appropriate time to apply the method to the fullest extent.

Since only the suspect is interrogated during the investigation phase, all other evidentiary acts concerning the suspect occur in the investigation phase. Therefore the place for brain fingerprinting of the suspect is in the investigation phase when it is possible to examine whether the suspect committed the crime, whether the information about the commission of the crime is present in his brain. It can also be used to test a suspect who has confessed to the crime, but the authorities assume that he/she did not commit the crime but only took the blame. Brain fingerprinting may have the advantage over polygraphs in that it does not require fear of exposure and possible consequences and sanctions. This fear is not necessarily inherent in the accused in such a situation.

Concerns and limitations

The main problem with brain fingerprinting is that experiments are being conducted to test how the method works, but these experiments are far from being

validated. In criminal cases, only Farwell provides validation figures. It is problematic because it does not necessarily meet the requirements of objectivity that not an independent organization carries out the testing. Further validation experiments are needed to verify the reliability of the technique.

The limitations of brain fingerpring include the need to have a photo available. If there is no photo of the scene of the crime, the means of committing the crime, the method of committing the crime, the victim, the case will not be suitable for brain fingerprinting. The availability of photos presupposes that the authority is beyond a practical inspection or research where, for example, a knife, a corpse, etc., used to commit a crime have been found. Photos can already be taken, but the possibility of applying the method is reduced if neither a picture of the victim, nor a knife is available, or it is not possible to know exactly where the crime was committed. For example, the polygraph may yield results, but the use of brain fingerprinting seems to be ruled out. Proper timing also plays an important role in the use of the method. On the one hand, this can be done when suitable photos are already available, and on the other hand, the photos should be taken as soon as possible to avoid, for example, a change in the crime scene (not the same picture in winter or summer, etc.).

It is essential whether the brain responds to the image seen on the monitor with the P300 because the person committed the crime or saw only the pistol in the photo on TV. Recent EEG research to eliminate the contrast used in the concealed information test promises a significant turnaround. In one study, Japanese researchers convincingly demonstrated that not only the display of information intended to be concealed could be linked to a specific brain response (the P300 brainwave), but also the process of concealment itself. They concluded that the relevant stimuli elicited a higher amplitude P300 potential than the irrelevant stimuli. They analyzed how the amplitude of the slow frontal wave varies depending on whether the memory content sought is 'absent' or 'present' in the subject's brain; and, if present, if the subject intends to conceal or reveal it. The results showed that selective correct hemisphere activation during the slow frontal wave was specifically observed when subjects tried to hide the recognition of the critical relevant stimulus (Matsuda & Nittono, 2018). These experimental results suggest that it is possible to determine from the activity of the hemispheres whether P300 can be detected because the subject committed the crime. However, this was only one experiment, and more experiments are needed.

Another problem is related to the photo. For the investigation to be effective, photographs must be presented to the person under investigation that capture circumstances of the commission of the crime that the person under investigation did not obtain information about in the criminal proceedings. In a case

where the suspect knows everything that the investigators know because he has been exposed to all available information in a previous trial, there is no available information with which to construct probe stimuli, so a test cannot be conducted. Even in a case where the suspect knows many of the details about the crime, however, it is sometimes possible to discover salient information that the perpetrator must have encountered in the course of committing the crime, but the suspect claims not to know and would not know if he was innocent. This was the case with Terry Harrington. By examining reports, interviewing witnesses, and visiting the crime scene and surrounding areas, Farwell was able to discover salient features of the crime that Harrington had never been exposed to at his previous trials. The brain fingerprinting test showed that the record in Harrington's brain did not contain these salient features of the crime, but only the details about the crime that he had learned after the fact (Kumar, 2011).

A major, often unacknowledged, problem with brain fingerprinting is the suspect's possible lack of memory for details due to the passage of time since the crime and/or to drug and alcohol use. Additionally, an investigator needs to determine what the suspect will remember (Wilcoxson, Brooks, Duckett & Browne, 2020).

Brain fingerprinting detects information-processing brain responses that reveal what information is stored in the subject's brain. It does not notice how that information got there, be it a witness or a perpetrator. Brain fingerprinting does not detect lies. It simply detects information. No questions are asked or answered during a brain fingerprinting test. The subject neither lies nor tells the truth during a brain fingerprinting test, and the outcome of the test is unaffected by whether he has lied or told the truth at any other time. The outcome of 'information present' or 'information absent' depends on whether the relevant information is stored in the brain, and not on what the subject says about it (Ahuja & Singh, 2012).

Another problem is what information is stored in the subject's brain. It does not detect how that information got there. This fact has implications for how and when the technique can be applied. In a case where a suspect claims not to have been at the crime scene and has no legitimate reason for knowing the details of the crime and investigators have information that has not been released to the public, brain fingerprinting can determine objectively whether or not the subject possesses that information. In such a case, brain fingerprinting could provide useful evidence. If, however, the suspect knows everything that the investigators know about the crime for some legitimate reason, then the test cannot be applied. There are several circumstances in which this may

be the case. If a suspect acknowledges being at the scene of the crime, but claims to be a witness and not a perpetrator, then the fact that he knows details about the crime would not be incriminating. There would be no reason to conduct a test, because the resulting 'information present' response would simply show that the suspect knew the details about the crime – knowledge which he already admits and which he gained at the crime scene whether he was a witness or a perpetrator (Kumar, 2011).

fMRI

The fMRI method looks at which brain parts are active when the subject sees a photo on the monitor or hears a word. Within the human brain, it can isolate a resolution of 1.5mm x 1.5mm x 4mm, an area the size of a grain of rice (pepper) out of a total volume of 150,000 such grains of rice. According to Csaba Fenyvesi, '*by detecting the oxygen consumption of the brain, the amount of blood flowing (the magnetic resonance of the hemoglobin molecules or hydrogen atom nuclei in the blood), fMRI can monitor a person's decision-making processes, thinking, emotions, and thus truthfulness or dishonesty*.' (Fenyvesi, 2007). Several studies have investigated how the BOLD (blood oxygenation level-dependent), an fMRI method based on blood oxygen content to visualise active brain areas (URL1), fMRI signal in different brain areas of subjects shows up in different forms of forced lying, spontaneous lying, memorized lying, feigned memory impairment, and the GTK (guilty knowledge test). The results show more significant activity in certain prefrontal and anterior cingulate regions in the case of lying (Simonyi, 2017). Birbaumer and Rosler, and co-authors, in their paper, based on a meta-analysis of data from a study using this method, confirmed activation of the right medial frontal cortex during testing (Birbaumer, Elbert, Canavan & Rockstroh, 1990).

While PET (positron emission tomography) imaging allows a view of average regional brain metabolism with radioactive-labeled glucose over fractions of an hour, fMRI more directly reflects regional metabolism by imaging the changes of oxygenation of hemoglobin in a more immediate fashion, as the blood passes through the circulation of the brain. SPECT (single-photon emission computed tomography) imaging also maps brain blood flow, but it uses radiotracers and an epoch of time too great to approach the speed of thought. The advantages of fMRI, therefore, include the absence of radioactivity and a time scale measured in seconds rather than minutes. Perhaps the chief threat to the validity of the use of fMRI to detect deception is the overinterpretation

of its ability to map pathways underlying brain processes. No function has discrete localization except for the simplest lesion resulting in paralysis or pain. Brain functions, however, are distributed with many interconnections. The images generated by PET or fMRI are blurry compared with those obtained by microscope, or even a dissection for the demonstration of brain lesions. But how small is a thought? This facetious question unfortunately is the heart of the problem. Even if we were able to map the activity of each and every neuron in a time-lapse motion picture, we would still be up against Chaos Theory and the Heisenberg Uncertainty Principle in our attempt at understanding thinking and consciousness. Fortunately, the idea behind fMRI lie detection is much simpler than imaging a thought. The experimental finding that there is more activation (measured by oxygen use) in the prefrontal and anterior cingulate regions in the lie condition relative to the truth condition in an experimental setting is the basis of fMRI lie detection (Merikangas, 2008).

One of the experiments involved 23 participants from the University of Pennsylvania. They were offered $20 if they could conceal which card they had drawn. The experiment found that parts of the subjects' brains were more active when lying than telling the truth. They concluded that fMRI could detect these changes in brain activity (Langleben at al., 2002).

The fMRI has also been used in criminal cases in the United States, with at least four requests for it to be admitted as evidence in court - write Farah and colleagues (Fara, Hutchinson, Phelps & Wagner, 2014). It would not be a problem; in a polygraph examination in Hungary, the court practice does not accept the test result as evidence either, but it can still be considered as a recognized method to orient the investigation with good efficiency. The problem with the fMRI is that it is still very much in the testing phase, and it has not yet been proven beyond doubt that it is suitable for lie detection. It is also in need of validation by an independent institute. Further empirical research is needed (Spence, 2008). These circumstances are limitations of fMRI, which in themselves raise doubts as to whether it should be used in criminal cases where the stakes are high, and the case could end with imprisonment for the accused. We think it is not correctly ascertained yet that the method works and has sufficient validity.

Similar to brain fingerprinting, another limitation of the method is the projection of a photo or word for the person under investigation, which may include photos or words linked to the commission of the crime. The brain activity triggered by the relevant photos or words is examined. The main limitation is the image since the authority must have images that can be presented to the subject and linked to the crime. If there are no photos or insufficient photos, an fMRI scan is not possible.

Another problem is that fMRI is an expensive test. Another limitation of the method is that it requires the subject to remain still. It is necessary to ensure that the images of the brain can be taken properly. Cooperation is also required for polygraphy, so this limitation is not significant for fMRI, but there is also the issue of the subject's consent to the scan, which guarantees voluntariness. The use of fMRI is neither invasive nor painful.

fNIRS

All biological tissues transmit electromagnetic radiation of different frequencies and intensities to different degrees. It is the basis of all electromagnetic radiation imaging techniques, including fNIRS and fMRI. Near-infrared rays penetrate body tissues without any particular obstruction, providing a few centimeters of illumination. The method uses light absorption to determine tissue oxygen saturation, indirectly infers neural activity in the observed brain area (Simonyi, 2017). In a lie detection test, the near-infrared emitter and receiver are fixed to the subject's forehead (Simonyi, 2017). As in fMRI, photos are projected onto the subject in fNIRS. The limitations listed for fMRI are also a problem for fNIRS.

In one fNIRS experiment, subjects had to steal two banknotes of different denominations in a room. They then tried to determine which subject stole which banknote. In addition to fNIRS, the experiment also used polygraphs on the subjects. The averaged classification accuracies of individual fNIRS and polygraph were 71.6 and 74.5%, respectively; but that of the combined fNIRS-polygraph system, remarkably, was 86.5%. These results prove emphatically that the combined system is more efficient in discriminating between true and lie responses (Bhutta, Hong, Kim & Hong, 2015).

On the other hand, polygraph testing requires a real stake in the test, a fear of exposure by the subject and its consequences. If this fear is absent, the test will not be practical. The present experiment was not conducted in a real case, so there was no real stake in a possible detection, which is why the polygraph test could have resulted in a validity value of only 74.5%.

In another experiment, subjects had to say whether the coin would appear on the right or left side of the screen. They had to move their right or left hand under the tabletop secretly, but they did not know they had been videotaped. After the coin appeared on the screen, they had to declare whether they had hit the coin's position. They were awarded a point for a successful guess and a point deduction for an unsuccessful one. At the end of the experiment, a cash prize

was offered for reaching a specific point limit. They were not told that this could only be achieved by cheating. As a result of the experiment, it was found that an fNIRS system could be built to study lying (Ding, G. X. Fu, G. Fu, G. Fu & Lee, 2013). As the phrase 'a lie can be studied' indicates, the method still needs time and further testing before it can be considered a lie testing method.

Conclusions

The brain fingerprinting technique, which is also considered suitable for lying, is characterized by the fact that its operation and validity are uncertain, although it has been used in criminal cases. In our view, the method should not have been used before proper validation. They have a high stake in criminal cases, and human destinies may depend on the endless, unvalidated technique that should not be used, even if it 'only' served the orientation of the investigation and was not taken into account by the court as evidence. Even the misorientation of the investigation no longer led a criminal case astray, which could even result in a judicial murder. Brain fingerprinting needs further testing, experimentation, and development. It is primarily due to the lack of validation and scientific validation related to the operation of the method that is rarely used. Even if brain fingerprinting were a validated method, it should help to orient the investigation. We think so, although it has been used in the United States in retrial proceedings. There is no longer any place for instrumental lie detectors in court proceedings. In the investigation, it may be of some help to know whether the person under investigation may be the perpetrator of the crime. If the person's brain reacts to the information sought, this does not mean that he or she committed the crime. It is necessary to investigate what might be the reason for the information being in the brain.

The fMRI has all the same problems as brain fingerprinting. Although there is a fair amount of testing, the method is still far from being validated. The fMRI has been used in criminal cases, but we agree that the court did not consider it evidence. The fMRI is not yet ready to be considered as a method to be used in criminal cases. The disadvantage of fMRI compared to brain fingerprinting is that it is costly. It does not help its future use as a lie detection method. The fNIRS method works similarly to fMRI and is expected to become more widely used because of its cost-effectiveness. Nor is fNIRS validated. It has not yet been used in criminal cases and is not yet well enough known to be a serious option. The limitation of both brain fingerprinting, fMRI, and fNIRS is that they work with photos. If there are insufficient or inadequate photos, this may make

the case unsuitable for the use of the method. Even if one of the brain-based lie detection methods were to be validated and used in criminal cases, mass use is not expected, just like the polygraph has a narrower range of applications.

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The Impact of COVID on the Development of HRM in Public Service

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Abstract

COVID has had an immense impact on HRM. The aim of this paper is to examine international responses and detect best practices. We analyse a variety of methods, techniques, trends and ideas from all over the world. Insights from Hungary, Austria, Germany, Spain, Italy, Portugal, the Netherlands, the United Kingdom, Ireland, the US and Canada are considered. Work has been transported to virtual space. Home office has grown into being the engine of public service development. It is likely that the future will be characterised by hybrid models. Online operation is intertwined with numerous issues, such as: simplification and increased efficiency of procedures, legal regulation of the transformation and data protection. Numerous questions require our answer as regards the use of virtual space: How will teamwork function? What adjustments are required in learning and development schemes? What is the new role of leaders? How can we assure mental health? How do we promote resilience? Another trend concerns digitalisation of recruitment and selection. Digitalisation is spilling over to the neighbouring areas, such as job branding, mobility management and onboarding. How will the post-COVID era look like? The scale of HRM changes ranges from mere adjustment to paradigm shift. Areas of utmost importance include: consequences of accelerated digital transformation, growing importance of IT skills, new methodology for learning and development, demand for resiliency, sustainable development, efficiency, social dialogue as well as restoration of trust between employer and employee.

Public service has to adapt to the modified socio-economic environment. Its structure and functioning require reform. This process incorporates the hope that digitalisation can bring qualitative changes in the functioning of public service. COVID has also brought about a chance to take advantage of the possibilities

digital technology can offer. It has enabled us to reinvent the functioning of the state on a higher level.

Keywords: COVID, crisis, HR, digitalisation, education, work, atypical, resilience

Introduction

'It is not what happens to you, but how you react to it that matters.' (Higginson, 1890). In 2020-2021, the words of Epictetus have gained particular relevance. The COVID-19 pandemic – what has been happening to us – is a given fact. What is not a given fact is how we respond to the crisis. Where are we heading from here? What innovations will fill in the place of public sector HRM solutions rendered irrelevant by to the pandemic? How will digital transformation affect us? What financial and other forms of support emerge? What innovations does work in virtual space demand and are we prepared for the challenges it poses in relation to data protection? Does the border between work and private life still stand, or has it been washed away for good? What is the role of learning in this chaos? Will trust survive or perish? In our paper, we search for answers in the international HRM practice. After all – echo Epictetus' words – 'It is not what happens to you, but how you react to it that matters.'

Financial Support

Looking at the international practice, we find financial support across the world. Short-time work schemes (i.e., subsidy from the government proportional to the reduction in hours. See the German Kurzarbeit, the Italian Cassa Integrazione Guadagni or the French Chômage Partiel) were introduced to secure continuity of employment in times of economic distress (URL9).

It was financial help and satiability, too, that layer at the heart of 'credit holiday', advantageous credit for entrepreneurs, tax and duty allowances, prolonged parental leave as well as babysitter vouchers (the latter, il voucher baby sitter was introduced by the Italian government) (Del Boca, Oggero, Profeta, & Rossi, 2020). In Hungary healthcare workers used long-distance public transport services free of charge across the country. These financial measures, however, were mere 'artificial lungs' for the emergency situation (Balázs, 2020). Surely, they were lifesaving, but financially unsustainable in the long run. The name

of the measure is tale-telling in case of the new Canada Emergency Response Benefit Plan. The mentioned plan extended employment insurance (EI) to those not traditionally covered by the system (such as self-employed workers, contract workers, and those caring for a family member sick from COVID). Applicants received CAD 2,000 for 4 weeks between March 15 and September 26, 2020 (Lord, 2020; Canada's COVID-19 Economic Response Plan; Government of Canada, 2020). Fast payment took priority even over the surveillance and prevention of misuse (Adam, 2020).

Providing the equipment necessary for work as well as bearing the overheads is of utmost importance for the employee (Bankó, 2005). An obvious example of financial support is paying the increased utility bills and amortized costs. The *German* practice is worthy of our attention. On the one hand it compensates for the emerging extra costs, but on the other hand it takes into account that travelling costs are superfluous. The latter are thus no longer subsidised. The Home Office Lump Sum (Homeoffice-Pauschale) provides tax relief for those who have switched to remote work due to the virus, excluding home-based working space already subject to tax reduction. The amount (5 Euros/day spent exclusively working from home), however, is unlikely to cover all emerging extra costs (URL1).

The Effect of Digital Transformation on HRM

'Future ready' means being ready for the impact digital transformation has on working environment and on competency requirements. Industry 4.0 impacts the working environment as well as competency requirements. The independent basic dimension of the assessment framework developed by German experts evaluates the level of preparedness to such impact (Némethy, 2018). Digital transformation preceded COVID. This global tendency inevitably transformed the place and function of human resources. It was predicted that, due to technological development, in the near future it would be possible to make at least 40% of routine tasks automated (Centre for the New Economy, 2018). The pandemic only accelerated this process of change (Rixer, 2021). The crisis demanded deep and fast reactions. Those parts of the public service that had already invested in digital capabilities were better positioned to manage the crisis.

Nowadays work processes are more and more complex and the importance of interpersonal and personal skills (commitment, responsibility, communication, etc.) is increasing. According to the prognoses the most demanded skills will soon be soft skills, such as analytical and critical thinking, creativity, complex

problem-solving, leadership and social influence emotional intelligence, reasoning, etc, (Némethy, 2018). Some job descriptions become obsolete or undergo substantial changes, while new ones emerge. The rapid changes continuously demand new competences, which are hard to acquire from outside, from the labour market. Inner mobility is the answer for the demand for new competences. Intra-company movement, such as between jobs transfer, become typical part of the working careers.

Digitally trained workforce is a prerequisite in taking advantage of the technological innovations of the 4th industrial revolution. Recognising this, the Hungarian Government dedicated 158 billion HUF to support digital transition and 140 billion HUF for the digital competency development of its citizens. The lack of sufficient number of experts causes disruption in operation and also slows down the process of digitalisation itself (KPMG, 2019). Therefore, the competition for talents is high, and it is a priority to increase the efficiency of recruitment and selection. Organisations introduce new technological tools to enhance the effectiveness of recruitment and selection (URL21) e.g., camera analysing the candidates' choice of words, facial expression, body language during the interview (URL2). Data and fact driven decision-making is indispensable for strategic HRM including the process of strategic workforce planning. Data and fact driven strategic HRM requires modern technology and an expert HR staff. According to forecasts, the HRM field is amongst the winners of digital transformation (Centre for the New Economy, 2018) and now it has a chance to become strategically partner of leadership.

Work in Digital Space

According to Kun *'Work 4.0 is characterized by diversification, fragmentation, constant and rapid changes, blurring and unfolding of all kinds of boundaries.'* (Kun, 2018). Teleworking existed before the COVID pandemic, but the fight against the virus made it common. It currently appears in the form of home office, but conceptually, the phenomenon includes not only work from home, but also other work performed outside the employer's premises (Bankó, 2010). It fits into an increasingly growing trend in labour law and HRM, where atypical is becoming typical. Let us take a look at some examples of said acceleration.

54 percent of German companies indicate that working from home will play an important role in their company after the crisis (Alipour, Falck & Schüller, 2020).

In view of the growing use of teleworking, the US federal government has created a portal that, in addition to legal and practical knowledge, publishes

training, guides, reports, studies, and provides a platform for civil servants and employers to share experiences and issues related to teleworking.

