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CRIMINAL CASES RULINGS IN PRINCIPLE

- B.11** I. The legal subjects of slander and defamation are both honour. The commission behaviours of the two crimes however are different. Slander can be realized by way of using an expression, which directly refers to the facts, and defamation can be realized by way of using an expression, which is capable of damaging one's honour, or any similar activity.
The behaviour of the slanderer includes an event or happening, thus it gives the impression of objective reality. However, the commission behaviour of defamation expresses value judgement. The statement of facts of slander is capable of making those hearing about the same make value judgement, while the denigrator gives his/her value judgement.
- II. Calling someone a fascist or communist – without mentioning actual events and actions related to the person in question – is not a statement of fact, but a value judgement, which is not corresponding to the statement of facts either from the aspect of slander or defamation, thus does not constitute a criminal act.
In consideration of the provisions of the Fundamental Law [Article U) of the National Confession] as well as the legal statement of facts specified in Section 333 of the Criminal Code, fascism and communism, as dictatorial forms exercising power, or structures of ideas, it is not justified to differentiate between different ideologies during the application of the law..... 576
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- II. In the event of obligatory defence, the hearing, which is held in the presence of a defence attorney, who did not perform the defence of the accused person, shall commit procedural violation resulting in unconditional repeal. In consideration of legal provisions related to the proceeding of second instance, this shall be applicable to the public hearing of second instance as well. However, if defence is performed by other defence attorneys than the one excluded from the case, who is present at the public hearing, such procedural violation is not committed.
- III. The motion of the excluded defence attorney submitted to the court is obviously an actual act of defence. However, if the accused person has another – not excluded – defence attorney, the rule related to obligatory defence is not violated..... 581

DECISION IN PRINCIPLE

- B.13** If the court lawfully judged the actions falling in the unity of crime, which is the subject of the indictment, its decision shall result in *res iudicata* in respect of this crime. In consideration of this, the partial act, which falls in the unity of the already judged crime, however did not form a part of the facts of the case established in the lawful decision, cannot be individually judged; thus the case could be re-opened.
Thus – in order to avoid the reopening of the case –, the court has to endeavour to judge the partial acts forming the legal unity in one proceeding, thus the unification of the cases for such purpose
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- 139** I. The perpetrator of tax fraud can only be a person, who misleads the authority resulting in the decrease of tax revenue by way of presenting or suppressing facts (data) which are significant from the aspect of tax liability or by way of any other behaviour. The person, who acquires invoices of untrue content suitable for the misleading of the tax authority and presenting the same to the person who prepares the tax return, is not a party to a crime, but an accomplice
- II. The act of the party as a party to the crime (party to the crime) assumes a crime; the nature of the criminal act of the party is collateral. The party is not responsible for qualitative excess, but for quantitative excess
By the party making available the invoices of untrue content to the party to the crime, knowing that they would be used for the decrease of payable taxes, provides a physical criminal aid to the party. If he/she is also aware of the fact that a third party is also procuring invoices of untrue content, which the perpetrator uses for the tax return, he/she also exercises an effect of strengthening intent with regard to the use of invoices procured by the third party, thus providing psychological criminal aid 584
- 140** If, during process of bringing to court, a person performed the defence of the accused person, who was deleted from the registry of attorneys, the court made its binding decision by way of a procedural violation resulting in unconditional repeal with regard to obligatory defence. If, until the decision made by the Curia in the review proceeding subsequent to the verdict entering into effect suspending limitation period, with regard to the limitation period, the judicial procedural action suspending the limitation period, was not performed, along with the repeal due to procedural violation related to the limitation period, the proceedings shall be terminated.

