

Hungary's first modern criminal procedural code – the 1896 Code of Criminal Procedures

Presentation by the Vice-President of the Curia of Hungary in charge of criminal law matters

Your Excellencies,
Honourable President,
Honourable Colleagues,
Dear Guests,

As Vice-President of the Curia of Hungary in charge of criminal law matters, it is a pleasure for me to present to you Hungary's first codified modern criminal procedural code, Act No. XXXIII of 1896 on the Code of Criminal Procedure.

For those of us who adjudicate criminal cases on a daily basis, this act of law is not merely a historical relic. It is a legal and institutional legacy whose fundamental principles are still present in judicial thinking today and which determines how we view the role of criminal justice.

The creation of the 1896 Code of Criminal Procedure was the legal expression of the recognition that criminal proceedings are one of the most sensitive areas of State power. Here, the State directly interferes with the individual's freedom, reputation, and even, in some cases, life. For this reason, the exercise of this power cannot remain solely within the logic of efficiency or force, but must be bound by strict legal guarantees.

In the second half of the 19th century, especially after the Austro-Hungarian Compromise, Hungarian legislation had the opportunity to consciously regulate criminal justice in a manner that was modern by European standards.

In this process, the codification of substantive criminal law was naturally followed by the need for the uniform regulation of criminal proceedings. The 1896 Code of Criminal Procedure was therefore not an isolated legislative act, but the result of a long period of professional and institutional maturation, in which both Hungarian legal traditions and modern European principles played a role.

This duality – the combination of national legal experience and European thinking—provides the background against which the true significance of the 1896 code can be understood.

The significance of the 1896 Code of Criminal Procedure lies not primarily in the institutions it lists, but in the way it conceives of criminal proceedings as a whole. The code reflects an approach that views criminal justice not as an act of power, but as a legally regulated, balanced process.

At the time, this code of a European standard regulated proceedings before high courts, jury courts, and district courts.

The main principles of the procedural code were *ex officio* proceedings, immediacy, oral proceedings, publicity, equality of arms, a system permitting various forms of evidence based on the free assessment of evidence, freedom of defence, and certain guarantees of personal freedom, particularly in connection with pre-trial detention and remand.

First and foremost, it established the fundamental principle that criminal proceedings can only be initiated on the basis of an indictment. This principle drew a clear line between the roles of the parties involved in the proceedings. The court does not investigate or bring charges, but only adjudicates. From a judicial perspective, this is not merely a procedural issue, but one of the most important guarantees of independence.

Closely related to the foregoing, the code consistently enforced the principle of separation of functions. The prosecution was separated from the adjudication, and the defence was treated not as a formal element but as a substantive participant in the proceedings. The accused became not the object of the proceedings but a party with rights, whose position had to be considered by the court.

The strengthening of the role of defence should be emphasized. The rights granted to the accused served to ensure that the proceedings were not one-sided, but took place within an adversarial framework. This idea remains one of the cornerstones of fair trial today.

The consistent application of the principles of publicity and oral proceedings during the trial phase was also of fundamental importance. The code clearly broke with the tradition of secret, written proceedings. Public trials not only strengthened the rights of the accused, but also made the operation of the courts visible to society.

The recognition of the principle of free assessment of evidence was an important innovation, as the code rejected the previous approach which predetermined the weight of certain pieces of evidence. Instead, it made it the judge's task to evaluate the pieces of evidence individually and in context, according to the judge's conscience.

A key principle of the code was the need to establish material truth: according to this principle, the court may deliver a conviction only if the facts of the case have been proven and the accused person's guilt has been completely established.

Finally, it is important to emphasize that the code deliberately restricted the use of State coercion within a legal framework. The definition of the conditions for pretrial detention, the establishment of a system of legal remedies, and the set of procedural guarantees conveyed the message that the purpose of criminal proceedings is not to extract confessions, but to prepare for a well-founded and fair decision.

The code already recognized the presumption of innocence, and the protection of personal freedom became decisive with the guarantees of pretrial detention.

The Code of Criminal Procedure entered into force on 1 January 1900, and its basic principles determined the structure of criminal proceedings for decades. The principle of prosecution, the separation of functions, the strengthening of the role of the defence, publicity, and the free

assessment of evidence became guarantees that were repeatedly referred to in subsequent legislation and legal practice. The code remained in force, albeit with amendments, until 1952.

The historical turning points of the 20th century naturally left their mark on the legal system. The rules of criminal procedure were amended several times, but the fundamental idea expressed in the 1896 code – that the legitimacy of criminal justice derives not from State power but from the fairness of the proceedings – has remained present in Hungarian legal thinking up to this day.

It is very important that the Code of Criminal Procedure established the historical legal background for the Curia's task of ensuring case-law uniformity by introducing an appeal that could be lodged in the interests of case-law uniformity. This allowed the Crown Prosecutor to appeal against any final court decision that violated the law.

The Curia still plays a decisive role in this process today, as its task is not only to adjudicate individual cases, but also to ensure that the principles of fair trial are consistently applied throughout the criminal justice system. One of the most important elements of case-law uniformization is to ensure that these principles do not remain abstract values, but provide guidance in day-to-day adjudication.

Dear Ladies and Gentlemen,

If the legacy of the 1896 Code of Criminal Procedure had to be summarized in a single thought, it could be said that modern Hungarian criminal procedure recognized the need for self-restraint on the part of State power from the very beginning. The State preserves the credibility of criminal justice by limiting its own power within a legal framework. This message is still a common European experience today. The first Hungarian Code of Criminal Procedure proved to be a timeless institutional benchmark for how criminal justice can be exercised within the framework of the rule of law.

Thank you for your kind attention!

At the end of my presentation, I invite Dr. Judit Gyarmathy, Secretary General of the Curia to give her presentation.