Trade unions can be active actors in regulation. The Spanish government and trade unions have reached an agreement to regulate teleworking. Main elements are as follows:

- encouraging the development of new technologies and e-government,
- a precondition for examining job responsibilities in terms of whether they can be teleworked,
- it should not become commonplace (the percentage of jobs that are suitable for teleworking is determined in advance, taking into account the need to maintain a personal relationship with clients),
- the primary goal of teleworking is to achieve greater efficiency,
- it has to be ordered by the employer,
- objective assessment of the work in question is obligatory,
- further training in teleworking is also compulsory,
- no discrimination between those who work in person and those who work remotely,
- collective agreements regulate the details,
- legal guarantees protect the right to privacy and the right to terminate the digital connection (URL7).

The Agile Work Plan of the Italian public administration going back to 2019 (Piano organizzativo del lavoro agile) was rather ambitious. It aimed transforming 60% of work into smart work by 2021. The reform was expected to bring about the most significant changes of recent years (URL20). In contrast, in other countries, such as in Hungary teleworking arrangements were not welcomed in the majority of the public service. No central regulation gave clear, consistent and transparent regulatory framework. No social dialogue took place either (Linder, 2021).

What do these international examples show us? In summary, current trends represent the acceleration of earlier ones. The conditions for teleworking are not designed for a transitional period only. Digitization is linked to the simplification of work processes and procedures. It is also coupled with rationalization and efficiency incensement (increasment?). Possibly, the rate of working from home will be higher when the pandemic subsides, than it was before. The full prevalence of teleworking however is far from realistic.

It is already visible that the current model is less suitable for certain tasks (e.g., those requiring teamwork) and has serious downsides (such as social isolation). It is more likely that the future of work will be characterized by hybrid work

models. We may ask: is agile philosophy the answer to current challenges? In agile organizations, responsiveness to change takes precedence over following plans, a feature that at first glance meets the requirements of the COVID era. At the same time, the engine of agile operation is cooperation, interaction between individuals and joint learning. The big question is how we work together effectively without physical proximity. The answer will be given by practice. One thing is certain, during this crisis, 'the public sector has become 'accidentally agile', with new procedures and protocols governing remote working, accelerated hiring processes, and fast-track mobility programmes developed with unprecedented speed' (OECD, 2020).

Work-life Balance and Data Protection

The move towards home office and the accompanying control has brought changes that will leave their mark permanently. The concept of public and/or private and the relationship between the two will no longer be the same (Li, 2020). Pandemic-related restrictive provisions entail several data protection aspects. By implication, increased attention needs to be paid to ensuring the lawful handling of new sensitive data (e.g., COVID test result). Another area that has come into the spotlight is monitoring employees (camera use, virtual meetings, monitoring emails, etc.). Social media use is a hot topic of the latter. On these platforms employees can express their opinion. The communications (likes, posts, comments, etc.) are intended for a closed community; however, they are in fact made public (Kártyás, Répáczki & Takács 2016). The line between private and public sphere is blurred. There has already been a growing interest in the literature on labour law aspects of social networking sites. This interest is now intensified. Where is the line between surveillance and invasion of privacy? Undoubtedly, the violation of privacy violates human dignity. Without the protection of privacy, meaningful social relations - the very building blocks of society -, would also disappear. The control of the employer (exercised via different tools and methods) must not violate human dignity nor invade the employee's private sphere in an illegal manner. On the other hand, the employee also has obligations. Loyalty, secrecy or protection of reputation of the employer does not expire at the end of working hours. The law requires public servants to behave true to their profession even off-duty. This also applies to behaviours on social media forums. The right to privacy must not be used as a means of abusing the right (Kajtár, 2015). In times of the Covid crisis, working from home arrangements become the norm, therefore the regulation

of online communications (with special regard to the right to privacy) gain special relevance. The collision between freedom of expression and the interest of the employer stands in the limelight. Regulation is possible with soft and hard measures. Let us take a look at examples to both categories via the practice of Australia and Germany.

The Australian Code of Conduct for Public Servants was supplemented with rules for online communication. The document is more of a guide (therefore a soft measure). Amongst others, the document states that anonymous or pseudonymous posts and opinions provide no shield for the public servants. These do not provide complete and definitive anonymity, because the identity and position of the person may be revealed later on. Another noteworthy element: The classic limitation clause (i.e., the opinion is binding only on its author) in itself does not release the authors from their obligations. Last but not least, the document also highlights: The higher the position, the more difficult it is to distinguish between private and official statements (URL3).

At the other end of the spectrum, we find the German example. Here, the competent ministry and two civil service unions opted for hard measures. The parties regulated the data security issues arising from the spreading of digital devices in a collective agreement (URL13).

Support

One possible form of support is providing detailed, clear regulations, accessible to all. The French digital Labour Code with mail templates, pay and notice time calculator is an excellent example of such regulation (URL14). The French practice provides an example for sophisticated IT support as well. Autonomous development teams support ministries and other public institutions in implementing their IT developments. Their aim is to simplify administrative procedures and develop online-based public services. They currently run more than 13,000 applications. This number is growing by about 13% per month. Satisfaction with improvements is around 70%. An inter-ministerial incubator centre has been set up for start-ups that do not yet have the appropriate infrastructure and operational background in their own ministry. The government incubation centre also promotes networking (URL15). In Ireland, the Department of Public Expenditure and Reform responsible for public management and governance structures published various internal memos outlining the public management response. It also issued three key documents governing how public employees are to be managed during the crisis (OECD GOV/PGC, 2020). A detailed code

of conduct for videoconferencing was put in place. The document is a collection of practical and technical specifications. Technical advice includes, for example, ensuring a calm, quiet environment, neutral background, preventing the appearance of unauthorized persons, WIFI, Internet connection, microphone, pre-testing of cameras. The Code also covers body language. It draws attention to the fact that in a home environment one easily loses focus. It gives advice that seems to be technical but is much more important, such as: look straight at the camera and not your own screen, sit in a straight posture, position the camera so that your head and shoulders are visible, smile. The code also includes a provision for a dress code (dress identical to a personal meeting) (URL16).

Recruitment, Selection and Onboarding

As the use of digital tools has become generally accepted in government work, its regulation is developing dynamically. The HRM system traditionally focuses on the application of various digital technologies in the field of recruitment and selection. The 'werkvoornederland' platform for the Dutch civil service is a fine example. This serves to create and develop job branding. It does not simply list vacancies, but also actively encourages application. How? Every job is associated with a career story that shows the applicants what they can expect in terms of projects and tasks once they are hired. They get a rounded picture of the position, as they can learn about the level of flexibility, ways of appreciation as well as opportunities connected to the position in question. According to surveys, the last three items are the most relevant factors for the candidates (URL14).

In the *UK*, the 'Golden Thread' should be highlighted. This is an analytical and evaluative tool, designed to increase the effectiveness of recruitment campaigns. It carries out the 2/3rd of recruitment in the public service. The application and selection processes operated by the Government Recruitment Service are fully automated. Both employer and applicant can get real-time information on the job process (URL18). The Government Recruitment Information Database (GRID) contains data on job applications from multiple sources. These are analysed and evaluated with the Golden Thread to make job postings even more effective and to reach potential applicants (URL6). British private sector organizations are also increasingly using digital tools to select, evaluate and retain employees. The most widely used digital tool for recruitment is database screening (Blatch-Jones, 2020).

In *Ireland*, automated and video-related methods are used for public service interviews. The candidates' answers are evaluated by a separate committee

URL17). Let us emphasise again, these developments are never unprecedented. The unified public service IT infrastructure that had been already in place before COVID certainly provided a basis for the actions. The 'Our Public Service 2020' Program – adopted in 2017 – set out a package of reforms that, if implemented, *'could make Ireland to one of the countries with the most advanced government HR practices'* (Klotz, 2020).

In Austria, a job search database was set up to support the internal mobility of the federal administration for those seeking a higher or different job (*Mobilitätsmanagement*) for career advancement and development. The operation of the system also helps to create optimal headcount conditions (URL15). The pandemic gave new impetus to the development of the system which was supplemented with resume analysis function. First the applicant fills in the key data of the CV template, and then the system creates the CV based on these data. It analyses the data using AI and then searches the database for the vacancies that best meet the applicant's needs (Jobbörse der Republik Österreich).

A futuristic picture of full digitalisation is revealed to us when we look at the U.S. Staffing program at *U.S.* federal government agencies. Its services are used by about 70 agencies, 12,000 HR and 114,000 selection professionals, and fill on average 12,000 positions and handle 250,000 applications per week. The dashboard provides monitoring and management of processes and workload (URL19). Onboarding is also managed by the USA Staffing. A talent management system was designed to digitally support the integration of new entrants into the workplace during pandemic or other extreme situation in the final phase of the recruitment process. It provides new recruits with personalized information about their job, position, activities, organization as well as training opportunities. The development paves the way for the complete automation of the selection process (URL19).

However, not all new measures regarding recruitment, selection and onboarding introduced in the last year were about digitalisation. Let us mention a tool that was designed to make up for the limited possibility of live encounters during pandemic. Undoubtedly, starting fresh is always a challenge. It is even more so during this difficult period of time which is why the Danish brought forward the insertion process. The integration of newly recruited civil servants into the job is scheduled before entering the job. Thus, the recruited civil servants can get to know their job, the values and culture of their future organization as well as the employees even before starting to work (URL5).

Mental Health, Pandemic Fatigue, Resilience

Pandemic fatigue and resilience, these two words have become part of our active vocabulary during the last year. The first expression, pandemic fatigue means exhaustion, apathy and demotivation to the use of recommended protective measures. It is most often manifested by irritability, lack of concentration, restlessness, and can be associated with eating disorders as well as changes in sleep patterns. According to WHO estimates, 60 percent of people experienced pandemic fatigue eight months after the break out of the virus (WHO, 2020).

Let us take a look at the bigger picture. Up to the 30th of April 2020, the Eurofound COVID-19 E-Survey (Eurofound, 2020) reached more than 85.000 people in EU Member States. The document examined the effects of the pandemic on subjective quality of life, health perceptions, institutional trust, and concerns about work and workplace. Despite some improvement since the start of the pandemic youngsters are still one of the biggest losers of the quarantine era, reporting the lowest levels of well-being among the unemployed. While life satisfaction and optimism have increased since April 2020, young people continue to feel excluded from society and remain at the highest risk of depression (Eurofound, 2020).

By now representative research on the impact of the pandemic on mental health is available (Rajkumar, 2020). A recent representative *Italian* study of 6,700 people shows that the rate of depressive symptoms is higher among women, young adults, those reporting occupational insecurity, and those in a lower socioeconomic situation. A higher proportion was also found among people living alone, forced to work from home and those with a family history of COVID (Delmastro & Zamariola, 2020).

The emotional state of the individual worker spreads quickly and multiplies irrespective of the nature of the environment (be it online or offline). The frustration, anger and sadness can easily cumulate at the organizational level. The exhaustion of the leader can also have an intense effect on the whole team (URL11). This is why the second expression, i.e., resilience, is so important.

Resilience is the 'immune system of the soul', our capacity to recover quickly from difficulties. It has become a key factor of socio-economical change in times of the pandemic (Giovannini et al., 2021). Resilience is a protective factor that makes us healthier and more effective. It is easy to see why its development is a priority for today's HRM. After all, the efficient operation of the organization is mostly supported by strengthening individual stress management in addition to reducing stressors and thus equipping employees to overcome difficulties (Berta, 2019). In light of the aforementioned, now more than

ever HR should offer training in stress management, burnout prevention and resilience development.

As ILO Director-General Guy Ryder stresses, front-line workers are in a particularly difficult position, but there is also increased stress for those who can work from home. Workers are becoming increasingly isolated, finding it increasingly difficult to balance work and private life. We need to talk openly about mental health at work, all the more so as mental health risks will be present even post-pandemic (URL16). Communication is one of the tools for conflict resolution for organisations (Bajnok, 2019). Open communication is obviously easier where the topic in question is not labelled as taboo. In Canada, for example, public administration employees are surveyed every three years about their experiences in their workplace. An important and natural element of the Public Service Employee Survey is well-being at work. The document covers psychologically healthy workplace, work-related stress and emotional exhaustion, causes of work-related stress, as well as work-life balance (Kriskó, 2020).

Let us take a look at the bright side of the issue and at some good practices. Undeniably, the pandemic created a crisis situation requiring appropriate mental health HRM measures. Governments increased mental health support services in recognition that many public servants are carrying an increased emotional burden linked to their duties and/or personal situation (OECD, 2020). In other words, the pandemic has reinforced the duty of care of the governments to their employees. This duty includes the protection of health as well as the protection of physical and mental integrity of staff. This obligation goes far beyond provision of protective equipment or disinfection. In the Netherlands, a hotline has been established for the employees to discuss their specific challenges and an online toolbox provides information and videos about topics such as working from home, health and work-life balance. The guidelines include the possibility of seeking individual support from social workers (OECD GOV/PGC (2020). Norway is exploring the use of targeted 'pulse' surveys to check in with employees (GOV/PGC, 2020). Canada has developed dedicated webpages for employees to provide them with information and resources on working remotely and on improving mental health (OECD: GOV/PGC(2020)14).

Training and Development

The spread of the virus has challenged education and training programmes around the world as well. The first 'freeze' reaction is not surprising. In times of crisis, training costs are cut back first (see the Global Crisis of 2008) (Boeren,

Roumell & Roessger, 2020). Fortunately, after the initial shock, the adaptation phase started.

Knowledge is the most important capital of an organization. Training staff is an investment in human capital, with the expected result of increased productivity and higher wages. Appropriate focus on knowledge transfer is of utmost importance (Szondi, 2020). According to World Bank experts, switching to online learning was a global trend, notwithstanding many public and private institutions were not ready for the shift (URL4).

Let us here focus on those organizations that did react and adapt to the new environment created by the pandemic. They recognised if they choose to provide further training instead of dismissal, they can achieve the ideal objective after crisis: a match between the number of employees and the number and nature of the tasks to be performed (Ludányi, 2019). What can we learn from these organizations? The online training and development programs acted as agents of fast upskill and reskill. Rapid skills assessment helped to determine whether staff was using skills that can be transferred to other areas of the business. Internal job advertisements facilitated internal mobility (ILO, 2020).

The first step in transforming the learning and development model is to set priorities. Crisis or not, onboarding of new workers remained essential. At the same time, new priority topics emerged such as teleworking, telemanagement or management in times of crisis (Kshirsagar, Mansour, McNally & Metakis, 2020). Findings of a Hungarian research clearly showed that the pandemic reorganised the hierarchy of required competencies. The importance of social and methodological competences grew as opposed to professional ones. After the first wave of the pandemic, the employers ranked the following five most crucial competences: (1) digital competencies; (2) communication, assertiveness and conflict resolution; (3) EQ and social skills; (4) cooperation, team work; and (5) flexibility and adaptability.

In Portugal, by a decree establishing the training system in public administration, public employers were obliged to provide workers and managers with training required by their work. Therefore, training related to use of ICT tools as well as teleworking were provided (Kshirsagar et al., 2020).

Another best practice is the virtual training marketplace. This was set up in France to make effective use of the vocational training support framework available for all citizens. The application (moncompteformation) was modelled by well-known service sharing sites such as Airbnb. Registered users have their own account and can search for courses according to their individual training needs. The search results are sorted based on the assessment of previous learners. The rather busy tool manages around 1 million training courses per year (URL8).

Besides these new measures, self-driven learning in general came to the fore during the crisis. Because of the pandemic a number of free training (retraining and further training) programmes became available to all. TV and radio channels, courses, trainings, workshops and podcasts were (are) available worldwide. Let us note: drawing attention to freely available programs (providing a list of links) is also a development tool for HR.

Another important takeaway: education and training are not just about cost-effectiveness. They are also the driving force for cohesion. We agree with the words of Adult Education Quarterly 'It is our hope that during this trying time, adult education can be a force for connecting people who, after months of social isolation and physical distancing, may recognize more than ever the value of supportive networks and solidarity among members of society' (Boeren et al. 2020).

The Silver Lining of the Cloud: COVID as Catalyst

Public service HRM has received a strong impetus. The volume of the occurring changes ranges from alignment to paradigm shift. According to the OECD Report issued on the 22nd of April 2020 (GOV/PGC(2020)14), governments may now be in a position to review and capitalise on many of the changes introduced, and place them on a more sustainable footing. The post-crisis period provides a unique opportunity. We can take advantage of the changes, the implementation of which was expected to occur only gradually (OECD, 2020). COVID is a catalyst for change on several levels (Hazafi & Kajtár, 2021):

1. COVID as catalyst for digital changes: In the past, the digitalisation of the public sector has lagged behind the private sector. COVID has forced the spread of digital technologies and tools in key areas of HRM such as recruitment, selection, onboarding, internal mobility or training programs. The innovative practices will continue to work well in the years ahead and there will be more and more automated HR processes.
2. COVID as catalyst for digital competencies: In just a few months, digitally less advanced countries managed to catch up decades. Oftentimes new technology was learned 'on-the-go' (Koós, Kovács, Páger & Uzzoli, 2020).
3. COVID as catalyst for sustainable development: The partial digitalisation of work and HR functions has resulted in a radical reduction in HR's eco-footprint. In Denmark, for example, the full digitalisation of recruitment (selection), remuneration and further training reduced paper-based administrative burdens by no less than 70% (URL17).

4. COVID as catalyst for efficiency: Some costs (e.g., travel) were eliminated. Administrative processes (e.g., selection) were shortened.
5. COVID as catalyst for (social) dialogue: The pandemic made close cooperation between social partners and governments inevitable. Agreements were negotiated. Employers agreed not to fire workers, unions accepted shortening working times and lowering of wages. Governments offered benefits and/or wage subsidies (Global Deal, 2021). In *France*, national consultation on the transformation of the civil service has been launched. The government used the pandemic experience to start afresh. To develop the measures (including structural changes) a national consultation started with civil servants to identify the most urgent areas for change. They asked two questions: (1) What measures should be taken to simplify operations and restart the country? (2) How could your day-to-day activities be improved to help restart the country? (URL12).
6. COVID as catalyst for rebuilding trust. In many cases, the transition from the 'office' to 'work from home' happened quickly (in days or weeks) even considering jobs where the employer previously thought working from home was impossible. Findings of an Australian study are noteworthy here. The good in the bad –according to the study– was that teleworking has been found viable construct applicable even after pandemic. The response to the question 'Why hasn't it been applied before?' was lack of trust. A thought-provoking answer. The degree of control over employees is an indicator of trust placed in them (Aitken-Fox et al., 2020). The practices presented in this Paper give rise to the hope that HRM moves towards mutual trust and empowerment not towards control and surveillance. Harari (URL10) writes: 'Trust that has been eroded for years cannot be rebuilt overnight. But these are not normal times. In a moment of crisis, minds can change quickly too. You can have bitter arguments with your siblings for years, but when some emergency occurs, you suddenly discover a hidden reservoir of trust and amity, and you rush to help one another.' These are the words of a contemporary historian and philosopher, someone who cares deeply for humankind. What is a better message for the post-COVID period than transforming HRM?

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Excerpts on football hooliganism

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Abstract
The study illustrates the complexity of the issue of football hooliganism, and highlights the innovative solutions for the treatment of it. The background of football hooliganism by presenting domestic and foreign examples, the types of supporters and spectators, and the role of private security and sports policing are observed. In the decades following the regime change, the police lost their monopoly, and private security and civil policing became more prominent in Hungary. Nowadays, the personnel of private security and civil policing are involved in the process of risk assessment of sports events, escorting and transporting groups of supporters, detaining supporters after sports events. It is important to mention sports policing, a specific part of sports administration. This narrow field can be clearly defined as specialised policing, with a set of laws regulating everything related to sports policing, complemented by the regulations of the sports federations, which also serve as guidelines for the maintenance of sports law enforcement records and the security provided at sports events. Football hooliganism is a social and sport security problem that has been present in our world for centuries, and is something that we will probably have to deal with as long as football exists. Football hooligans are a closed community, a subculture with a specific set of rules and a deep knowledge of their functioning is essential to maintain the safety of our sport events. Nowadays, the emphasis is more on understanding the processes, communication and cooperation, as well as openness to innovative solutions.

Keywords: sports police, football hooliganism, ustawka, private security

Introduction

According to Hungary's sports law, *'sport is part of the common good that strengthens the sense of belonging of the members to the community, as well as the physical and mental health of the individual'.*[1] However, reading the preamble of the law, we immediately thought of one of the possible downsides of the experience of belonging to the community, the issue of sports hooliganism, which so often disrupts sporting events.