- The proceeding shall also be terminated with regard to the soldier in the proceeding of military violation, if the service period of the perpetrator came to an end meanwhile, and a year passed after such ending
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- 141 The lapse of the implementation of punishment sentenced abroad shall not be broken by the fact that another criminal proceeding is initiated in Hungary against the same person due to the actions, on which the foreign proceeding are also based..... 590
- 142 I. Property shall be confiscated with reference to the asset, which arises from a criminal act, acquired by or during a criminal act, which enriched someone else. If an economic organization was enriched by such an asset, property shall be confiscated from the same. Property shall be confiscated even without a relevant motion.
II. The fact, if the crime is related to the payment obligation payable to the central budget shall also be considered as acquisition of property; the perpetrator, or any other person, or economic organization acquires assets of the same value as the decrease of the budgetary income, by the failure to perform the payment, thus confiscation of property of a value equal to the decrease of the budgetary income shall be ordered.
III. If the court of first instance failed to order the confiscation of property in spite of the law, the court of second instance can pass a verdict even, if there was no appeal against the accused person.
IV. If the court of first instance did not decide on the confiscation of property in spite of the relevant law, and the data necessary for such decisions cannot be clarified even during the evidence procedure in the proceeding of second instance, the court of second instance shall order the court of first instance to perform special proceedings..... 591
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II. Even if the person against, whom the attempted homicide is performed, is 74 years old, the crime cannot be qualified as one against a person of limited capability due to his/her old age, if the prevention of the actual murder was due to the victim’s and other people’s successful physical resistance 595
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- 145 If a part of the content of the police report is true, and a part is not, and such actions are parts of a series of actions forming a natural unit, the presentation related to the untrue parts cannot be regarded as an independent accusation even, if such part could be valued as an individual crime if committed on its own, thus the crime of false charges is not realized.... 602
- 146 The person using a private document of untrue content, not knowing that the content of the document is untrue does not commit the use of false private documents 605
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**CIVIL CASES
RULINGS**

- 148 I. In the event of the violation of the right to fair hearing, including the right to finish the proceeding in a justified time, the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome, on 4th November 1950 does not provide for direct possibility for enforcement of claims in individual legal disputes before the courts of the party countries
II. The need related to the elimination of non-material damage caused by the unjustified prolongation of the criminal proceedings can be based on the violation of a right related to a person. The prolongation of the proceeding by an unjustified amount of time, itself, does not violate any rights related to any person
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- 149 The invalidity of the agreement due to pretence can be determined, if all contracting parties consciously pretended the will of making the transaction. In the sale and purchase agreement of property, the person of the contracting party cannot be pretended, and it cannot conceal a sale and purchase agreement between other people..... 610
- 150 Due to the agreement, made with the insurance company with regard to nonfinancial damages, excluding the exercise of further interests, the damages person shall not be entitled to receive further nonfinancial damages even if the relevant conditions become worse.... 612
- 151 The verdict determination during the lawsuit related to compensation necessarily assumes the unlawful behaviour of the defendant by the fact that the defendant’s behaviour is punishable, because he/she could not withdraw him/herself from responsibility. By way of the material law effect related to the interim verdict, the damage suffered by the plaintiff, which is to be compensated cannot be disputed 615
- 152 If an entrepreneur provides its services – the performance of the results to be achieved by work – to its own client, by way of using things (built in materials) acquired from a third person, the reservation of proprietary rights by the third party with regard to the built in materials cannot be interpreted. Consequently such third party shall not be obliged to claim the provision of such built in materials based on the right of ownership. In this regard, the partial or accessory nature of things shall have no significance 617

- 153** The failure to perform the obligation undertaken in the agreement by the set deadline shall not base the failure of performance, but the delay of the subcontractor as obligor and the obligation to pay interest on arrears, if contractual performance has no legal or physical obstacle and the obligor takes measures for the purpose of the performance of its obligations undertaken in the agreement 619
- 154** In accordance with the loan agreement of the parties, the fact, if the debtor does not comply with his/her payment obligation, it shall qualify as a material violation of the agreement, which gives rise to the termination of the agreement. In such a case, the event giving rise to termination is the failure to perform payment, thus if the payment is not made, termination is lawful irrespective of the fact whether the notice to pay and the termination specified the overdue amount in an amount, which is somewhat higher than the original amount..... 621
- 155** I. Convention on the Limitation Period in the International Sale of Goods made in New York on 14th June 1974 announced by Act 1 of 1989, and the protocol of 11th April 1980 made in Vienna, amending the same (jointly as Convention on limitation period) can be applied with regard to parties having seats in different states even, if the state of the contracting parties (or one of them) is not a member state, but the law of a Contracting State shall be applied to the agreement in accordance with rules of international private law.
II. In the proceeding of first instance, the amendment of the limitation complaint in the proceeding of second instance submitted according to the rules of the Civil Code, the reference to limitation period specified in the international convention instead of the general rules of limitation 624
- 156** The National Council of Intellectual Property (SZTNH) makes a material procedural violation, if prior to making the decision, it only formally complies with its obligation of – legally specified – call, because due to its standpoint, the petitioner could not actually make a declaration, which could have made a decision, which would have approved the request. Such procedural violation cannot be remedied in the judicial proceeding, thus the decision of the SZTNH shall be repealed and the SZTNH shall be obliged to start new proceedings626
- 157** The unified joinder, in all cases shall be made in accordance with the provisions of the material law rules in the civil code. The suing of the economic organisation and the members shall not ground a unified joinder for the lack of material law basis..... 628
- 158** I. If the court specifies clearly, in the operative part of the verdict of the court, which motion or countermotion are put forward, the reference to the fact that the motion (countermotion) requests are rejected is sufficient, thus they do not need to be named.
II. The court, in the event of the arrangement of parental custody – with regard to close connection – shall ex officio pass a decision, which does not mean the extension beyond the motion (appeal) request, or the countermotion..... 630

