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CRIMINAL CASES RULING IN PRINCIPLE

- B.10** The security guard commits an unlawful attack giving grounds to a lawful defence situation, if he/she obstructs the customer of the shopping mall without catching the same in the act, and attempts to accompany the same into the office of the store, and repeatedly preventing the customer from move by physical force without any legal grounds [Article 27, Paragraph (2) of Act CXXXIII of 2005 on the rules of personal and property protection activities and private investigation; Article 73, Paragraph (8) of Act II of 2012 on offences, the procedure in relation to offences and the offence record system; Section 127, Paragraph (3) of the Be.]. Such violent and unlawful behaviour of the security guard may be suitable for the grounding of the determination of assaulting slander by presenting the false before the publicity of the shop that the violently held back person is a theft caught in action. The termination of such a humiliating situation, the action of the accused person against the unlawful force shall be the allowed effort within the scope of lawful protection, thus it was a necessary preventive measure, which lacked danger to society. Therefore the accused person shall be acquitted from the charge of ruffianism and assault and battery – due to a reason excluding culpability..... 431

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- 108** I. From the fact that the law connects several qualifying circumstances of different levels of threat to the base case of a crime, one cannot draw the conclusion that the existence of a milder qualifying circumstance, which is specified in the law sooner could be the condition of the determination of the more severe qualifying circumstance – without the special specification of the same, just due to the nature of the structure. Thus the crime of bribery committed by the employee of a budgetary institution authorized to individually proceed can be freely determined, if the subject requested advantage in connection with the operation, but did not violate his/her obligations. The acceptance (request) of the money, and the violation of obligation do not arise from one another.
II. The bribery is related to regular profit generation, thus it is considered as a business-like activity, if the requester of the advantage specifies the method and amount of the calculation of the amount – the counter-value of the operation – to be provided in each case upon the first meeting, which is then requested and accepted upon each transaction.
III. The case, when something is unfounded is a concept of procedural law especially related to the secondary, possibly third stage of the procedure regulated in the law on criminal procedures [Section 351, Paragraph (2), Points a)-d) of the Be.], and not in the effective material law (Criminal Code), thus it cannot realize conceptual material law violation. And it cannot be applicable even in spite of the provisions specified in Section 385 and Section 419 of the Be. in the review procedure – as it is a different provision from those specified in Section 423, Paragraph (1) and Section 351 of the Be. Consequently the Curia, in the review proceeding cannot examine the grounding of the binding verdict facts, the extent of possible founding cannot be specified, to which no legal consequence can be linked 435
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II. As a result of the legal nature of the behaviour of an accomplice, the subject of the review of (exclusive) accomplice behaviour – obviously – cannot be the expectation of the realization of the behaviour of the given crime within the legal facts of the case.
Thus the attributable nature of the accomplice can only be examined based on the behaviour of the perpetrators – thus accomplices – outside of the legal facts of the given crime, and the examination cannot aim at the realization of the behaviour within the legal facts, and cannot enter the scope of legal facts.
III. The behaviour of the crime against the order of election made by providing false data, specified in Section 350, Paragraph (1), Point d) of the Criminal Code cannot be realized otherwise than by the existence of one of the conditions of the crime – false private document – specified in Section 345 of the Criminal Code.
IV. In the event of a crime against the order, structure of the election, the legally regulated order of the voters act of will shall fall under the protection of threat according to legal statement of facts, which in connection with the nomination of candidates shall mean making offers with regard to the individual, the actual person. Multiple nominations are also possible, but the regulation is related to the nomination of a real person by a real person. Consequently the behaviour of the perpetrator shall not mean the abstract, theoretical risk of the given election (voting), but the diversion and fraud of the act of will related to the actual person. The nature and regulated nature of the election targeted by the perpetrator shall always be examined; if it is related to an individual candidate, individual election, then the crime shall have as many counts as many voters' act of will was diverted or falsified..... 443
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II. The executives of the business organization (managing directors with independent right of company signature) are the accomplices of the crime of fraud, if by way of keeping and the insolvency of the company due to the indebtedness and their situation accumulating further debts, one of them enters into a leasing agreement, by promising to the leasing company that they would pay the leasing fees at the end of the duration of the leasing, whereas they were aware of the fact that it was highly unlikely, and the other at the same time, entered into guarantee agreements as the guarantee of credit agreements – joint and several liability agreements –, thus deceiving leasing companies.
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2. Article 12, Paragraph (2), Point c) and Article 12, Paragraph (3) of Directive 2004/83 shall be interpreted so that the actions constituting the participation in the actions of a terrorist group, due to which the accused person was found guilty in the basic case, may verify the exclusion from the immigrant status even, if it was not proven that the person in questions committed, attempted to commit or threatened to commit a terrorist act specified in the resolutions of the United Nations Security Council. In order to make the individual evaluation of the facts enabling the examination of whether there are significant reasons to assume that a person is guilty in an action which violates the aims and principles of the United Nations, the instigator of, or the person taking part in any way in such actions, the circumstance that this person was pronounced guilty by the court of a member state for the participation in the activities of a terrorist group shall have a great significance, as well as the statement according to which such person is the managing member of such group and it is not necessary to prove that the same person was the instigator of the terrorist act, or participated in the same in any way..... 534

II. Article 23, Paragraph (3) of Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States shall be interpreted so that in a situation similar to the one in the base case, the executive and the issuing authority shall agree on a new transfer date based on such provision, if the transfer of the person in question within ten days after the first new transfer date specified based on the above provision is not possible due to the repeated resistance of such person, provided that due to extraordinary circumstances, the authorities did not foresee such resistance, and the consequences of such resistance on the transfer could have been avoided by the said authorities even with the greatest care, the examination of which shall be performed by the court presenting the case.

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2. Article 267, Paragraph three of the Treaty on the Functioning of the European Union shall be interpreted so that the court, as the one submitting the case, the resolutions of which were made in a legal dispute, such as the one in the base case can constitute the subject of review based on national law, cannot be considered as „a court, against the resolutions of which there is no place for legal remedy in accordance with the national laws and regulations” 543

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