As defined by the Law Enforcement Lexicon (2019), football hooliganism or sports hooliganism is *'a set of aggressive manifestations associated with sport events – both inside and outside the spectator area – which in many cases show a deviant love of football and a strong tendency to devalue the opponent's supporters, and to cause personal and material injury to the outsiders'* (Boda, 2019). This non-normative love of football brings deviant, clan-like groups together to 'fight' each other, for example through 'wars' (held at hidden locations) among gangs of the supporters, the so-called *'ustawka'*, a term we will discuss in more detail later. In the background, there is a deviant system of norms and sometimes political polarisation. Football hooliganism is a grouping of deviant groups operating within a defined framework and rules (Boda, 2019). According to the Italian sociologist, Roversi (1990), football hooliganism is a violent behaviour mainly committed by the people who watch the match. These acts are the result of a combination of vandalism and aggressive behaviour and are more typical in the younger age group, and the acts can also be found inside and outside sports facilities (Roversi, 1990). The concept has to be expanded as football hooliganism is not limited to the violence among spectators, but it also includes aggression against police officers, players, referees, the use of illegal pyrotechnics and vandalism (URL1).

In our study, we examine the background of football hooliganism by presenting domestic and foreign examples and analysing its background from theoretical and practical perspectives.

The emergence of football hooliganism

The tradition of aggression in football can be traced back to the 12th century, when the teams of 11-11 players from English settlements battled and competed in bloody *'folk football'*, often resulting in broken bones or even death (URL2).

1 Act I of 2004 on Sports, Introduction.

The football rituals, which were filled with violence and presented as a legal tourist attraction, are still present today in Germany (Knappen) and Florence (Calcio Storico Fiorentino) (Nagy, 2006).

Since football hooliganism first appeared on a huge scale in England, the first research on the subject began there. Taylor had been studying the social causes and effects of football hooliganism since the late 1960s. He observed not only the stadiums, but also the sport facilities in many other sports, but it was clear to him that ensuring the safety of football stadiums was the most important task, partly because football was the sport of the nation and because it attracted the biggest crowds. He identified overcrowding in stadiums as the most significant source of danger, and noted that the main causes of disasters were the outdated stadiums, poor facilities, hooliganism, excessive alcohol consumption, and poor organisation and management. In the following part of our study, we will deal with the practical elements of the Taylor-report and its impact on the security of sport events, taking the Hungarian practice into account and comparing the principles (Tóth, 2019).

The Taylor-report was preceded by eight reports that also documented disasters at sport events. He concluded that crowd behaviour could not be managed by a method that provided complete safety. He observed the problem not from a policing approach but from the so-called complex approach, recognising that it was neither practical nor possible to control fans through criminal justice measures alone. He also suggested that communication with clubs and supporters, as well as with the media, should be improved (Uricska, 2020). In his view, the major problem was the excessive alcohol consumption of the supporters. He drew attention to the inadequate management of national and football organisations, and the lack of modern infrastructure.

Taylor analysed European observations, particularly the examples of the Netherlands and Italy, as well as the relevant FIFA regulations, urged speeding up sentencing and increasing the penalties, as well as creating new legislation to keep convicts off the pitch. He also specifically addressed the issue of access and the importance of the use of physical segregation, particularly fencing within the establishment. In order to protect the pitch, the so-called line of prohibition was used to define the protected areas, its crossing automatically entailed severe penalties. Nowadays, crossing the imaginary line of prohibition, which means entering the area closed to spectators, is a criminal offence (Tóth, 2019).

The event and its location provide an opportunity for those who need a crowd to take advantage of its anonymity to commit acts of disorder and hooliganism. The physical vicinity and the separation of the opposing fan camps are beneficial for curtailing rowdy behaviour. The smaller the area where the fans are

crowded together, the greater the internal pressure and the crowd is more aggressive (Végh, 2001). This was also observed at the matches included in the Taylor report.

It also set out the principles and practices for the provision of security for sports events in Europe in detail, standardised the principles and measures, and had a significant impact on the Hungarian practice.

It is important to observe the causes of football hooliganism and the history of stadium disasters in recent decades, which have drawn the attention of those involved in event security to the necessity for changing the established practice and creating new legal norms. Taylor added that complacency and assumption were the biggest enemies of security in the report on his experience of securing sport events, and it radically changed regulation in Europe (URL3). The stadium was the scene of violence.

In 1960, a part of the legal community considered hooliganism to be an antisocial form of life and behaviour in its content and form. In terms of its dimension, hooliganism was typical within a relatively narrow layer of the youth population at that time. *'The attractiveness of hooliganism was enhanced by its romantic appeal, and made popular also with the honest classes of young people'* (ELTE, 1960). During this period, the legal community drew attention to the need for a separate law on hooliganism. Such behaviour was punished as rioting, and the acts of hooligans were already within the scope of this offence, since the most characteristic feature was the scandalous behaviour of some supporters, which caused outrage and alarm (ELTE, 1960).

Issues relating to the security of sport events raise social, legal, law enforcement and moral problems. The phenomenon of football hooliganism is complex and complicated. 94% of fans are engaged in this type of activity at football matches. No other sport is able to attract such large crowds for a major event on a regular and periodic basis, as a major match can attract tens of thousands of people. There is no other sport where the contrast between supporters is so vigorous, and this is reinforced by the segregation within the stadium. The fans of the same team are placed in the same sector, which strengthens their sense of community, making them feel stronger, but they are quite close to the fans of the opposing team, whom they are confined to a relatively small area with (Tóth, 2017).

Stadium disasters around the world

There were dozens of stadium disasters in the last hundred years. Since the Second World War, more than sixty stadium disasters have resulted in the death of

1,500 people. The huge crowds that regularly gather in football stadiums were a new social phenomenon born in the first years of the 20th century. Only war situations, political mass events, religious festivals, major cultural events and sometimes competitions in other sports were associated with the presence of such huge crowds. Overcrowding, excessive display of emotions, disturbances, often poor management or the inadequate condition of stadiums as well as sometimes tragic coincidence has led to serious stadium accidents from time to time (Tóth, 2017).

One of the most devastating incidents in the world happened in 1964, when 318 people died in Lima after a Peru-Argentina match. The police used tear gas grenades against the fans, who attempted to flee but the stadium exits were sealed off. Besides the 318 deaths, more than 500 people were seriously injured. 127 people died in Ghana in a hasty police attack in 2001. Panicked crowds trampled each other to get out, but most gates were locked here, too. In a bizarre case, 93 people died in Nepal in 1988 when a huge hailstorm hit the stadium in the middle of a Nepal-Bangladesh match. The spectators tried to flee from the natural disaster, but the crowd was detained by police for unknown reasons and then turned back, so it is no wonder the crowd trampled each other to death. In 1985, a discarded cigarette butt caused a fire that burned down a stand at Bradford stadium in England in a matter of minutes. The police were forced to evacuate spectators onto the pitch, but they could not avoid a tragedy that caused 56 deaths.

An interesting fact related to the above is that in Hungary, as early as 1948, the Ministry of the Interior issued a service regulation for the police that stated *'Smoking is prohibited in the wooden spectator areas (stands) of sports and competition grounds. This prohibition had to be pointed out to the public by means of conspicuously placed signs.'* (Regulations of the Ministry of the Interior, 1948).

There were two disasters in Scotland. The more serious one was caused by a newly built wooden grandstand that was flooded by heavy rain and collapsed during a match. Hundreds of fans fell, causing the deaths of 25 people. A decree after the incident provided for the construction of reinforced concrete stadiums in the UK. In 1982, Russia's worst sports disaster occurred in Moscow, at Lenin Stadium, when the management of the facility decided to open only the western and eastern grandstands to spectators as only these were able to be cleared of the snow that had fallen in the days before the match. A few people fell over the barriers and swept several others along with them. The chain reaction-like events killed 66 fans (URL4).

In Brussels, experienced organisers were involved in the securing of sport events. The Belgian Minister of the Interior mobilised the police, fire brigade

and ambulance services. More than 3,000 police officers secured the stadium and the entire city police force was on standby, and there were seven emergency vehicles and a medical liaison vehicle at the stadium. The Heysel tragedy was unequivocally caused by the increasing football hooliganism of the seventies and eighties. In England, the tragedy that happened almost thirty years ago is still etched in the memory of the public. It was the event that changed English football forever. The next day, the line *'Football as a game is dead'* was published in *The Times*. As a result of major changes, a rebirth of football occurred, and from its ruins it has become one of the most successful European businesses in a very short time (Tóth, 2019).

On 19 August 1985, the Council of Europe adopted a convention on violence at sport events, particularly football matches. Its principles were incorporated into the Hungarian Sports Law. The Committee proposed that the responsibilities of the director and the organiser of sport events should be clarified. It was defined that the police should only be involved in securing sport events to carry out public duties and restore disorder. It was decided that the police should assign one or more police constables to assist the organisers of sporting events which they consider to be risky, who could monitor the security of the event during its organisation and while it is in progress in compliance with the legal requirements, and could initiate police intervention if necessary. The idea was that the police should be empowered by law to declare the event closed, to remove the troublemakers or, if this is not possible, to disperse the crowd, if the behaviour of the participants is prejudicial to the safe conduct of the sports event and if the disruption cannot be otherwise managed (URL5).

The emergence of football hooliganism in Hungary

Even in the beginning of the 20th century, football was a sport that attracted particularly large crowds and because of its popularity, more attention was paid to the supervision of football competitions. In 1922, a match not open to the public was organised by the National Police Commissioner. In 1937, 14 mounted officers and 10 on foot stopped 2,000 fans at the Ferencváros-Debrecen match. In 1937, a newspaper article was published with the title: *'Organise a sports police force to restrain scandals at the football pitches.'* At that time, the impetuous behaviour of the public attending football matches was so dangerous to the fair play of the matches that public order and personal safety were often at risk. Of course, the rude behaviour of some players on the pitch also contributed to these phenomena, which angered some members of the crowd. For this

reason, the management of the football association and the police decided to take measures to prevent similar scandals in the future (Tóth, 2019). In 1947, a near disaster occurred during the match between the national teams of Hungary and Austria. The 50th anniversary of Hungarian football was celebrated at the Ferencváros sports ground on Üllői Street. More than 40,000 people crowded into the wooden stands. As the structure could not hold that many spectators, it gave way causing 200 fans to fall along with the eight-metres wide partition of the stands (URL4).

In 1959, a report on the events of the football match between Dózsa of Pécs and Vasas of Budapest stated that the head of the Pécs city police headquarters sent 37 police officers on duty and 25 volunteer police officers, led by two officers, to secure the football match based on a pre-drafted plan. The police officers maintained the order during the parade and the match according to how they were briefed beforehand. During the match, there were about 15,000 people on the pitch. At the end of the match, a number of fans who condemned the referee's behaviour jumped onto the pitch, one of them ran to the referee and shook him. The police also rushed toward the referee, removing the people jumping onto the pitch, ensuring the referee's unharmed escape. More and more individuals in plain clothes appeared on the pitch and tried to attack the referee. The two police officers were able to defend the referee from any attacks. The crowd protested indignantly at the referee's behaviour, many shouted that this was how 2 points had been taken away from the team in both the Honvéd and BVSC (the names of Hungarian football clubs) games. They demanded that the referees decide objectively, and equal treatment for teams from Budapest and the countryside be applied on the pitch. The dispersal of the crowd was carried out by the head of the county law enforcement headquarters with the help of police officers as well as volunteer police officers. The comrades quickly removed the large crowds from the sports field and the retreat route. During the removal of the crowd, the atmosphere was extremely heated, several people shouted that they would report the series of unqualified, unsportsmanlike refereeing behaviours to the party headquarters and the government. The crowd was not completely cleared when the Vasas players and their entourage were taken away by the Vasas bus from Budapest, as were the referee and the Dózsa (Pécs) players with their own bus. The two buses were secured by two police officers. On the way, the two buses had objects thrown at them by unknown persons, but no serious damage was caused. After the end of the match, people gathered in groups at various places of entertainment, in Széchenyi Square and in the streets of Pécs, and discussed the referee's behaviour in very irritated tones, and there were also voices saying that there was no need for sports

in the countryside, because the rural workers did not seem to deserve to see quality sports. In order to secure the matches better, they urged the leadership of the Pécs Vasutas Sport Club to ensure that the players' exit be covered with a dense wire mesh. Permanent official commissioners were appointed for future matches. The police officers also regulated the location of the sports officials attending the match on the pitch and the staff who could enter the playing field. Our experience is that in all cases the scandals were triggered by the bias of the referees, not by the team's defeat. With objective refereeing, when the team lost, there was no scandal. The Deputy Minister of Interior was asked by the head of the county police headquarters to raise the issue with the relevant sports bodies in the Ministry of Interior, as this problem led to a series of scandals and police interventions (Tóth, 2019).

Football hooliganism in the second half of the 20th century

The decree draft of the Deputy Minister of the Interior of the Hungarian People's Republic in 1964 indicated that different practices had developed in the implementation of security at that time. Some events lacked planning, which reduced the effectiveness of police measures. Even then, the organisers were responsible for maintaining order. Sports clubs and event operators were responsible for ensuring the appropriate number of organisers to ensure that the event went smoothly. The organisers were obliged to maintain order, prevent any disorder and, if necessary, request the assistance of the police to restore order.

In 1964, to secure sport events, the competent police forces were obliged to prepare a unified plan for the implementation of the security and operational tasks. The security plan, approved by the head of the competent police force, included the following: the subject, location and time of the event, the name of the organiser, the commanding officer, the location, the number of police forces involved, their tasks, the number and location of the reserves, the number of organisers, the location of arraignment (Tóth, 2019).

It can be stated that incidents of hooliganism in and around the stands were very rare in a controlled society before the regime change, and they were rarely reported by the controlled media. The slogans were also more presentable. After the regime change, violence in the spectator areas of sports grounds increased. The media were no longer silent, although their reports were often tabloid-styled and sensationalist. Unfortunately, violence became a way of spending leisure time.

From spectators to football hooligans

With regard to football hooliganism, which is still present today, the following types of supporters and spectators can be distinguished on the basis of behaviour at the event, as described in the report by the Expert Committee against Football hooliganism No. 4/28-1/2003 (URL6). Typification of the participants at sport events, the estimated number of participants, and the possible offenders' behaviour can be great help in preparing and taking the necessary security measures to maintain order at the event.

Spectators are those who prefer to watch football matches at home on television. Their priority is the love of the sport, so they do not always cheer for a particular team, but if they are committed to a football team, they watch other matches, too. This type of supporters is very unlikely to get involved in any kind of football hooliganism.

Supporters also have a similar quality to spectators, as there is very little chance of being involved in any disorderly conduct. However, it is important to note that this group has stronger ties to a club and loyalty to their team than to the aesthetics and spectacle of the match itself. Not only do they watch their favourite team on television, they sometimes attend home games, but they rarely go to away-games.

The enthusiasm and club sympathy of fans are present and important throughout most of their lives. They attend the matches of the team they support on a regular basis and collect all sorts of memorabilia related to their team. The fans may sometimes get involved in illegal acts and disturbances, but not of their own volition.

Basically, the ultras are not very aggressive and do not generate fights and disturbances, but it is not typical for them to stay out of these situations. They are committed to their favourite team, which is an important part of their lives. They are the scenery supervisors, design and prepare all the scenery elements and drapery. They spend a lot of time and money on this activity, but they do not mind it. They attend every match of their favourite team.

Hooligans, like the ultras are present at all the matches of their team, but their focus is not on the spectacle, but on the fight on and off the pitch. It is not unusual for them to create disturbances and fights with the opposing supporters, and it is not only the stands that are suitable for this type of action, but also the streets and squares.

Members of a mob and criminals may look similar to hooligans at first glance, but there is a big difference. This group attends matches specifically for the trouble, they are not interested in the football team, and usually do not go to away

matches. The members of mobs are not exactly like hooligans, as the mobs often use underhanded methods to beat the opposing fans. They are not averse to using stabbing and cutting devices, and they are far from morality and lack a kind of 'honour among thieves.'

Manipulators are not interested in the match or the team. Their only aim is to promote and preach some – usually extreme – political ideology, and possibly invite members to join a community with such a view. We usually mean educated people when we talk about manipulators.

Football hooligans usually belong to a low social class and/or they are very young, and therefore develop a feeling of inferiority, which can cause psychological damage and, in more serious cases, personality disorders (they try to compensate for this feeling with specific methods). In their everyday life, they have little power, so they want to live out their desire for power, and it often manifests in aggression against the opposing fans. Their daily existence does not give enough excitement and variety; therefore, they find disorderly conduct and the atmosphere in the stands provides good opportunities to gain this experience. At work, they usually have low-prestige jobs where they are subordinates. They are not able to release tension, so they do so with aggression at football matches. In the stands, they can do what they want, they choose to spend their time there, where they feel free without any constraints. Football hooligans are very complex personalities. They are driven by their emotions, which often lead them to ignore facts and not pay attention to doubts. They avoid uncertainty, which stems from their characteristic lack of self-confidence. This lack of self-confidence can be traced back to their low social class (Szabó, 2003).

They have a unique worldview, the central element of which is their opposition to almost everything and everyone. They also have a different set of values, power and notoriety are their top priorities. Everyday problems do not matter if they win a fight or cheer louder than the opposition. However, this system of values is only valid within their social circles. Because of their passion and emotionally based worldview, they often do not even realise that the ideal they represent is socially almost useless. The quality of their actions is more important than the importance of them. They ignore the results and usefulness of their acts, however if they are good and efficient at what they do, they are proud. It is interesting to note that football hooligans also attribute the team winning to their own merit. If the team loses the game, the football hooligans blame someone else (Szabó, 2003).

A further motivational factor can be sensationalist media coverage when the football hooligans' acts are presented on a variety of platforms leading to fame and notoriety not only in their own subculture but in other areas of society which can

be seen as a success by the football hooligan (Szabó, 2003). Based on the above, it is clear that the individuals and groups organised around football clubs form a very complex and highly structured mass of people, often with a huge number of members, they have a specific set of rules, and this knowledge is essential for the professionals involved in the organisation of the event. The analysis of crowds and the behaviour of individuals in crowds are well beyond the scope of the present study. It should be noted that the presence of the others and a shared mindset give a sense of security and extra strength to the members of the groups, and they are more inclined to act on their natural instincts. In a crowd, the individuals often prioritise the goods of the crowd, and the members may feel that they are outside the community's control, and therefore they are less visible (Le Bon, 1895).

The Ustawka in Hungary

As already mentioned, football hooliganism in its current form emerged in the 1990s, when hooligans fought at almost all sport events, broke and smashed items in the streets, underpasses and stadiums. These fights were not organised, almost all of them were spontaneous. There were no rules, it was free to use drink bottles, various impact-enhancing devices and knives. Football hooligans refer to this phenomenon as *'old school'* hooliganism, which was increasingly overshadowed by tougher penalties, better policing and more modern stadium security. Nowadays, ustawka (or *'remote location fight'* the word ustawka means meeting, setup, or staged occasion in Polish) is popular, as these fights do not take place in cities but on the edges of forests, in fields and often on private land, in order to get out of sight of law enforcement.

The ustawka means *'fair boxing'* within the fan circles, agreed upon in advance, where the parties (fan groups) can settle their disagreements without weapons according to agreed-upon rules, in equal numbers and in a secluded place, or they may just fight each other to see who is better or stronger. They are hooligans or simply fanatic supporters (ultras), fans of their team or they just want to *'get some exercise'*. Although there are some injuries in this case too (the use of mouthguards and bandages is allowed), we cannot consider this a real fight, but a kind of specific and very rough training done by the ultras. Ustawka originated in the Slavic countries (Poland, Russia), where it has a long tradition and is often fought by teams of 100 people each, but 50-50 or 25-25 people on each side are not uncommon either. It is interesting to note that there is a website with photographs of domestic ustawka events on the Internet, listing the names of the participating teams and their numbers (URL7).

There is no question that ustawka violates a number of legal regulations and is a danger to society. Our aim was to illustrate the complexity of the issue of football hooliganism, its reality beyond the physical location of sports facilities, which tries to circumvent the pre-emptive measures of law enforcement agencies.

Private security and football hooliganism

In the decades following the regime change the police lost their monopoly, and we can observe the necessary pluralisation of policing. Private security and civil policing became more prominent, whilst the paradigm of policing as a state monopoly was diminished (Kerezsi & Nagy, 2017). The free market economy, the rise of private property, the need for protection of private property, which grew at an astonishing rate, inevitably gave rise to private security companies operating on a business basis after the regime change. Private security service providers that complement public security are becoming increasingly important in all areas of value and asset protection as their professional and business experience grow, and the availability of professional private security professionals is a key element of their predictable operation. It is interesting to note that in 2008, Hungary was already among the ten European countries where the number of private security service providers was higher than that of public security agencies due to the opening of the market (Tóth, 2017). In 2020, the number of private security companies in Hungary was 6461, while the number of issued identity and property cards[2] was 96 008[3] (Christián & Lippai, 2021).