**ECONOMIC CASES
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- 159** If the consumption retail loan agreement is null due to the failure to indicate the transaction fee in accordance with Section 213, Paragraph (1), Point c) of the old Hpt, but the parties otherwise actually agreed on the payment of the transaction fee, and based on the data of the agreement the amount of the interest can also be calculated, out of the legal consequences of invalidity, of the loan agreement shall be declared as valid so that the transaction fee is to be calculated in accordance with the interest value to be calculated from the agreement..... 633
- 160** The agreements and legal declarations, which are made by the parties with the purpose of causing financial loss to the other party in order to acquire majority vote in the bankruptcy agreement, hindering the enforcement of creditor's rights of another party previously provided obviously violate good morals635
- 161** The procedure of the arbitration court, in which the arbitration court denies a representation mad by the party, the fact of defence, and then with reference to the actually made representation, makes its actual resolution is against the principle of fair procedure, thus violates the requirement specified in Section 17, Paragraph (1) of the Procedural Regulation..... 639

**LABOUR CASES
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- M.10** In accordance with Section 14, Paragraph (3) of Governmental Regulation 326/2013. (VIII. 30.) in effect from 1st September 2013 until 25th March 2014, the person, who has at least 6 years of work experience as a teacher, and is employed as a teacher is exempt from the performance of the requirements of the internship period of the hierarchy system, and the teacher shall be categorized into scale I.
In accordance with this provision, the 6 years necessary for the exemption from the requirements of the internship period can be acquired in any field of specialty, even in those, which are not related to public education. In such a case, not only employment, which is related to qualification or competence can be considered..... 643
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circumstance shall affect his/her official service relation, thus the relevant labour law consequences cannot be avoided with reference to the fact that his/her culpability was not validly established by the court
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DECISION IN PRINCIPLE

- M.12** I. For the lack of a certificate showing lack of criminal record the promotion to public servant is invalid. The court shall be obliged to note such nullifying reason.
II. With regard to those who have a legal relationship with the local government, the right of promotion shall exclusively be exercised by the board of representatives in accordance with Section 83/A, Paragraph (1) of the Kjt, because the Mötvs does not include a different provision from this.
III. Along with the lack of a certificate showing lack of criminal record, the promotion made by violation of the not transferable right of board of representative can be regarded as a reason of invalidity from the employer, thus aside from the termination of the legal relationship of public servant, the employer shall also pay the benefits payable to the public servant.... 649

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- 162** Upon the judgment of the appeal lodged against the verdict declaring the unlawfulness of the acquittal, the court of first instance shall act within the frames of the appeal request and the appeal counter request, even in the event of the seeming aggregate of motions of the court of second instance. In the appeal counter request, the party can only refer to the previous arguments related to the unlawfulness 652
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- 164** The resolution related to the content of the resolution to be made by the Curia, as a request, if the binding resolution is related to repeal and “passing a resolution in compliance with the laws and regulations” except, if it is impossible to find the type of content of the resolution the party wants to have passed even in accordance with the principle of the judgement [Section 3, Paragraph (2) of the Pp.] 659

ECONOMIC CASES RULINGS IN PRINCIPLE

- K.14** The lack of effect of the reasoning of the public administration resolution on the merits of the case cannot be substituted by the amendment of the reasoning by way of a lawsuit.
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- 166** Reasonably expectable measures cannot be only about the taxpayer checking the tax number and the legal status of the company of the issuer of the invoice, but also the verification of the existence of licences arising from the special nature of the activity to be performed shall be requested in order to exclude tax evasion
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- 167** The plaintiff shall be obliged to prove in the public administration procedure, the procedural violation made during the quality control examination performed subsequent to the entry into effect of the new law and the connection between the plaintiff’s complaints and the new laws. The lack of the examination of material law (professional) complaints excludes the possibility of mentioning these references in the review proceeding as new arguments..... 668
- 168** The system for identifying agricultural parcels (MePAR) is qualified as a publically official registry. In the official registry case arising from the purpose of the system, there is no need for any other activity by the client on top of the identification of the facts specified in the laws (for example observations), nevertheless in the event of the existence and within the scope of the circumstances specified in the law, he/she may exercise his/her right of remedy..... 671
- 169** The transfer of the recommendations sent in accordance with the Final Report transferred by the European Anti-Fraud Office based on Article 10, Paragraph (2) of Regulation 1073/1999/EC, as well as Article 11 of Regulation 883/2013 (EU, Euratom) shall not have an obligatory force on national authorities, as they are entitled to decide on the measures to be taken in their own scope of authority. The Final Report shall be governed by the evaluation rules equivalent to the evaluation rules applied on the public administration reports prepared by the national examiners, and shall be considered as equivalent proof compared to such reports 672