As stated in our current crime prevention strategy, *'public safety is part of the quality of life in society, a product of collective value, and its creation and preservation is a common concern'*.[4] Maintaining public order and public security is essentially the task of the police, albeit the police are an organisation that no longer possess the force, means or infrastructure necessary to prevent all illegal behaviour that threatens security in all its segments. It can be said that the police, although they play a decisive role, are only one element of security as a service, and the complementary law enforcement actors, regulated by the legislature, are increasingly present; they are effective and professional actors

2 Enterprises (personal and property security, private investigator, designer-installer), people with badges/certificates (personal and property security guard, private investigator, designer-installer of security systems, installer of security systems).

3 According to the statistics provided by the Administrative Police Department of the National Police Headquarters, aggregated as of 31 December 2020.

4 1744/2013. (X.17) Government Decision on the National Crime Prevention Strategy (2013-2023). Conceptual background of crime prevention.

that reinforce public security. It has become a self-evident element of today's reality, and it is also reflected in public thinking, that part of law enforcement tasks – without diminishing the powers of the police, but complementing their activities – must be delegated to civil society actors, so when we talk about public security and its protection, the participation of the civilian element can no longer be avoided (URL8) (Lippai, 2021). With the continuous expansion of the security activities of private security service providers and companies, personal and property guards can now not only control the legality of entry and exit to the event venue (often privately owned) and the observance of the rules of participation, but they have also become an active part of the various phases of event security. For example, they are involved in the process of risk assessment of sports events, escorting and transporting groups of supporters, detaining supporters after sports events, and organising music festivals with large crowds.

If we are talking about the theoretical implementation of sports events and the potential occurrence of disturbances, we should think in terms of a triad of prevention, response and action. If we imagine a timeline and an 'x' on it, representing the policing tasks related to a sports event, then it is logical to separate the different policing roles. In the period before 'x', we can talk about prevention. It is the responsibility of the professionals of a private security company contracted under a civil law contract to provide the elements of the service. After the 'x' there is a clear justification for response and action; these tasks belong partly to private security providers, but typically the tasks fall within the remit of state law enforcement agencies, most notably the police.

Professionally operating private security service providers with a strong emphasis on prevention can make a significant contribution to the further reduction of the burden on state law enforcement agencies, to a more economical and cost-effective police operation, to the efficient management of resources while cooperating with the private security and municipal sectors. In addition, by streamlining security activities, many state law enforcement tasks could be partly or entirely transferred to non-state actors, which could result in savings of billions of euros for the national economy annually.

It is important to mention that a specific part of sports administration is sports policing. This narrow field can be clearly defined as specialised policing, with a set of laws regulating everything related to sports policing, complemented by the regulations of the sports federations, which also serve as guidelines for the maintenance of sports law enforcement records and the security provided at sports events (Tóth, 2018).

Conclusion

Football hooliganism is a social and sport security problem that has been present in our world for centuries, and is something that we will probably have to deal with as long as football exists. Although football hooligans are *'the products'* of our society, they are a closed community, a subculture with a specific set of rules and a deep knowledge of their functioning is essential to maintain the safety of our sport events. Not so long ago, we would have called it the fight against football hooliganism, whereas today the emphasis is more on understanding the processes, communication and cooperation, as well as openness to innovative solutions.

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The concept of security awareness, its development from the point of view of national security, counter-terrorism, and private security

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Abstract
In their article, the authors present – using a comparative approach – the current issue of security awareness. In doing so, they start from the concept of security, then move on to the concept of security awareness, and outline the significant moments of its development concerning national security services. They then briefly flash police crime prevention and then move on to the security awareness presentation from a counterterrorism perspective. The article concludes with a presentation of the topic from a private security perspective and a case study from an international context. In the summary, the authors believe that, in addition to a similar methodology, national security, counterterrorism, and private security security awareness support and complement each other.

Keywords: security awareness, counter-terrorism, private security, police crime prevention

Thoughts on security – Introduction

Security is perhaps one of the oldest needs and desires of individuals, human communities, different societies. The need for safety is triggered by undesirable dangerous events that have occurred in the past or are occurring in the present. The community works ever again on changing the undesirable situation and on restoring the desired order. From this sequence of actions, the given responses, the defense itself emerges. Safeguards are direct responses to specific events

that need to be addressed immediately. The perpetuating tasks resulted in the creation of defense organizations – national defense and law enforcement – that deal professionally with the management of problems. These professional communities were expected to deal not only with the undesirable event that occurs acutely, but also to examine it in their context and system. As we have already used the terminology of emergency response, which is mostly part of the language of health and medical care, we would stick to that for further presentation.

Let's look at the operating logic of medicine:

- symptoms
- diagnosis
- symptomatic treatment
- healing
- aftercare
- prevention

If we translate this into, let's say, the language of counter-terrorism, we will see the following:

- symptoms = perception, detection
- diagnosis = analysis, evaluation
- symptomatic treatment = detection, eradication
- healing = limiting and eliminating 'hostile' possibilities by exploring the causes
- aftercare, prevention = social dialogue, information, education, training on, and development, maintenance of safety-conscious behavior

This article aims to dissect topics on safety-conscious behavior, which is security awareness.

The development of security awareness as a concept and phenomenon

At the end of the 2010s, security awareness or awareness-raising activity seems to be improving in the activities of the broader law enforcement agencies mentioned in the title. The authors therefore, concluded to introduce the concept of security awareness and to briefly outline its content in the activities of public and private security services.

As a first step, it is worth exploring the content of the concept. If we start from the meaning of the English word, then the aptest translation of awareness will

be safety-consciousness. If we examine the activity to be outlined later, then the mentioned awareness is nothing but the state of purpose, as it is the kind of high-level (security) awareness that is created as a result of the complex enlightening and educational activities of the services. Examining the concept further, we can also say that its content element is also an action arising from awareness, that is, in addition to learning about safety procedures and recommendations, its observance; or, if they appear to be damaged, to inform the responsible services.

In a broader sense, the term also includes literary and/or cinematographic works made for artistic or at least entertaining purposes, with the additional aim of creating a kind of positive image of national defense, law enforcement, and national security organizations, thus creating a receptiveness in case of their inquiries and contacts.

Thus, if we undertake to create a definition it reads as follows: Under security awareness we understand the different activities of law enforcement and private security agencies as the production and delivery of complex posters; lectures, film screenings, educational training activities, which result in the development and maintenance of security-conscious attitudes and procedures, involving contact and inform law enforcement agencies in case of the security breach.

A brief overview of security awareness concerning national security

Let's move on to the emergence and evolution of security awareness. Behind the emergence of security awareness, one can recognize the obvious circumstance that services have not been able to detect all counter-interested or potentially counter-interested activities at any historical era. To be able to carry out their work effectively, they first needed signals about people who posed potential threats, and, second, it was justified to make things more difficult for the opposing party by developing and maintaining safety-conscious behavior.

This is still the case today. The hunger for information on national security, counter-terrorism, counter organized crime topics is almost unquenchable. The change in the modus operandi of the acts committed – higher grade of organization, more intense conspiracy, the rise of lone perpetrators, the intertwining of terrorism and organized crime – increasingly requires information from the society in general, and small communities as well, because in many cases these crumbs lead to a solution. For the listed professional fields to obtain information from these sources, they must enjoy the trust of the people, of the society. Trust is a very volatile good. There is a lot to do to gain it, and especially to

keep it. Transparent, community-understandable activity, fast and factual professional communication are the foundations of confidence and trust-building. At the same time, the role of 'publicity-makers' is inevitable in destroying trust – which is much faster than building. We immediately point out that the problem is not addressing these issues, even in a critical manner, but the sometimes uncontrolled, distorted, misleading claims. By irresponsibly classifying authorities as 'incompetent', 'unable to do their job' but at least 'doing nothing', the trust base of national security and law enforcement agencies is eroding incredibly quickly. It is our firm position that quality policymaking and journalism must also be characterized by accountability.

In older periods, the identification of people with challenges and their reporting to the authorities came to the fore. It is memorable that we can already observe a kind of spy panic even in the wars of the Middle Ages. Historical memory has preserved its negatives and overdrive features. However, from a professional point of view, it is legitimate to assess that vigilance has been raised against opposing spies and that several triggers have been received by the 'services'. This is still remembered by the obligation to report certain serious crimes, mainly against the state and against humanity (Görgényi et.al, 2019).

By the third third of the 19th century, not only will national security services appear in a modern sense, but with the appreciation of prevention, awareness-raising activities will be expanded with new tools. Here, we mainly highlight the posters (URL1) and attention-grabbing inscriptions (URL2), which were made in mass in the conflicts of the era, such as in the First World War, which introduced the short 20th century. It can be said that a significant part of the surviving posters served the purposes of war propaganda in the broadest sense on both sides, but the goals of security awareness in nowadays' meaning can also be well grasped. We can also mention the appearance of various novels and pamphlets (Matyasovszky, 1984; Mág, 1984; Berkesi & Kardos, 1986) made with varying sophistication for the period after the First World War. For World War II., the security awareness toolkit was expanded to include films, and it can be said that this toolkit has largely survived to the present day.

Concerning Hungary, the above-outlined development can be well presented. After the First World War, with the advent of independent Hungary and the independent national security services, one can see the survival and development of the tools developed in the First World War. Not only posters from the era, but also literary works that can be classified as security awareness in a broader sense, have survived. In close co-operation with the national security service, and later in an organizationally integrated way, there was also an organization responsible for patriotic propaganda (Kádár, 1984).

After World War II, ideologically reframed, security awareness continued to live on and evolve. Among the memories of our time, we can highlight here mainly novels and films made for a wider audience, which also have a security awareness function.

Following the change of regime, security awareness was temporarily pushed into the background to reappear in the 2000s, as the services and agencies' mission became clearer, fulfilling its useful and indispensable mission.

Today, national security services carry out their security awareness activities primarily in the framework of or in close cooperation with the so-called institutional protection. As the first step of security awareness, lectures will be organized and information leaflets will be held, and in connection with it, paper-based or electronic information materials and leaflets will also be handed over. In addition to brochures, you will also find posters and memorabilia. To increase efficiency, prospectuses can be customized according to the needs and level of threat of the target audience.

Parallel with the development of technology, the focus of security awareness is shifting primarily to information technology [hereinafter IT] and cybersecurity. This field has come to the fore so much that it has become independent, and in some cases, the concept itself is just that for many. However, national security services obviously maintain a complex approach to security and threat. Naturally, IT and cybersecurity awareness has now become commercialized and has become an element of the activities of companies working in this field.

Following the process, it can be said that, in the optimal case, as a result of security awareness, signals are received by the services. Compared to other elements of the toolkit of law enforcement services, it can also be justified to state that security awareness can also play a kind of door-opening role, as the helper-support role of the services becomes tangible.

Outlook – experience in police crime prevention

To have a better understanding of the situation, the 'older relative', crime prevention, and its system should be called for help. In doing so, we call on the personal experience of one of our co-authors, Nándor Jasenszky.

In the early 1980s, the main profile of the Burglary Group of the Budapest Police Headquarters (hereinafter: BRFK) was the burglary with a high value of HUF 100,000 (approximately 300 EUR) and above, which is now ridiculous. The professional community and its leaders expected and demanded that during investigations, they examine the enabling circumstances, and those

steps that can be done against them in an appropriate form. We will take just one example out of the myriad. When a series of home burglaries using the method of so-called cylinder lock breaking, which was almost unknown in Hungary so far, started in March 1982, the investigation of the crime was a priority from the first minute. The method made it possible to open a lock fast, simple, with few resources. The other important moment was that the burglars attacked the most commonly used, so-called 'pear-shaped' cylinder lock insert in Hungary. With the given experience, in addition to the ongoing reconnaissance, they contacted the manufacturer of the ELZETT lock in question and began exploring the possibilities of modifying the locks and lock environments to prevent the intrusion method. The solutions developed at that time are still alive today and have been integrated into the manufacturing process of secure locking systems.

In the early '80s, BRFK's asset protection department also had an organizational response to curb burglary, setting up the Property Protection Advisory Service, the first and only in its time when police and staff with the adequate technical experience provided complex security systems, advice and liaising with citizens on security services. Later, crime prevention became an independent field, they still carry out their work extensively, with appropriate organizational background and an external social relations system.

Security awareness in counter-terrorism

Before the change of regime in Hungary, terrorism and counter-terrorism could only be dealt with in a very specific way, almost with the complete exclusion of the public and society. However the 1972 Munich Olympic attack, which can be considered the cornerstone of modern terrorism, or the activities of the Red Brigades, the Red Army Faction, were well-known events for the public as well. At the same time, in the bipolar world order, these have been served as acts, that – in the false public perception – cannot happen to us. This period was marked by, to put it mildly, a politicized attitude from the point of view of ‚your terrorist - my freedom fighter'.

After the change of regime in 1989, the situation in Hungary fundamentally changed too. The strong development of private property, the transformation of the economic structure, the changes in the challenges and tasks of society, the legal system, national security organizations, and law enforcement agencies have to adapt to the new situation. Such a large-scale, complex change in circumstances has led to the conclusion of the treatment model described

in the present study, even in the most optimal case, only to symptomatic treatment. This was also the case in the fight against terrorism and the fight against organized crime. There were no in-depth causal analyzes, no mature proposals, and in many cases, society and politics were indebted to what they expected from responsible professional organizations. Thus, unfortunately, haste, improvisation, and ad hoc treatment of momentary surface problems were determining.

At that time, the special formation of security-conscious behaviors was strongly pushed into the background. The formation and development of an increasingly active, self-conscious society have continuously developed a more open, much broader communication. The amount and speed how information having been displayed have increasingly affected everyday life. Of course, suggestions about negative phenomena also gained much more space in this. A detrimental side effect of the news competition – that suddenly became multi-player – was, that speed and quantity were at the expense of credible information and quality. The media has become an influencing factor in the sense of security.

The next, fortunate moment is the consolidation. The cornerstone and starting point of them is the establishment of the Counter-Terrorism Center (hereinafter TEK) in 2010, responsible for detecting and countering terrorism. TEK has (URL4) been working for many years to broaden its dialogue with society. It currently focuses on certain target groups, but it also strives to continuously expand the circle not only through the means of mass media but also through the possibility of personal appearances on the spot, holding lectures and briefings. With the information provided in this way, it wants to achieve the development of the safety awareness cycle. The essence of this – in our opinion and experience – is the cycle of security levels.

Privacy - private security

The rules related to general safety for people, their immediate environment, and their families are almost genetically coded, the protection of the child, the home, the values are determined by many years of experience, and by the habits and rules passed down by previous generations. The rules change or may change due to external influences, but they are usually only slightly fine-tuned, sometimes only as technical possibilities evolve.

Employee safety

Employee safety has been greatly influenced by the corporate culture of the workplace, the extent to which the employer is exposed to safety challenges, the extent to which it has been involved in extraordinary events in the past and presumable in the future. We are talking about complex processes, as in addition to personal security, the protection of property or data and information security and other security needs specific to the given workplace also appear here. A workplace security culture can already have an impact on an individual's private security.

Business security

It is important to make it clear at the outset that business security is not the same as corporate security. The difference is formally only a few letters, but the content is huge. Business security is responsible for the entire operational vertical of the business. Continuous monitoring of the operating environment, human factors, employees, suppliers, subcontractors, product-market positions, competitive monitoring, trade, marketing, transportation security, action against internal and external abuse, continuous operation, are all part of it. It is a very wide-ranging, multidisciplinary activity. Based on international and domestic experience, complex business intelligence – its offensive and defensive field – is the custodian of developing this highest level of corporate security culture. Of course, this can greatly influence the attitudes of those involved or affected by safety. Within a company, in the workplace community, security awareness-raising must be lived through and fought to get in our minds from 'corporate GESTAPO' [Geheime Staatspolizei – Secret National Police] to 'inevitably necessary' perceptions and the acceptance of the related security organization and security regime.

Security awareness related to counter-terrorism

In the field of counter-terrorism security awareness, we must try to organize our work in a logical order and build it accordingly. This is essentially twofold, prevention-preparation, and management of incidents.

a) Prevention preparation: general information, provision of information for prevention

- the history, manifestations, and trends of terrorism as a phenomenon today;
- presentation of terrorist acts;
- recognizing the implementation behaviors, their preparation, recognizability;
- planting the idea of 'it can happen to you';
- (We should reach that when we are protecting our children not only from the candyman but also from grabbing the package left unattended);
- social awareness work on terrorist acts at the appropriate levels, with content assigned and aligned to the levels.

From school age onwards, it is important to address in an appropriate form the issues of 'what to look out for', 'what to notice', 'whom to talk to' and, 'if it happens, what to do'.

Additional sensitization tasks related to terrorist acts can be built on these foundations in childhood and adolescence later, already in the adult world of work and everyday life.

b) Dealing with events that have occurred: the 'it has happened, and we are in it' situation. Here, the work is based on the continuous and rapid analysis and evaluation of events in the world, the exploration of the causes and circumstances of the phenomena. We need to be able to convert this information into recommended rules of conduct.

It is also the conviction and mission of terrorism prevention professionals to help people's everyday lives with a comprehensive, professionally sound, understandable, and practical information package. In this connection, the manual entitled 'Everyday Safety' (preventive protection recommendations) published by TEK can be downloaded from the TEK website in e-book format (URL3). In his foreword, János Hajdu Police Lieutenant General, Director General of TEK, stated:

'*Something has changed in Europe. The series of terrorist attacks that began in Paris in November 2015 fundamentally reshaped the security situation on the continent. The activity of terrorist organizations, regular attacks, changes in perpetrating behavior, and the emergence of a larger number of lone perpetrators required other types of law enforcement responses. The perpetrators, the circumstances of the acts committed, the facilities attacked and the events indicate the need to intensify the dialogue with social groups and to strive for the development and care of civil security awareness.*'

Towards the end of the discussion on counter-terrorism, it is important to mention a dilemma. Figuratively speaking, while the 'what-why' question is already being outlined, the answering to the 'who and how' question is yet to come.

TEK is a reconnaissance and countering organization with operational, liquidation, and outstanding personal protection capabilities. In its current organization, it can support the security awareness and social sensitization program with its experiences, evaluations, and analyses. Its quality and, above all, effective implementation requires human and other resources. Consideration could be given to how this direction could be integrated into the career model of the TEK and other national security and law enforcement agencies. The colleagues with decades of experience could be the guarantees of a professionally credible, high-quality, awareness-raising program. The elaboration of this topic is already crying out for the next article.

The essential role of private security

In the last three decades following the change of regime, the police, losing their monopoly position, have also caused an identity crisis, while producing quite a few private and community law enforcement organizations. The postmodern transformation, the pluralism of law enforcement, meant two things at once, on the one hand, the breaking of the state law enforcement monopoly, and on the other hand the prominence and significant increase of private security and civilian law enforcement (Kerezsi & Nagy, 2017). The free market economy and the rise of private property following the change of regime and the rapidly growing need for protection have necessarily created business-based private security companies with activities complementary to public security and later gaining civil rights. They are important in all areas of value and property protection. The existence and growth of the security sector is proof that citizens are taking care of their own security, thus taking back the right, previously embodied in the state, from the state (Kerezsi & Papp, 2017).

It is noteworthy that already in 2008, Hungary was one of the ten European states in which, due to the opening of the market, a larger number of private security service providers were present than the state security bodies (Tóth, 2017). In 2020, the number of domestic private security companies was 6,461, while the overall number of issued identity and security guard cards was 96,008. (Data provided by the National Police Headquarters at 2020 / 12 / 31.)

No matter how prepared a private security service provider is, the bottleneck in its effectiveness is the weakest link in the service, and thus the impact of the part(s) on the whole, so the stability of the activity may depend on the strength of the weakest element. Based on this, we must be able to get everyone involved in the creation of security as a product to see it as their own, in the

process, as a quasi-security professional, to take on the part that comes to them. By strengthening individual and collective security awareness, a professional private security service provider almost imperceptibly involves and makes interested, in the manner and to the extent relevant, all persons involved in its activities, in creating security in the common interest and minimizing the possibility of preventing crime.

Developing security awareness in private security

Recognizing that creating security is everyone's responsibility, in which we can only achieve meaningful results together, can even be considered as a half-success. At the same time, it is important to start raising awareness not by describing the direct facts, the safety directives, but by understanding that with our conscious behavior we can make our own lives and environments, and thus the lives of our family members and loved ones, safer. By this we mean, for example, the closing of our apartment door, the observance of traffic rules, the proper protection of our values, or even the careful care of our withdrawals from ATMs [Automated Teller Machine], and thus the transformation of our thinking in this direction.

The individuals must be made aware that they are not alone and, although mostly unnoticed, we are always there, behind them and they can count on us at all times. We need to make our day-to-day contact information available to us and say that there is no unnecessary signal, there is only one that someone feels important to bring to our attention for our common mission. At the same time, we also show you what and how to do if a third-party forces you to give that signal, how you can – without compromising your own – let us know.

It is worth putting more emphasis on the special safety rules required by the employer after mastering the basic safety – work, accident, fire, and health funds – and placing it in context by expanding the existing basics. This can be done through attendance, e-learning, or blended learning (thematic, cross-thematic, such as records management, confidentiality rules, recognition of violence at work, etc.), which can be done in an organized work environment or even through self-training. It is necessary to build the issue of security based on appropriate professionalism, in a way that can be understood and processed by non-security professionals, by analyzing situations that have taken place and are real.

Information setting out security measures, brochures issued and leaflets posted should carry a clear, simple, and secure message. Presenting clear information on how to identify situations that pose a threat or indicate its occurrence,

and exactly what to do in these cases, when and how (for example, to turn off your computer when you leave your workstation, connect only company media, close the drawers of our desk, storage cabinet, or where to leave the building in the event of a fire alarm, etc.).

Case study: safety awareness in hotels

Alan Orlob, former security director at hotel giant Marriott International, says changes in terrorism need to be monitored and kept pace, vulnerabilities reduced, and soft targets hardened as needed. Protection measures and procedures need to be adapted to changing risks and as terrorist organizations develop their attacks, security professionals need to develop measures to prevent them (Orlob, 2009).

In 1990, following the Panamanian invasion of the United States, Ed Fuller, former head and adviser of Marriott International, felt for the first time the need to develop a crisis management program for hotels because Marriott guests - in the absence of a crisis management plan - hid themselves e.g. in the hotel's fridges when Panamanian soldiers arrived. Another turning point in the company's crisis management strategy was the terrorist attacks of September 11, 2001, when, like the United States Homeland Security Advisory System, a vulnerability level system was established that categorized vulnerabilities into five categories and defined security measures mandatory for those levels (Mattyasovszky, 1979).

They recognized the fact that it can be a huge benefit in preventing a potential terrorist attack if hotel employees also have basic security awareness, and notice and report to the security service if they experience any abnormality. Although the company's hotels operate in different parts of the world, mostly in different security environments, certain educational elements are equally present in all of them. These include, among other things, learning about the crisis management plan and raising awareness that they are protecting not only their guests but also each other through their security-conscious behavior.

The crew member receives the first security training after recruitment, but before entering the job, which is usually once a year for two hours, or three to four months in case of need to transfer special knowledge, such as emergencies, terrorist attacks.

The training of private security professionals was provided by the hotel chain, based on uniform criteria compiled in several cases by former soldiers, law enforcement and counter-terrorism officers, who were aware of the risk of potential attacks, thus they had been focusing on the transfer of real useful knowledge and skills. The training includes a description of the hotel's crisis management

plan and security protocols, emergency procedures, perpetrator methods, and their identification, as well as the transformation of terrorism, new types of threats, and their recognition, tailored to the skill level of the general and specific knowledge appropriate to the position and indication. Properly trained, these staff will be one of the effective signaling pillars of hotel security, they will be the first to notice if there is any change or suspicious event in their immediate work environment, as they know the environment best.

The main elements of the training are the presentation of the crime and the preparation for the commission of certain criminal offenses, the cases that have mostly taken place, as well as the presentation and analysis of educational films made by Mariott staff on the following topics:

- unknown persons appear around the building for a long time or repeatedly,
- an abandoned vehicle in the vicinity of the building,
- vehicle arriving without a number plate or with a dirty, invisible number plate,
- overweight vehicle,
- hotel guests arriving without or with a conspicuous number of packages,
- a person wearing clothing which is conspicuously thick concerning the weather,
- abandoned luggage on the hotel premises,
- a guest who pays in cash for larger items that are normally paid by credit card,
- if anyone is asking staff for information that is not necessary for a guest;
- persons photographing or drawing the building,
- suspect items left in a guest room, as large amount of cash, maps, floor plans, cables, batteries, metal parts, chemicals, ammunition, firearm or firearm parts, radio communication equipment,
- 'Do not disturb' sign exposed to the door for more than 24 hours,
- unauthorized persons on the site without an identifier, etc. (Lippai & Thieme, 2020).

We have to mention here the hotel chain's, '*See something? Say something*!' program, the basics of which are acquired by all staff members through recurrent training. As part of the program, there are attention-grabbing color diagrams on the sections of the guest room that have been traversed by the hotel staff, with pictures of the main elements of the safety awareness training and their textual explanations. Such as a photo of an abandoned package in the hotel guest room, with the text '*Abandoned package*' below, or a photograph and description of a weapon, drug, or suspicious item, and so on.

Conclusion

In conclusion, given the complex and multifaceted nature of security, national security, counter-terrorism, and private security agencies operate on the basis of a similar methodology to achieve similar or in many cases identical objectives. In their sensitizing activities, they can adapt and customize each other's methods. Their work complements and supports each other, either interdependently or independently. Their work together leads to a common treasure shared by all of us – the complex security.

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CEPOL's External Action: Evolution and Outlook

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> *'Internal security cannot be achieved in isolation from the rest of the world, and it is therefore important to ensure coherence and complementarity between the internal and external aspects of EU security.'*
>
> (EU Internal Security Strategy, 2010)

Abstract
This article aims to present the evolution and further perspectives of the external action by the European Union Agency for Law Enforcement Training (CEPOL). By analysing the legal background in light of the subsequent mandates of the Agency and against various policy documents, the authors demonstrate the impressive evolution of the past 20 years, both in terms of volume and quality, that has made CEPOL a key player in the European Union's internal-external security nexus. The Agency has managed to engage nearly all countries in the EU's proximity on the one hand by concluding cooperation instruments[1], on the other hand by managing dedicated capacity-building projects. Via all these means, the European law enforcement culture is spread among partner countries' law enforcement communities. CEPOL is thus actively contributing to the high level of internal security of the European Union, serving its primary customers, i.e. the EU Member States, and well beyond the borders of the Union.

Keywords: internal security, international cooperation, European Union, law enforcement cooperation, training.

1 These instruments have been called 'cooperation agreements' under the previous legal mandate (Council Decision 2005/681/JHA) and working arrangements under the current one (Regulation 2219/2015 EU). From practical point of view, there is no difference between the two denominations.

CEPOL[2] is a European Union (EU) Agency with a core mandate to support, develop and implement training for law enforcement officials. The Agency's 'brand' is extensively recognised and within the EU, considered as a prime actor in its relevant field. Its mission is to bring closer the law enforcement services of the Member States and those of the Western Balkans and the European Neighbourhood Policy countries. This ever-growing group contains the Eastern Partnership countries and others from the Middle East and North Africa regions. Through the years, CEPOL has gradually intensified its relations and activities with international organisations creating regional and global reach such as the United Nations, the International Criminal Police Organization (INTERPOL), and other significant actors, respectively.

This article aims at taking stock of the evolution of CEPOL's external action in light of the subsequent mandates of the Agency.

Evolution of CEPOL's external action and the Agency's mandate

CEPOL was conceived in the years following the Treaty of Amsterdam (1997), and its founding instrument was Council Decision 2000/820/JHA. In this first mandate, external action was already included. This means the authorisation to go beyond EU borders to assist if required. CEPOL's objectives mentioned that the Agency should offer its infrastructure to senior law enforcement officers of applicant countries where the European Union is conducting accession negotiations and those of Iceland and Norway. As the Council Decision formulated, the organisation develops and provides training for police authorities[3] from the candidate and potential candidate states to achieve this objective.[4] Furthermore, CEPOL was also allowed to cooperate with third countries' national police training institutes, particularly with candidate countries and others like Iceland and

2 CEPOL originally stood for European Police College. Since 2016, the Agency's official name has been '*European Union Agency for Law Enforcement Training*'. However, the acronym was kept unchanged.

3 One must note that already paragraph (1) of the Preamble precised that police forces are understood to mean law enforcement officials as referred to in point 47 of the Presidency conclusions of the Tampere European Council of 1999, which used the term 'senior law enforcement officials'. Thus, from the onset, CEPOL covered senior officers of any all those state run agencies with law enforcement function, not exclusively of those named as Police. One must note that already this text mentioned that 'it should also be open to the authorities of candidate countries', thus laying the foundations of CEPOL's cooperation with non-EU countries.

4 Article 7 g) of Council Decision 2000/820/JHA.

Norway[5]. A specific reference was included to cooperate with the Nordic-Baltic Police Academy (NBPA) and the Central European Police Academy (Mitteleuropäische Polizeiakademie, MEPA).[6]

After the first years of functioning on an intergovernmental basis, Council Decision 2005/681/JHA transformed CEPOL into a status of a full EU Agency, updating the provisions of its mandate relevant for its external action. Under this second mandate, CEPOL was equally allowed to cooperate with any third countries' national training institutes, in particular with those of the candidate countries, as well as with those of Iceland, Norway and Switzerland.[7] As a novelty, the way of such cooperation was also regulated. Under this Decision, CEPOL's Governing Board was given the power to authorise the director to negotiate cooperation agreements with external partners. Cooperation agreements with bodies of non-member states of the European Union could only be completed after the approval of the Council of the European Union has been obtained, thus establishing a legal way of political oversight.[8]

In the following years, the 2009 'Stockholm Programme – an open and secure Europe serving and protecting citizens–'[9], adopted by the leaders of the EU Member States, aimed to create a genuine European law enforcement culture by setting up European training schemes and exchange programmes for all relevant law enforcement professionals at national and Union level (URL1). In response to this call in the Stockholm Programme to step up training on Union-related issues and to make such training systematically accessible to law enforcement officials of all ranks, and to the request from the European Parliament for a more robust Union framework for judicial and police training, the need for a new mandate emerged. That was also given impetus by the set of general principles known as the European Law Enforcement Training Scheme (LETS), adopted by the European Commission (URL2), aiming to ensure that Union level training for law enforcement officials is of high quality, coherent and consistent. Achieving this milestone led to adopting the current mandate, stipulated in the Regulation (EU) 2015/2219. As regards external action, the new area of responsibility provided continuity and broadened CEPOL's horizon to fulfil its wider mission. According to the Regulation, to the extent required for the performance of its tasks, CEPOL should be able to cooperate with Union

5 The reason of the special emphasis on these two countries was that back then they were the only countries that were parts of the Schengen Area, thus participating in the related forms of cross-border police cooperation, while not being EU Member States.
6 Article 8 of Council Decision 2000/820/JHA. For a detailed introduction to MEPA: Fehervary (1997).
7 Article 8 paragraph 2 of Council Decision 2005/681/JHA.
8 Article 8 paragraph 3 of Council Decision 2005/681/JHA.
9 For a detailed analysis and assessment of the Stockholm Programme, see Fijnaut (2019).

bodies, authorities and training institutes of third countries and international organisations within the framework of working arrangements concluded under the new mandate or with national training institutes of third countries based on Article 8 of Decision 2005/681/JHA, as well as with private parties.[10]

This principle is set out in a more detailed manner by Article 34 of the Regulation. The *terminus technicus* of the cooperation instrument changed, stating that CEPOL, may conclude working arrangements instead of the formerly used cooperation agreements. More importantly, the procedure is somewhat simplified. The Commission takes over the role of the Council to ensure the necessary political oversight: working arrangements may only be concluded with the authorisation of the Management Board after having consulted the Commission.[11] However, when it comes to geographical scope, the Regulation refers to '*authorities and training institutes of third countries that have entered into agreements with the Union to that effect*': having said that, should the political preconditions be given, CEPOL may, in principle, cooperate with any country in the world.

The current mandate is also a significant step forward in specifying the forms of cooperation, compared to the rather general language of the previous instruments. Article 4 paragraph 4 tasks CEPOL to support capacity-building in third countries by developing and providing training for law enforcement officials from third countries, in particular from countries that are candidates for accession to the Union and the countries under the European Neighbourhood Policy; and by managing dedicated Union External Assistance funds to assist third countries in building their capacity in relevant law enforcement policy areas, in line with the established priorities of the Union. On the one hand, the countries' emphasis gets closer to the Union. On the other hand, it is explicitly mentioned that CEPOL may not only 'cooperate' but provide training for a non-European target audience itself. Last but not least, the provision on managing funds has opened up the possibility of targeted, project-based cooperation for CEPOL, which has significantly gained importance since 2015 in the Agency's life, as we would see below.

External action achievements

Based on the legal provisions mentioned above, CEPOL has substantially increased its external action in the past years. During this process, it had to be taken into account that the environment in which CEPOL's external action is

10 Recital (18) of the preamble of Regulation (EU) 2015/2219.
11 Article 34 paragraph 5 of Regulation (EU) 2015/2219.

positioned is volatile one, affected by various challenges. Terrorism, organised crime, irregular migration, and cybercrime continue to pose significant challenges. Beyond cybercrime, the digitalisation of our societies requires law enforcement to be equipped with proper digital skills. Member States have been concerned with security aspects of irregular migration flows towards Europe. The recent outbreak of the COVID-19 epidemic will certainly alter many aspects of our everyday life even in the long run – nevertheless, its economic implications may have severe consequences on the capacities of law enforcement. Most of these developments affect both the EU and third countries. Security of the EU and security of the countries in its neighbourhood and beyond are intertwined to such an extent that it is right to speak more of a continuum of the internal and external security of the Union than a simple nexus between the two, as it was the case a few years ago (URL3). On the other hand, CEPOL has a significant advantage in external cooperation compared to other EU Agencies, namely that training is a relatively 'soft' part of security cooperation, where the readiness of the given partner to cooperate may be reached more quickly. Thus, CEPOL often appears as the first EU agency having whatsoever security cooperation with a specific partner, generating trust and paving the way for cooperation of other EU agencies and services of EU Member States.

When it comes to the cooperation based on working arrangements, CEPOL started to conclude Cooperation Agreements with non-EU countries in 2010, once the EU Agencies had already been covered. The first country signing a Cooperation Agreement was Turkey (URL3). Following dynamic growth throughout the past decade, CEPOL currently covers all Schengen Associated Countries and all nations ambitioning an EU membership,[12] just as four out of six countries of the Eastern Partnership.[13] There is no Working Arrangement concluded with any country of the Southern Neighbourhood, although the draft with Tunisia is awaiting signature (URL4). There is one Strategic Partner covered with a Working Arrangement[14]. The advantage of this form of cooperation is to grant these partners comprehensive access to CEPOL's training offer[15], based on structured and permanent collaboration. This provides a solid basis for sustainable partnerships with permanent mutual engagements.

In parallel, since the adoption of the current mandate, CEPOL managed to build up the most extensive project portfolio among EU Justice and Home Affairs

12 i.e. candidate countries and countries that officially qualify as potential candidate countries.
13 Azerbaijan and Belarus have no Working Arrangeent at the moment.
14 The Strategic Partner covered with a Working Arrangement is Russia, since 2013- however, for political reasons, this has not been implemented since 2014.
15 i.e. access to on-site training, e-learning and exchanges.

Agencies, with four major projects of a cumulated budget of 23.5 million EUR for the period 2020-2024, covering the whole area of countries with a European perspective and the Eastern and Southern Neighbourhood.

CEPOL has already successfully concluded several comprehensive projects and training activities in third countries covered by EU neighbourhood policies, such as:

- Financial Investigation In-Service Training Programme for Western Balkan (CEPOL FI) 2017-2020, financed by European Commission through the Instrument for Pre-Accession Assistance II (IPA II)
- EU/MENA Counter-terrorism Training Partnership 1-2 (CEPOL CT & CT2) 2015-2017 and 2017-2020 respectively, financed by the European Commission through the Instrument contributing to Stability and Peace (IcSP)

Such projects are executed based on delegation, grant or contribution agreements concluded with the European Commission's services. The financing decisions rest with the European Commission. CEPOL has sought to export European know-how and foster fruitful training partnerships through these projects. In doing so, the Agency has been promoting international law enforcement cooperation instruments, helping widen networks of law enforcement specialists and transfer partner countries' professional experience to Europe. The activities in these projects provided excellent opportunities to bring participants from European law enforcement communities into direct discussion with an equal professional partner from the Western Balkans, North Africa, and the Middle East.

In 2020, CEPOL negotiated the above-mentioned 23.5 million EUR new projects portfolio. As a result of this, CEPOL is currently implementing four recent projects (URL5), namely:

- Enhancing Information Exchange and Criminal Justice Response to Terrorism in the Middle East and North Africa (CT INFLOW);
- Euromed Police for all partners in the Mediterranean countries, plus the African Union Mechanism for Police Cooperation (AFRIPOL) and the League of Arab States[16];
- Training and Operational Partnership against Organized Crime (TOPCOP); for all countries covered by the EU Eastern Partnership policy[17];
- Partnership against Crime and Terrorism (WB PaCT) for all Western Balkans countries[18].

16 For a more detailed introduction of this project, see Berényi, & Freund (2020).
17 Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine. For political reasons, Belarus is currently not participating in the project.
18 Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia.

Regarding CEPOL's external action dynamics, one may notice synergy and interaction between the two forms of cooperation (URL6). The projects' excellent work has facilitated structured collaboration under the framework of Working Arrangements, opened the way towards concluding new Working Arrangements, and often paved the ground for other EU Agencies and structures in the partner countries. Thus, structured cooperation, based on Working Arrangements and project-based collaboration, are indispensable for CEPOL's external action, and their various aspects are often closely related, even intertwined. Considering the limits of the Agency's resources available for any other objectives than its core mission with the Member States' law enforcement education capacities, third countries' capacity building is primarily pursued via implementing ad-hoc projects financed through the European Commission's external assistance funds. This feature may also determine the evolution of CEPOL's external action in the coming years.

One key lesson of CEPOL's activities in the cooperation with third countries is the significant advantages of joint training opportunities to build solid bridges between the services engaged. At times, the cooperation has been impacted by political turbulences and crises. However, CEPOL has experienced a firm professional commitment from its partner institutions to work closer together. During the operational activities in the projects, it was evidenced that joint training courses, study visits, and staff exchanges are excellent tools to build up the most important currency for international cross border cooperation: trust!

In conclusion, the evolution of CEPOL's external action has been very dynamic in the past two decades. CEPOL was considered to support countries outside the European Union already from the moment of its birth, as we have seen in the Tampere Conclusions. This tasking has just become more and more evident in the subsequent legal mandates of the Agency. The demand for CEPOL's services within the non-EU countries, complemented with the high quality of CEPOL training have made CEPOL an appealing 'brand' in the eye of external partners. Thus, the Agency is a valuable instrument in EU external action when it comes to cooperation on internal security with non-EU countries. The current substantial portfolio of capacity-building projects seems to be an acknowledgement of this role and may provide a perspective for CEPOL's future development.

Figure1: *Overview of CEPOL's Existing External Cooperation Instruments*

Countries	Type of cooperation	Status	Date
Albania	Working arrangement	In force	15/05/2013
Armenia	Working arrangement	In force	25/04/2017
Bosnia and Herzegovina	Working arrangement	In force	03/12/2014
Georgia	Cooperation agreement	In force	12/12/2011
Iceland	Working arrangement	In force	01/09/2021
Kosovo*	Working arrangement	In force	24/03/2017
Liechtenstein	Working arrangement	In force	13/03/2020
Lebanon	Working arrangement	Preparatory phase	n/a
Moldova	Working arrangement	In force	10/12/2012
Montenegro	Working Arrangement	In force	19/10/2021
Norway	Cooperation agreement	In force	09/12/2010
Republic of North Macedonia	Working arrangement	In force	24/08/2017
Russian Federation	Working arrangement	In force	28/11/2013
Serbia (Republic of)	Working arrangement	In force	01/09/2017
Switzerland	Cooperation agreement	In force	27/01/2022
Tunisia	Working arrangement	Preparatory phase	n/a
Turkey	Cooperation agreement	In force	07/12/2010
Ukraine	Working arrangement	In force	05/02/2020

Organisations	Type of cooperation	Status	Date
Association of European Police Colleges (AEPC)	Memorandum of understanding	In force	13/02/2002
European Judicial Training Network (EJTN)	Working arrangement	In force	15/02/2017
European Network of Forensic Science Institutes (ENFSI)	Working arrangement	In force	09/10/2018
European Security and Defence College (ESDC)	Working arrangement	In force	11/07/2017
European Crime Prevention Network (EUCPN)	Working arrangement	In force	23/06/2020
European Union Intellectual Property Office (EUIPO)	Memorandum of understanding	In force	08/12/2017
European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)	Working arrangement	In force	20/11/2013
European Union Agency for Criminal Justice Cooperation (Eurojust)	Cooperation agreement	In force	07/12/2009

Organisations	Type of cooperation	Status	Date
European Union Agency for Law Enforcement Cooperation (Europol)	Cooperation agreement	In force	19/10/2007
European Union Agency for Fundamental Rights (FRA)	Working arrangement	In force	24/08/2021
European Border and Coast Guard Agency (Frontex)	Cooperation agreement	In force	21/10/2020
International Criminal Police Organization (INTERPOL)	Cooperation agreement	In force	06/12/2017
Organization for Security and Co-operation in Europe (OSCE)	Working arrangement	In force	03/07/2017
Police Cooperation Convention for Southeast Europe (PCC-SEE)	Informal cooperation	In force	n/a
United Nations Office on Drugs and Crime (UNODC)	Working arrangement	In force	21/11/2018

*The designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo Declaration of Independence.