- 170 The court of first instance can only make the decision in the frame of the relief sought, but spread over it. In the event of joint and several liability, for the lack of voluntary performance, execution can be made against any obligor, without a special justification. The amount of customs paid by the obligor can only be repaid, if the legal conditions are fully met..... 674
- 171 The government office may make several legality calls towards a given regulation (provision) of a local government – based on different problems.
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- 172 The short-term exemption from property tax specified in the regulation of the local government shall establish a lawful expectancy in the structure of local taxes. The imposition of the tax – one month prior to the expiration of tax exemption – for the originally tax-free period means the violation of the time necessary for the preparation for legal security and the application of the law 680

RULINGS OF THE COURT OF THE EUROPEAN UNION

- I. 1. Article 17, Paragraph (1) and (2) Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial shall be interpreted so that the national legislation, which is interpreted as follows is against the same: the implementing government may reduce the punishment of the convict due to the work performed by the same in the issuing country, nevertheless the competent authorities of this member state, in accordance with the applicable laws and regulations, are not entitled to reduce the punishment such way.
2. EU law shall be interpreted so that the national court shall take into consideration the totality of national law, and interpret the same – as much as possible – in line with the Framework Decision 2008/909 amended by Framework Decision 2009/299 for the achievement of the purpose set in the same, and if necessary – by way of its judicial power – ignore the interpretation by the national court acting in the final instance, if such interpretation is not in harmony with EU law..... 683
- II. 1. Article 1, Paragraph (1), Article 2, Paragraph (1), Point b, and Article 6, Paragraph (1) of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property shall be interpreted so that the concept of lending right specified in this provision shall cover the lending right of the digital multiplicities of a book, if such lending is performed by placing such copy on the server of a public library, making available for the user to download and multiply the same on his/her own computer provided that during the period of lending, such user can download only one copy, and that during such period, he/she cannot use such downloaded copy.
2. EU law, and especially, Article 6 of Directive 2006/115 shall be interpreted so that it does not prohibit the member state to subject the application of Article 6, Paragraph (1) of Directive 2006/115 to the distribution of the digitally multiplied form of a book made available by a public library by a person entitled to perform public distribution, or any other person authorized by the same within the European Union by way of the first sale of the copy or the transfer of the proprietary rights of the same – in accordance with Article 4, Paragraph (2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.
3. Article 6, Paragraph (1) of Directive 2006/115 shall be interpreted so that it prohibits the application of the exception specified in the same, related to public lending with regard to making available the digital multiplied form of a book by a public library, if such copy comes from an unlawful source 687
- III. 1. The responsibility of a member state related to the damages caused to private persons by the resolution of the national court violating EU law can only be established, if such resolution was made by the court of such member state acting in the final instance of the case, which, related to the base case, shall be examined by the court presenting the case. In such a case, the resolution of the court acting in the final instance shall be considered as material violation of EU law, which grounds the abovementioned responsibility, if the abovementioned court violated the applicable law by the resolution in an obvious manner, or if such legal violation is made in spite of the standard judgement procedure of the court.
The fact that a national court, which, prior to the Pannon GSM verdict (C-243/08, EU:C:2009:350), in the procedure related to the implementation of the decision of the arbitration court, approving the request related to the obligation of the reimbursement of claims made on the basis of the contractual term, which is considered unfair in accordance with Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, ignored the evaluation of the unfair nature of such contractual term, while all factual and legal elements necessary in this matter were available, and thus it obviously ignored the practice of the court issued in this matter, consequently, it severely violated EU law, is not correct.
2. The rules related to the compensation of damages caused by the violation of EU law, as rules related to the evaluation of such damages, or the connection between the possibilities of remedy available in such cases are specified by the national law of the member states, while complying with the rules of equivalence and the principle of actual enforcement..... 691

The summary opinion of the group analysing legal practices, established in the matter of "the responsibilities of executives towards creditors"