Note: URL3 and URL4.

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URL5: *Decision 2021/11/MB of the CEPOL Management Board.* https://www.cepol.europa.eu/sites/default/files/11-2021-MB.pdf
URL6: *International Cooperation.* https://www.cepol.europa.eu/international-cooperation

Laws and Regulations

Council Decision of 22 December 2000 establishing a European Police College (CEPOL) (2000/820/JHA)
Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA
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Maintenance of Order in the Honourable House – Establishment and Role of the Guard of the House of Representatives

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Abstract

The study aims to present the establishment, the development and the role of the Guard of the House of Representatives.

The House of Representatives was one of the most important scenes of the political skirmish in the age of dualism. This is well illustrated also by the fact that the contemporary publicists referred to it generally as 'arena'. The study presents the Guard of the House of Representatives in detail, like in a historical documentary, and takes the reader through the whole spectrum of the period under consideration, from dualism to the present day.

The Guard of the House of Representatives had started working in 1913. The first years of its operation were influenced not only by the international events but also by the increasing internal political conflicts. Despite the difficulties, the Guard became one of the most important elements of the contemporary maintenance of order within some years. This is exactly indicated by the fact that its historical traditions were used also by the policing after the turn of the millennium.

Besides the main purpose of the study, the authors also aim to introduce the Parliamentary Guard, whose role is to continue the historical traditions of the Guard of the House of Representatives in the current political and administrative environment.

Keywords: public administration, dualism, Guard of the House of Representatives, law enforcement, Parliamentary Guard

Maintenance of Order in the Age of Dualism

The period between 1867 and 1919, this means from the Compromise up to the coming into existence of the Soviet Republic is an interesting part of the Hungarian history from several points of view. During the period that was called later as dualism, the Kingdom of Hungary was characterized by a dynamic development which had a significant impact on the economic activities, on the home and foreign affairs of the country and also on the structure of the society. The latter is also important because the previous system that was organized on a feudal basis was gradually replaced in these decades by the civil Hungarian state that laid new foundations also for the involvement of the state.

According to the expectations of the era, there were significant institutional changes in the public administration. This was important from the viewpoint of the maintenance of order because the building up of the civil state was accompanied by the first really significant development of the domestic institutions. This meant in particular the creation of new bodies, for example in 1867 The Hungarian Royal Finance Guard, in 1871 The Hungarian Royal Crown Guard and in 1881 the Hungarian Royal Gendarmerie were established. The most significant innovation of the period was, of course, the creation of the Budapest-Metropolitan Police by the Act XXI of 1881 that provided, in spite of its decentralized character, the creation of the state police, at the same time.

The organization of the law enforcement of the period was characterized by the integration of the tasks of law enforcement. However, this did not mean an exclusivity from the viewpoint of the co-operation of the different bodies but a close co-operation, according to tasks (Parádi, 2007). Beside the above-mentioned bodies, the law enforcement organizations of the Kingdom of Hungary included the so-called guards, the organization of penal authorities that was institutionalized in several steps, finally in 1906 and also the Guard of the House of Representatives. With these about nine law enforcement/police bodies had worked at the end of the era in our country. It is worth pointing out the Guard of the House of Representatives among these organizations that was set up by the political environment that characterized the era, and after its creation the same environment shaped its image.

Struggles of the Political Arena

It is indispensable to clear in connection with the Guard of the House of Representatives, in which form did the Hungarian legislation work in the era of dualism. With the Compromise of 1867 the Austro-Hungarian Monarchy was born with its dual system. Its countries were bound, beyond the ruler's person by the common army and the common ministries of foreign affairs, defence and finances. Both countries disposed of an own government and a bicameral parliament in this constitutional monarchy, the latter met in the capitals, Vienna and Budapest. The two cameras of the Hungarian legislation were the House of Lords and the House of Representatives. The members of the House of Representatives were elected in the individual constituencies, the deputies of Fiume and Croato-Slavonia belonged to them. On the contrary, the House of Lords was organized on feudal basis, according to the Act VII of 1885, this means it was made up of so-called members for life, determined by the Act VIII of 1886. The two bodies met separately, aside from few exceptions. It became a general principle, on the basis of the role of the two houses in the legislation that the effective political initiatives started from the House of Representatives. This is an important factor also because in this period the operation of the House of Representatives was far from being smooth. This had two fundamental causes: on one hand, the divided political environment, and on the other hand, the incomplete or contradictory character of the orders of procedure regulating the operation of the House of Representatives.

The polarization of the political life was caused by the fact that for well over the period between 1875 and 1918 the country was directed by the same political grouping, first called as Libertarian Party, and later as National Working Party. This was possible because when the Libertarian Party dissolved on April 11, 1906, without a legal successor, its previous members with the leadership of István Tisza established the political organization National Circle that later united with the National Constitution Party, and then in 1910 it was established as a party with the name National Labour Party.

Beside the above condition, the latitude of the opposition members was also significantly diminished by the aggressive actions of the governing political party. As an answer to this, they applied different kind of ways to block the legislative work, therefore the obstruction become widespread. This kind of behaviour of the deputies was supported by the fact that the orders of procedure divided the parliamentary consultation into three phases which in every case were followed by voting: the general debate of the bills on the agenda happened first, followed by the detailed discussion (frequently by Articles, maybe by letters) and finally,

mostly at the following sitting, followed the final reading of the bill. During the debate, the Chair of the House of Representatives had a special role, as he could call to order the members of the house if they had disturbed or hindered the undisturbed way of the debates.

The opposition however, despite the measures applicable by the Chair, in most cases blocked the debate of the bills effectively, in many cases by contributions lasting for hours, or, if at least 20 deputies initiated it, even by roll-call voting. In 1903, István Tisza was entrusted by the ruler to form a government. His firm purpose was restoring the respect of the governing party and taking actions against the obstruction that hinders the functioning of the parliament. He could finally achieve this on November 18, 1904, with the so-called handkerchief voting. In the name of the Libertarian Party, Gábor Dániel submitted the proposal for the modification of the orders of procedure. During the session held on November 18, 1904, after the contribution of István Tisza, the Chair of the House, Dezső Perczel, violating the orders of procedure, ordered an immediate voting on the proposal. According to the contemporary reports he waved his handkerchief. As the majority of the deputies did not understand the scene, they stood up that had the meaning of voting in favour, according to the practice of that time (to remain seated had the meaning of a voting against). Therefore, Perczel regarded the proposal as accepted, then he resumed the session and adjourned it. The members of the opposition, protesting against the aggravation of the orders of procedure let off steam on the furniture and broke the session room into pieces.

The law that was trickily accepted significantly diminished the latitude of the members of the opposition as the modification introduced two important changes: from there on it became impossible to slow down the legislation with time-wasting contributions, furthermore, if it was justified, the Chair could show the way out of the room to the obstructing deputies, even by using a police squad. The strengthening however did not meet the expectations as the problems in connection with the undisturbed operation of the legislation became more serious again after one oppositional cycle, with the victory of the National Labour Party in 1910.

After the formation of the government the fights among deputies flared up again, especially because of the significantly different standpoints of the governing forces and of the opposition, in connection with the law on armed forces. The bill was a significant point at issue for the deputies of the government and of the opposition because it would have raised the number of the recruits destined for the common army of the Austro-Hungarian Monarchy and also the military expenses. According to the standpoint of the governing party, the status as a great power of the Monarchy and also the safety of the Kingdom of

Hungary could be guaranteed by this. The opposition however did not accept this as in their opinion the Hungarian influence within the common army eclipsed.

The action of the opposition members could block successfully the voting on the bill for several months despite the fact that in 1910 the governing party acquired 61.98% of the credentials, this means it had an absolute majority in the parliament. The government that submitted the bill in May 1911. As it was impossible to find a substantive solution in connection with the law, the prime minister of the government, count Károly Khuen-Héderváry resigned on April 22, 1912. Following the formation of the government by the former minister of finance László Lukács the person of the Chair of the House also changed. István Tisza took over the function from the leaving Lajos Návay who from the beginning called for a more forceful approach against the opposition members. In the following period István Tisza used the forces of the Metropolitan Police in the interest of maintaining the undisturbed order of the sessions. § 14 of Act IV of 1848 made this possible that said that *'the maintenance of the order and silence is carried out by sergeant-at-arms, if necessary, employing the national guard'*.

The presence of the policemen became commonplace at the sessions of the House of Commons with the act of Tisza. They were commanded by Ferenc Pavlik, chief inspector of the Metropolitan Police. The presence of the police triggered a heated negative reaction of the majority of the opposition members, they expressed it in several cases with insulting the policemen and throwing things at them (Fazekas, 2008). Despite that the turn out of the expelled deputies in most cases was only nominally made by force as the words of Ferenc Pavlik to Gyula Justh, president of the Independence and Revolutionary of 1848 Party attest this. Justh was turned out from the session on June 7, 1912, with the demand: *'I ask Your Excellency with deep respect, be so kind to consider the fact that I touch You with my hand as violence.'*

Although, due to the strict measures the obstruction retreated but the violence did not cease to exist within the house. Its form and way were very different, from verbal aggression through physical violence as far as homicide attempt (Cieger, 2016). It was ordinary that the opposition members broke the session room into bits, however the case of Gyula Kovács, deputy of the opposition was qualified as a more serious incident than the previous ones. On June 7, 1912, he entered the room from the balcony of the journalists, pulled a gun and shot at István Tisza three times. The starting point of the incident was the mentioned law on armed forces. This was the topic of the session of June 4, 1912, when István Tisza, against the rules of procedure silenced the opposition members, deliberately ordered the voting of the bill, then he ordered to turn out the protesting deputies (among them Gyula Kovács) of the room. The attack followed

this. Tisza was not hit by any bullet but the scene did not end because Kovács wanted to put a bullet through his own head with the fourth shot. After the unsuccessful attack, the deputies of the governing party got him down and started hitting him.

The case had a serious echo in the contemporary press, first because of the very detailed reports, second because this was the first occasion when deputies used a shotgun in the session hall. This was the first attack against István Tisza that was followed by three other attacks. As several bills of the ruling party triggered a serious public outrage, therefore the order swarmed not only in the house but also outside. Demonstrations were started in front of the Parliament that was cordoned with the participation of policemen. The order of the square was guaranteed by the army and by deployed gendarmes. Policemen worked at the entry to the Parliament. During the entry they checked the identity of deputies, with the contribution of parliamentary clerks, hindering those deputies expelled from the sessions, as for example the mentioned Gyula Kovács, could not enter the building. The polarized political life influenced the public opinion, this is reflected by the fact that sometimes even the usage of policemen in the session hall was uncertain. The session on September 17, 1912, is a good example to this when the policemen had to raise the unmanageable deputies one by one from the benches during the spat of the deputies that lasted for almost four hours. During that action, one of the deployed policemen denied the turning out of the expelled deputies (Fazekas, 1994). The state of the contemporary affairs is characterized by the fact that after the policeman who denied the implementation of the instruction was fired from the police, he was employed in one of the domains of count Mihály Károlyi.

The establishment of the Guard of the House of Representatives

Because of the spreading violence and in the interest of reconstructing the operation of the Parliament, prime minister László Lukács on October 31 in the same year filled a bill that included the widening of the power of the Chair and the establishment of an armed guard under the direction of the Chair of the House of Representatives. The latter had naturally the stated intention to give to the Chair at last an effective means against the disturbing deputies of the opposition. The ruling party saw the necessity to establish the guard justified on the basis of the rules of procedure in force and also according to the following provisions of the Act IV of 1848:

'§ 10. Sessions of both Houses continue to be public. Each House sets rules in the interest of the silence and order necessary for their discussions and for keeping the audience in full taciturnity and they strictly carry out their fulfilment through their Chairs.
§ 11. In this part it is ordered in advance that the audience must not disturb the consultation in any way.
§ 12. If a participant or the audience disturbs the discussion, and the one-time warning of the Chair is not successful, for the second time, with reference to the present law he can expel the participant or respectively the audience and he can make their seats closed.
§ 13. If this happened the discussion will be continued either that day or later, according to the majority's decision, but always in public.
§ 14. The maintenance of order and silence is carried out through sergeants-at-arms, if necessary, with the involvement of the national guard.

The House of Representatives discussed the bill on December 10 and accepted it the same day. The enactment took place on December 31, 1912, after the approval of the House of Lords and the royal assent (Orbán, 2012). The Guard of the House of Representatives started working on January 31, 1913, in the building of the Parliament on the basis of the Act LXVII of 1912, the effective service started on May 5, 1913.

Before the presentation of the guard's service activity, it is important to deal with the other conditions in connection with its establishment. We clearly regard the guards, this means the Hungarian Royal Guard, the Hungarian Royal Crown Guard and the Hungarian Royal Guard of the House of Representatives as integral parts of the Hungarian policing because the task and operation of any body determine its essence. The ability of the above organizations to any combat activity, their appropriateness for military defence against any external menace against our country or their ability to fighting activity against regular forces were naturally quite far from that what is fundamentally expectable from military organizations. The members of these bodies while they were individually qualified as soldiers, and their internal activity had a clear hierarchical military character, they had military ranks, their basic tasks were the defence of the internal order, the protection of the legislative body, of the highest public office and the crown regalia symbolizing the sovereign state power, to serve the tranquillity of the constitutional operation.

Quoting the words of József Parádi *'the attitude was general that the armed service of the homeland is not a profession but a mission, so the moral and material appreciation of the person having this mission corresponded to this'*

(Parádi, 2010). Belonging to the staff of the public staff, the guaranteed salary, the supply with medical and social services and with pension, in case of death the provision for the bereaved and the accommodation according to family and rank, all they meant an envied social status, because of the elite character of the policing bodies of the Kingdom of Hungary. The existence of the same factors made possible the application of higher level of expectations and requirements for the staff of maintenance of order at their admission and at the determination of their tasks. Beyond the human factors, the elite character manifested itself also in the material conditions, they were supplied with all means necessary for the successful fulfilment of task of the policing forces, with modern technical equipment, furniture, tools, and also with appropriate accommodation. As a result of the above the Hungarian policing organizations of the era worked on a high level. Despite their high-level militarization and bureaucratization, they could compete with similar organizations of any country of Western Europe, they did not fall behind them in any aspect. A generally accepted public bravery prevailed in the country.

Operation of the Guard

The Guard was subordinated to the Chair of the House of Representatives to maintain the inner order and to guard and defend the House of Representatives. It was organized from military or gendarmerie individuals applying voluntarily, it consisted of 56 persons. It was militarily organized, had two officers, one of them served as commander in the rank of field officer while the persons serving in the ranks consisted of six palace company sergeants and 48 palace sergeants (Zeidler, 2015). The Guard was not subordinated to the Ministry of Defence, it was not part of it, therefore the ministry had no right to direct or supervise it. The Guard disposed of its operating expenses, listed in the defence category of the state budget independently, without any say of the Ministry of Defence that was in fact involved (Parádi, 2017).

On the basis of the Service Instruction and Working Order, issued after its establishment and of the provisions of the Personal Rules, the abilities to write, read and count were among the expectations toward the palace guards. They had to be fit for military service, had to have a minimum height of 178 cm, had to be either not married or widowed without children. The degrees of rank of the field army that constituted a peculiar system within the military structure governed their degrees of ranks, through their status as a militarily organized guarding body. It is worth mentioning that between the two world wars the

degrees of ranks of the guards were not regarded higher than the same military degrees of ranks. Their uniform was completed with the longer, respect commanding sword of the infantry officers that was changed in service to the shorter cavalry sword. The purpose of this change was to make them easier to fulfil the tasks during the daily operation of the guards, as they had to move on plenty of steps within the Parliament and in the narrow space between the rows of the session hall (Tóth, 2003).

The guard with its decorated uniform continued providing its service activity on the basis of its task structure that was shaped in the period of dualism. Its dominant motive remained the parading character and the palace guarding activity. At the same time, the detective body of the Metropolitan Police provided the investigating, detecting and criminal activities of the armed safeguarding in the background that were less spectacular but indispensable (Parádi, 2017). If it was necessary to strengthen the staff or service of the guard in the House of Representatives, the Chair of the House of Representatives could use the contribution of the gendarmerie or the armed forces through the government, on the basis of the law on the establishment of the Guard of the House of Representatives (§ 4 of Act LXVII of 1912).

The presence of policemen providing the tasks of security commanded by municipal chief police inspector Ferenc Pavlik who was regarded as a daily visitor of the sessions of the House of Representatives, ceased to exist on March 15, 1913. The first incident of the Guard that was effectively established on May 5 did not take a long time because during its deployment on June 4 it had a serious conflict with a deputy of the opposition. When the government led by László Lukács resigned because Lukács was involved in a corruption case, the deputy commander of the guard, captain Vilmos Gerő, while they turned out the deputies expelled because of their disorder stroke with the flat of his sword the independence deputy Lehel Héderváry because the politician disparaged grossly the palace guard and its members. This form of violence was previously applied only for bringing the street demonstrators under discipline. The tempers were further inflamed by the deployment of force in the House of Representatives, triggering series of duels and other conflicts both within the Parliament and outside (Pollmann, 1997). The statistics of the Chair's interventions between May 1912 and April 1914 signs exactly the weight of the steadily occurring incidents in the house. This shows that 68 deputies were summoned to make amends to the Honourable House, 13 deputies were reprimanded, and the number of the expelled ones reached 1784 persons during 148 sessions (Cieger, 2016).

The task of the personal staff of the guard had the task, on the basis of the Act LXVII of 1912 *'to keep the audience in total silence'*, to maintain the order and

silence of the discussion and to execute the rules of procedure strictly. There was a direct phone connection between the Chair of the House of Representatives and the inspection of the guard, so when the Chair decided to expel any disruptive deputy, he informed the guard through this line. At this time the commander of the guard, fulfilling the instruction of the Chair, called upon the expelled deputy to leave the hall, he showed him out or, if the summoned did not obey, he could be turned out even by using armed force. Beside these the guard provided the service of the fire-guard and during the Second World War also the civil defence service of the Parliament (Fazekas, 2008).

De iure, de facto…

In connection with the guard that was criticised in several interpellations by the members of the opposition, deputy Gyula Sághy considered that the government turned the parliamentarism upside down, he regarded the palace guard as a limitation of the deputies' immunity. Beside however other kinds of criticism also touched the body. On March 13, 1914, in his interpellation to defence minister Samu Hazai, deputy István Rakovszky drew the attention to the tension between the military and civil societies, to the involvement of the army in the political life. Deputies Márton Lovászy and Móricz Esterházy stressed in their speeches that the law that created the guard speaks about a guard that is militarily organized and not about a military force organized as a guard. Therefore, they regarded unsustainable that a civil person, the Chair of House, could command soldiers belonging to a corps or exercise any personal powers on them (Orbán, 2012). It is possible to enumerate the critics on the operation or on the justification of the guard's existence for a long time that clearly shows that the staff (palace guards) of the newly establishing Guard of the House of Representatives had to cope not only with the fulfilment of the enforcement tasks but also with the burdensome political atmosphere.

The operation of the House of Representatives ceased to exist at the end of the Second World war, with the marching in of the Soviet troops, so the maintenance of the guarding body that guarded it became devoid. Together with this, when the Arrow Cross people decided to leave Budapest, László Baky evacuated the guard, as well. They moved in the direction of Kőszeg-Sopron and reached the border. They did not go any longer because their competence ceased to exist. They surrendered to the Russians with the assistance of a priest who spoke Russian and explained them that they were not a combat unit and they never shot at the Red Army. They got a free pass with the stipulation that they

should not use country vehicles, and with the instruction to return to their place of employment. They reached the proximity of Tata where Cossacks captured them. The Cossacks hoped for ransom and accompanied them to the internment camp of special captives at Székesfehérvár. One member of the guard could escape from there in an adventurous way, and showed up in the Parliament. He got the information there about the existence of the temporary national assembly in Debrecen. He showed up there, as well and reported about the captivity. Because of this, the camp at Székesfehérvár was instructed to release the unit but they were informed that they ceased to be a unit. Almost everybody went to seek their families so the guard dispersed in a spontaneous way.

The members of the guard were supposedly commanded to their original troops. Their task was fulfilled for a short time by the National Assembly Guard, then up to April 16, 1949, by the staff of the State Security Authority. The State Security Authority was a partly secretly acting state security organization of the Hungarian communist party-state dictatorship between 1948 and 1956. Its official tasks were to chase the enemies of the system, the defence of the system and of its leaders. The main purpose of the decision was to take out the guard from the supervision of the Ministry of Defence and to give it to the sphere of the authority of the Ministry of Interior (Orbán, 2012).

It is important to remark as a closing thought that the Guard of the House of Representatives was de jure never dissolved, its normal working ceased to exist de facto with the spontaneous dispersing of the personnel of the House of Representatives and of the guard. After the consolidation of the socialist system the Parliament was defended for decades by the Government Guard of the Ministry of Interior (later: Republican Guard Regiment). When the latter ceased to exist (June 30, 2012), the task was temporarily fulfilled by the Rapid Response and Special Police Services up to January 1, 2013. The newly established Parliamentary Guard started working at this time. It continues the historical traditions of the Guard of the House of Representatives. Its operation is currently determined by a cardinal law, Act XXXVI of 2012 on the National Assembly.

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Laws and Regulations

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Act VII of 1885 on the modification of the organization of the House of Lords

Act VIII of 1886 on the fulfilment of paragraph 23 of Act VII of 1885 on the modification of the organization of the House of Lords

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The issue of limitation in the context of transitional justice

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Abstract

The present study aims to present the difficulties of transitional justice in Hungary following the change of systems. Following the regime change, it was a legitimate need in a substantial part of society in Hungary to punish the main perpetrators of the previous communist dictatorship for the crimes committed by them, either symbolically or actually. This type of 'punishment' may take place in a democratic society in two ways: either because of a political decision, or in the form of prosecution by a court. From the 1990s onwards, Hungarian decision-makers were characterized by the absence of ability to cope with the question.

In my study relating to the statute of limitation, in addition to the description of the concept of limitation and the applicable Hungarian regulation in force, on the one hand I introduce those crimes which are not subject to the statute of limitation under international law, on the other hand I present the different approaches of the question of suspension of the limitation period in some successor states in order to determine and provide a solution to whether the statute of limitation could have been a real obstacle to criminal accountability. In this context, my study addresses, among several other issues, the breakthrough of the prohibition of retroactive effect, the issue of limitation and the question whether there is a need for transitional justice at all.

The problem of limitation in connection with the historical justice arises in the fact that, although the current Hungarian legislation in force is aware of the concept of crimes which were not subject to the statute of limitation, however, during the darkest period of the communist dictatorship, such a concept did not yet exist in Hungarian law. The Hungarian laws in force in the 1950s did not yet recognize the category non-obsolete crimes, Thus, for example under Article

25 of the Compilation of Substantive Criminal Law (Act II of 1950) in force in 1956, the limitation period for acts threatened with death or life imprisonment was only 15 years, which, however, ceased to be punishable.

In my opinion, which can be considered as one of the results of my research, in the absence of a mandatory legal background similar to German or Czech, it is a special legal reasoning that can justify the lack of limitation, the rules of which are presented in detail in my study. This is the legal reasoning on the basis of which the accountability of former party leaders could have been established under both domestic and international law. That is the legislative reasoning based on which – contrary to the decision of the Constitutional Court – in my opinion, legal liability would (would have been) take place, regardless of the fact, whether it was a plea or in the context of a traditional criminal proceedings.

Keywords: war crimes, regime change, transitional justice, limitation

Introduction

Following the regime change – in fact, even before that –, it was a legitimate need in a substantial part of the society to punish the main perpetrators of the previous communist dictatorship for the crimes committed by them, either symbolically or actually. This type of 'punishment' may take place in a democratic society in two ways: either as a result of a political decision, or in the form of prosecution by a court. From the 1990s onwards, Hungarian decision-makers were characterized by a lack of ability to cope with the question. There were pieces of legislation that did not stand the test of constitutionality, other times they wanted to bring the matter to rest with the involvement of the judiciary, somewhat shifting the responsibility away from themselves. All these rightly led the emergence of various conspiracy theories, which were though widespread and referred to as the 'Rose Hill Pact' in Hungary, which were believed to find the cause of all in the deliberate interruption of the accountability of the former party leadership. Those who called for accountability referred to the words of Hugo Grotius: 'It is not possible for serious crimes to remain unpunished' ('Crimen grave non potest non esse punible'). There were several parliamentary initiatives and bills during the first freely elected government – that were already dead-on-arrival at the time of their submission – which were rejected by the opposition or by the Constitutional Court, and then the politics took them off its agenda for a very long time, more than two decades. During this wasted period, the prosecution of alleged former perpetrators was simply shifted to the courts, which

was reflected in the volley-firing trials of the 1990s (see the 'volley-firing trial' of Salgótarján, Eger, Kecskemét, Tiszakécske, Berzence, Mosonmagyaróvár, as well as of Nyugati tér, Kossuth tér and Tata). The common characteristic of the above-mentioned criminal proceedings was that of János Strausz Dr., the judge of the 'volley-firing trial of Salgótarján' stated in the written statement of his judgement that '*no one has ever brought legal prosecution against the surviving political and military leaders who are undoubtedly responsible for the 1956 bloodshed and retaliation, and this has not even been done in the present case. Instead, ordinary people were put on the court dock, though there was no credible evidence against most of them. Furthermore, it should be borne in mind that, almost four decades after the 1956 revolution and after a long period of time, both the past and the current political system have made it impossible, difficult, or time-consuming to prosecute, or have postponed the prosecution, so the punishment may now only have symbolic significance*'.

The words of János Strausz Dr. have been fully confirmed by the time that has elapsed. From 1990 to the present day, no former leading communist politician has been convicted and only one has been placed on the court dock – in the person of Béla Biszku – who died before the first instance sentence of the Metropolitan Court of Budapest became final. I also had the opportunity to take a close look at the criminal proceedings against Béla Biszku, since I myself made the last decision – partly convicted, substantial partly acquitted the accused person. Béla Biszku, who was a member of the narrower party leadership after 1956, was prosecuted in that case because, according to the prosecution, a series of volley-firing occurred in two locations in December 1956 because of instructions issued by the party-run Military Council. First in Budapest, on Nyugati tér, and then two days later in Salgótarján. However, it has been established that, according to the experts heard, the witnesses, the documentary evidence, and the final verdict in the main proceedings a decade earlier, on Nyugati tér there was no volley-firing against the civilian population, while the instruction of the Military Council, regardless of its content, had no effect on what happened in Salgótarján, as it was addressed only for the commanders in Budapest, and the Military Council had no influence on the management of the army in Salgótarján, and certainly not even its instruction got there.

However, the indictment against Béla Biszku was not based on an idea from the air. There has been at least one criminal case in both Hungarian and German legal history based on the same logical conclusion: the former communist leaders delegate their decisions to others, who then commit the crimes on their behalf. In 1920, the so-called 'People's Commissar Trial' was held in Hungary, and in 1997 in Germany the 'Politbüroprozess' was held against the former GDR

leaders. As a result of these two criminal proceedings, the terms introduced into the legal consciousness were also uttered in the Biszku Trial, the legal doctrine called the joint criminal enterprise, which was introduced in the 'People's Commissar Trial' and was crystallized in the practice of the International Criminal Court in The Hague decades later, or the term 'ideological fire order' (ideologischer Schießbefehl), first used in the Politbüroprozess, which had in common the principle of corporate responsibility, regardless of the form of central will ('suppression of counter-revolutionary movements', 'setting up revolutionary courts' or allowing fire to be opened to citizens wishing to flee across borders).

Thus, it may be seen that the accusation of Béla Biszku on the grounds that he was one of the leaders of the party state was not a mistaken decision from the point of view of legal theory, as there were at least two examples of this in the past. All in all, the only question was whether the prosecution could find the particular criminal conduct for which it might be worth prosecuting him.

Regarding the absence of criminal accountability after the change of regime, it is also worth addressing the question of whether there is need for society for transitional justice, or as it is common in the German legal literature, for 'past processing' (in German Vergangenheits-bewältigung or Vergangenheits-aufarbeitung)? Or is it better (as a compensation for peaceful regime change or to preserve social peace) not to disturb the past, since it is no longer possible to change it anyway, and what cannot be changed is not worth disturbing?

In addition to both positions, in the international legal literature, a number of legal scholars and philosophers have set out their arguments and counter-arguments for the benefits and the disadvantages of transitional justice, how it helps society to face the past or hinders the reconciliation, of which the most important ones shall be briefly presented. Considering that there is no point in transitional justice, in fact, that it would be counterproductive – but at least pointless – the following main reasons were given:

In chronological order, it is appropriate to first refer to the position of Hannah Arendt, who found the transitional justice to be contrary to human expectations and thus meaningless (Hack, 2012). According to her high-impact argument '*it is therefore quite significant, a structural element in the realm of human affairs, that men are unable to forgive what they cannot punish and that they are unable to punish what has turned out to be unforgivable*' (Arendt, 1998). '*All we know is that we can neither punish nor forgive such offenses*' (Arendt, 1998). Thus, it is not possible to punish the person and act that Kant mentions as 'radical evil'. Approached from another side, Jon Elster found the transitional justice equally pointless, he assumed that it would also lead to injustice, as it would not be possible to

hold everyone liable and those responsible would get away with it (Hack, 2012). He described this as *'the problem of the big fish versus small fish'* (Elster, 1992), in respect of which he finally concluded that either everyone should be punished, or if that is not entirely possible, then no one ('*In this article I will lay the groundwork for the opposite conclusion, namely that one should target everybody or nobody*.') (Elster, 1992). In this context, he set out his truly unique position that '*because it is impossible to reach everybody, nobody should be punished, and nobody compensated*' (Elster, 1992). There was also a view on the part of Michael Schumann, a politician on the German extreme left-wing that sins of the communist regime would be lumped together with the National Socialist regime and punished the same way, the latter would be relativized (Schumann, 1992). Detlef Joseph, a German who also spoke out against justice, argued that transitional justice would be an unfair revenge-justice for the winners (as the courts of the FRG would judge the politicians of the GDR) (Joseph, 1992), what those who professed it referred to as 'Siegejustiz', 'Rachejustiz' (Csúri, 2004).

At the same time, however, there was a much wider camp of those who stressed the need for transitional justice in the socialist successor states, as it is the most important tool for facing the past and for social reconciliation. In this context, the legal literature has developed the following main arguments as justification:

Firstly, after the reunification, it is worth quoting the statement of Christoph Schaefgen, Chief Prosecutor and Head of the Investigating Crimes and Judicial Violations of the GDR Government Unit of the Berlin Prosecutor's Office. Compared to letting a significant number of Nazi criminals run after the war, he emphasized in 1991 that the German 'justice could not fail again' (Csúri, 2004). In that connection, in his article in a German judicial newspaper, he stressed on the basis of past failures in the application of the law by the German judiciary that '*we want to do everything we can to ensure that a situation like the one after 1945 does not occur again, which was known to ensure that no member of the judiciary was held criminally responsible for an unjust judgment*' (Schaefgen, 1991). Neil Kritz considers the transitional justice as the first test of the establishment of true democracy and the rule of law (constitutional state) (Hack, 2012), which leads from dictatorship to democracy: '*in countries undergoing the radical shift from repression to democracy, this question of transitional justice presents, in a very conspicuous manner, the first test for the establishment of real democracy and the rule of law, the very principles which will hopefully distinguish the new regime from*' (Kritz, 1995). It is, of course, a question whether past violations can be remedied afterwards and can be a cure for past wounds. If the answer to that question is yes, then the additional question arises

as to how it is possible to achieve this goal? According to the American political scientist Roman David, transitional justice in Central and Eastern European countries after the regime change (i.e. how former leaders in the former system could take part in newly established democracies) took place in four main types in each state: a) the exclusive system – '*a system under which a person associated with the previous regime is not allowed to hold certain posts in the new administration*'; b) the reconciliatory system – '*a system under which the wrongdoer has to demonstrate that he or she is worthy of receiving a fresh start through his or her confession of wrongdoing*'; c) the inclusive system – '*the official is allowed to hold a position of trust in spite of his or her past*'; d) the systems of continuance – '*people in position of influence are allowed to continue in their posts under the new government*' (David, 2011). The effect of the Hungarian regime change on leadership positions could be classified in point c) of the above categories, under the inclusive system, as opposed to the exclusive system in former Czechoslovakia or the reconciliatory system in Poland. In contrast, a model based on the tools of criminal law prevailed in Germany (Schlink, 1994), where in the post-unification period, a democracy (FRG) that has had sad experiences in this field judged with great rigor over the actions and perpetrators of a state (GDR) that has by then already been abolished.

In this context, the following dilemma arose in legal theory, namely, if justice was already necessary, then, in line with the expectations of politicians, should it really be responded to by the means of criminal law, through justice.

There were also negative and affirmative answers to this question. The first category – that is, those who did not treat criminal law responses as an all-powerful solution – includes, for example Jerome Frank, a well-known representative of American realism, who set the courts as the 'father-law substitute', which in practice meant that society expected them to finally close and resolve all their crises with a symbolic decision, but the judicial decision itself was uncertain (Frank, 1930). Jerome Frank also testified that since the judge itself was a human and over time his individual changed, it could be stated that in the same case the exact same judge could easily imagine after 10 years that – then – even would make a completely different decision, as the mechanism of judicial judgment – at least in the opinion of the representative of American realism – did not follow the formal rules of logic at all (his specific approach to judicial decisions: '*Law is what the judge had for breakfast*.') (Frank, 1931).

On the other hand, there were many legal theorists and philosophers who clearly expected the transitional justice from the judicial decision, from the catharsis of sentencing. Among them were Judith N. Shklar (Shklar, 1964), Jaime Malamud-Goti (Malamud-Goti, 1991) and Carlos Santiago Nino (Nino, 1996), all

three of whom consistently expected the prosecution of the injured truth to be restored through court proceedings and the publicity of court trials – the inevitability of facing with the past – to meet the public's sense of justice (Hack, 2012).

Perhaps Malamud-Goti gave the clearest explanation of why, in his view, trials were needed for liability. In his reasoning, he assesses the effects of court proceedings on both the victims and those responsible for the acts (perpetrators), on the basis of which it concludes that trials are important for victims, because '*only public admission by governmental institutions that we were wronged will legitimize us in our own eyes, and punishment of the violators of our rights is the clearest and strongest statement to that effect*' (Malamud-Goti, 1991). On the other hand, examining the need for criminal proceedings from perpetrators, he came to the view that this should send an important message to them: that it becomes clear to everyone that they have committed serious crimes ('*The message to the wrong-doer is: This is how wrong what you did was*.') (Malamud-Goti, 1991). At the same time, he sees the importance of transitional justice and retribution in that – even though some bloody-handed leaders do not attach importance to it – that '*the value of retribution is just that, by disregarding the effects of punishment, it places constraints on society against using individuals as tools for promoting other people's interests*' (Malamud-Goti, 1991). In his study on this topic, Péter Hack takes stock of the views of the authors listed above (Judith N. Shklar, Jaime Malamud-Goti, Carlos Santiago Nino) on the specific benefits to society of public trials in connection with the accountability for perpetrators of criminal systems: a) they highlight the dimensions and nature of the atrocities that have been committed, b) crimes are publicly acknowledged and perpetrators are publicly exposed, c) they promote the rule of law, including lawlessness, through a fair trial, d) they reduce the desire for private revenge and they prevent the bloodshed, e) they allow victims to regain their self-esteem, f) they stimulate the development of a collective conscience and the process of self-examination (Hack, 2012).

However, several substantive and procedural problems occurred in relation to possible court proceedings. First, the breakthrough of the prohibition retroactive effect, and secondly, the question of limitation.

Breakthrough of the prohibition on retroactive effect

The principle of non-retroactivity had relevance to the aspect of liability – as a possible obstacle – as in border guard trials where certain border guards who fired shots and injured or killed refugees brought before the court, almost all of them argued that they had acted only in accordance with the legislation in force

at the time, and their act had not been a crime in the GDR at the time of the criminal offence, but on the contrary, they had had a duty under the provisions of the State Border Law (Gesetz über die Staatsgrenze der DDR) (Csúri, 2004). The defense was justified to the extent that the State Border Act did allow the use of weapons for such cases at prohibited border crossings – and made it mandatory based on individual specific command instructions. Section 27 of the Act provided for the use of weapons (Anwendung von Schußwaffen), and in doing so, regarding the protection of human life, paragraph 4 also contained only that as far as possible, the lives of those affected by the use of weapons should be spared.

Once again, only the Radbruch formula ('Radbruchsche Formel') helped to break this contradiction after the World War II. In his publication in Süddeutsche Juristen-Zeitung in 1946, Gustav Radbuch explained that an unbearably unjust law must always back down from the truth (Radbruch, 1946).

The same kind of approach emerged in the proceedings against the leaders and representatives of the GDR, since – although to a different extent and in different contexts – the laws of the GDR were unbearably unfair, like those developed during the Nazi era. That is why it has become a principle in adjudicating violations in the GDR that what was a criminal offense under the rule of law at the time of its perpetration must be punished retrospectively, even if it was not punishable under the circumstances at that time. In this context, Simon Kaiser explains in one of his papers – against the defense of the accused persons arguing for non-retroactivity in border guards' trial – referring to Albin Eser (Eser, 1996) that the prohibition of retroactive effect cannot be an evasion of responsibility of border guards on the ground that they trusted the then existing state order during its existence. As far as the laws or the instructions are manifestly intolerable, the issuers of the orders and the executors of the orders cannot claim that they merely complied with the legal norms. The reason for this is that no one can trust that future forms of government will continue to accept and punish this intolerable practice that violates human rights. Thus, the perpetrators cannot therefore claim that what was a legal at the time of the crime cannot become illegal later (Kaiser, 2011).

The issue of limitation as a potential obstacle to criminal accountability

The second major issue of possible criminal liability was the issue of limitation. The difficulty of the solution was given by the fact that, during the period of regime change in Eastern Europe, the crimes whose perpetrators were to be held

liable in the newly formed democracies were largely time-barred or close to it. Of all the countries concerned, this was the most problematic and procedural difficulty in Hungary – this will be discussed in more detail later – especially given that the Hungarian laws in force in the 1950s did not yet recognize the category of crimes which were not subject to the statute of limitation. However, it is not worth keeping silent about that for example the issue of limitation in Germany – which was very common to serve as an example for the Hungarian legal system in the last century – were resolved in the simplest and most obvious way possible. This solution also arose in Hungary, but in the end, it failed due to the opposition of the Constitutional Court. According to Jörg Arnold, the root of the problem was to be found in the fact that many crimes had been committed long ago, as a result of which there was a risk of limitation. The solution to this in German law was that the limitation period was considered to have suspended during the period of non-persecution (i.e., the period was not included in the period of limitation) and then to have restarted (Arnold, 2001). This view was also adopted by the Ministers of Justice of the German provinces, who adopted a joint declaration at their conference in Berlin in November 1991. According to this, the law enforcement authorities would in the future take the view that crimes committed with the instruction or approval of the GDR regime holders, and which were not unlawfully prosecuted at the time, disregarding the rule of law, were not time-barred, and the limitation restarted with the reunification (Schißau, 2007). The reference to the Radbruch formula developed in connection with the national socialist crimes was also expressed in the wording of the joint interpretation of the law by the German provincial ministers: those kind of criteria previously developed for the limitation of national socialist crimes, they can also be properly applied to criminal proceedings for certain acts of the Socialist Unity Party of Germany (SED) regime (Schißau, 2007). Accordingly, the Act of 26 March 1993 on the suspension of limitation in respect of 'acts committed under the unjust regime of the Socialist Unity Party' (Gesetz über das Ruhen der Verjährigung bei SED-Unrechtsstaaten, briefly: Verjährigungsgesetz) provided that for the purpose of calculating the limitation period in respect of acts committed under the illegitimate SED regime, but not persecuted for other reasons incompatible with the expressed or implied will of the GDR state and party leadership for reasons incompatible with political or rule of law reasons, the period between 11 October 1949 and 2 October 1990 should be disregarded, since the limitation period was suspended during this period (Asholt, 2016).

While the German statute of limitations was not brought before the German Constitutional Court and higher court decisions consistently upheld the specific judgments rendered on that basis (moreover, in the context of the

'Politbüroprozess' proceedings against Egon Krenz and his associates, the European Court of Human Rights did not find any objections in this regard), until then in Hungary, after the change of regime, the Constitutional Court ruled by its decision No 11/1992 (5 March 1992) that the 'Act on the Prosecution of Serious Crimes Committed between 21 December 1944 and 2 May 1990 and Not Prosecuted for Political Purposes' passed by the pro-government majority of the National Assembly – with a content very similar to the German one – was unconstitutional. On the one hand, the Constitutional Court explained the indetermination and uncertainty of the wording of the act violated the requirement of legal certainty. On the other hand, it emphasized the that the act also violated the requirement of constitutional criminal law (non-retroactivity) that the criminal law in force at the time of the offense shall apply to the limitation period of the criminal offense, including interruption and suspension of limitation period, unless more favorable rules for the perpetrator entered into force during the limitation period. On the issue of unconstitutionality of certain provisions of the Hungarian law, which did not enter into force in the end, the Constitutional Court ruled that the re-criminalizing of time-barred crimes, even the extension of limitation period for crimes not yet time-barred, or interrupting their limitation period by the law, or establishing the grounds for interruption or suspension of limitation period with a retroactive law – they are all unconstitutional. The Constitutional Court also ruled that in terms of limitation, it was not possible to make a constitutional distinction according to the reasons for which the state did not previously enforce its criminal claim for political or other reasons. As a result, due to its uncertainty, it violated legal certainty and it was therefore unconstitutional to declare as a reason for limitation that 'the state did not enforce its criminal claim for political reasons'. Contrary to the decision of the Hungarian Constitutional Court, one of the authors of the legislative proposal quotes in his article the position of Hans-Heinrich Jescheck, who, in connection with the Hungarian statute of limitation, expressed his view that '*if these thesis are applied to Hungary, they are absolutely not retroactive limitation provisions which adversely affect the situation of the persons concerned, but a decision which was already in force during the limitation period. Even if this provision did not formally exist in Hungarian law, it must be said that it must necessarily be deduced from the meaning of the right to limitation, because the limitation cannot begin or continue if the legal situation makes it impossible to prosecute a criminal offense. In this way, the government could commit any crime like this without having to fear being prosecuted later. The limitation is therefore restrained by the general legal concept of suspension based on the imperious principles of justice*' (Zétényi, 2017).

On the issue of limitation, however, it is worth briefly quoting the decision of the Constitutional Court of the Czech Republic of 21 December 1993, which is radically contrary to the position of the Hungarian Constitutional Court detailed above. In this Czech decision of the Constitutional Court, the proposal to repeal the Act No 198/1992 on the illegality of the communist regime and on the opposition to the communist regime was rejected. Regarding the nature of the limitation period, the Czech Constitutional Court stated in its decision '*the argument of the political group proposing the repeal were not credible that during the period in question, limitation periods were also running to governmental, political and state-committed crime in general. A political power based on violence is fundamentally wary of freeing itself from the perpetrators of its own acts of violence. Instead, the state has become the guarantor of their impunity, practically their immunity from criminal law*' (Varga, 2006). In addition, the reasoning of the Czech Constitutional Court also pointed out that '*an essential component of the concept of limitation known in criminal proceedings is that the state has the intention, will and willingness to prosecute the crime. Without that presumption, neither the content of the concept of limitation, nor the meaning of the legal institution itself can be satisfied. The meaning of the limitation can only come from the long-term interplay of two fundamental factors: the will and aspiration of the state to punish the perpetrator and the perpetual risk of the perpetrator being punished. In so far as the state does not want to prosecute certain crimes and specific perpetrators, the statute of limitations becomes apparent and unnecessary. In such cases, in fact, the limitation period does not run and the limitation period itself will be fictitious. Written law does not know its application possibilities. For a crime to become time-barred, the limitation must first take place, that is the period during which the state seeks law enforcement. The limitation may be fulfilled, only if the continuous efforts of the state to prosecute the crime remain in vain until the end of the limitation period. This condition could not be met in the period between 1948 and 1989 for politically protected crimes. The state of mass state-protected lawlessness was not the result of individual mistakes, excesses, negligence, or errors that would have left any chance for possible criminal prosecution but resulted from the purposeful collective behavior of the apparatus of political and state power as a whole, which precluded criminal proceedings. Protecting perpetrators thus became as diverse as the system of power itself was*' (Varga, 2006).

Based on all this – according to many people's opinion – the Hungarian Constitutional Court was on the side of legal certainty at the time, when it declared the statute of limitations adopted by the legislature unconstitutional, and the Czech Constitutional Court sided with justice when it rejected proposals to declare the

statute of limitations adopted by the legislature unconstitutional. In my opinion, however, the question is not as simple as that, but rather can be traced back to the thought or lack of thought in it, which also came up in the reasoning of the Czech Constitutional Court: although it is a matter of fact that the recognition of the limitation and its occurrence by the state and the application of the law is a fundamental principle of legal certainty, however, the resulting legal certainty for perpetrators is a source of legal uncertainty for victims and thus for society as a whole. In other words, the Hungarian Constitutional Court, which followed the principle of legal certainty, sought to always guarantee the right of perpetrators to – general – legal certainty, while, to put it simply, the Czech Constitutional Court, which followed the principle of justice, sought to guarantee the right to real legal certainty for victims who had been deprived of it between the time of perpetration and the change of regime.

The solution of the issue of limitation in the context of transitional justice

Regarding historical justice, the problem of limitation arises in the fact that, although the current Hungarian regulations know the concept of crimes which are not subject to the statute of limitation, such a concept did not exist in Hungarian law when it was the darkest time of the communist dictatorship. The Hungarian laws in force in the 1950s did not yet recognize the category of crimes which were not subject to the statute of limitation. As an example, in 1956, the Compilation of Substantive Criminal Laws in force (Act No 2 of 1950) Section 25 provided that limitation period for acts threatening death penalty or life imprisonment was also limited to 15 years, after which those were no longer punishable. In my opinion, which may be considered as one of the results of the research, in the absence of a mandatory legal background like the German and Czech ones, the following legal reasoning may justify the absence of a limitation period (which was also the applied legal solution in the Biszku trial):

The international law, namely the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949 may designate the conditions of the criminal category of the retaliation after 1956. The Convention was promulgated in Hungary by Decree-Law no 32 of 1954. The Article 2 orders the application of the Convention to all cases of declared war or of any other armed conflict and to all cases of partial or total occupation of the territory, while the Article 146 provides ‘effective penal sanctions’ for persons committing, or ordering to be committed, any of the ‘grave breaches’ of

the present Convention defined in the Article 147 as war crimes (e. g. willful killing of a protected person, injury to body, torture, unlawful deprivation). In accordance with Article 2 the Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. As referred to in Article 4 persons protected by the Convention are those who at a given moment and, in any manner, whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Article 6 stipulates that the Convention shall apply from the outset of any conflict or occupation mentioned in Article 2. In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations. In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations. The Article 42 of the annexed Section III of the 'Hague Convention (IV) Respecting the Laws and Customs of War on Land and its annex of 18 October 1907 (promulgated by Decree-Law No 43 of 1913, Par 1 point 4) states that territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised. Following from Article 146 of Geneva Convention (IV) the High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. Pursuant to Article 147 grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

As for the Biszku trial, as recorded in the final verdicts of the Supreme Court in both of its main cases, any legal argument applicable in retaliatory criminal proceedings after 1956 shall, in my view, be based on the following fact: at dawn on 4 November 1956, the armored divisions of the Soviet army launched a general offensive in both Budapest and the countryside to enforce the political decision of the Soviet government and party leadership. The decision was aimed at removing the legitimate Hungarian government led by Prime Minister Imre Nagy and suppressing the Hungarian revolution. This attack was met with armed resistance from some Hungarian military units, especially insurgents organized into national guards. As a result of the military victory of the Soviet troops, hostilities ceased throughout the country until 15 November 1956, after which time military operations ended. However, after the resistance broke out, Soviet troops did not leave the cities, but were stationed there as an occupying force, also performing law enforcement and administrative functions. Soviet soldiers, supplemented by army gunners, stayed in the public areas of the settlements, and took part in patrols. It follows from all this that on 4 November 1956, between Hungarian People's Republic and the Soviet Union, due to the Soviet attack, without a message of war, an international armed conflict evolved as it was enshrined in Article 2 of the Geneva Convention (IV). The Convention shall be applied in this case – pursuant to Article 6 – from the outset of the conflict. Since, following from the general cessation of military operations (15 November 1956), the country as a whole remained occupied and remained in a significant proportion of retaliation after 1956 (until one year after the end of military operations, i.e., until 14 November 1957) the scope of application of the Convention shall, subject to the period of one year referred to in Article 6, continue to apply for that period. This situation also means that the civilian population of the country's settlements was under the control of the Soviet army as an occupying power and consequently came under the protection of the Convention. Of course, as long as the occupation actually existed, this protection was extended to the army manufacturers cooperating with the Soviet forces and carrying out joint actions with them. (For the sake of clarity, it is also worth noting here that the continued presence of Soviet troops in Hungary before 4 November 1956, based first on the peace treaty and then on the Warsaw Pact, does not yet constitute occupation under international law.)

By way of example, the two events which were the basis of the Biszku trial, the mass, willful killing by volley firing of the civilian population protesting peacefully during the demonstration in Salgótarján on 8 December 1956, and the mass atrocities, inhuman treatment and grievous bodily harm therefore

were considered as the so-called 'grave breaches' of Article 147 of the Geneva Convention (IV) and constituted a war crime. The perpetrator of this crime can be anyone, whether a soldier or a civilian, regardless of nationality. In connection with Salgótarján, three bodies of armed forces were later convicted after the regime change, while in the case of Martonvásár the liability of two specific persons arose (already at that time), they were directly responsible for the perpetration of 'grave breaches' under Article 147 of the Geneva Convention (IV).

In addition to the rules of international law, in Section 26 (3) a) of the current Hungarian Penal Code (Act C of 2012) is even stated in detail that the crimes defined in Chapter XIV of the Hungarian Penal Code, which includes war crimes, are not subject to the statute of limitation.

The United Nations Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (New York, 26 November 1968) promulgated by Legislative Decree No 1 of 1971 on 2 February 1971 may be an additional applicable legislation. The Article I of the Convention stipulates that no statutory limitation shall apply to the following crimes, irrespective of the date of their commission: a) War crimes as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the 'grave breaches' enumerated in the Geneva Conventions of 12 August 1949 for the protection of war victims. Article II states that if any of the crimes mentioned in article I is committed, the provisions of this Convention shall apply to representatives of the State authority and private individuals who, as principals or accomplices, participate in or who directly incite others to the commission of any of those crimes, or who conspire to commit them, irrespective of the degree of completion, and to representatives of the State authority who tolerate their commission.

Based on all the above, the liability of the representatives of the state authorities, who tolerated the commission of the so-called 'grave breaches' defined in Article 147 of the Geneva Convention (IV) shall not be subject to the statute of limitation. And for the sake of such an example, referring to the Biszku trial – according to the reasoning of its first instance judgment – even Béla Biszku, the Hungarian Minister for Home Affairs was in office between 28 February 1957 and 13 September 1961 was responsible for a felony of war crime committed by five counts of felony of harboring a criminal (three counts after the three bodies of armed forces in Salgótarján, and two counts after the two principals in Martonvásár), since he tolerated the criminal activity of those five people who had committed crimes against protected persons.

This is the legal reasoning on the basis of which the accountability of former party leaders could have been established both in accordance with domestic law and international law. Moreover, this is the basis on which, contrary to the decision of the Constitutional Court described above, legal liability may be (might have been) imposed, regardless of the fact that it could have been done in the framework of a plea bargain or traditional criminal proceedings.

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Act C of 2012 of Penal Code

Czech legislation
Act No 198/1992 on the illegality of the communist regime and on the opposition to the communist regime
Decision of the Constitutional Court of 21 December 1993

German legislation
Act of 25 March 1982 on State Border Law
Act of 26 March 1993 on the suspension of limitation in respect of acts committed under the unjust regime of the Socialist Unity Party

International conventions
Hague Convention (IV) Respecting the Laws and Customs of War on Land and its annex of 18 October 1907

Charter of the International Military Tribunal of 8 August 1945 (Nürnberg)
Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949
United Nations Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity of 26 November 1968 (New York)

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BOOK REWIEV

Collaborative Society

The MIT Essential Knowledge Series

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Abstract
The MIT Press Essential Knowledge series provide the reader with accessible, concise, yet interesting and completely up-to-date information. (Some examples: Neuroplasticity, Critical Thinking, Anticorruption etc.) Each part was written by excellent experts on the subject, in a language understood by non-experts, too. In this way, the current research data and results in the field of each topic can be really used. Nowadays, it is not easy to find in the endless set of information obtainable on the World Wide Web those that essentially provide the fundamental knowledge on a particular topic. The MIT series fill a gap in this. The topic of the present volume of the series is the Collaborative Society by Dariusz Jemielnaiak & Aleksandra Przegalinska. And where does human cooperation come from? 'Being collaborative distinguishes us as human even more than our opposable thumbs; the drive to cooperate significantly sets us apart from chimpanzees, our closest cousins in terms of DNA similarity, and this difference is already visible in young children. In fact, cooperation with nonkin, so typical for humans, is relatively rare in the animal kingdom.' (Jemielnaiak & Przegalinska, 2020).

Whether new technologies, for example online communication tools, help to develop a more positive and stronger human cooperation or amplify the currently existing social differences? The authors examine these key important questions.

Keywords: cooperation, new communication technologies, social differences, online communication, collaborative activism

Preface

The authors have been examining the impact of network technologies for years on humane cooperation. In this outstanding book, they published the results of this research. Dariusz Jemielnaiak is a Professor of Organization Studies at Kozminski University, Poland, where he leads the Management in Networked and Digital Societies Department. He is also the author of Common Knowledge? - An Ethnography of Wikipedia – 2014. Aleksandra Przegalinska is an Assistant Professor at Kozminski University since October of 2013 and a Visiting Scholar at the Center for Collective Intelligence (MIT), Boston since June of 2016. She is the author of Wearable Technologies in Organizations –2019.

Review

The book consists of 240 pages and nine chapters and reveals the various segments of human collaboration throughout history. With particular regard to the new network technologies and new virtual environments of cooperation. *'We perceive this phenomenon to emanate from what we call collaborative society: an emerging trend that changes the social, cultural, and economic fabric of human organization through technology-fostered cooperative behaviors and interactions.'* (Jemielnaiak & Przegalinska, 2020). The book also introduces the most significant effects of the changed environment of cooperation. '*Emerging technologies, thanks to their direct collaboration enabling features and engagement of much broader populations, act as super-multipliers for many effects of collaboration that would otherwise be less noticeable.'*(Jemielnaiak & Przegalinska, 2020).

Summary of the chapters

In the introduction, the authors determine the concept of Collaborative Society in several ways. One of the most complex way is the following*: 'Collaborative society can also be viewed as a series of services and startups that enable peer-to-peer exchanges and interactions through technology. Although it maybe a relatively recent new-technology-enabled phenomenon, collaborative society in its entirety is a system with good old sharing and collaboration at its heart.'* (Jemielnaiak & Przegalinska, 2020).

The next chapter is: Neither 'Sharing' nor 'Economy.' In this chapter the writers demonstrate two open or free sources projects from view of the collaboration

and economic aspects. *'Open collaboration is a form of organization and cooperation in which participants share a common goal but are loosely coordinated, yet together they create a product or service and make the final result available to anyone interested.'* (Jemielnaiak & Przegalinska, 2020). The authors explain open collaboration via Wikipedia and the Linux operating system. Both started as open-source projects, but after a long time, Linux (Red Hat) was bought by IBM. And Wikipedia is used by Google Knowledge Panel. *'Overall, commercial enterprises adapted to the free/open source and open collaboration environment by taking advantage of them rather than giving much back.'* (Jemielnaiak & Przegalinska, 2020). The sharing economy covers Uber and Airbnb. Linux and Wikipedia belong to the peer products. The former one costs money for users, while the last one is free of charge. The third chapter is devoted to Peer Productions. By definition: *'peer production (also known as mass collaboration) is a way of producing goods and services that relies on self-organizing communities of individuals. In such communities, the labor of a large number of people is coordinated towards a shared outcome.'* (Jemielnaiak & Przegalinska, 2020). The people who work on a certain peer production are generally well known and admitted members of the virtual community, such as the Linus Torvalds[1] etc. Thus, these projects and products are created by available people against industrial products. Peer projects usually grow fast. And sooner or later they need some background organization: *'Notably, many peer production communities establish supporting organizations, often in the form of foundations, to address their most basic needs and general development; these organizations can adopt more traditional governance.'* (Jemielnaiak & Przegalinska, 2020). On the other hand, these communities reach a high level of efficiency at work because of the lack of formal hierarchy. The top peer productions are Linux, Project Gutenberg, Mozilla, Wikipedia. All these projects require professional skills. '*It should not come as a surprise then that peer production challenges conventional economic theories of motivation because its lacks clear extrinsic incentives.'* (Jemielnaiak & Przegalinska, 2020). The fourth chapter examines collaboration in the fields of media. (Collaborative Media Production and Consumption). Collaborative media means: *'the process of collaborative media production, sometime called commons-based peer production (or consumer coproduction), results in a radical redefinition of many professions and industries outside of knowledge or software production.'* (Jemielnaiak & Przegalinska, 2020). The technical revolution has decreased the level of skills and required professional knowledge which need to

1 Linus Torvalds is a Finnish-American software engineer who is the creator and, historically, the main developer of the Linux and other operating systems such as Android.

create a media product. Today the quality is not the main feature of the costumer co-production. The key is the acceptance, which overwrite all former features.

The fifth chapter is about collaborative activism and hacktivism: '*Both social activism and hacktivism are collaborative to the bone: the success of their actions and movements relies on an ever-increasing number of people who join and take part'* (Jemielnaiak & Przegalinska, 2020). '*And a more concrete definition of hacktivism is: Hacktivism is the underground use of technology to promote political causes, whereas collaborative social activism relies on collaboration without implicitly being against 'the system.'* (Jemielnaiak & Przegalinska, 2020). The authors introduce many examples of both social activism and hacktivism such as GEO-bombing, Anti-surveillance efforts, Recap, or Coding, etc. Furthermore, they introduce the most significant and well-known activist and hacktivist organizations like Hactivismo, Cult of the Dead Cow and, of course Members of Anonymous. The next section (chapter 6) of the volume is about collaborative knowledge. The authors' definition of collaborative knowledge is the following: *'The collaborative society to emerge now allow people organize into communities that challenge the traditional methods of scientific discovery, and even the scientific method itself; they aim not only to codify and distribute knowledge but also to create it.'* (Jemielnaiak & Przegalinska, 2020). Knowledge has become more accessible for non-scholar people, and the scientists had to come out from their ivory towers and move towards a more practice-oriented scholar attitude. This type of knowledge is distributed without delay, for example WikiLeaks, etc. On the other hand, this process has handicaps too: *'The trend to participate in knowledge replication, distribution, and active usage spreads widely, even to areas of knowledge that seemingly require very high qualifications and professional training, such as medicine.'* (Jemielnaiak & Przegalinska, 2020). The seventh chapter is about collaborative gadgets. The gadgets are everywhere in the online space: collaborative technologies, Mobil technologies, Big Data analytics, etc. Most of these gadgets are based on tracking technology. '*Arguably, the development of new tracking technologies has not only altered the ways individual humans think, and how they identify and express themselves, but it has also enabled revolutionary cultural change, sometimes transforming practices that have been central for centuries or even millennia.'* (Jemielnaiak & Przegalinska, 2020). Furthermore, tracking the dark side of collaborative activities. The collaborative society had given up control over their private data. In the online space, we try to protect ourselves through ad-blockers, track cleaners, vpn connections, etc.

The penultimate section of the book is about social media titled *'Being Together Online'*. The social media platforms in the beginning functioned as personal

profile sharing sites, for instance Facebook, Twitter, Myspace, and several local non-English language sites. These *'platforms that were not designed for collaboration may unexpectedly facilitate collaboration tools, and being with other people online can introduce users to new skills and experiences that allow collaboration to thrive.'* (Jemielnaiak & Przegalinska, 2020). Among other things, it provided public space for lots of anticorruption activities, e.g., the result of investigative journalism in real time (Németh, 2021). Next to social media, online games are outstandingly important in the online space.*' These examples show that modes of being together online, particularly in very immersive environments, may have an additional cognitive and perceptive layer that is yet unexplored*.' (Jemielnaiak & Przegalinska, 2020).

The last chapter of the book is about the controversies and the future of collaborative society: *'Who do we talk to and collaborate with on the internet? Here again we raise a legitimate question: Who counts as part of collaborative society?* (Jemielnaiak & Przegalinska, 2020). Whether the AI bots belong to a collaborative society or not? The economic effect of the digital revolution could be under control, or will it increase global economic inequality and environmental crisis? '*Technologies that enhance collaboration come to consumers in the wealthier parts of the world as finished products. This hides the reality of costs incurred in poorer parts of the world where most of our devices and IT tools, whether desktop or mobile, are manufactured. These costs include pollution as a direct result of extracting raw materials or disposing of waste related to manufacture, as well as the emission of fossil fuels during the transport of an ever-increasing supply of goods around the world, from factory to warehouse to consumer.'* (Jemielnaiak & Przegalinska, 2020).

Summary

In this volume of the MIT Essential Knowledge, the two authors collected a wild range of aspects of collaborative activities. Furthermore, not just describe these new phenomena, but also examine their effect on different groups of society. In addition, they collected the handicaps of the collaborative activities in both technical and social aspects too. This book is really up to date and contains essential knowledge about this continuously renewing digital world.

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